

CLARENCE THOMAS SENATE HEARINGS  
16 September 1991

MR. CHAIRMAN:

I AM THE REVEREND JOHN E. BROOKS, S.J., PRESIDENT OF THE COLLEGE OF THE HOLY CROSS IN WORCESTER, MA.

IT IS BOTH AN HONOR AND A PLEASURE FOR ME TO APPEAR BEFORE YOU IN BEHALF OF JUDGE CLARENCE THOMAS AND TO PARTICIPATE IN THE PROCESS WHICH I HOPE WILL CONCLUDE WITH THE SEATING OF JUDGE THOMAS AS AN ASSOCIATE JUSTICE OF THE SUPREME COURT. I HAVE KNOWN JUDGE THOMAS FOR ALMOST A QUARTER CENTURY, SO I BELIEVE I CAN SPEAK ABOUT HIM WITH SOME AUTHORITY.

I FIRST CAME TO KNOW JUDGE THOMAS WHEN HE WAS A STUDENT AT THE COLLEGE OF THE HOLY CROSS FROM 1968 TO 1971. WHEN HE ENTERED THE COLLEGE, I WAS VICE PRESIDENT AND ACADEMIC DEAN. APPOINTED PRESIDENT OF THE COLLEGE IN 1970, JUDGE THOMAS' GRADUATING CLASS IN 1971 WAS THE FIRST OVER WHICH I PRESIDED AS PRESIDENT.

IN PREPARATION FOR THIS MEETING TODAY, I CAME ACROSS A MEMORANDUM WHICH I HAD WRITTEN ON APRIL 21, 1970 TO THE REV. RAYMOND J. SWORDS, S.J., MY IMMEDIATE PREDECESSOR IN THE PRESIDENCY OF THE COLLEGE, IN WHICH I HAD RECOMMENDED THAT HE APPOINT CLARENCE THOMAS TO MEMBERSHIP IN ALPHA SIGMA NU, THE JESUIT COLLEGE HONOR SOCIETY. THE REASONS I GAVE THEN MAY BE OF INTEREST TODAY. LET ME QUOTE FROM THAT MEMO:

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"...MAY I RECOMMEND THAT YOU CONSIDER NOMINATING CLARENCE THOMAS, CLASS OF 1971 TO MEMBERSHIP IN ALPHA SIGMA NU. CLARENCE HAS A CUMULATIVE QPI (QUALITY POINT INDEX) OF 3.577 AND RANKS VERY HIGH IN HIS CLASS. HE IS A MEMBER OF THE PURPLE KEY, THE BLACK STUDENT UNION AND IS GENUINELY RESPECTED BY HIS FELLOW STUDENTS."

THE GOOD JUDGMENT, INTEGRITY, AND SERIOUS CONCERN FOR THE COLLEGE WHICH I HAD OBSERVED IN CLARENCE THOMAS AS A STUDENT, AND THEN HIS EDUCATIONAL RECORD AND EXPERIENCE WHICH I HAD FOLLOWED CLOSELY DURING THE YEARS FOLLOWING HIS GRADUATION FROM HOLY CROSS, LED ME TO SEEK HIS APPOINTMENT TO THE BOARD OF TRUSTEES OF THE COLLEGE IN 1978. HE SERVED TWO FOUR-YEAR TERMS FROM 1978 - 1986, WAS REAPPOINTED TO THE BOARD IN 1987 AND CONTINUES TO SERVE AT THE PRESENT TIME.

