

STATEMENT OF A PANEL CONSISTING OF HON. ROY ALLEN, STATE SENATOR, STATE OF GEORGIA; HON. GRIFFIN BELL, FORMER ATTORNEY GENERAL OF THE UNITED STATES; HON. JACK TANNER, FEDERAL DISTRICT COURT JUDGE, WESTERN DISTRICT OF WASHINGTON; AND MARGARET B. WILSON, FORMER CHAIR OF THE BOARD, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. ALLEN. Mr. Chairman of this committee, 20 years ago, when I left Howard University and Catholic University, I always felt that I would return to this lovely city and Capitol Hill. In all candor, however, I never thought that I would be in this capacity as a witness in support of a Supreme Court nominee, and even less for a fellow school mate and altar boy.

As I sit here in this hallowed room named for one of your former monumental leaders and my fellow Georgian, I feel the spirit and presence of such luminaries as the late President Kennedy and President Johnson, Carl Vinson and Javits and Dirksen and Long and Bayh and so many others too numerous to mention.

As I look around this room and see the faces of Senators I have seen throughout these hearings of men that I have met on the campaign trail who have come to south Georgia, and many of those faces who belong to legendary families, I must say that at this moment I must push aside this awe and put in unequivocal thoughts and words of my support for my friend Judge Clarence Thomas.

Since July 1 of this year, many of us who consider ourselves as friends and associates and/or acquaintances of Clarence, I have had to read many descriptions of "boy" or Cousy, as we know him, and I have had to stop and wonder whether the many adjectives and characterizations of the man we know, we knew, and we still know are one and the same, and the answer is a resounding no.

I come here today as the great-grandson of slaves, as a guy who comes from the soil of south Georgia, a product of the 1950's and 1960's of the segregated South, a lad who watched his daddy teach school by the day and swept floors and cleaned bathrooms by night. I could not understand why I had to drink from a colored fountain, nor could I understand why my dad, with a near A average, could not go to medical school in Georgia and become a doctor. I could not understand why mom and dad had to pull over on the side of the road to relieve themselves, when we passed so many rest rooms.

I was bewildered as to why mom and dad referred to some people as Mr. or Mrs., and those same people called them Roy or Maggie, but the words of a song still ring true in my ears, and "God moves in mysterious ways, as one is to perform, He plants his foot out on the sea and he rides every storm; God is his own interpreter, and He will make it plain."

In hearing those who do not know Clarence to try and describe him, I am reminded of a verse in the New Testament. In Matthew, when he asked the disciples whom do men say that I am the son of man am? In response to this inquiry or dialog, they have called him Elias, Jeremiah, and John the Baptist. But only upon further

inquisition, did Simon Peter give the correct answer of who he really is.

The boy Clarence Thomas was an intense and serious student, a voracious reader, a faster than average runner, a basketball player with such moves that, on the playground of St. Benedict the Moore Catholic Church, that he was nicknamed Cousy, after the famous Celtic star.

Further descriptions of this fiercely competitive guy would reveal a student and an athlete who just plain hated to lose. Be it at a basketball game or a spelling bee, Clarence Thomas was a winner then, and certainly is a winner now, and I am firmly convinced that the words of Winston Churchill still ring incessantly in his ears, never give up, never give up, never, never, never give up.

A notion or a thought that Clarence has forgotten from whence he has come is ludicrous at worse and speechless at best. How does one forget drinking from a colored fountain or going to a colored beach? How does one forget walking by and being unable to use a first-class park, only because of the hue of one's skin? I can only imagine that my friend the judge feels the anguish and exasperation that another great Georgian felt, Dr. King, on April 16, 1965, when Christian and Jewish clergymen criticized his nonviolent activities, while he sat in a Birmingham jail. The very famous letter that he penned is still a literary work of art.

Nowhere am I recommending throughout this history or these proceedings that Judge Thomas should be canonized or recommended for sainthood. Sister Mary Catherine, may God bless her, would still be surprised to learn that not all of our trips were to the bathroom in the basement, but jumping the fence to go to Miss Nora's to buy snowballs and candy.

The many sisters, Sister Mary Catherine, Sister Mary Christum, Sister Mary Aquinas and so many other Franciscan Sisters of Newton, MA, were happy that he was faithful as an altar boy in serving mass, he was faithful in his homework, and he was faithful as a patrol boy, and he was faithful as a model student.

Yes, our lives had similar paths and seemingly different results. Clarence a Republican, me a Democrat, Clarence a Supreme Court nominee, myself a Georgia State senator.

Mr. Chairman and other members, his character, his integrity and his honesty, his intellectual ability and sense of purpose are unquestioned. The foundations of his childhood place him in the unique position to one day rank along side such names as John Jay of the Original Court of 1790, to rank along side Oliver Wendell Holmes, who brought a deep and abiding faith in America at the turn of the century, to social reformer Louis Brandeis in 1916, to Benjamin Cardozo, to William Douglas and to the man he hopes to replace, Thurgood Marshall.

Yes, Mr. Chairman, many of us know this man and his potential for true greatness on this Court, and we will not sit back and let his good name be criticized. We will never forget the words in the conversation of Orthello in act III, scene 3, "Who seals my purse steals trash to something, 'tis nothing, 'tis mine, 'tis his, and has been slave to thousands, but he who filters from me my good name, robs me of that which does not enrich him, but makes me poor indeed."

