

The CHAIRMAN. They all will be. Anything beyond what you have said, if you have a statement, will be placed in the record as if read.

Mr. CONYERS. Thank you very much.

Of course, we have pointed out here in all of our testimony that this goes far beyond individual differences of how we approach civil rights; that we are talking about our lack of confidence that whether he will apply fundamental constitutional concepts in a way that is going to satisfy us far beyond affirmative action. We are talking about his conduct in 9 years of public office that required him to come before Congress as many times as you've heard here today.

We are talking about the fact that senior citizens are aggrieved about the way he handled age discrimination cases. We are talking about the women's organizations who are disturbed about where his views on privacy are going to lead. We don't know what is going to happen on natural law.

So I think it is patently obvious that this is not a single issue or some truncated difference of view on one part of the civil rights issue that we take. It would be trivial of us to come forward on that kind of a question.

I also very firmly believe that what happens here in these next few weeks before your body is going to determine whether we ever come forward with an adequate African-American nominee to replace Thurgood Marshall. And I think what we have to continue to watch very carefully is if he is confirmed, we are essentially closed down for Justice Marshall's representative. If he is not confirmed, I think the picture is open. We all know a long list of African-American jurists, male and female, with good constitutional experience and many others coming forward that could leave that picture open.

So I urge that we not accede to any notion that we are trivializing this confirmation process on a very narrow civil rights point.

The CHAIRMAN. Does anyone else wish to speak to either point?

Yes, Congressman Stokes.

Mr. STOKES. Mr. Chairman, at the expense of being redundant, I will forego speaking to part (a). I would like to speak to part (b) because I think that troubles many people. I think many people feel that any person born black, subjected to racism and the other indignities that black people have been subjected to in this society, once they get on that Court and once they have that paper that says they have a lifetime appointment, will then feel secure and be able to do the right thing. And I guess I have tried in my own mind to analyze it and try to understand this individual—and let's face it—what I have had to do is try to look at his record.

One of the most poignant things that points up the fears I have about him is in a case called *Moore v. City of East Cleveland*. I happened to represent East Cleveland. A 63-year-old grandmother who had taken in one of her grandchildren when he was less than a year old when his other died was charged on an ordinance that defined "family" as being only the parents and their children. In this home, this grandmother had taken in her own son and two grandchildren, one of whom was this 1-year-old child when his mother died. But they were not brothers; they were cousins. And under this particular statute, she was ordered by the municipality to evict

this child because the child did not fit the family definition under the ordinance.

She refused to do so, and she was jailed and fined. The case went up to the U.S. Supreme Court, and the U.S. Supreme Court found that this was an invasion by the municipality of the privacy of family. The Court recognized the fact that in the black family particularly, there is a need for the extension of the family to take in other relatives, so long as it does not break zoning laws and things of that nature. The Court found that this is in the course of American tradition, and that other ethnic groups have had to do this when they came to this country, and so forth.

Clarence Thomas was on a White House Task Force on the Family. They issued a report highly critical of this particular Supreme Court decision, meaning in effect that they would have jailed the grandmother and permitted the fine to stand. When I examined that case and his relation to it and the fact that he signed this report criticizing it, I asked myself how could this man who in your hearings made so much to-do about his grandparents and what they had done for him and his mother and for his family—and in fact I dare say to you that you know more about his grandparents, Mr. Chairman, than you know about him because he talked over and over again about what his grandparents had done—how then, you must say, can this same man then jail or want to have jailed this grandmother who took in her grandchild?

I think when you look at this, you get some answer to whether or not he would really go back to his roots and do the right thing. I don't think he will.

The CHAIRMAN. My time is about up, but I want to give you gentlemen a chance to respond if you'd like.

Mr. OWENS. Just quickly, Mr. Chairman, I would like to say that the record of Clarence Thomas with respect to affirmative action and civil rights is not subtle at all. It is not unclear at all. It is not mysterious at all. It is quite clear where he stands. He had 8 years, and his performance in office at EEOC made it quite clear, and most African-Americans clearly understand this. After they get over the shock of understanding that a person of his education and his position could espouse those ideas, their reaction is we're quite sorry, but—I'll tell you what one lady told me at church. "Let's take the Christian approach," she said. "We want you, Congressman, to go out there and fight as hard as you can to see that this man does not get a place on the Supreme Court. But since the President is powerful, and we know that it is possible you might lose and he might be placed on the Supreme Court, after you get through fighting and you lose, then we'll start praying that he will be born again and will act right when he gets on the court. But we'll fight first, and then we'll pray later."

The CHAIRMAN. Thank you. Mr. Washington.

Mr. WASHINGTON. Very briefly, Mr. Chairman, on the first part of your question, I'd like to rely upon my 20 years' experience as a trial lawyer which I brought to this job. Whenever I was trying a murder case, and I couldn't do much to get over all the facts that the prosecution had assembled against me, I'd try the deceased person. It's an attempt to divert your attention from the issue by talking about all these organizations that have come out in opposi-