

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-

tion to him. If our focus were as narrow as a difference of opinion over affirmative action, as a trial lawyer I believe that the true art of cross examination would get to the truth in that, and you'd be able to find it real soon.

We have not talked about our difference of opinion with him on affirmative action. We have talked about things that we think are a lot more important to the function that he is about to ascend to, with your permission.

On the second point, to suggest that a black man who has suffered as much as he has will "do the right thing", I find to be condescending, both condescending and patronizing. If we set that up as a standard, then, the Supreme Court ought to adopt it as a standard, and all these people who are suggesting that it is the right thing to do ought to adopt it as a standard.

That means that any time that a black person who is not qualified goes to apply for a job as a truckdriver, instead of looking at whether he can drive a truck or not, just see what kind of background he came from. If you are applying for a job as a schoolteacher, if you are applying for a job as a U.S. Senator, then you ought to be able to get out and campaign. Well, I'm not as qualified as Senator Grassley, I am not as adroit at the issues as Senator Grassley, but by God I come from humble beginnings, so by God, give the job to me. That's ludicrous. It is ludicrous to suggest it, and it is condescending, and black people don't like it a bit.

Mr. LEWIS. Mr. Chairman, let me just be brief and say as black Members of the Congress and as Members of the Congress, we don't have anything to gain from coming here being against the confirmation of Clarence Thomas.

The CHAIRMAN. Well said.

Senator SIMON. Mr. Chairman, I know it is not my time but I just got word I am supposed to be over on the floor on an amendment that I have there. If I could just take 1 minute.

The CHAIRMAN. Would you all mind if he takes 1 minute out of order?

Senator THURMOND. No. Go ahead.

The CHAIRMAN. All right.

Senator SIMON. First of all, I really appreciate your testimony and your standing up. I served in the House with three of my colleagues here—Congressman Conyers, Congressman Stokes, and Congressman Owens—and while I didn't serve in the House with Congressman Lewis, I have known him for many years.

One other factor, and that is, if I can go back to something that happened in Atlanta many years ago. You had two black leaders—Frederick Douglass, who was an advocate, who said we ought to get the right to vote, we ought to have civil rights; you had another leader who brought himself up from the bootstraps, but who was an accommodator, who said in what has been called the "Atlanta compromise speech", Booker T. Washington said we ought to forget those things, we ought to just do the best job we can wherever we are. And the white majority seized on Booker T. Washington's statement, and it was used not for the benefit of African-Americans.

One of the things that we do here is we elevate someone who up to this point has been an accommodator rather than an advocate. I