

Senator SIMON. And I would be interested in hearing from the others, but if you take one view of privacy and another view of privacy, whether the Constitution has it, but you come out the same on *Roe v. Wade*, the net result for the American public is the same.

Mr. BUCHANAN. I think it is very important, Senator. I think in terms of a fundamental threat to our liberties, the rights and liberties of the American people, it ends in the same place. They may have differences in philosophies, but the mind set or at least the gamble the Senate is taking with the rights and liberties of the American people is very troubling indeed.

And may I add one footnote on affirmative action, since it has been such a subject throughout these hearings? We white males, like me and like every member of this panel, have had an affirmative action program going for centuries. We have had preferences that we have enjoyed for centuries throughout American history, and it is only very recently in this century that we have gotten around to extending some affirmative action, or at least some redress to black Americans, to women.

One specific example is the Vietnam war. That was a wonderful affirmative action program. The sons of the rich and the powerful, in preponderance, were able to get into the guard and the reserves, and I was here and I well remember, and I think that can be clearly documented. The people who had to go to Vietnam and fight and kill and be killed were disproportionately poor and minority.

Well, that is a different kind of affirmative action program, but if we waited for a case-by-case basis to redress historic injustices done to the black community in my State of Alabama and throughout the country and to women through the centuries, we would be to the year 2200 getting to first base.

If you can't have class action—blacks are discriminated against as a class in the United States, regardless of individual differences; women were here and many other places. If we can't deal with it on a class action basis, we can never solve the problem. So I find the danger to the liberties of the people just as great in one case as the other.

Mr. LUCY. Senator, if I can just add maybe an extension on the question of economic justice, be it for black males, black workers or workers in general, but particularly with regard to women workers—and while I don't want to quote Mr. Thomas out of context, at least his description of the economic question was when he made the statement that comparable worth or pay equity was loony tunes, sort of reflecting the fact that he does not believe that the value of work of women will ever equal the value of work that males contribute. And this by itself in 1991 is the critical issue confronting female workers in the workplace, and particularly as statistics show our society moving toward substantial numbers of single-headed households by women.

As I said in my testimony, any dollar denied them by gender-based wage discrimination is almost a denial of economic justice. And on that point alone, I think he is so far out of the mainstream.

Mr. CHAMBERS. Senator, for African-Americans, I was thinking really as you raised that question—I don't think in the race area that there would be very much difference in the outcome in decisions between Judge Bork and Judge Thomas. In fact, there is from

several of Judge Thomas' writings suggestions that he may come out worse in several instances than Judge Bork, and that is one of the concerns that we have.

As I indicated earlier, we have been before the Supreme Court now over our 51-year history over 500 times and we have gotten different results coming out of there, and most of those cases now would be questioned by Judge Thomas, as made clear by his writings and comments.

So I don't see that much difference in the outcome and, in fact, I would be more concerned that Judge Thomas would come out more adversely to the causes that we are raising than Judge Bork.

Senator SIMON. So if I may follow through, it would be, in your opinion, inconsistent for me to vote against Judge Bork and for Judge Thomas?

Mr. CHAMBERS. That is quite correct.

Senator SIMON. Thank you all very much. Thank you, Mr. Chairman.

The CHAIRMAN. Now, I have a few more questions, as does my friend from Wyoming, is that correct?

Senator SIMPSON. I do, Mr. Chairman.

The CHAIRMAN. Let me ask my question; I actually have one question. I thought the most compelling testimony that we have heard today—we all have a different view; it is subjective, obviously—was the testimony of Faye Wattleton and Kate Michelman this morning.

I am wrestling with what you all have said in one form or another, the issue of credibility. You have all either said it directly like the Congressman has, or indirectly like Ms. Hernandez has. She is obviously going to be Secretary of State in somebody's administration. [Laughter.]

I am trying to be as precise as I can be because, Mr. Chambers, I don't think there is any correlation between Judge Bork and Judge Thomas in terms of their methodology. They may come out the same place, but they are fundamentally different.

As a matter of fact, as Mr. Rauh can tell you, in Mr. Bork's book he reserves an entire chapter for people who think like Judge Thomas, talk like Judge Thomas, use the rationale Judge Thomas does for his brilliant ridicule, and he is a brilliant fellow and his ridicule is real and it is compelling.

Judge Thomas—everything he has said and written is a rejection of the positivist view of the Constitution. So I don't see how anyone can possibly say they are in any way related in terms of how they approach interpreting the Constitution.

Mr. CHAMBERS. The question, though, was whether there would be any different in the results of the decisions.

The CHAIRMAN. I see, OK, but we don't have a disagreement, do we, on from whence they begin their analysis as being so fundamentally different? I mean, they are as different as any two nominees. I have been here not that long, 19 years. I have been here for a while and I know of no two who have evidenced a view that is so diametrically opposed.

The words "natural law" do not emanate from the lips of Judge Bork. I mean, it never even—you know, it is the ultimate legal sacrilege, if there is such a thing.