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Robert C. Byrd

ON THE NOMINATION OF CLARENCE THOMAS TO THE SUPREME COURT

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During final debate over the nomination of Clarence Thomas to the United States Supreme Court in 1991, Senate President Pro Tempore Robert C. Byrd announced that he would vote against the nomination and defended the Senate’s role in the confirmation process as set forth in Article II, section 2 of the United States Constitution.

On July 8, 1991, President George Bush nominated Clarence Thomas, a judge of the U.S. Circuit Court of Appeals for the District of Columbia Circuit and a former chairman of the Equal Employment Opportunity Commission, to the Supreme Court to succeed retiring Associate Justice Thurgood Marshall. If confirmed, Judge Thomas would become the 106th justice, and the second African American, to sit on the Supreme Court.

The Judiciary Committee held hearings on the nomination on September 10–13, 16, 17 and 20, 1991; and notwithstanding the fact that the committee did not favorably report the nomination, the nominee appeared headed for confirmation. But, two days before the Senate was scheduled to vote on the nomination, the press reported that a former aide to Thomas at the Department of Education and the Equal Employment Opportunity Commission, Oklahoma University law professor Anita F. Hill, had been sexually harassed by Thomas during the early 1980’s. Press accounts elaborating the alleged behavior, based on information previously provided to the Judiciary Committee and leaked to the press, sparked an outcry for a public airing of the charges, setting the stage for a postponement of the vote and three additional days of hearings. The hearings were televised, and, as Senator Byrd would later note in his October 15 remarks, “Millions of eyes all over the country” watched the proceedings, which were held in the Senate Caucus Room on October 11–13, 1991. Viewers heard Judge Thomas’ denial of the charges, followed Professor Hill’s statement, and listened as members of the Judiciary Committee questioned both parties and the witnesses who appeared on their behalf. The Washington Post later reported that the Senate switchboard was overloaded with calls during that Columbus Day weekend, and logged in over a million calls on October 15, the day of the confirmation vote.

On October 15, the Senate debated the Thomas nomination for over seven hours; Senator Byrd was one of the first to explain his vote. Before beginning his remarks, he asked to include in the Congressional Record a speech he had prepared prior to the October 11–13 hearings, explaining that he had initially intended to vote in favor of the nominee, an “inclination based on my support of conservative nominees to the courts.” He then proceeded without a prepared text, referring only to a few hastily scrawled notes. After watching the hearings on television, and replaying the videotaped testimony of Judge Thomas and Professor Hill, Byrd had “concluded that I shall vote against the nomination of Judge Thomas.” He reached this conclusion because, as he explained, “I believe Anita Hill.” He had “watched her on that screen intensely,” and did not see “a face that was contorted with hate,” but “an individual who did not flinch, who showed no nervousness.” Judge Thomas, on the other hand, had “stonewalled” the committee by refusing to listen to Professor Hill’s charges, behavior that raised “substantial doubts” about his judicial temperament. The nominee’s statement “that the committee proceeded to ‘high-tech lynchings of uppity blacks’,” the senator continued, was not only “an attempt to shift the debate to a matter involving race,” but also an indictment of the Senate and the confirmation process.
Senator Byrd's final reason for opposing the nomination, he explained, was rooted in the nature of the confirmation process. The argument that "if ... nobody can really say with certitude as to which one is telling the truth ... then you should give the benefit to Judge Thomas" was, he stressed, "the weakest one that I have heard. When are senators going to learn that this proceeding is not being made in a court of law?" Given a justice's power to affect the lives of "millions of Americans ... in all aspects of living," he argued, "If we are going to give the benefit of the doubt, let us give it to the Court. Let us give it to the country."

Senator Byrd ended his remarks by reminding his colleagues that "We are going to cast a very important vote today ... once this vote is cast, there is no recourse for restoration." His statement was not intended "to try to change men's minds or women's minds," but to explain "my own sound views as I see them." "And as far as I am concerned," he concluded, "the 'benefit of the doubt' will go to the Court and to my children and to my grandchildren and to the country."