Second, Mr. Chairman, I focus on Clarence Thomas as an anomaly, or is he a representative voice? I like to focus on those critics, particularly in the black community who contends that Clarence Thomas is out of step with mainstream black thought. A number of these groups came out early on, even before they had a chance to know this nominee personally.

Since July 1, the terms "affirmative action, conservative and liberal" have been bandied about, with no true definition of terms. The Congressional Black Caucus and other so-called black leadership groups have operated like true kneejerk reactionaries, because they have not come to box in Judge Thomas or to fit him in a particular mold. Had some of these groups or persons had an opportunity to know some basic historical research, they might have learned that their seemingly strange views were espoused by such notable black figures as Frederick Douglas, Marcus Garvey, and Booker T. Washington.

They may have been pleasantly surprised that the famed Malcolm X was as true disciple of self-help and political and economic independence. The fact of the matter is, Mr. Chairman, that many of these standard bearers are still heavily dependent on corporate largess and they have no true solutions for the plight of these people and are slow to ingenious and creative thought, regardless of the political party.

Many of the leaders conveniently overlook the first major poll by USA Today, showing that the majority of black Americans are supporting Judge Thomas, not to mention the most recent poll conducted by our own Atlanta Constitution, where black southerners are supporting this man 2-to-1.

To you members, I doubt seriously if our Forefathers were whipped, chained, or murdered, so that all blacks could think alike, walk alike, talk alike, and act alike. No single individual or organization has an exclusive lock or insight into the black experience.

While Judge Thomas has left no clear definitive trail on the issue of choice or pro-life issues, just a few years ago, many so-called black leaders were arguing that those who were favorable to the issue of choice were promoting black genocide. Again, I raise the question, did the masses change, or just the leaders?

In the final analysis, a true historical perspective will reveal that there has never been a monolith of thought of leadership in the black community. There was Garvey and DuBois, there was King and Malcolm X, and a newly emerging dichotomy between Gov. Douglas Wilder and Jesse Jackson. But a lack of monolithic leadership is as healthy now as it has been throughout history. Black people, like any other ethnic group, can see through shams, spurious and insincere leaders and programs or the lack thereof.

In closing, Mr. Chairman, I submit that Clarence Thomas represents the true American spirit, the true American ethic and ethos, and should be judged accordingly. The standards by which he is judged should be no different than the standards used for Justice Scalia, Kennedy, Souter, and the many others who have preceded him.

Mr. Chairman, I thank you for this opportunity to come before you and to speak of one, not that I heard of, not one that I heard about, but one that I know, and in no way would I try to denigrate

the work of many organizations who have criticized him, but neither could we sit back and acquiesce to their false definition of this man.

Mr. Chairman and members of the committee, I thank you for this opportunity.

Senator SIMON. Thank you, Senator.

Judge Bell, good to have you back here with us again.

STATEMENT OF HON. GRIFFIN BELL

Mr. BELL. Thank you, Senator. I want to thank Chairman Biden for accommodating my schedule. He is very nice to do it.

I want to thank you for the opportunity to appear here today in support of my fellow Georgian, the Honorable Clarence Thomas. I came to Judge Thomas before he became a judge, when it came about as a result of his long-time friendship with one of my law partners, Larry Thompson, who was formerly the U.S. attorney for the northern district of Georgia. Larry will himself be here as a witness during these proceedings. Judge Thomas and Larry Thompson practiced law together at Monsanto in St. Louis. That is how they became acquainted.

As one who served on the Federal court of appeals for 14½ years, I was interested in seeing the evidence of the stewardship and scholarship of Judge Thomas as a member of the District of Columbia Court of Appeals. I have now read a number of his opinions. I found these balanced, moderate, scholarly, well written, reasoned, and careful. In sum, his opinions evidence the highest standards of judicial excellence.

I have also heard a substantial portion of the testimony in this hearing. In my judgment, Judge Thomas has done remarkably well. Only one who has been interrogated endlessly in such a hearing by a large group of Senators—I speak of myself—some of whom were even hostile, can fully appreciate the tremendous pressure and wear that one undergoes in such an ordeal. Surviving such a ritual with one's character, reputation, good humor, and dignity intact is a victory within itself.

Judge Thomas has clearly survived. His character, reputation, and particularly his dignity is intact.

I have heard no reason not to vote to confirm President Bush's choice of Judge Thomas as his nominee to the Supreme Court. He appears to be a man of balance, unquestioned integrity and independence, and generally good character, intelligence, compassion, and patriotism. I believe that he will uphold our Constitution. I would trust him with my fundamental rights.

No one can really know what the sum total of the experiences of Judge Thomas have been during his lifetime. His experiences have surely been different from those of us who were fortunate enough to be born into a favored group. It has occurred to me that his early life in a segregated, often hostile society has perhaps given him the patience and courtesy and dignity to withstand the withering and almost brutal cross-examination to which he has been subjected on occasion in this hearing. I do not see how any objective viewer or listener could conclude that such a long-suffering and

sensitive person would lack compassion toward others similarly situated or would not favor and advance civil rights.

