

The CHAIRMAN. Thank you, Miss Smeal.  
Miss Althea T.L. Simmons.

#### STATEMENT OF ALTHEA T.L. SIMMONS

Ms. SIMMONS. Mr. Chairman, and members of the committee, I am Althea T. L. Simmons, director of the NAACP's Washington Bureau.

I am appearing on behalf of our half million members in 2,100 branches across the country. We appear in opposition to the nomination of Mr. Rehnquist as Chief Justice.

Our opposition today is a reaffirmation of what the NAACP said almost 15 years ago, when this committee had before it his nomination to the Supreme Court.

We said at that time, we did not believe Mr. Rehnquist could mete out to black Americans equal justice under law. Our response was no in 1971 and also in 1986. It is our opinion that Mr. Justice Rehnquist has not changed his position since he was in Arizona. As a matter of fact, he has fine-tuned his opposition to civil rights and racial issues.

From 1961 to 1965, I was field director for NAACP in Arizona, and during 1964, I was our national director of voter registration education get out the vote campaign.

I recall from my files, that complaints came in about what happened in Arizona. On Sunday, I talked with former Senator Clovis Campbell, to see if he could recall what he had stated at that time. Mr. Campbell said to me: "Justice Rehnquist said to me in 1964, 'I am opposed to all civil rights laws.'" I also spoke with Rev. G. Benjamin Brooks, whose statement we put in the record last time. Reverend Brooks reaffirmed what he had said at that time.

I spoke to Mr. Jordan Harris. The same thing occurred. One of the things that we have looked at is a whole line of cases with reference to race, and we have found out that not only has he been in opposition to the Voting Rights Act, and some of its extensions, but we are concerned mostly about the Jackson memorandum.

I guess I would have to say, Mr. Chairman, and members of the committee, any time you mention *Plessy v. Ferguson*, red flags go up for black Americans.

We believe, as a matter of fact, that that was a signal point in this Nation's history. We are concerned about how the Justice has echoed legal—the principal of causation, in a manner where he does not find violation of the equal protection clause, in *Milliken v. Bradley*, the school desegregation case. Also, in the *Dayton* case. The *Pasadena* case. In employment cases. You could take *Stotts*, the *Firefighters* case in Cleveland.

In cases where they were challenging Federal legislation that provided for minority set-asides, in death penalty cases, and among others, the exact legal jargon relief.

However, the concept of causation is designable to either argue that actual harm was not caused by the alleged wrongful conduct, or, in the alternative, that the conduct was wrongful but the complaining party was not harmed by it. We are concerned, about his opinion in *Batson v. Kentucky*.

We are also concerned about how he has attempted to narrow the 14th amendment to the Constitution. Justice Rehnquist strictly reads the language in title VII to forbid any discrimination, even race-conscious affirmative action plans, designed to ensure equal employment opportunity.

In construing title VII, he has scrutinized the facts of a case for specific discriminatory conduct within the meaning of the act as in *Stotts, Sheet Metal Workers et cetera*.

He also looks closely to see if the legislated or judicial remedy narrowly responds to that conduct. Even when he appears to express an opinion in support of discriminatory conduct against a minority protected by Federal legislation he stops short of finding a statutory violation in the facts.

The NAACP has looked at his race cases and we normally do not submit lengthy testimony, however, this time, Mr. Chairman, our testimony is 36 pages, because we went down a whole line of cases to show that he has not changed his position articulated in Arizona, but that he is opposed to civil rights.

And we are concerned about him being on the bench as a leader and a shaper of the Court, because we realize that he will have a most important position there. You will recall, very recently, that Chief Justice Burger reminded us of the 200th birthday of the signing of the Constitution. I think we should recall that another Chief Justice wrote the majority opinion in one of the most infamous cases in history. I speak of the *Dred Scott* decision.

And you will also recall what the Chief Justice held in that decision that the Constitution was not meant for blacks be they free or slave, and that the black man had no rights that a white man was bound to respect. That decision was so out of touch with the mainstream of political thought, even during a period of slavery, that it hastened the war between the States, and stood as a blot on the Court's history.

Much has been said about the brilliance of Mr. Justice Rehnquist, and the fact that he was first in his law school class at a prestigious institution.

We do not refute that. We remind the committee that even though a person may be a genius, if that person is devoid of compassion, it distorts reality and cripples one's objectivity.

We also believe that some attention should be given to judicial philosophy. We think that is important. As a matter of fact, Mr. Justice Rehnquist said himself it was important.

And we would urge this committee, in your consideration of this nominee, to take a look at the nominee's actions in Arizona in the 1960's, look at his decisions, and then see if he is the person who could best bring about the kind of equality in this Nation that all persons are entitled to. The NAACP opposes his nomination.

The CHAIRMAN. Thank you, Miss Simmons.

[The statement follows:]