At the conclusion of Senator Byrd's speech, several other senators rose to announce their reasons for supporting or opposing the nomination. The Senate later voted, 52 to 48, with Vice President Dan Quayle presiding, to approve the nomination of Clarence Thomas to the Supreme Court.

For further reading:

For a history of the Senate's role in the confirmation of nominees to the Supreme Court and other offices, see Volume II of this series, pp. 25-44. For lists of Supreme Court nominations approved and rejected by the Senate, and a brief explanation of the Senate's role in the confirmation process, see Volume IV, pp. 681-82, 688-98, and 724-29.

"I BELIEVE THAT THE COURTS SHOULD BE CONSERVATIVE"

Mr. President, I do not come to the floor today to debate the confirmation of the nomination of Judge Thomas. I come, rather, to state my viewpoint, believing that I have a responsibility to my constituents, a responsibility to Judge Thomas, a responsibility to my colleagues in the Senate, a responsibility to the people of the United States, and a responsibility to myself, to do so.

I have not previously spoken on this subject. I have indicated from the very beginning to the president and to one or two senators—Senator DOLE in particular—that it was my inclination to vote for the confirmation of Judge Thomas. And my inclination was based on my support of conservative nominees to the courts.

I believe that if there is to be a liberal body it should be the legislative body. I believe that the courts should be conservative. Several days ago, I was impressed to hear Judge Thomas say, as reported in the newspapers, that he believed his role as a judge to be that of interpreting the Constitution and the laws of the United States, not that of rewriting or remaking the laws. I did not like the Warren Court, and have so stated many times on this floor, because, in my view, it sought to fulfill the functions of the legislature instead.

I prepared a statement in support of the confirmation of Judge Thomas. And when I left the Hill on last Thursday evening, after working in the Interior appropriations conferences for two days, I left my speech in support of Judge Thomas on my desk, prepared to state today that I was going to vote for Judge Thomas to be an associate justice on the U.S. Supreme Court.

Mr. President, I watched the hearings at home on my television set. I know I have previously said that if we want to improve the education of our young people, we should throw out the television sets, or at least cut down the time that our youngsters view them. But in this instance my daughter asked me what I was going to do with my television set because I sat there glued to that television set all of Friday, into the wee hours of the night Saturday, into the wee hours of the morning. I watched every minute of the hearings with the exception of fifteen minutes.

On Sunday Mr. DOLE and Mr. MITCHELL were on one of the programs, and they went over fifteen minutes beyond twelve noon, and that was the reason I missed fifteen minutes of what was happening in the large caucus room in the Russell Building.

I taped the testimony of Anita Hill, and I taped the testimony of Judge Thomas. I taped their appearances and I have replayed them.

This is a very extraordinary case. I know of no precedents of this kind; nothing similar, certainly on all fours, or even approaching that.

Millions of eyes all over this country have been watching the hearings. Millions of ears have been listening to the hearings. And, in listening to the call-in show, C-SPAN, I have listened to what the people are saying. They are interested. They are watching. They are listening. And they have been quick to say that they have made up their minds, in most instances, one way or the other. I have read about the
polls indicating what the people out beyond the Beltway are thinking.

"I SHALL VOTE AGAINST THE NOMINATION"

Mr. President, I have concluded that I shall vote against the nomination of Judge Thomas.

Before going into the reasons, let me compliment JOE BIDEN—Senator BIDEN and Senator THURMOND on the fairness which they demonstrated throughout the televised hearings to the witnesses, to the nominee, and to their colleagues. It was a very difficult position that Senator BIDEN, as chairman of the committee in particular, had to maintain: fairness, patience under great pressure, and in some cases under provocation. And so I do want to commend the chairman and ranking member.

I was formerly a member of the Judiciary Committee for several years. I am no longer a member. I am concerned about the atrocious, abominable leak that occurred.

It was a detestable thing. I do not know who is responsible, whether it is a senator or a staff person. That is not my province, to make a judgment in that situation. But I reflected very adversely upon the committee, and I am sorry that it has reflected on the Senate as a whole. I can understand the outrage that has been expressed by committee members and others. I can understand the embittered feelings and expressions by Judge Thomas. It was a reprehensible, underhanded thing to do. And all indications are that it came from the Democratic side. I detest it.