I heard Judge Thomas testify in response to a question of why he wanted to serve on the Supreme Court. He said that he wanted to give something back for all that has been given to him. He plainly has all of the objective qualifications and the appropriate personal qualities. His motive for service is in the highest tradition of our country.

I hope that you will vote to confirm Judge Clarence Thomas.

Thank you, Mr. Chairman.

Senator SIMON. Thank you, Judge Bell.

Judge Tanner.

STATEMENT OF JUDGE JACK TANNER

Judge TANNER. Thank you, Mr. Chairman.

I can recall in February 1978 that I appeared before this committee. Senator Thurmond is familiar to me. I was very unfortunate before that hearing. As I appeared, Senator DeConcini informed me that they had just filed disbarment proceedings against me in the State of Washington. So I am here because of the most intense, unprecedented, and harsh opposition in the history of this country to a nominee to the Supreme Court of the United States. The attacks have now also shifted to Members of the Senate. There is no logic or reason for the attacks, whether it is on the right or the left. They are emotional attacks based solely upon passion and prejudice, neither of which has any relevance to the qualification of fitness of the nominee.

I am most concerned with the concept of fairness and justice which are the very foundation of our system of jurisprudence. These remarks that I am making are my own and do not purport to represent the view of any other person or organization.

I am also concerned because I too appeared before this committee under somewhat similar circumstances. I was the first black person west of Chicago and north of San Francisco ever nominated an article 3 judge. I was nominated by Senator Warren G. Magnuson, then the chairman of the Senate Appropriations Committee. He formerly was, as several of you will recall, chairman of the Commerce Committee, the committee where the civil rights legislation in the 1960's originated.

My nomination was immediately opposed by certain factions in the State of Washington. The opposition was led by a local newspaper. Senator Henry Jackson, concerned about the nature of the attack against my nomination, appeared at a news conference in Seattle and denounced the attack. Senator Jackson said that the attacks against me "was only because he is black, that if Tanner was white there would be no opposition to his nomination."

I think that I should say here and now that not one Member of the Senate of the United States voted against my nomination at that time.

The opponents of Judge Thomas' nomination are concerned that he might do this or he might do that or that his confirmation will lead to some ideological shift in the Supreme Court, or that he is somehow outside the mainstream of legal thinking, yes, and politi-

cal thinking in this country, just because they do not agree with his sense of values of judicial philosophy, whatever it is that might be. Judge Thomas has sat as a member of the U.S. Court of Appeals for the District of Columbia for some 19 months now, and his judicial philosophy is still uncertain and unknown. Yet about 96 percent of the cases decided by that court are final decisions.

What is certain and known about Judge Thomas is that he is independent and can't be put into a category. He is just where he should be. Speculation and hysteria as to what the nominee might do should not disqualify him from the Supreme Court. After all, no other nominee has ever been disqualified for such reasons. Judge Thomas understands very well the rule of law.

I realize, of course, that there is one obvious difference between Judge Thomas and the previous nominees to the Supreme Court of the United States other than Thurgood Marshall. In my opinion, these groups are saying—and I include all of those groups opposing Thomas' nomination—that we just do not trust Judge Thomas because he is a black man. Support for this position comes from the prevalent view in America, and it is caused by the ravages and comes from the vestiges of slavery and the infamous black codes which followed that coloreds or Negroes, blacks or African-Americans, if you will, could not be trusted with responsibilities and obligations that affected the Armed Forces, the judicial, political, social, and educational institutions of America. They could not be trusted to fight in the many wars of this country, although they did so and with courage and valor. And so it stood to reason they could not be trusted with the life, liberty, and property of white Americans.

In 1949, President Harry Truman appointed for the first time in the history of the United States the first article 3 black judge. He appointed William Hastings to the Third Circuit Court of Appeals. In 1955, the Supreme Court of the United States handed down the opinion of *Brown v. Board of Education*, perhaps the greatest decision ever handed down by the Supreme Court of the United States at any time in our history. Thurgood Marshall was rewarded for his great victory in that case when President Lyndon Johnson nominated him to the Supreme Court of the United States. Once again it had been recognized by the country that the black man could be trusted.

In 1991, the United States went to war in the Middle East. The Chairman of the Joint Chiefs of Staff of the Armed Forces of the United States was one Colin Powell, then a four-star general and a black man as well. President Bush, as Commander in Chief of the Armed Forces, trusted the integrity, loyalty, training, and experience of General Powell. He was, in fact, entrusting the security of the United States to a black man. History will show that trust was well placed. It is my judgment that history will repeat itself and one day show that President Bush, the first Republican President to ever do so, was right in entrusting to a black man the job of safeguarding the life, liberty, and property of all Americans by nominating Judge Clarence Thomas to the Supreme Court of the United States.

Judge Thomas is just as well qualified to become an Associate Justice of the Supreme Court as were the 103 white males, 1 black

male, and 1 white woman who have heretofore come before this body for advise and consent. In fact, because he had the black experience in his life, he is perhaps the better qualified than all but two members of the Supreme Court.

