

The CHAIRMAN. Let me begin the questioning with you, Ms. Aiye-toro, if I may. How do you account for the fact that Judge Thomas in most of his writings and speeches fails to directly confront and say forthrightly what you think he believes, which is that he is opposed to choice, he—was supportive, or at least insensitive to the situation in South Africa, and so on? How do you account for that?

Ms. AIYETORO. I don't, Senator Biden. I am not sure why he doesn't say more specifically than he does in his speeches his position on the issue of choice for women and the issue of South Africa. I would assume that you would have to ask him about—

The CHAIRMAN. I did.

Ms. AIYETORO. I know. I guess one answer that I would have, which is an answer that someone gave you on an earlier panel, is that most of the times when he was making his speeches, the speeches that I am familiar with, he was speaking on a particular topic, and so many of these things were not specifically related to it.

I guess the other answer I would give you is that despite whether or not he has specifically said his position on South Africa or choice or other issues that I was always raised by the adage that by your deeds you will be known. And I think we have to look at not just the words and speeches but his conduct.

I believe that his conduct and things that he has adopted, in speeches as well as being on the advisory board of the Lincoln Review, those kinds of things indicate something about him that I think that we have to, you know, as lawyers, as human beings, we draw implications that are rebuttal presumptions, I would assume.

The CHAIRMAN. Thank you.

Ms. McPAHIL, are you at liberty to tell us not how who voted, but since your organization has such wide respect and it was such a close vote—it reminds me of that old joke, you know. The board of directors voted 5 to 4 to send you a get well card. You know, that kind of thing. I mean it was awfully close.

Was there any single defining issue that split the vote? I mean did it break down in any specific way? Were people saying, well, we will give him a chance, we will give him the benefit of the doubt, or we disagree with him because he believed one thing on affirmative action and another on something else? Do you understand what I am trying to get at? What did you all debate?

Ms. McPAHIL. Well, we debated primarily his views on affirmative action and his record at the EEOC. The vote, and I am at liberty to tell you—it is public knowledge, we announced it afterwards. So you have a full picture of it, our Judicial Selection Committee came in with a 6-to-5 vote against him. Our board voted 23 to 21 to reject the Judicial Selection Committee, which is essentially a vote for him. Our delegates on the floor then voted 124 to support him, 128 to oppose him, and 31 to take no position whatsoever.

The CHAIRMAN. My goodness.

Ms. McPAHIL. So there were four votes that opposed those between—you know, those who wanted to support him outright and those who wanted to oppose him outright.

The CHAIRMAN. Ms. Seymore, one of the startling figures—at least I find it startling—is that there are fewer police officers or

black, women and men alike, today than there were 10 years ago. More than 20 years ago, but fewer than 10 years ago.

Can you shed any light on why you think that is the case?

Ms. SEYMORE. Well, in larger departments, say, for instance, Washington, DC, 10 years ago the minority participation here was 36 percent. It is now up to 86 percent. But there are hundreds of departments throughout the country that do not have those numbers. Say, for instance, a department who had 800 minorities 10 years ago are down to 400 minorities. Or a department who had 12 females 10 years ago who today have none.

So because of the disparity in the sizes of police departments, that is why the numbers show lower today than 10 years ago.

The CHAIRMAN. Ms. Aiyetoro, we heard testimony—you testified very eloquently to your view of Judge Thomas', at a minimum, insensitivity, at a maximum, as I understood your testimony, support of the South African Government. It is somewhere in between I guess you view it.

We heard testimony from two members of the board of Holy Cross University, one a former Federal judge of some reputation and repute out of the third circuit, and the other the president of the university, saying that Judge Thomas argued—I forget the adjective they used—but vociferously, or argued strenuously for disinvestment.

I think—let me ask my staff to make sure I am correct on this. Well before his nomination to the court, either court, I believe—the court he now sits on or the Supreme Court.

How do you square that with what was obviously the facts as you cite them, and they were the facts—how do you square the two things?

Ms. AIYETORO. Senator Biden, it is my understanding from the review of the materials about Judge Thomas that there was a period in his life in which he was more of an activist for the rights of people of color, as well as human rights or civil rights in general. That was a period of time, it is my understanding from the record, when he was at Holy Cross, and he was instrumental in forming the Black Student Union.

I think that what we see in his history is what we see in many of us, perhaps, or are familiar with someone like Judge Thomas who when he is in college for whatever reasons they get involved in the history of the moment. We have to realize that Judge Thomas, much like I—I am 3 years his senior, but much like I—

The CHAIRMAN. Three years his senior?

Ms. AIYETORO. Yes, I am.

The CHAIRMAN. I don't believe it.

Ms. AIYETORO. We came up in a time in college years where the civil rights movement was out there. The civil rights movement was on the front pages, and many of us got involved that never had been involved before.

The CHAIRMAN. I may have misled you a little bit. The testimony, the explicit testimony was not while he was a student, but several years ago. I think 3 or 4 years ago, when he was a member of the board of directors.

Maybe my friend from Illinois can shed some light on that.

Senator SIMON. Yes. This was just within, I think it was 2 or 3 years ago. And if I can just complicate the question even more, if my colleague will let me.

The CHAIRMAN. Surely.

Senator SIMON. At Holy Cross he said we should disinvest, but here in Washington he was opposing sanctions.

The CHAIRMAN. Well, that was my point.

Ms. AIYETORO. OK.

The CHAIRMAN. Ms. Aiyetoro indicated that.

Senator SIMON. Yes.

The CHAIRMAN. She recited the fact that in Washington here and both with regard to his actions, his comments and his references to people to whom he looked for guidance represented a view that was at least benign about apartheid.

And what I am trying to get at is at the same time he was, and I have no reason to doubt Judge Gibbons, a man of incredible honor, nor the president of the university, he was at board meetings, using their characterization, strenuously arguing that his alma mater should disinvest from—I am paraphrasing, but I think he talked about an immoral and abominable practice.

So I wonder if you factor that in. I am just trying to understand how you view it. I am having trouble figuring it out. I am wondering what your view is.

Ms. AIYETORO. Well, I have trouble figuring it out. I mean the only thing that I can say to you, Senator Biden, is that this I think, on the one hand, could either clarify or further complicate your deliberation. It seems to me if you have someone that is, as we would call it, saying two things, speaking out of both sides of his or her mouth, then I think that we have a serious problem.

From what we know in terms of the public view, I knew more about what he did in Washington, and I am concerned that a person—if indeed he even had the views, that even causes me to have more concern. Because at least I feel like if I am dealing with a person who is straight along the line has a position in support of the apartheid government I may disagree, and I do strongly disagree, just to make it clear, but I would at least say that this person is consistent.

To have someone who today is telling us that he is not—he is in support of the apartheid government, but yesterday is lobbying against that government, I would have serious pause for concern about that person.

The CHAIRMAN. I thank you. My time is up. I yield to my colleague from South Carolina.

Senator THURMOND. Mr. Chairman, I just want to take this opportunity to welcome you all here. It is nice of you to come and show your interest in this hearing. You have expressed yourself. And there have been others who have taken different views and some who have taken your view, but we are glad to have you here.

Mr. Chairman, I would ask unanimous consent that a letter addressed to you, dated September 17, 1991, from Thomas Adams Duckenfield, a lawyer here in Washington, be placed in the record.

The CHAIRMAN. Without objection.

Senator THURMOND. If it has not been placed. You haven't placed it in, have you?