

In connection with your testimony, I notice you have attached a very strong statement from the AARP, too, that ought to be entered in the record, if it has not been.

The CHAIRMAN. Without objection.

Senator SIMON. I thank you all, particularly Reverend Taylor, and we thank you all for sitting so long before you get a chance to testify.

The CHAIRMAN. Senator Simpson.

Senator SIMPSON. Thank you, Mr. Chairman.

Thank you for your understanding of our agenda today and the time we take, regardless of what members of the panel may think. We have taken a great deal of time with this issue, because of the sensitivity of the chairman and the ranking member, and that is the way we do our business. I think that is quite evident.

You know, I was interested in the National Bar Association and the closeness of the vote. Was that a public vote? I mean did people stand and put their hand up, or was it a closed ballot?

Ms. MCPAHIL. Well, the session was closed, but it was by ballot.

Senator SIMPSON. Secret ballot.

Ms. MCPAHIL. People did stand and speak for and against, so you knew pretty much who was for him and against him, but it was a secret ballot and the session was closed to the press.

Senator SIMPSON. If it was not a secret ballot, I only ask you if this is the case, how did you vote?

Ms. MCPAHIL. How did I vote?

Senator SIMPSON. Yes.

Ms. MCPAHIL. Well, Senator, I considered that I might be asked that question and it troubled me, because I am here as the president of the National Bar Association and, as its president, I must represent its vote. Were I to respond to that question, then I suppose, if pressed, I might, there would be at least half of the members of my organization who would be very disturbed about that, so I would appreciate not being asked to respond to it, but I would, if you insist.

Senator SIMPSON. I understand that fully. We will end that, but we won't quit here now.

I wanted to ask Ms. Aiyetoro: You say some pretty tough things, pretty harsh about Judge Thomas. For example, "President Bush's nomination of Judge Thomas to fill the seat vacated by Justice Marshall is an insult, not only to people of color and women, but to the legacy of Justice Marshall." That is pretty tough stuff, in my mind. You make it all sound that all people of color and women find Judge Thomas' nomination an insult. It is difficult for me to see how you purport to speak for 58 percent of the black Americans that, in a September 16, 1991, ABC opinion poll found supporting Judge Thomas and his elevation to the Supreme Court.

Your testimony also refers to the *Griggs v. Duke Power*. That case held that plaintiffs may prevail in a title VII discrimination suit, if they show that an employer's facially neutral employment practices were causing significant statistical disparity in their workplaces. You note the certain EEOC guidelines that attempt to inform employers about how this case applies to them, and then you say, "Judge Thomas, as the EEOC Chair, attacked the guidelines, because, in his view, they encourage too much reliance on