JUDGE THOMAS IS AN ACTIVE MEMBER OF OUR BOARD, CONCERNED ABOUT ALL THOSE THINGS BOARD MEMBERS OUGHT TO TAKE SERIOUSLY; EDUCATIONAL QUALITY, FINANCES, STUDENT AND FACULTY PRODUCTIVITY AND THE LIKE. HOWEVER, I WOULD LIKE TO LIMIT MY REMARKS TO CHARACTERISTICS I HAVE OBSERVED IN HIM WHICH I SUSPECT HAVE SOME BEARING UPON HIS FITNESS TO SERVE ON OUR HIGHEST COURT. THEY ARE HIS ENERGETIC CONCERN FOR THE EDUCATION OF ALL OUR YOUNG PEOPLE, ESPECIALLY FOR THOSE OF MINORITY BACKGROUNDS, AND HIS VERY PRACTICAL APPROACH TO OBTAINING IT FOR THEM. JUDGE THOMAS IS A REALIST. HE KNOWS THE ESSENTIAL PART WHICH A GOOD SOLID EDUCATION HAS PLAYED

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IN HIS OWN RISE FROM ABJECT PRIVATION TO PROMINENCE, AND HE KNOWS THAT IT IS THE KEY WHICH WILL UNLOCK THE SAME DOORS FOR OTHERS. JUDGE THOMAS HAS BEEN AN ACTIVE RECRUITER OF MINORITY STUDENTS FOR HOLY CROSS, MAKING THE COLLEGE KNOWN TO THEM, ASSISTING THEM IN THE APPLICATION PROCESS AND MAKING SURE THAT ONCE ENROLLED, THEY DO NOT DROP OUT.

I FIND IT DIFFICULT TO RECALL A SINGLE MEETING OF THE BOARD OF TRUSTEES DURING WHICH JUDGE THOMAS DID NOT QUESTION THE ADMINISTRATORS OF THE COLLEGE, INCLUDING THE PRESIDENT, ABOUT THE STATUS OF MINORITY RECRUITMENT -- HOW MANY AFRICAN-AMERICAN STUDENTS DID WE ENROLL, HOW MANY HAD APPLIED, FROM WHICH HIGH SCHOOLS, WITH WHAT SAT SCORES; ABOUT THE STATUS OF FINANCIAL AID FOR MINORITY STUDENTS; ABOUT THE RELATIVE RANK IN CLASS OF MINORITY STUDENTS; ABOUT THE SOCIAL CLIMATE FOR MINORITY STUDENTS; ABOUT THE GRADUATION RECORD OF MINORITY STUDENTS. WITH A WILLING ACKNOWLEDGEMENT THAT MINORITY STUDENTS MIGHT NEED AND BE GIVEN SOME SPECIAL AND SUPPLEMENTARY COUNSELLING, JUDGE THOMAS INSISTED ALWAYS THAT EVERY STUDENT BE HELD TO THE SAME STANDARDS OF EXCELLENCE, AND THAT EACH ONE BE GIVEN THE OPPORTUNITY AND EFFECTIVE ENCOURAGEMENT TO ATTAIN EXCELLENCE.

AS A TRUSTEE, JUDGE THOMAS MET FREQUENTLY WITH AFRICAN-AMERICAN STUDENTS AT HOLY CROSS. ON OCCASIONS OF HIS VISITS TO THE COLLEGE HE SCHEDULED MEETINGS WITH OUR BLACK STUDENT

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UNION SO THAT HE MIGHT HAVE A FIRST-HAND PERSONAL KNOWLEDGE OF THOSE STUDENTS WITH A BACKGROUND LIKE HIS OWN. OVER THE YEARS, HE BECAME A KIND OF ROLE MODEL FOR OUR AFRICAN-AMERICAN STUDENTS AND IN SPEAKING WITH THEM, HE WAS NEVER STINGY WITH EITHER ADVICE, KNOW-HOW, OR MAKING THE RIGHT CONNECTIONS FOR THEM. HIS MESSAGE WAS NEVER AN EASY ONE--BUT IT WAS REAL AND PRACTICAL: WORK HARD, MAKE THE MOST OF EVERY OPPORTUNITY, AND KNOW THAT WE ARE THERE TO HELP IN EVERY WAY WE CAN.