I can understand, as I say, the feelings of astonishment and outrage. But I want to echo what the majority leader said earlier today. If it is an outrage for a leak to occur in the Judiciary Committee; it is also an outrage for a leak to occur in the Ethics Committee. And I must echo the statements, at least as I understood them, by the majority leader. We heard no sense of outrage when they occurred in the Ethics Committee. Two wrongs do not make a right, and one wrong does not make a right. But the outrage should pervade the chamber on both sides of the aisle and in both cases because, "He who the sword of heaven will bear should be as holy as severe."

"I BELIEVE ANITA HILL"

Now as to my reasons for the conclusion that I have reached to vote against Judge Thomas. I believe Anita Hill. I believe what she said. I watched her on that screen intensely, and I replayed, as I have already said, her appearance and her statement. I did not see on that face the knotted brow of satanic revenge. I did not see a face that was contorted with hate. I did not hear a voice that was tremulous with passion. I saw the face of a woman, one of thirteen in a family of southern blacks who grew up on a farm and who early in her life belonged to the church, who belongs to the church today, and who was evidently reared by religious parents. We all saw her family as they came into the hearing room—the aging father, the kind mother, hugging their daughter, giving her solace and comfort in her hour of trial. I saw an individual who did not flinch, who showed no nervousness, who spoke calmly throughout, dispassionately, and who answered difficult questions. Some thought there were inconsistencies, but a careful reading of the exact language of the questions that were put to her can, at least in one case, and perhaps in others, explain away the appearance of an inconsistency in what she was saying in response to that question—about which some loose talk was subsequently made about possible perjury.

I will not go into further details here, but it is very easy to charge inconsistencies in answering questions. But I thought that Anita Hill was thoughtful, reflective, and truthful. That was my impression. Granted, let us say, that there may have been a few seeming inconsistencies. Granted, for the sake of those who think there were inconsistencies. That does not mean that she was lying; that does not mean that her charges were not true. Perhaps longer hearings would have given her the opportunity and the committee the opportunity to clarify whatever seeming inconsistencies there may have been, to the satisfaction of all. She was a reluctant witness. There are those who ask why did she not come forward in the previous confirmation hearings? She simply was not contacted in the previous hearings. They ask, why did she wait ten years? The fact that she waited ten years
does not negate the truth of her assertions. She explained the reasons why she waited. She explained that she was reluctant to come forward, she explained that she did not want to go forward. She explained that she did not even want to be there in that large chamber in the Russell Building that day and at that time. She explained that she had spoken to other individuals very early on—1981, 1982, 1983, 1987—and those same persons came forward later in the hearings and corroborated the fact that she had, indeed, talked about this several years ago.

Why did she not file a claim? She stated her reasons. She said that perhaps she used poor judgment. How many in this chamber have not used poor judgment in the past?

Who can stand in this chamber and say, “I have never used poor judgment?” One can understand that at the age of twenty-five, an individual might be more likely to exercise poor judgment.

Why, one might ask, did not Procopius write his “Secret History” while the Emperor Justinian was living? Procopius wrote about the profligacy, the dishonesty, the crimes committed by Justinian and Theodora, his harlot wife. He wrote about the same kind of profligacy and harlotry and crimes committed by Antonina, the wife of Belisarius, a great Roman general who served under Justinian. When Procopius wrote his earlier “Histories,” when he wrote his work on “Buildings,” giving great credit to Justinian for his work on public buildings and great edifices, why did Procopius not then reveal the sensitive secret matters which he knew about, at the very time they were occurring, he having been born around 500 A.D. and having died around 565 A.D., the same year in which both Justinian and Belisarius died?

He knew of what he spoke, but he did not dare, for his own reasons, to publish the secret history. He himself stated that, as long as those responsible for what happened were still alive, it was out of the question to tell the story in the way that it deserved. He knew that he would be subjected to torture and death and the confiscation of his property, perhaps the destruction of his family, had he published those things before Justinian died and before Theodora died and before Belisarius died. Consequently, the “Secret History” by Procopius was not published for centuries after his own death.