This committee can believe the President of the United States when he says that Judge Thomas is the best man for the job. Just because he happens to be a black man does not disqualify him, nor should it by any test or criteria. It has only happened twice in our history that a black man has been nominated. It is highly doubtful that any of us in this room will see it happen again.

It is my judgment that there are a great number of Americans out there, and, yes, there are people throughout the world, who are watching this great drama unfold. It is also my judgment that the great majority of those Americans, white, black, brown, yellow, and red and of all religions and faith, want to see Judge Thomas sitting as an Associate Justice on the Supreme Court of the United States. They want to see fair play and justice done to this man. They want to be able to point to this man and say to their children that they too can aspire to the highest Court in the land, that they too can expect fairness and justice, and they too can put their hopes and dreams in America where the rule of law and not of man reigns supreme.

In conclusion, let me say to the members of the committee, no President of the United States, whether he is Republican or Democrat, has ever or will ever appoint a black man or a black woman to the highest Court of the United States unless that person is well, well qualified. Despite the vicious, unwarranted, and unprecedented attacks upon the nominee, he still stands tall. He has exhibited more than just plain character while under fire. This black man has exhibited sheer guts and will power above and beyond the call of duty to his country. He has displayed courage and valor in the face of the bitter criticism and abuse heaped upon him. Such valor and courage in the time of war is rewarded in the armed services of the United States by award of the Congressional Medal of Honor. What could be a greater test of character than that displayed by the nominee before this committee?

Thank you, Mr. Chairman.

Senator SIMON. Thank you, Judge Tanner.

Margaret Bush Wilson, whom I have known back from the days when she was considered a radical. Happy to have you here, Mrs. Wilson.

STATEMENT OF MARGARET BUSH WILSON

Ms. WILSON. Thank you, Senator. I have to apologize for this voice. I have had some thyroid surgery, and it has affected my vocal cords. Some of my colleagues say it is a good idea that I can't talk. [Laughter.]

I have prepared a written statement which I trust that all members of the committee will receive, if they have not already. I propose not to—

Senator SIMON. We will put the statement in the record, and I assume someone has it. I do not have a copy of it right here.

Ms. WILSON. I would hope that it would be in the record and therefore I can just speak briefly from it.

I think it is most appropriate that your questions probe, as many of you have done, the fundamental character of the man, Clarence Thomas, and how he thinks about and analyzes issues. It seems to me that that, more than anything else, is the critical thing that this committee must address, rather than his specific views on specific issues, because how he thinks about and analyzes issues will determine what kind of Justice he will be in the first third of the 20th century, what kind of Justice he will be as he deals with the problems, the like of which none of us in this room can even imagine, much less frame questions about.

With that in mind, maybe I can help the committee in a small way to understand who Clarence Thomas is. I make this offer in part because, at least to some degree, the Judge Thomas I have been reading and hearing about is not the Judge Thomas I know.

I would like you to go back with me to the spring of 1974. One afternoon I was seated next to the then attorney general of the State of Missouri, who is now my distinguished senior Senator from Missouri, John Danforth. We were at a luncheon at some public event, and he said to me during the table conversation, "I have a bright young man whom I would like you to get to know. I am inviting him out to be on my staff. He is a graduate of Yale, and he will be coming out to the State to be on my staff."

I said, "Well, that is fine." And then he added, "And he is black." And I said, "Well, that is great." Then he said to me, "Do you happen to know a place where he can live? I don't think Jefferson City is the most exciting place in the world to spend the summer." It just so happened that my own son, who was in law school, had just told me a few weeks before that he wasn't coming home for the summer, and so almost on impulse, I said to Senator Danforth, "Yes, I do." He said, "Well, where is that?" I said, "In my own home."

And so some 2 months later, one sunny afternoon I think toward the end of May or the first of June, my doorbell rang, and at the door was a striking young man. And he said to me, "My name is Clarence Thomas," and I replied, "Yes, I know. I have been expecting you."

Then for 2 months, Clarence Thomas lived in my home as my guest. And I think members of the committee and members of the panel and everybody in this room knows, if somebody stays in your home longer than a week, you get to know a lot about them as a person. You know something about their values, something about their character. And so I have this unique insight at a time in young Clarence's life when the least thing he expected was to be a nominee to the Supreme Court of the United States.

I want to tell you several things about him that I observed: One, that he was a very disciplined person. I can't recall a young person who seemed to have clearly in mind what he wanted to do and then proceeded to do it. He was up every morning doing his exercises with my son's weights. He did have one fault, though. He started out with the weights up in my bedroom, and I had to stop that and bring them downstairs.

After that, he went off to study, and he spent the day with the books. I made only one requirement: Be home in time for dinner. And he kept his promise. He would come home for dinner.

That is when I got to know something about Clarence Thomas, because these meals were the give and take of a family of folks who like to talk about what was going on in the day-to-day life of this country. And I must say we had some lively discussions with Clarence Thomas, because he then was very, very stubborn about his views and not willing to accept anything on face value.

We didn't always agree, but I was impressed with this young man's ability to analyze, his insights, and his own sense that he had to think things through for himself.

So I can tell you that Clarence Thomas is a man of good moral character. He is disciplined. He has a very keen mind. He is, contrary to what I have been hearing today, in my judgment a scholar. And I think he will be a scholar on this Court.

