

you know of any reason whatever that he should not be confirmed by this Senate?

Mr. WILLIAMS. I do not.

Mr. BECK. I do not.

Mr. BARR. No, sir. We do not see any.

Senator THURMOND. I will ask you this last question: Is it your opinion that Judge Souter has the competency, the dedication, the courage, the integrity, and the fairness to be a Justice of the Supreme Court of the United States? Mr. Williams?

Mr. WILLIAMS. Very definitely.

Senator THURMOND. How is that?

Mr. WILLIAMS. Very definitely.

Senator THURMOND. Mr. Beck?

Mr. BECK. Based upon our analysis of his historical decisions and the process he followed to reach his decisions, the answer would be yes.

Senator THURMOND. Mr. Barr?

Mr. BARR. Yes, Senator Thurmond, we believe that.

Senator THURMOND. That is all the questions I have. Thank you, Mr. Chairman.

Senator KENNEDY. Thank you.

Let me ask you, Mr. Williams, would your position be any different if Mr. Souter would not discuss the rationale or legal reasoning in *Brown v. Board of Education*?

Mr. WILLIAMS. Would my position be any different if he would not?

Senator KENNEDY. Yes.

Mr. WILLIAMS. I have listened to your discussion, the committee's discussion—not your personal discussion—of that issue with him and to the discussion of the various witnesses on that subject, and I believe that the *Brown v. Board of Education* underlying reasoning is eminently settled and probably at that level of fundamental principle not likely to be challenged in ways that would make it a live issue before the Court, either before the court on which he sits or before the Supreme Court. I think that is a fact if you analyze the dockets of those two courts.

The situation is not the same. The country is being really rent asunder, as you know, by the abortion issue, and I think that it has become a live political topic that really probably at this time in our history requires a little different approach. It is an interesting question, and I don't come to that conclusion easily.

Senator KENNEDY. Well, it is somewhat more than an interesting question. What year do you think it became settled law, the issue of race discrimination?

Mr. WILLIAMS. Oh, gee, I don't think I am qualified to tell you—

Senator KENNEDY. Was there sometime when it was—

Mr. WILLIAMS. It was certainly a settled question with me long before it became settled with the Supreme Court.

Senator KENNEDY. You don't think that there is a parallelism in terms of questions of the constitutional rights in privacy?

Mr. WILLIAMS. I think that stating the question as broadly as you have, having to do with constitutional rights of privacy, I think maybe is not quite the question that we are talking about here. I

think basically we are talking about a manifestation of the constitutional rights of privacy in a context that has taken on political dimensions.

Senator KENNEDY. Well, for how many years now in the *Roe* situation has that been settled law?

Mr. WILLIAMS. I am not quite sure what your question, how many years has it been since *Roe* was, in fact, ordered, or how many years since it has been settled law in the minds of the judges of the judiciary generally or in terms of the way in which courts deal with the matters. I think we know the issue is—

Senator KENNEDY. Well, the Supreme Court is the law of the land and—

Mr. WILLIAMS. Right. I think we know that the—

Senator KENNEDY. In regard to *Roe* it has been in effect for some 17 years.

Mr. WILLIAMS. Yes. But I think the question that you are asking, I believe, is the same question you were asking in the *Brown* context, which is how long has it been settled in the minds of the judiciary, and I think there is a lot of questions about that. Some people would say that it is not settled. Some others would say it is quite settled; aspects of it are, other aspects of it are not.

As I said, it is not a simple matter.

Senator KENNEDY. You noticed that the judge was willing to speak about the death penalty and how many issues are going to be coming up before the Supreme Court with regard to the death penalty and various provisions of what is cruel and unusual punishment. They may very well have that Racial Justice Act which this committee has reported out in regards to the use of the death penalty in a discriminatory manner. Yet Judge Souter expressed no reservation whatsoever in expressing his view on that issue. That certainly may very well be a question that will come up in terms of that particular provision.

Mr. WILLIAMS. Senator, unfortunately I did not review Judge Souter's remarks on that issue. I am not familiar with them, and I can't corroborate whether that is the case or not.

Senator KENNEDY. Thank you.

Senator DeConcini?

Senator DeCONCINI. Thank you, Mr. Chairman.

Mr. Williams, I missed the first part of your statement, but I gather you are a long-time friend of Judge Souter's. Is that correct?

Mr. WILLIAMS. Yes.

Senator DeCONCINI. You went to school with him, and you know him on a personal basis.

Mr. WILLIAMS. Yes, Senator.

Senator DeCONCINI. Socially as well as professionally?

Mr. WILLIAMS. Yes.

Senator DeCONCINI. Can you express to this committee, do you think he is an ideologue in his political directions or his philosophy as it relates to Government and Government involvement in people's lives?

Mr. WILLIAMS. I would say that if one thing is clear to me about David Souter, it is that he is not an ideologue and that he comes to this with no political agenda. It is rather remarkable. He is not an ideologue. He doesn't have a political agenda. He is intensely curi-