

volved in *Roe v. Wade*, I think that was of some real significance and interest to this committee.

You have been asked specifically about *Roe v. Wade*, and you have declined to answer on the grounds that you may well be called upon to rule on those specific issues as a judge of the Court.

I would like to ask a related question that is slightly different. I can understand the reluctance to indicate how you would rule, but I would be interested to know if in your own mind you have come to a decision on the right to terminate a pregnancy. I am not asking what that decision is, but I would like to know within your own mind if you are at a point where you have decided that.

Judge THOMAS. Senator, I think, as I have noted earlier, that for me to begin to state positions, either personal or otherwise, on such an important and controversial area, where there are very, very strong views on both sides, would undermine my impartiality and really compromise my objectivity.

I think that it is most important for me to remain open. I have no agenda. I am open about that important case. I work to be open and impartial on all the cases on which I sit.

I can say on that issue and on those cases I have no agenda. I have an open mind, and I can function strongly as a judge.

Senator BROWN. Well, I thank you. I think that willingness to look at the facts and review them objectively is an important factor for us to look at.

Mr. Chairman, I think it is appropriate here to at least put into the record something that was said by Justice Marshall upon his confirmation. He was asked by a variety of Senators to indicate how he would have ruled on a number of cases. The *Miranda* case was brought up as well as several others.

In the *Miranda* case, or at least in response to the *Miranda* case, Justice Marshall said this, and I quote: "I am not saying whether I disagree with *Miranda* or not because I am going to be called to pass upon it. There is no question about it, Senator. These cases are coming to the Supreme Court."

Justice Marshall remarked at a different stage of the hearings, "My position is—which in every hearing I have gone over is the same—that a person who is up for confirmation for Justice of the Supreme Court deems it inappropriate to comment on matters which will come before him as a Justice." I thought it appropriate to have that in the record. The position you have taken with regard to announcing an opinion in advance of hearing the case is certainly in line with other people who have been advanced to the Supreme Court, and in this case specifically Justice Marshall.

But I must say I do appreciate your answer to my question. I think a critical issue for us here is to know that you are willing to listen to the facts in those cases.

The CHAIRMAN. If the Senator would yield, did you have more than you read that you want to place in the record?

Senator BROWN. I think I would leave it at that, Mr. Chairman.

The CHAIRMAN. Second, did the witness answer your question? I didn't think he answered your question. That is, did he make up his mind? Not what is it, but just has he made up his mind?

Judge THOMAS. I indicated that it would be inappropriate to explain to him or to say whether I did or not.