He has been busy at different levels of Government where the scholarship and the ability to do that has been limited. I think the Supreme Court experience will open for this young man vistas that he has not yet displayed because he does have the fundamental keen intellect which I think is so essential for this Court.

The day he left he asked me how much he owed me. I said to him, "Clarence, you don't owe me a thing. But I do want you to make a promise. I want you to promise as you move through your career that if you are ever in a position to reach out and help somebody, like I have helped you, that you will do that." And he made that promise, and I am convinced that he has been keeping his word ever since.

Now, across the years I have been keeping in touch with him. I respect his integrity, his legal mind, and his determination. I have found him to be sensitive and compassionate, doing what he believes is right and working to make the world a better place in which to live.

Mr. Chairman, I want to speak to a comment and to the questions which were directed by Senator Kennedy—and I am sorry he is not here. But I want to provide an insight, in view of Senator Kennedy's probing and important comments and questions this morning.

Clarence Thomas I suspect was as impatient as I am now with the progress in addressing some of the fundamental problems of people who are deprived in this Nation, and particularly the problems that confronted one-third of our American citizens who are of African descent and who are still poor. Some of us have mastered the art of disagreeing without trashing anyone or any institution. Perhaps in the past in his younger days, Judge Thomas was impolitic in some of the things he said. But I think you and I will agree that Judge Thomas has now mastered the art of disagreeing without being disagreeable, that he has demonstrated this especially well in these hearings.

I trust that organizations which have expressed opposition to Judge Thomas have watched his comments and his demeanor in these sessions and are willing to temper their views. Some of them have urged that you reject his nomination. I hope that they will reconsider. Some of his critics have said that despite Judge

Thomas' chairmanship of the Equal Employment Opportunity Commission for 8 years, he does not champion the cause of civil rights. But they obviously don't know him or the real facts about his tenure on the EEOC. And I have been particularly pleased that some members of this committee have placed in the record documentation—

Senator SIMON. If you can conclude your remarks, Mrs. Wilson.

Ms. WILSON. Yes. I think I can conclude them by saying, Mr. Chairman, that I strongly support Clarence Thomas. I think he has the temperament, the background, and I appreciate this opportunity to share my views with you.

[Prepared statement follows:]

Statement by Margaret Bush Wilson
before the U.S. Senate Judiciary Committee
in connection with the
Nomination of Judge Clarence Thomas
to be an Associate Justice
of the United States Supreme Court

September 1991

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Mr. Chairman, and members of the Committee, thank you for providing this opportunity to comment on Judge Clarence Thomas as you consider whether to "consent" to his nomination to the Supreme Court of the United States.

Yours is an important constitutional duty. Particularly important because if Judge Thomas serves until the age of his predecessor he will be on the Court until the year 2030.

[Pause for Chairman's Reply]

It is appropriate that you take a long, hard look at Judge Thomas before deciding whether to consent.

It is appropriate that your questions probe, as many of them already have, the fundamental character of the man and how he thinks about and analyzes tough issues.

That, more than anything, and certainly more than his specific views on specific issues will determine what kind of a justice he will be in the first third of the twenty-first century ... what kind of a justice he will be as he deals with problems the likes of which none of us can even imagine, much less frame questions about to probe his specific views.

Maybe I can help you in a small way, to understand who this man is. I make this offer in part because, at least to some degree, the Judge Thomas I have been reading about is not the Judge Thomas I know.

I first heard of Judge Thomas from Senator Jack Danforth, who has already eloquently described the Judge. The Senator told me of a bright, young, 26 year old Yale Law School graduate he had just hired who needed a place to stay during the summer while studying for the Missouri bar.

I volunteered the room which belonged to my son, Robert, who was a law student and planning to work in Washington for that summer.

Mr. Chairman, I have never seen a young man as disciplined as Clarence Thomas was that summer. Every single day he exercised with my son's weights and then applied himself to his studies on a strict schedule and in a disciplined fashion.

I only asked of him one thing.

I would prepare dinner and he would show up -- on time. We ate together every night, often with friends or relatives, and we talked about any and all of the problems of the day. Clarence had vigorous views even then, and we did not always agree.

However, what impressed me was the quality of his thinking. He did not let personal feelings interfere with adopting a principled position based on sound analysis and logical thinking.

Frankly, his arguments both legal and logical often forced me to rethink some of my own views.

I suspect that sometimes our discussion helped him to see things differently too, because he knew how to listen as well as talk.

However, if Clarence did change his view, it was not because I said it, it was because he thought it through and it made sense to him.

Across the years I have kept in touch with Judge Thomas, and to this day, I respect his integrity, his legal mind and his determination.

I have always found him to be sensitive and compassionate, doing what he believes is right and working to make the world a better place.

You have already heard from many organizations (some of which I belong to) whose goals and principles I share and whose positions I usually support.

They have urged you to reject his nomination.

I am sure that many members of these organizations have tempered their opposition to Judge Thomas after seeing him and hearing him this past week. I only hope that the leaders of those organizations see fit to soften their opposition when they testify this week, as well.

Some of his critics have said that despite Judge Thomas' chairmanship of the Equal Employment Opportunity Commission for eight years he does not champion civil rights. They obviously don't know him or the real facts about his tenure at EEOC.

