

a special hard-earned sensitivity is there, providing a special dimension to America's highest tribunal.

Lastly, as a nurse, I am particularly aware of the importance of sensitivity and compassion. The people of our country face many problems where a special understanding and patience makes an enormous difference in whether or not we successfully meet our challenges. I know that Judge Thomas will bring that special sensitivity and compassion to the Supreme Court, and all of us will benefit from his service on the Supreme Court.

Thank you.

Senator KOHL. Thank you very much, Ms. Holmes.

Justice Black once observed, and I quote, "Under our constitutional system, courts stand against any old winds that blow as havens of refuge for those who might otherwise suffer because they are helpless or weak or outnumbered, or because they are non-conforming victims of prejudice and public excitement."

My question is: Was Justice Black right when he argued that this is an important role of the courts? Or was that just rhetoric?

Mr. KERN. Right; not rhetoric.

Senator KOHL. He is right. Anybody disagree with that? The very important role of the courts. Ms. Norton.

Ms. NORTON. The role of the courts is that of something beyond the electoral branches where each person goes into court on an equal footing. And through that function, it allows people to have a voice that they might not otherwise have.

Senator KOHL. I would like to ask you all, in light of that, why you think Judge Thomas will measure up in this respect. Is it because of his work as a policymaker, his work on the courts for the past 16 months? What is it about Judge Thomas substantively—what can you point to in his background and his work history that leads you to believe that he will live up to this part of his responsibility as a Supreme Court Justice?

Mr. THOMPSON. Senator, if I may respond to your question?

Senator KOHL. Yes, Mr. Thompson.

Mr. THOMPSON. My response will be based somewhat on my knowledge of Judge Thomas as a lawyer and as a friend, and that is that in every position that he has held—in the private sector, as the head of a large public agency for which he had to have public policy considerations, and on to the District of Columbia Court of Appeals—he has taken every position seriously. He has attempted to and has discharged the duties of those positions faithfully, and I see nothing in his background that would lead me to believe that he would do anything less on the U.S. Supreme Court.

Senator KOHL. Any other comment on that, Ms. Bracher?

Ms. BRACHER. I would just like to comment. My comments come from a review of his criminal law opinions, and I take comfort that all of Judge Thomas' opinions are firmly grounded in law. He does not rule on policy considerations. When you review his opinions, you will see that he construes the statutes as written. He is very mindful of the precedent of the court, very mindful that, especially in criminal law decisions, there needs to be a firm ground from which people can work.

Senator KOHL. That isn't what I—I was referring to what Justice Black had said, that the courts stand as a haven for those people

who might otherwise suffer as a result of majority views or momentary public hysteria—that the court has an emotional and sympathetic kind of a role to play. You didn't answer that. Maybe I didn't make myself clear.

Ms. BRACHER. I would say that the court is a haven for people when they have a judge who is going to rule on the law, when they have laws that they can determine what is required, when they have laws that are not ruled upon a judge's personal views or policy matters. That is a haven for people to know that a judge is going to fairly give them their day in court, is going to follow the law as it is written.

Ms. NORTON. In looking at his criminal decisions, it is clear he did not just reflexively rule in favor of the Government and, in fact, criticized Government activities or arguments that they had made in a few instances because he felt that they were not giving appropriate deference to the rights of the defendant.

Mr. KERN. I would answer your question this way, Senator: You don't live to be more than 60, as I have, without developing a certain feel for a person based on conversations and working together. And my feel based upon my knowledge of Clarence Thomas is that I would be willing to trust my life and liberty and property to decisions that he makes. And I am convinced on the basis of my conversations with him and dealings with him that he has an extraordinary compassion and extraordinary sensitivity, and he would be the right person to be on a court in the sense of being very sensitive to those in the minority by one reason or another.

Ms. HOLMES. Senator, as I spoke in my testimony, we feel that Judge Thomas does have a compassion and sensitivity, and he has shown that throughout the years. And he is going to bring to the Court not only the sensitivity and the compassion, but I have found him to be a very just and fair person. And I, too, would put my life in the hands of the Supreme Court with he being on the Supreme Court.

Senator KOHL. How do you all square some of the things you have said with his position as stated here numerous times as he testified before us, which was that when he was a policymaker—the things that he was and did, the expressions of his views, the opinions he held, the kinds of compassions that he expressed before he became a judge were things that he was trying to put behind him, because being a judge was an entirely different kind of profession, requiring different disciplines? He, in fact, asked us not to regard the things that he spoke of as necessarily descriptive of how he felt at this time, having become a judge and wanting to go on to the Supreme Court.

How do you square that, particularly with what you said, Mr. Thompson? You said you have known him and seen him in different positions throughout his career, and you could predict, based on all of these things you have seen in his career, what kind of a Supreme Court Justice he is going to be. He said disregard that.

Mr. THOMPSON. I would respond to your question this way. I think Judge Thomas' performance as the head of the Equal Employment Opportunity Commission—which is a political appointment, we all know—showed that he still—he has integrity. He is not a shill for anyone. He didn't even, in that position, which was a