

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.