

with a case in which a significant element is the extraordinarily troubled background of the defendant. I think it is a pull and a tug, and it would not disturb me to find—I am not familiar with the facts of the case, but it would not disturb me to find a certain leeway where the trial court could take that unique particular factor into consideration.

Senator SPECTER. You are not troubled by Judge Thomas' joining in that opinion?

Mr. KERN. No.

Senator SPECTER. Ms. Holmes, I believe you were in the hearing room this morning when the panel testified on the abortion issue and opposed Judge Thomas on the concerns they have on what might happen with *Roe v. Wade* and the issue of sensitivity to women's concerns in that kind of a situation? You heard that?

Ms. HOLMES. Yes.

Senator SPECTER. What is your evaluation, if you care to give one, as to how you think Judge Thomas might respond to sensitivity for women's concerns, especially for African-American women?

Ms. HOLMES. Senator, my organization, the National Black Nurses Association, has a great concern about the abortion issue, but we have not come out with a position statement on abortion, and anything that I would say here today would be construed as coming out from the association. Therefore, I would rather not make any comment on that.

Senator SPECTER. Well, I respect that, Ms. Holmes. Would you have any comment to make on your view as to his sensitivity on women's issues, generally?

Ms. HOLMES. He is going to be fair, he certainly is going to read all the opinions, sit down and meditate on it and think about it, and whatever he comes up with as his decision, I am sure that it will be something that has taken great thought.

Senator SPECTER. Mr. Thompson, I could not be present during your testimony. I came in shortly after you finished, but I understand you had testified in support of Judge Thomas, of course, but some difference in view with Judge Thomas on affirmative action. Do you agree with his position on affirmative action?

Mr. THOMPSON. I did not testify with respect to any difference of opinion, as I understand his views on affirmative action, so I do agree. As I understand what Judge Thomas' views are on that subject, Senator, I do agree with his views, but I think that his views on affirmative action as they have been portrayed in the media have been misinterpreted.

I do not view and understand Judge Thomas to take the position that he is opposed to all forms of affirmative action. He is opposed to quotas, as I am, but he understands that some forms of affirmative action are necessary, because they are really truly needed to make some of our individual rights and aspirations a reality, and they are fair. But he is opposed to quotas, and so am I.

Senator SPECTER. Well, with respect to his opposition to quotas, he was emphatic about that, and I think there is general agreement that quotas are bad. He did testify about agreeing to limited affirmative action in an educational context, and there was considerable discussion about his own experience. But he did oppose affirmative action in an employment context, unless the affirmative

action was directly remedial to a specific individual who had been discriminated against, and that he would not favor affirmative action if it would put the group in the place where the group had been, but for a generalized discrimination. Do you agree with that point on Judge Thomas' stand?

Mr. THOMPSON. Yes, I do. But I would also like to respond beyond that and indicate something and reiterate something I said in my direct testimony, and that is people may differ on affirmative action and people may differ with respect to how black Americans, in general, need to advance and overcome some of the problems that we face, but I do not believe that that difference of opinion should be a reason for this body to deny Judge Thomas' confirmation to the United States Supreme Court.

As I said in my testimony, I think this difference of opinion within the black community as to how we should advance, how we should and can attack the problems that we face is deeply rooted in this country's history, beginning with the differences of opinion between W.E.B. DuBois and Booker T. Washington, and I believe that this difference of opinion is a source of strength in the black community and in the Nation as a whole, and this difference, you should not use this difference to get off track and use it as a basis for confirming or for denying the confirmation of Judge Thomas.

Senator SPECTER. Mr. Thompson, how long have you worked with Judge Thomas at Monsanto?

Mr. THOMPSON. I worked with him for approximately 2 years.

Senator SPECTER. And you dealt with a great many legal issues during that 2-year period?

Mr. THOMPSON. We dealt with a great many legal issues that many young lawyers in our corporate law department would have to face.

Senator SPECTER. The American Bar Association rated Judge Thomas qualified, as opposed to being well qualified. How would you rate him?

Mr. THOMPSON. I would rate him well qualified, and I think, as I understand the American Bar Association's recommendation, I think it is unfairly tilted to the litigation experience of a lawyer, not just Judge Thomas, but any lawyer who is being viewed for a judicial position, and certainly discounted and did not take into consideration his public policy experience as the head of the EEOC or a major agency such as that. I would rate him well qualified.

Senator SPECTER. Thank you, Judge Thompson. Thank you, ladies and gentlemen.

Thank you, Mr. Chairman.

Senator KOHL. Thank you very much, Senator Specter.

Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

I suppose in hearings of this kind, it is natural that you would have both proponents and opponents. I think that is the purpose of the hearing, to allow both sides to come and speak, but one of the phenomenons that we have had is that the people who seem to know the Judge and have a personal contact with him all seem to be proponents, and the opponents seem to be made up of those who haven't had a chance to get to know him personally.