For example the Washington Post has reported that he turned EEOC from an independent agency into one subject to Presidential control, when the historical record reveals that this occurred in the Carter administration.

You have heard a lot about his background so I won't repeat it, but what is important to tell you is that I knew very little about that background until he was nominated, for he was not one to dwell on the past.

His eyes were on the future and he directed his efforts towards it with diligence, enthusiasm and discipline.

Some say he gives no credit to the heroes of the civil rights movement. You have heard his praise for Thurgood Marshall, Martin Luther King, and others during these proceedings. I first heard such sentiments over seventeen years ago.

Throughout the history of the Supreme Court, I do not believe any other nominee can claim to have come so far. We need people of Judge Thomas' unique perspective not only on the Supreme Court, but also in state legislatures, the workplace, city hall, on campus and everywhere else -- including, Mr. Chairman, the United States Senate.

No one can deny that Judge Thomas would differ from Justice Marshall on some issues. I haven't always agreed with the good Justice myself.

But I do believe that both men show a fundamental belief in the inherent worth and right of the individual.

At one of his previous hearings Judge Thomas indicated he became a lawyer because he wanted "to make sure that minorities [and other] individuals who did not have access to the society gained access."

He said that while he might differ with others on how to do it, his objective "has always been to include those who have been excluded."

Let's get more specific for a minute, Mr. Chairman.

I have told you that Clarence Thomas and I have our disagreements.

I have told you that Judge Thomas might disagree with Justice Marshall.

I also know that Judge Thomas has the strength of character to stand up for what he believes and to disagree with the other justices when necessary.

Let me give you a recent specific example that supports that conclusion.

The Judicial Conference asks all judges to file a report with race gender statistics on their law clerks.

I have here an article from the Legal Times of August 5, 1991 which reports that five Reagan judges on the D.C. Court of Appeals have refused to file the data, but that Judge Clarence Thomas was one of the judges who did file his report. He has the courage and independence to disagree with anyone.

One of the most disagreeable charges leveled at Judge Thomas is that he has changed his stated views to gain confirmation. Those who make this unfair charge do not know the man. Judge Clarence Thomas would not violate his principles for any purpose -- and certainly not to gain a seat on the Supreme Court.

I will close by recalling what Judge Thomas himself told you in his original statement concerning the day he left my home and went to Jefferson City to practice law in Attorney General Jack Danforth's office.

When he asked what he owed, I told him nothing, but I did ask him to promise that if he were ever in a position to help others, as I had helped him, he would do so, and he made that promise with enthusiasm.

I think he has been keeping his word ever since and will do so at the Supreme Court.

I am confident he will make a great Justice and will continue to defend and protect the rights of the needy, the powerless and those who have suffered from discrimination.

He will not permit anyone to think for him.

He will not be pigeon-holed.

He will be intellectually honest and when the year 2030 rolls around and history reviews his record compared with what has been said in opposition to him, I am confident that those of you lucky enough still to be here will know that a vote for confirmation was a special gift to our country.

I truly believe that Clarence Thomas can become one of the great justices in our history, and I take pride in recommending him to you Mr. Chairman and to the distinguished members of this Committee. May I respectfully urge that you exercise your constitutional powers of advice and consent to the nomination of Clarence Thomas to be an Associate Justice of the Supreme Court of the United States.

Senator SIMON. Thank you very, very much.

Senator Allen, I understand you have an 8 o'clock plane to catch.

Mr. ALLEN. Senator, the statement, "Delta is ready when you are," I don't believe that statement anymore. Also the judge is on the same plane.

Senator SIMON. You are all on the same plane?

Mr. ALLEN. We are all from Georgia, Senator.

Senator SIMON. One of the questions I have is—one of you mentioned Thurgood Marshall. When you looked at Thurgood Marshall's record, you knew where he was going. He was very, very clear. As I look at Judge Thomas' record and I look at Judge Thomas as a student at Holy Cross, it is—and I don't know that much about him at Yale Law School, but at Holy Cross he was that champion of the less fortunate, very, very vigorously.

Then I look at Judge Thomas' record in the Department of Education and with EEOC and I read his speeches—and I have read some 800 pages of his speeches—I see someone who comes out on almost the opposite side of Thurgood Marshall on just about everything. And I am trying to find which is the real Judge Thomas.

Mr. ALLEN. Senator, I think they jibe.

Senator SIMON. Pardon?

Mr. ALLEN. I think they do jibe. I think you have a young man—understand something. We would have to put Justice Marshall in a framework of 1967 and his life before then, but we have here a 43-year-old young man who has seen many of the policies that we were taught and believed to have "freed us and helped us and brought us out of our predicament," and I think here is a young man who is so concerned about the plight of the downtrodden that he saw many of the old ways not working. And I think he sat back and analyzed and said let's look at another way, let's try another way. So I see no real contradiction in the so-called two Clarence Thomases that others might see.

Senator SIMON. I think there are many people on this committee, including some who are going to vote for him, who find a real difference between his testimony and his record at this point.

Let me, if I may, Senator, because you used two names, toss this out—and then I would be interested in the answer to my first question from all of you.

