

I appreciate your coming here and expressing your views in spite of some of the positions some of the black leaders have taken.

I just have two questions, the same questions I have asked these others who have come and testified here on behalf of Judge Thomas. You can answer it first and then right down the line.

Is it your opinion that Judge Thomas is highly qualified and possesses the necessary integrity, professional competence, and judicial temperament to be an Associate Justice of the United States Supreme Court?

Mr. JACKSON. Unequivocally, yes.

Senator THURMOND. I didn't hear you.

Mr. JACKSON. Yes.

Senator THURMOND. The answer is yes. Reverend Soires.

Reverend SOIRES. Based upon everything I have read and heard and seen from him, the answer is yes.

Senator THURMOND. The answer is yes.

Mr. WOODSEN. Yes.

Senator THURMOND. Mr. Woodsen's answer is yes.

The second question: Do you know of any reason why he should not be made a member of the Supreme Court of the United States?

Mr. JACKSON. I will answer it this way: The Sunday or the Monday before President Bush nominated Judge Thomas for the Supreme Court, that Friday we had breakfast, and I said to him that, in my mind, the best thing that could happen is that the President nominate you to the Supreme Court because I think you will bring to the Supreme Court some values, some ideas, and a perspective that is not there that is badly needed. So my answer to you is absolutely I think that Clarence will be a tremendous addition to the Supreme Court.

Senator THURMOND. Do you know of any reason why he should not be made a member then?

Mr. JACKSON. Absolutely not.

Senator THURMOND. The answer is no.

Reverend Soires.

Reverend SOIRES. No, Senator.

Senator THURMOND. The answer is no.

Mr. Woodsen?

Mr. WOODSEN. No.

Senator THURMOND. That is all the questions I have. Thank you very much for your appearance. I think you made a fine impression.

Senator SIMON. Senator Hatch.

Senator HATCH. Thank you, Mr. Chairman.

I want to welcome each of you to the committee. Frankly, we are very proud to have you here before the committee.

When Judge Thomas was testifying, I asked him about affirmative action. And as I interpreted his answers, he is for every aspect of affirmative action except for preferences. Do you know of any difference from that statement?

Mr. JACKSON. No.

Mr. WOODSEN. No, I don't, sir. I think he said it should apply to people because of economic circumstances, and he would have qualified under those guidelines.

Senator HATCH. Well, I remember when he was being criticized by some. They indicated he was against affirmative action.

Mr. WOODSEN. That is not true.

Senator HATCH. It is just not true.

Reverend SOIRES. Senator, before you came in, we talked about the enigma of our current social situation. One of the enigmas is that today complex issues have been reduced to sound bites and slogans. When I was coming up, equal educational opportunity was an issue. It was reduced to the word busing. And we became characterized as either being for equal educational opportunity or against equal educational opportunity based on our response to the issue of busing.

The same thing has happened with the terminology affirmative action. Affirmative action for me and for those persons with whom I grew up meant this: that there was an inside crowd and an outside crowd. The inside crowd had been protected by laws and by traditions which virtually excluded the outside crowd irrespective of qualifications. Affirmative action meant that the inside crowd would use creative ideas and meaningful efforts to include the outside crowd based on the fact they had been excluded without regard to qualifications.

And so affirmative action meant that the Government would protect the outsiders from being excluded simply by virtue of the color of their skin. Government intervention has never been the question that we debate. When land-grant colleges were created, that was a wonderful initiative. When the Veterans' Administration gave veterans vouchers to buy homes and go to schools anywhere in the country, everybody applauded that. We are not against Government intervention or affirmative action. We are against using affirmative action as a means of denying other people opportunities in the name of helping the outsiders so that the outsiders are now discriminating against the insiders and then become victims themselves.

Last Sunday in the New York Times, the New York Times described the affirmative action generation, my crowd, people who have benefited substantially from affirmative action. And there was one aspect of that article that troubled me, and that was that the white peers of blacks in many major corporations perceived their black peers as having been inferior simply by virtue of the assumption that they were there due to affirmative action. We have got to figure out a more creative way and a fair system to ameliorate the injustices without creating more injustices.

Senator HATCH. Mr. Woodsen.

Mr. WOODSEN. Senator, let me just give you two examples. I think what we are engaged in here—and I mentioned earlier in my testimony that there is a bifurcation in the black community. In the last 20 years, black families with incomes of \$50,000 have soared 350 percent to the point where they are at 93 percent of parity with whites, while those families representing one-third, their incomes are getting worse. So obviously race alone is not the sole culprit. There are other factors at work here.

But what we do is engage in a kind of bait and switch game where the conditions of all blacks are used to justify affirmative

action remedies that only help blacks who are highly unionized or those who are highly professional. And we see examples——

Senator HATCH. Or those who can make it on their own, is what you are simply saying.