So there are reasons for Anita Hill’s reluctance to reveal her secrets, and, without going into them in detail—everybody has heard what has been said—I will not go into them here.

There has been loose talk about fantasies. The former dean of Oral Roberts University explained that he had regretted the use of the word “fantasy.” He had regretted the use of it. It was just a word that he had used on the spur of the moment.

This woman was not fantasizing. As one who has lived a long life and who has had the opportunity to see many people in my life, in all walks of life, I think I have some ability to form an opinion of another person when I listen to that person, when I look into his eyes, to determine in my own view whether he may be fantasizing, whether he is out of his mind, whether he is some kind of nut, whether he is a psychopath. It comes through. None of that came through to me in Anita Hill’s statements.

There have been theories about a conspiracy, “Special interest groups got to her,” or “She invented this, just something that she made up. A woman spurned, a woman scorned.” I do not believe that any reasonable man could carefully look at that woman’s face, listen to what she had to say, in the whole context of the circumstances, and believe that she was inventing her story—suddenly, at the very last moment. She had no knowledge that anyone was going to contact her about this. This came out of the blue.

Truth is a powerful thing, and sometimes it is a strange thing. To those who wish to think of a confirmation hearing as a court case, as having the surroundings and carrying the environment of trial, one may see things perhaps differently. This is not a court case. This is a confirmation hearing. They say: “Well, there was nobody else who said this; there was no pattern. Would it not be reasonable to believe that this man would be saying this thing to others?”

Well, who knows? Perhaps he did. I am not going to say he did. I do not know. But since
the flights of imagination seem to be rampant around here, one might imagine there was somebody else. And even so, if there were no others, is it not possible that this could have happened in this case, that this could have happened just this once? Of course, it is possible.

One may say, well, it was not probable. One does not know about that.

"He put up a wall between himself and the committee"

Mr. President, what are my other reasons, aside from believing Anita Hill? I was offended by Judge Thomas' stonewalling the committee. He said he wanted to come back before the committee and clear his name. That is what I heard. He wanted to "clear his name." Well, he was given the opportunity to clear his name, but he did not even listen to the principal witness, the only witness against him. He said he did not listen to her. He was "tired of lies."

What kind of judicial temperament does that demonstrate? He did not even listen to her. What senator can imagine that, if he were the object of scrutiny in such a situation, he would not have listened to the witness so that he would know how best to respond, how to defend himself, how to clear his name? But, instead, Judge Thomas came back and said he did not even listen. He set up a wall when he did that, because it made it extremely difficult for members of the committee to ask him what he thought about this or that which she said?

He wanted to clear his name, he said. I know that hindsight is great, and I would imagine that most of the members of that committee now wished they had asked for a week's delay. That should have been done. That opportunity was gone. Perhaps much of this travail could have been avoided with a week's delay and by calling in the two persons—principal persons here—and talking with them in private.

But again, that is water over the dam. We now have only what happened, the circumstances, to deal with. Judge Thomas asked to come back to clear his name. I was extremely disappointed and astonished, as a matter of fact, when he came back to the committee and said he had not listened—had not listened—to Anita Hill.

By refusing to watch her testimony, he put up a wall between himself and the committee. How could the committee question him? How could the committee learn the truth if the accused refused even to listen to the charges? What does this say about the conduct of a judge? He is a judge now, a circuit court of appeals judge.

What does this say about him, the conduct of a judge, a man whose primary function in his professional life is to listen to the evidence, listen to both sides, whether plaintiff or defendant in a civil case, or a prosecutor and the accused in a criminal case?

I have substantial doubts after this episode about the judicial temperament of Judge Thomas, doubts that I did not have prior to last weekend's hearings. How can we have confidence if he is confirmed that he will be an objective judge, willing to decide cases based on the evidence presented if, in the one case that will matter most to him in his lifetime, he shut his eyes and closed his ears and closed his mind, and did not even bother to watch the sworn testimony of Anita Hill?