You used Booker T. Washington and Frederick Douglass. They took two very, very different courses.

Mr. ALLEN. No, sir. W.E. DuBois and Marcus Garvey would be the same timeframe, Garvey and DuBois.

Senator SIMON. Yes. But if I may just take the two, Booker T. Washington lifted himself up by his bootstraps—had a very exciting personal story. But in a speech in Atlanta, as a matter of fact, he said he was the accommodator. He said about Frederick Douglass' demands for voting and these other things, let's lift ourselves up, let's not push for these things. And the white majority seized on Booker T. Washington's statements, and I think history has judged—those statements unfortunately did great damage to the cause that was an important cause. Frederick Douglass was the advocate, the strong promoter of the rights for the less fortunate.

As you look at Judge Thomas, is he more the Booker T. Washington or the Frederick Douglass?

Mr. ALLEN. Senator, he is an advocate of all those personalities. The speech that you made reference to historically was one where Booker T. said that, in all matters, we can be separate as fingers, but be as mutual as the hand, and he talked about us working together. I think he understood that everyone was not meant to study Plato and Socrates, and while there are some people who have the arts in mind and literature, as DuBois mentioned, as a talented tenth theory, he also mentioned that Garvey and Washington believed everyone was not equipped to be the scientist, the connoisseur of literature, and there was a place for that person, too, so I see Clarence as a conglomerate of all those philosophies to what can make things work for the downtrodden, because there was no exclusive way.

Senator SIMON. If I may, on the first question, direct it to all three of you—

Mr. BELL. If I might speak to the first question, I am testifying for Judge Thomas, because I think he is his own man. I did not come here to testify because I thought he was like Justice Thurgood Marshall. They are different. Each one as an American citizen has a right to stand on their own feet.

I do not know anything about Judge Thomas that would cause him to be tested by the standard of Thurgood Marshall. That has been a problem ever since he was nominated. People said, oh, we don't want him, because he is not the same as Thurgood Marshall. Well, that is not the test in this country. He has a right to be considered on his own merit, and on that merit I support him.

Senator SIMON. Judge Tanner.

Judge TANNER. I agree with Judge Bell that it is very difficult to compare Thurgood Marshall and Clarence Thomas. It is like comparing Joe Louis or Jack Dempsey with Mohammed Ali or Jackie Robinson with all the other black ballplayers that came along after him. It is a very difficult thing.

But I, Senator, happen to be at the time, I was on the board of directors of the NAACP, I happened to be there when Thurgood Marshall was the general counsel of the NAACP, I happened to be there when he was director of the ink fund. I do not think at any time did I ever agree with Thurgood Marshall, except on *Brown v. Board of Education*, so there are differences of opinion among black lawyers, among black judges, among black people in the United States, so I think it is unfair to say it, but you must remember, the Yale graduate, and I assume Yale Law School is one of those recognized law schools, even though people from other law schools might disagree, has a much better education than Thurgood Marshall and myself, because he comes along at a time in our history that everything has changed. It was not like it was before *Brown v. Board of Education*.

Senator SIMON. Ms. Wilson.

Ms. WILSON. I thought we had resolved the dichotomy between DuBois and Booker T. Washington. We need them both.

But I think what I really want to emphasize here is that the careers of these two men are quite different. Thurgood Marshall's entire life was devoted to the civil rights movement on the advocacy side and the framework of the NAACP. Clarence Thomas has chosen the harder route, to move into the system and work within

the system to make it change, and I think it is a much more difficult job. And I think the fact that he has reached this point is kind of a star in his crown, because it is not easy, when you are inside the system, to change it.

Senator SIMON. Senator Thurmond.

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

First, I want to welcome you all here today. I want to thank you for coming. This is a very distinguished panel and I doubt if we have any panel that will excel this one, a distinguished State senator of Georgia, the State of the nominee, a distinguished circuit judge, Griffin Bell, who made such a fine record as Attorney General, a distinguished retired Federal judge here, and an outstanding lady distinguished in her own right, Ms. Wilson. We are just delighted to have all of you here.

I just have two questions you can answer in one word. I will start with you, senator. 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. ALLEN. Yes, Senator.

Senator THURMOND. Judge Bell?

Mr. BELL. Yes.

Senator THURMOND. Judge Tanner?

Judge TANNER. Senator Thurmond, I am not a retired judge, I am a senior U.S. district court judge on active duty. The answer to your question is amen.

Senator THURMOND. I correct myself in saying you were retired. I had understood you were retired. I thought you looked pretty young. [Laughter.]

Ms. Wilson.

Ms. WILSON. Senator Thurmond, yes, with great enthusiasm.

Senator THURMOND. The second question: Do you know of any reason why he should not be made a member of the Supreme Court, Senator Allen?

Mr. ALLEN. No, Senator.

Senator THURMOND. Judge Bell?

Mr. BELL. Absolutely no.

Senator THURMOND. Judge Tanner?

Judge TANNER. No, Senator.

Senator THURMOND. Ms. Wilson?

Ms. WILSON. Absolutely not.

Senator THURMOND. That is all. As far as I am concerned, you can go home, and if you rush, you might catch that plane.

Senator SIMON. We had better let Senator Specter get a question in here now. Senator Specter.

