

Today I will make observations based on my 17 years of experience as commissioner of the South Carolina Human Affairs Commission, and two of those years I spent as president of the International Association of Human Rights Agencies and 1 year as president of our national association. Today I represent over 200 civil and human rights agencies as their congressional and Federal liaison.

In the interest of time, I am going to limit my observations to two areas because you have heard about two or three others already.

As South Carolina Human Affairs commissioner, I can appreciate the difficulty in assessing the performance of an agency which enforces anti-discrimination statutes. There is judgment involved every step along the way, and emotional disagreements are a regular part of the decision-making process.

But if there is one unassailable impediment to fair treatment under the law, it is inefficient and non-professional conduct by the enforcing agency. Judge Thomas brought efficiency and professionalism to this process in many ways, including reduction in processing time of appeals, higher standards of professionalism among staff members, greater accountability in its financial management, and a greater delegation of authority to State and local contracting agencies.

I do not find Judge Thomas, as many seem to feel, to be anti-affirmative action. He does express displeasure with any forms of racial preference and appears to believe that it is a dilution of affirmative action to award benefits those who have not been identified as victims. I am among those who differ with Clarence on this methodology. But it should be noted that this same Clarence Thomas, while at the EEOC, required us at the State and local levels to complete affirmative action plans as a prerequisite to obtaining contracts with EEOC.

In another instance, I think it is important to note that the people who know Clarence Thomas best, aside maybe from the people who are at this table from EEOC, are those of us who run the State and local agencies throughout the country.

We found Clarence to be highly compassionate, sensitive, judicious, and we always found him to be of the intellectual honesty that is required in this field.

Mr. Chairman, I do not present myself as one who has agreed with Clarence on every occasion. Trying to find consensus in enforcing anti-discrimination laws is about like trying to match up the sides of a Rubik's cube. While there have been instances where my philosophy may have differed from his, I have never found anything in his philosophy of a nature to deny him this Supreme Court confirmation.

When I look at the record of Clarence Thomas, I find the record of a man deeply committed to an even-handed system of justice. I would suggest that in Clarence Thomas there is the integrity, the conscientious spirit, and the basic sense of fairness which well describe the requirements for a successful Justice on the Supreme Court.

Thank you.

Senator SIMON. Thank you, Commissioner.

Dr. Shaw, as you may be aware, I have been very much involved in the historically black colleges portion of the Higher Education Act. Much of that was written with the great leadership of Dr. Patterson in my office when I was over on the House side.

As I follow the legal theories of Judge Thomas, he would say we can assist people on the basis of economic need. And in fairness to him, he has not suggested this, but as I follow the theories logically—and the commissioner referred to the racial preference issue that he believes is unconstitutional and unsound—he would rule that we could not have the kind of legislation that we now have for the historically black colleges and universities.

If you knew on the Supreme Court he was going to rule against funding for historically black colleges and universities, would you still be supporting him?

MR. SHAW. If I knew—let me, Senator Simon, say that a certain settlement that he made with General Motors some years ago, a large settlement, he deliberately saw to it that \$10 million of that went to historically black colleges. And I might say to you, sir, that initially I was opposed to Judge Thomas until I heard his posture with reference to historically black colleges. He believes they ought to be retained and strengthened.

If that documented decision of him is to presage his behavior on the Court—

Senator SIMON. If I may interrupt, are you saying—and maybe he has said this. I am not suggesting that he is opposed to the historically black colleges. What I am suggesting is that his legal theory, if it is followed, would suggest that Federal assistance on the basis of race would be unconstitutional. Are you saying that he has said that he follows a legal theory that that can continue?

MR. SHAW. I do not know that he is against opportunity for all Americans. And although I am not conversant to the fact regarding a legal theory of his which if extended would eliminate black colleges, I think I understand him. His position on civil rights would in fact support institutions that would give opportunities to all Americans, Senator. He is for civil rights. He is for opportunity. This has, in fact, made him what he is.

If any person would overturn the instruments that are made to enforce the American dream, I would be against him or her getting on the Supreme Court. But I do not see any necessary implication in his legal theory that would, in fact, eliminate black colleges.

Senator SIMON. All right. Well, we are both arguing theories at this point, and I did not ask Judge Thomas that. Thank you.

Senator Thurmond.

Senator THURMOND. Thank you very much, Mr. Chairman.

I want to take this opportunity to welcome this panel here. Dr. Shaw, you are from Raleigh, NC, I believe. Was Shaw University named after you?

MR. SHAW. No, sir. I don't own the place, sir. It is 126 years old this year. [Laughter.]

It is one of the accidents of history, sir.

Senator THURMOND. Ms. Talkin, I understand you and Ms. King have worked with Clarence Thomas and know him personally well.

MS. TALKIN. Yes, Senator.