She was testifying under oath. He professed to want nothing more than to clear his name. Yet, he could not be bothered to even listen to the allegations from the person making the allegations.

He attempted to shift ground

Another reason why I shall vote against Judge Thomas: He not only effectively stonewalled the committee; he just, in the main, made speeches before the committee. He managed his own defense by charging that the committee proceeded to "high-tech lynchings of uppity blacks."

Mr. President, in my judgment, that was an attempt to shift ground. That was an attempt to fire the prejudices of race hatred, and shift the debate to a matter involving race.

I frankly was offended by his injection of racism into the hearings. This was a diversionary tactic intended to divert both the committee's and the American public's attention away from the issue at hand, the issue being, which one is telling the truth? I was offended. I thought we were past that stage in this country.
So, instead of focusing on the charges and attempting to be helpful to the committee in clearing his name, he invoked racism. Of course, he was embittered by the leak, and he was justified to so state. But, instead, he indicted the whole committee, he indicted the Senate, and he indicted the process. Not everybody in the Senate is guilty of leaking material. I did not leak it; I did not leak anything to the press. But he impugned me. And he impugned you, Senator SASSER; you are not on the committee. He impugned you, Senator PRYOR, and you are not on the committee; and you Senator BRADLEY, and you are not on the committee. He did not make any distinctions. He did not discriminate among us. We were all guilty. He was bitter at the Senate, at the committee, at the process.

He should have been bitter at the person or persons who leaked whatever it was that was leaked, and he could have so stated in the strongest terms. But instead, he lectured the committee. He found fault with the “process.” The “process” is a constitutional process that was determined by our forefathers in Philadelphia in 1787. That is the process.

And it is because of that process that Judge Thomas was given his day to clear his name. It is because of the process that he was able to overcome poverty. It was because of the process that he was able to stay out of prison in this country, that he was able to get that fine education. It was because of the process. It was because of the process that he was heard before the committee and given an opportunity to answer questions, given an opportunity to clear his name. That is the process.

If we are only talking about a leak, then that is something else. But one can condemn leaks without condemning the committee, without condemning the Senate, and without condemning the process.

He tried to shift ground. I think it was blatant intimidation, and, I am sorry to say, I think it worked. I sat there and I wondered: Who is going to ask him some tough questions? Are they afraid of him?

He said to Senator METZENBAUM, “God is my judge; you are not my judge, Senator.” Well of course, God is also my judge. I am not God. But I do have a vote. And I have a responsibility to make a determination as to how I shall vote. That kind of talk, that kind of arrogance will never get my vote.

I do not know who—I will say it again—I have no idea, I cannot prove anything; if a particular senator is responsible for the leak, that is one thing. But I have doubts that 14 senators did it. I have doubts that 13 did, or that 12, or 10, or 8, 6, 5, 4, 3, or 2 did. But to condemn and to repudiate and to excoriate the committee, the Senate, and the process went too far.

Leaks are deplorable. They are reprehensible, and I know we all are going to say, let us do something about it. But human nature has never changed. It has been the same since God drove Adam and Eve from the Garden and said, “In the sweat of thy face shalt thou eat bread.” And He created a serpent. He said that you will bruise the head of that serpent, and it will bruise your heel.

There will always be leaks.

We ought to do whatever we can to prevent them. And if we can find the senator who, if, let us say, if it was a senator, and that can be proved, I will be among the first to vote to expel him. If it was a staff member, I cannot vote to expel him. I simply think he ought to be fired.

But there will always be leaks—always. But the unfortunate way in which this information has come to light should not be enough to cause us to disregard the possible relevancy, the possible relevancy and the possible accuracy of a charge which so pertains to the character and the temperament of an individual being considered for this august and powerful position.

Let me say, Mr. President, to my colleagues, this is a powerful position to which he is being appointed, if he is appointed, and I do not have any doubt that the Senate will confirm him. I said I did not come here to debate the matter. I do not think I am going to change anyone’s mind. But I am going to make my statement. Judge Thomas made his statements in no uncertain terms. So I am going to make mine.