Senator SPECTER. Mr. Chairman, very briefly, because I know you have a plane to catch. I join my colleagues in thanking you for staying so late.

Judge Bell, would you classify Judge Thomas as well qualified for the Supreme Court, after having heard the ABA's recommendation of qualified?

Mr. BELL. I would classify him as well qualified, yes.

Senator SPECTER. Senator Allen, you are a member of the bar yourself, I understand?

Mr. ALLEN. Yes, sir.

Senator SPECTER. And you, of course, know Judge Thomas very well, you described your activities with him since boyhood. Do you have great confidence in his intellectual capability, based on your own personal knowledge?

Mr. ALLEN. Yes, Senator, and I wish that particular characteristic of his intellectual ability was stressed more throughout these hearings.

Senator SPECTER. Judge Tanner, I heard your comments on the radio coming over, and I thought I understood you to say that those who were opposed to Judge Thomas opposed him because he is African-American. Did I understand you correctly?

Judge TANNER. In listening to the hearings and reading the comments of the media, it appears to me that that is one of the issues, can a black man be trusted with the life, liberty, and property of the United States. I think all the questions that refer to natural law, implication or inference, are involved in that issue.

Senator SPECTER. Well, Judge Tanner, I hope no one opposes him on that basis, but how would you explain the opposition of the NAACP and some of the religious organizations which are African-American?

Judge TANNER. Well, look at the history of those organizations. I also, as Margaret Bush Wilson at one time, I was not the chairman, I was on the board of directors, I was a branch president, I helped form the National Conference of Black Lawyers. We, too, disagree, for different reasons. I was at one time a member of the Young Turks in the NAACP. We disagreed with Thurgood Marshall on the direction of the NAACP at that time. I am talking about the late 1950's and the early 1960's. We thought that the NAACP should put the resources, which were meager and perhaps still are, in the cities such as Chicago, New York, Detroit, and the large cities where the ghettos were being formed.

We also thought that then was the time to go back to the Supreme Court on *Brown v. Board of Education* and find out just what forthwith meant in the desegregation in the schools of America.

We ran into absolute bitter opposition on those issues, so we do disagree. We are not monolithic. We do not all agree. You see, Senator Specter, in my opinion and judgment, *Brown v. Board of Education*, for all intents and purposes, eradicated the legal impediments to people who had been descendants of slaves to get their fair share of America, but it did not tell us, *Brown v. Board of Education*, how to do that.

Senator SPECTER. Judge Tanner, I can understand how you would disagree with Justice Marshall and other African-Americans, but I do not yet understand why you would say that one African-American or a group like the NAACP would oppose Judge Thomas because he is black or an African-American.

Judge TANNER. Senator, I think history will show that it is not unusual or unknown for black people to oppose black people, just because they are black, for some reason. I am sure that there are many black lawyers and judges in the United States who are disappointed that President Bush did not call them to be the nominee to the Supreme Court of the United States.

But just because they are opposing him, and I firmly believe much of it comes, because you see that they are in these coalitions and some of them have called them special interest groups, as to how they think black America and women and other minorities should get their fair share of America. If you do not agree with them, then they think you are wrong.

Senator SPECTER. Ms. Wilson, do you agree with Judge Thomas on affirmative action?

Ms. WILSON. I think, Senator, you have to be clear, to let me sure I understand that you understand what Judge Thomas thinks about affirmative action. I have a view about it.

Senator SPECTER. Well, Judge Thomas has testified extensively about it and essentially he is opposed to affirmative action. That may be an oversimplification, but he is not in favor, for example, of having employment opportunities only of—on the basis of those who have actually been discriminated against, but not in favor of a group, to put them where they would have been, except for historic discrimination.

Have I stated that accurately, Senator Allen?

Mr. ALLEN. Sir, as we say in Georgia, somewhat muddy though.

Senator SPECTER. Somewhat what?

Mr. ALLEN. Somewhat muddy. I think I understand the judge's position to be that he has gone on record consistently in the area of quotas. Unfortunately, because in this whole process there has been no definition of terms, we have almost hitched up the phrase quota with affirmative action and they are not one and the same thing.

Senator SPECTER. Of course not. Senator Allen, you understand Judge Thomas' position on affirmative action?

Mr. ALLEN. The position as I have read, according to statements he has made, is that while he is opposed to quotas on the issue of affirmative action, I have understood his position to be that any favorite status for one that causes discrimination to another group he would, in fact, be opposed to, and that is probably the view of most Americans, particularly black Americans.

Senator SPECTER. Do you agree with him on that?

Mr. ALLEN. On that point, yes, sir.

Senator SPECTER. Thank you very much. I do not want to keep you any longer. You have a slim chance of making the 8 o'clock plane.

Senator THURMOND. I have called my car to come down and pick you all up and take you to the airport.

Mr. ALLEN. Thank you, Senator.

Senator THURMOND. I think you can make it, if you rush.

Senator SIMON. Thank you.

The committee stands adjourned until 10 o'clock tomorrow morning.

[Whereupon, at 7:43 p.m., the committee recessed, to reconvene at 10 a.m., on Tuesday, September 17, 1991.]

[Additional documents submitted for the record are contained in Part 4, Appendix.]