

Look at his record, listen to what he has said to you during this hearing. Hear what he has refused to say. You may have to sail against the current, but that is OK. I urge you to vote against confirmation of Mr. Thomas.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, gentlemen. I know you all used the phrase this is not easy for you to do. I suspect a lot of people think it was easy. I have some sense, some little sense, of how hard it must be. You have all fought your entire lives to see to it that black women and men are in positions of power, positions of authority, to be able to be role models to a generation of black children, and here you are, walking down that long walk across from the other body to come to this great, majestic room and tell a group of your colleagues on the Senate side not to vote for a man to the Supreme Court who is black, when not a one of you—I don't want to reveal all of your ages—but not a one of you failed to understand at some point in your lives the lash of legal segregation. The notion that 20 years ago, 30 years ago, any one of you would be in this room saying, "don't put any black person on the Supreme Court of the United States," would boggle the mind. And you are here, and as I said, I am confident of what you say when you say it is not an easy decision.

Let me be the devil's advocate with you for a moment, if I may.

Clarence Thomas and those who vociferously support Clarence Thomas say two things about black leadership in America and black leadership in the Congress—and you are the black leadership of the Nation. They say, No. 1, that this really only reflects a difference on affirmative action; that's what this is all about. The only thing you all are concerned about is affirmative action. Clarence Thomas is hostile to affirmative action, apparently—although I acknowledge, John, it is kind of hard to tell—and that's why you are here.

The second thing they say is that any black man who has suffered the indignities and injustices of a legally segregated system as well as a system, in my view, that continues to be segregated, in a much more sophisticated way these days, that that person's instincts have got to be right when they get on the bench; that in the end, whether or not he calls himself a Republican or a Democrat, conservative or liberal, he will do the right thing.

So the two big arguments that have been posited by supporters of Thomas and those who have been detractors of your position are (a) that this is all about affirmative action and a desire for you to maintain a position of black leadership in the Nation, your points of view, and (b) how could any black man with his background not do the right thing when it comes to issues relating to race.

Would any or all of you please comment for the record on both of those assertions that we have heard so many times in this committee?

Congressman Conyers.

Mr. CONYERS. Mr. Chairman, might I comment on that and ask before we begin that all of our individual statements be submitted and reproduced in the record.

The CHAIRMAN. They all will be. Anything beyond what you have said, if you have a statement, will be placed in the record as if read.

Mr. CONYERS. Thank you very much.

Of course, we have pointed out here in all of our testimony that this goes far beyond individual differences of how we approach civil rights; that we are talking about our lack of confidence that whether he will apply fundamental constitutional concepts in a way that is going to satisfy us far beyond affirmative action. We are talking about his conduct in 9 years of public office that required him to come before Congress as many times as you've heard here today.

We are talking about the fact that senior citizens are aggrieved about the way he handled age discrimination cases. We are talking about the women's organizations who are disturbed about where his views on privacy are going to lead. We don't know what is going to happen on natural law.

So I think it is patently obvious that this is not a single issue or some truncated difference of view on one part of the civil rights issue that we take. It would be trivial of us to come forward on that kind of a question.

I also very firmly believe that what happens here in these next few weeks before your body is going to determine whether we ever come forward with an adequate African-American nominee to replace Thurgood Marshall. And I think what we have to continue to watch very carefully is if he is confirmed, we are essentially closed down for Justice Marshall's representative. If he is not confirmed, I think the picture is open. We all know a long list of African-American jurists, male and female, with good constitutional experience and many others coming forward that could leave that picture open.

So I urge that we not accede to any notion that we are trivializing this confirmation process on a very narrow civil rights point.

The CHAIRMAN. Does anyone else wish to speak to either point?

Yes, Congressman Stokes.

Mr. STOKES. Mr. Chairman, at the expense of being redundant, I will forego speaking to part (a). I would like to speak to part (b) because I think that troubles many people. I think many people feel that any person born black, subjected to racism and the other indignities that black people have been subjected to in this society, once they get on that Court and once they have that paper that says they have a lifetime appointment, will then feel secure and be able to do the right thing. And I guess I have tried in my own mind to analyze it and try to understand this individual—and let's face it—what I have had to do is try to look at his record.

One of the most poignant things that points up the fears I have about him is in a case called *Moore v. City of East Cleveland*. I happened to represent East Cleveland. A 63-year-old grandmother who had taken in one of her grandchildren when he was less than a year old when his other died was charged on an ordinance that defined "family" as being only the parents and their children. In this home, this grandmother had taken in her own son and two grandchildren, one of whom was this 1-year-old child when his mother died. But they were not brothers; they were cousins. And under this particular statute, she was ordered by the municipality to evict