JUDGE THOMAS IS A PRACTICAL MAN. HE IS WELL AWARE THAT THE BOARD, ROOM AND TUITION COSTS AT A PRIVATE, FOUR-YEAR, LIBERAL ARTS COLLEGE LIKE HOLY CROSS ARE FAR AND BEYOND THE FINANCIAL RESOURCES OF ALMOST ALL MINORITY APPLICANTS. HE HAS BEEN CONSTANT IN HIS SUPPORT FOR OUR MARTIN LUTHER KING, JR. SCHOLARSHIP PROGRAM FOR AFRICAN-AMERICAN STUDENTS WHICH MAKES POSSIBLE FOR OTHERS THE SAME BRAND OF OPPORTUNITY WHICH WAS MADE POSSIBLE FOR HIM.

OVER THE PAST FEW MONTHS, YOU HAVE HEARD AND READ A GREAT DEAL ABOUT JUDGE CLARENCE THOMAS. MY PERSONAL KNOWLEDGE OF HIM CONVINCES ME THAT HE IS A MAN OF COMPASSION, GOOD JUDGMENT AND INTELLIGENCE. HIS ZEAL FOR JUSTICE, FREEDOM AND EQUAL OPPORTUNITY FOR ALL AMERICANS IS WELL-KNOWN TO US AT HOLY CROSS. OUR HIGHEST COURT WILL BE GREATLY ENRICHED BY HIS SERVICE.

THANK YOU.

The CHAIRMAN. Thank you very much, Father.

Judge Gibbons, it is good to see you again. As I should note for the record, everyone in the third circuit took and takes great pride in you. You are one of the fine judges in this country, and it is a pleasure to have you here. It really is. I am not being solicitous.

#### STATEMENT OF HON. JOHN GIBBONS

Mr. GIBBONS. It is a pleasure to be here, Mr. Chairman.

I am the Richard J. Hughes professor of constitutional law at Seton Hall University.

The CHAIRMAN. Did I say Rutgers?

Mr. GIBBONS. You said Rutgers, and I have had the pleasure of teaching there as well.

The CHAIRMAN. I beg your pardon.

Mr. GIBBONS. And as you mentioned, I was, until January 15, 1990, chief judge of the third circuit, and I served as a judge on the court of appeals for 20 years.

Until September 6 last, I was vice chairman of the board of trustees of Holy Cross College, and it was in that capacity that I came to know and to respect Clarence Thomas.

In my dealings with him, I was left with the clear impression that Judge Thomas is intellectually gifted, open-minded, not doctrinaire, and receptive to persuasion. He is, I am convinced, anything but the rigid, inflexible conservative that some have charged him with being.

The most puzzling charge against him is that Judge Thomas will be unsympathetic to human rights claims. One experience that I shared with him serves to illustrate the contrary. On September 14, 1985, I presided at a meeting of the Holy Cross Board of Trustees which took up the issue of divestiture by the college of investments in companies doing business in South Africa. The choice was between complete divestiture on the one hand, and on the other, divestiture only of those companies which did not adhere to the so-called Sullivan principles governing company treatment of employees and others. Strong, and on the whole quite reasonable, arguments were put forth by board members in favor of the Sullivan principles position. Some members even had connections with companies which they were convinced were doing a great deal to improve the lot of black South Africans.

When Clarence Thomas' turn came to speak, he eloquently urged the board to opt for total divestiture. His reasons are relevant, I think, to this committee's inquiry. He insisted that every person had a prepolitical right to be treated as of equal worth, and that any regime which by law refused to recognize that right was so illegitimate that it should be replaced.

Largely because of Clarence Thomas' reasonable articulation of a human rights position, the board was persuaded to opt for total divestiture.

This incident occurred long before Clarence Thomas was under consideration for the Supreme Court, or even the court of appeals. Thus, his philosophical position on the existence of prepolitical human rights which governments should recognize was well thought out long before the question of his judicial philosophy was