I want to compliment the chairman. I do not think the chairman was intimidated. I watched him carefully. If a person wants to clear his name, why should the committee members be
intimidated by that person? If I had previously said that I would vote for him, I would have changed my position on that committee.

But so many of the Democrats had already said they were against him. They had already voted against him. So they could not help that. They did not realize at the time that this was coming. But to an extent, their previous vote had put them in a difficult position to question because everybody knew where they were coming from. I am sure that must have been their feeling. Everybody knows where I am coming from, they probably thought; I have already said I am against him. So, to that extent, it sort of taints my question. I can suppose they reasoned thusly.

I am very sorry that the matter of race was injected, not in an effort to clear one's name, but in an effort to shift the ground. So that, instead of making an effort to clear his name in the minds of the committee members and in the minds of senators who were not on the committee, he shifted the blame to the process and to race prejudice.

I think it is preposterous. A black American woman was making the charge against a black American male. Where is the racism? Nonsense; nonsense!

Mr. President, I will get to my final reason for voting against Judge Thomas.

[Mr. PRYOR assumed the chair.]

"WHY GIVE HIM THE BENEFIT OF THE DOUBT?"

Mr. BYRD. Mr. President, this question of giving the benefit of the doubt, I have heard it said, "Well, if you have a doubt against this"—and it is obvious nobody can really say with certitude as to which one is telling the truth, the whole truth, and nothing but the truth, so help him or her God—"then you should give the benefit of the doubt to Judge Thomas. He is the nominee."

Mr. President, of all the excuses for voting for Judge Thomas, I think that is the weakest one that I have heard. When are senators going to learn that this proceeding is not being made in a court of law? This is not a civil case; it is not a criminal case wherein there are various standards of doubt, beyond a reasonable doubt, so on and so on; "if you have a doubt, it should be given to Thomas."

Why? This is a confirmation process, not a court case. We are talking about someone who was nominated for one of the most powerful positions in this country. Some say, he will only be one of nine men. But suppose it is a divided Court, four to four in a given case. That one man will make the difference. Suppose it is a divided Court and he does not show up for some reason, he does not vote on a matter. A tie is in essence a decision in some cases.

His decision will affect millions of Americans, black, white, minorities, the majority, women, men, children, in all aspects of living, Social Security, workmen's compensation, whatever it might be that might come to the Supreme Court of the United States. That one man in such an instance will have more power than a hundred senators, more power in that instance than the president of the United States. This is not a justice of the peace. This is a man who is being nominated to go on the highest court of the land. Give him the benefit of the doubt? He has no particular right to this seat. No individual has a particular right to a Supreme Court seat. Why give him the benefit of the doubt?

Such an honor of sitting on the Supreme Court of the United States should be reserved for only those who are most qualified and those whose temperament and character best reflect judicial and personal commitments to excellence.

A credible charge of the type that has been leveled at Judge Thomas is enough, in my view, to mandate that we ought to look for a more exemplary nominee. If we are going to give the benefit of the doubt, let us give it to the Court. Let us give it to the country.

Judge Thomas professed, "You may kill me, look what you are doing to me," and "what you are doing to my country." I will take that on. If Judge Thomas is rejected, he will not lose his life. He will not lose his property. He will not lose his liberty. He will go on being a judge of the appellate court, the youngest judge on the court, driving his car, mowing his grass, going to McDonalds, "eating a Big Mac," and living his life, watching his son play football.
Now I do not say any of those things pejoratively, but those are his words. So why should we give the benefit of the doubt to him? He will not have to worry about a job. You cannot take his job away from him except through the impeachment process. He will be a judge for life. And his salary is inviolable. You cannot cut it.

But, he will be on the Supreme Court thirty years, if he lives out the psalmist's span of life. He will affect the lives of millions. He will make decisions which will impact on their ability to own a car or even to eat a Big Mac. Their liberty, their lives, their property, will be in his hands.

