

Senator THURMOND. Now, Mr. Palmer, is your testimony based on personal acquaintance or on reading his writings and his reputation or hearing him speak, or on what basis?

Mr. PALMER. My testimony is based on accounts in the various—

Senator THURMOND. Speak a little louder. I can't hear you.

Mr. PALMER. My testimony is based on accounts read from various newspapers, magazine articles, and accounts that I have seen on different television programs.

Senator THURMOND. In other words, on his reputation, as you gained it from those sources.

Mr. PALMER. That is correct.

Senator THURMOND. Ms. Alvarez, I believe you worked with Mr. Thomas, Judge Thomas. Is that correct?

Ms. ALVAREZ. I am sorry. Say that again?

Senator THURMOND. You were with him on Senator Danforth's staff.

Ms. ALVAREZ. Yes, sir.

Senator THURMOND. You were with him at the Department of Education, and you were with him at the EEOC. In other words, you have worked with him in all those different places.

Ms. ALVAREZ. I did not work with him at the Department of Education. I was on Secretary Ted Bell's staff at that time.

Senator THURMOND. I see.

Ms. ALVAREZ. And he was Assistant Secretary for Civil Rights.

Senator THURMOND. So you know him personally.

Ms. ALVAREZ. Yes, sir.

Senator THURMOND. You know him well.

Ms. ALVAREZ. Yes, sir.

Senator THURMOND. And you endorse him.

Ms. ALVAREZ. Absolutely.

Senator THURMOND. I want to ask both of you two questions. Knowing him as you do, through reputation or personally, is it your opinion that he has the integrity, the professional qualifications, and the judicial temperament to make a good U.S. Supreme Court Justice?

Mr. PALMER. Yes.

Ms. ALVAREZ. Yes, sir. Clarence is a smart man, but Clarence is a wise man from the experience of his life. And that is what qualifies him; not just within his brain, but what is in his heart and his soul.

Senator THURMOND. Now, do you know of any reason why Clarence Thomas should not be confirmed by this committee and the Senate to be a U.S. Supreme Court Justice?

Mr. PALMER. No, Senator. I know of absolutely, resolutely no reason.

Ms. ALVAREZ. As long as I have known Clarence and as long as I will continue to know him, absolutely not.

Senator THURMOND. Do you heartily endorse him for this position?

Mr. PALMER. A resounding yes.

Ms. ALVAREZ. Absolutely.

Senator THURMOND. The distinguished Senator from Pennsylvania, Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman. And it is nice to see you as chairman again, Mr. Chairman.

Ms. Alvarez, you tell a very poignant story about a person who confronted Judge Thomas about being affirmative action on getting into Yale but smart enough to get out of Yale. The hearings, I think, could have provided a much better forum to discuss the public policy concerns on affirmative action, and Judge Thomas has written extensively about opposing affirmative action because he believes that it degrades the beneficiary from the minority and that it is unfair to the person who is displaced, and he writes about creating racial tension.

There is a very poignant story in an article by Juan Williams in the Atlantic Monthly on Judge Thomas where he talks about Judge Thomas' swearing-in after he was reconfirmed to EEOC, when he was sworn in by Attorney General Meese and by Assistant Attorney General Bradford Reynolds and by Senator Thurmond. And at that time, after the swearing-in, Bradford Reynolds went over to Clarence Thomas and said, "You are a great product of affirmative action." And Thomas' face fell, and all of the staff noted how unhappy he was to be characterized as just a product of affirmative action.

But the other side of the issue which concerns me and the one that I discussed at some length with Judge Thomas was the benefits of affirmative action that he received—as he characterized it, preference on getting into the Yale Law School. And I then asked him the question about the policy considerations on giving a preference to hypothetically a 10-grade dropout African-American who was looking for a job.

We had considerable discussion about the Building Trades Union, local 28 in New York City, which had more than two decades of egregious discrimination. And it was clear from the history of those hiring practices that not only were people discriminated against in the past, but you knew very well that future applicants would be discriminated against as well, because that had been going on for so long it just was certain to be the case. And why not establish a flexible goal and timetable, which Judge Thomas had favored earlier in his career in 1983 speeches, so that you would deal specifically with projected discrimination.

Now, what is your view on that, Ms. Alvarez? Why not apply affirmative action to that 10-grade dropout in the context where you know that African-Americans are going to be discriminated against?

Ms. ALVAREZ. Do you want my personal views on it?

Senator SPECTER. Sure.

Ms. ALVAREZ. Affirmative action has, I guess, opened a lot of doors, and I certainly have been one person that has benefited from it as well. But as I said in my statement, it has also been something that has kept people from looking directly at my abilities. People always make the presumption that I am only there not because I am competent, but because of affirmative action.

Senator SPECTER. But how can someone look at the ability of the person if the person doesn't get a job?

Ms. ALVAREZ. And that is right. I do believe that it has helped open the doors. But all it does is open the doors, and there are—

Senator SPECTER. But that is all affirmative action is supposed to do, is to open the doors. So if Judge Thomas gets the affirmative action preference at Yale Law, why shouldn't the 10-grade dropout get it in employment context?

Ms. ALVAREZ. Everyone ought to be given a fair and equal opportunity, and in the perfect world that would be the case. The world isn't perfect. My personal views about affirmative action, I believe there is room for it. I believe there is a place for it, I think that with some modifications, though, because I think that sometimes setting goals and timetables hasn't always been effective.

The general premise of affirmative action I believe in; how it is carried out isn't always—I am not always in agreement with.

Senator SPECTER. Well, I am not going to prolong the discussion at this point because we have so many witnesses. But you brought up the situation with Judge Thomas and how he felt personally affronted by being stigmatized as being a beneficiary of affirmative action. And I can understand that, and I wish we had talked more in the hearings about the downside of affirmative action. But also I wish we had talked more in the hearings about the context where Judge Thomas disagreed. Because as Judge Thomas would extend protection to the specific African-American who was discriminated against, he would not extend affirmative action to the African-American who is virtually certain to be discriminated against in the future in the context of the hiring practices of local 28.

I was district attorney of Philadelphia for 8 years and saw employment as a key factor giving African-Americans and minorities, women, a chance to move up. And that is a source of enormous problems. Without a job, there is the problem of turning to crime. Without a job, there is the problem of turning to drugs. Without a job, there is no opportunity to move ahead in the world.

What so many people don't understand is that when you talk about affirmative action, you are not talking just about the 10-grade dropout and his benefit. You are talking about a peaceful society and progressive society that benefits everybody. Those views haven't been brought across. All affirmative action is debated in terms of is reverse discrimination and displacing some white person who is better qualified. But the societal benefit has much to recommend the affirmative action in that context that I have articulated and perhaps narrowing the range of debate.

Well, thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. You have made that point repeatedly, Senator, and I want to associate myself with your remarks. It is funny. We wouldn't need affirmative action were there not prejudice out there. Isn't that strange? And isn't it strange how people are affronted after having been the recipients of affirmative action because they were the recipients of affirmative action? But if they weren't the recipients of affirmative action, they wouldn't have had the job in which they got affronted. I find that fascinating.

I find it interesting to be offended that someone would say that you got to Yale Law School because of affirmative action when, in fact, you would have never gotten to Yale Law School had there not been affirmative action—not you. I mean “you” in an editorial sense.