

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.]