Mr. WOODSEN. Those that can make it. And so we think it ought to be defined in terms of economic conditions.

But two quick examples. Last year, a former black mayor of a Southern city, who was an architect, well educated, purchased a license for a television station that was set aside to get blacks into the television ownership industry. He purchased this for a nominal amount of money and turned around in two weeks and sold it to a white company for millions of dollars, realizing a windfall and, when challenged on this, said, "I did nothing illegal."

Now, blacks are still not in television in that city, but here was a windfall going to a single individual who, because he was identified as black, was identified as being disadvantaged. And so the public feels and believes that now we have served the interest of blacks. We are saying that this is immoral, it is wrong, and that these specific remedies need to be challenged to determine under what circumstance are certain kinds of affirmative action good or bad public policy.

Mr. JACKSON. I think also, if I might answer, we must make a distinction between affirmative action and race-based remedies. There is clearly a distinction. And I think we must make a distinction between affirmative action as it has been applied as of today with how I perceive it should be applied.

I too, like Judge Thomas, do not believe that race-based remedies are the best that we can do, because when you do that, clearly you alienate others. And that is not to say that as an African-American we have not been discriminated against—truly we have, and I want to make that clear—in this country and continue today. But I do think that there is a large enough class of us, and clearly we can make a distinction.

Second, I have to give you a story. I was talking to my daughter, and both of my daughters and I are extremely close. She said to me the other day, she said,

Dad, I was in the dormitory. We were talking. And we had some kids who were beating the system. Their fathers were doctors, lawyers, principals. But through a system of saying that I am independent and I don't have an income, they could clearly fall under the area where they could receive aid.

In my mind, that is absolutely wrong when you have so many African-Americans whose fathers or mothers are not doctors, lawyers, et cetera.

I said to her, "Don't declare independence," and I am not wealthy, as I sit before you all today. But I feel that economically I am in the position to pay for her education or their education and I should. And I think clearly when we start talking about affirmative action, we are talking about affirmative action to benefit those who are most in need.

And let me assure you, I run one of the largest public housing agencies in this country, and I see kids every day that are bright and intelligent. But because of a lack of money, they can't go to college. And I have spent an inordinate amount of time getting

them money to go to college. They are the people in my mind who should be the recipients of affirmative action.

Senator HATCH. You seem to be saying, Mr. Woodsen, and all of you, that the system ought to be based upon disadvantage regardless of race.

Mr. WOODSEN. Absolutely.

Senator HATCH. Or any other factor. But if you do that, then it seems to me that there might not be as much help go to black people or black kids as goes today. Do you agree with that?

Mr. WOODSEN. No, I don't. I think if you did it based upon proportionality of those in poverty, you will find that since we are 30 percent of those in poverty, that 30 percent of the money should go to—

Senator HATCH. So you wouldn't do it on the basis of proportionality but across the board regardless of race.

Reverend SOIRES. Senator, two other points. One, if we are talking within the context of having to choose between groups, then we will always have a problem. When we have a domestic policy that addresses the needs of all America, then we don't have to worry about which groups gets in and which group gets left out.

Senator HATCH. So we will have less discrimination because the system—

Reverend SOIRES. That is right. That is No. 1.

Second, I don't think we should focus on affirmative action as if the resolution of that debate concludes the problem. In Trenton, NJ, where I live, the dropout rate at the public high school is 53 percent. It would not matter what kind of affirmative action program the bank downtown had; 53 percent of our children won't be qualified to work there if there was a set-aside program to guarantee them all the jobs.

The deeper problem is to get at those systemic issues that sustain poverty and hopelessness and illiteracy, because affirmative action becomes almost moot in the face of a generation that can dance but can't read. And that is not a black problem.

Senator HATCH. I have appreciated the testimony. I have just one last thought. All three of you know Judge Thomas?

Mr. JACKSON. Yes.

Reverend SOIRES. I don't know him personally.

Senator HATCH. You don't know him personally.

Mr. JACKSON. I have known him for 18 years.

Senator HATCH. But all three of you are for him for this position?

Mr. JACKSON. Absolutely.

Reverend SOIRES. Yes.

Mr. WOODSEN. Yes.

Senator HATCH. Well, I am, too. I think it is a great opportunity to have a person go on the Court as young as he is, with his background, and with perhaps new ideas that may be very beneficial to everybody. So I want to thank you for your testimony. It has been very persuasive and I think very good. So we appreciate having you all here today.

Mr. JACKSON. Thank you.

Mr. WOODSEN. Thank you.

Reverend SOIRES. Thank you.

Senator SIMON. Senator Grassley.