Now, if there is a cloud of doubt, this is the last chance. He is not running for the U.S. Senate, when there would be another chance in six years to pass judgment on him. He is not running for the House of Representatives, wherein there would be another chance in two years. He is not even running for office. He has been nominated to the Supreme Court of the United States, and if he is not rejected—I believe he will not be rejected; I think too many have made up their minds, I think too many have been swayed with this argument about "the benefit of the doubt"—this is the last clear chance, to use a bit of legal terminology, this is it. The country will live with this decision for the next thirty years.

I realize it is possible that in the process a man could have been wronged. If it were a criminal trial, it would be different. That is what it is not.

"THIS IS A CONFIRMATION PROCESS, NOT A JUDICIAL PROCESS"

Now then this final argument that I saw in the Washington Post editorial this morning to the effect that there should be two—I do not have it in front of me, but the gist of it was, as I got it, there need to be two witnesses or some such.

I am reading a sentence and at the end of my statement I ask unanimous consent that the entire editorial be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD, It reads:

It goes against a tradition which holds that the unproven word of a single accuser is not enough to establish guilt.

Well, there we are in the court setting again. This is a confirmation process, not a judicial process.

Under the old English law and the law of our forefathers and our law today, in a case of treason, one witness is not enough. That is a case which, under the English law, was a criminal trial, impeachment, a criminal trial; he could lose his life, he could be banished, he could lose his liberty, he could lose his property, he could lose them all. That was a criminal trial. That was a criminal trial under the old English law.

And so that was transferred into the Statute of Treasons, I believe, in 1696 or thereabouts, and it came down to our Constitution. You have to have two witnesses to a treasonous act. The editorial continues, we have a tradition "which holds that the unproven word of a single accuser is not enough to establish guilt." And the closing sentence, "But in these circumstances history gives us too many reasons not to act on the unproven word of a single accuser." Again, the editorial is confusing a confirmation process with a court setting.

I disagree with the statement, "History does not give us any reasons not to act on the unproven word of a single accuser in the confirmation of a nominee."

So let us not get all confused about what we are doing. This is a confirmation process. And if there is a doubt, I say resolve it in the interest of our country and its future, and in the interest of the Court. Let us not have a cloud of doubt for someone who is going to go on that court and be there for many years.

Now, Mr. President, I want to close by talking just briefly again about the "process," the process in the larger sense.

Judge Thomas sought to blame the process and to avoid the real issue. But it is my judgment that that does not clear Judge Thomas' name.

This is the excellent foppery of the world, that when we are sick in fortune—often the surfeit of our own behavior—we make guilty of our disasters the sun, the moon, and the stars.
Shakespeare went from *King Lear* to *Julius Caesar*, when Cassius said to Brutus:

> The fault, dear Brutus, is not in our stars,  
> But in ourselves, that we are underlings.

Judge Thomas sought to blame his troubles on the "process," but his problem was of his own making.

So, let us, as was said in the hearings from time to time, let us keep our eye on the ball. We are going to cast a very important vote today. And it is not like sin, in the sense that one may be forgiven for it. But once this vote is cast, there is no recourse for restoration.

I have tried to speak from the head. And, Mr. President, my heart tells me that I am right. I will not attempt to criticize any other senator's vote. Every senator has not only the right but also the duty to vote as he sees fit.

In Milton's *Paradise Lost*, man is described as having a will. He has the power of the will. Nobody will stand like the Persian monarchs behind their soldiers or behind senators and lash them into battle or dig trenches behind them to keep them from retreating. It is up to every senator to decide, and every senator can justify his position any way he wishes.

As I say I am not here to debate. I am not here to try to change men's minds or women's minds. I am here to state my own sound views as I see them, through my own lights, and after having carefully weighed this matter; after having gone from being a supporter of Judge Thomas for the reasons I have said—and my previously intended speech will be in the *Record* to show the reasons why I was supporting him—having gone from that position to the position I have stated today. I believe that it is my country that will be hurt in the event Judge Thomas goes on the Court.

Perhaps we need to clean up the process if we can. But the "process" is a constitutional process, and it has done us well for over two centuries. And as far as I am concerned the "benefit of the doubt" will go to the Court and to my children and to my grandchildren and to my country.