

Clarence Thomas in His Own Words, with Glosses in Mine

United States Supreme Court Justice Clarence Thomas is poking his nose out and testing the air after the unpleasant Clinton years. Justice Thomas had nothing to say during the Court's selection of George W. Bush as president, it is true. But afterwards he made a public appearance at a grade school, and on February the thirteenth of the Bush Restoration he gave the Francis Boyer lecture before the American Enterprise Institute for Public Policy Research. Other recipients of the Boyer Award have been Ronald W. Reagan, Richard B. Cheney, Gerald R. Ford, and George F. Will. Justice Thomas's speech is in regular type; the glosses on his text are in italics.

I have now been in Washington D.C. for more than two decades. When I first arrived here in 1979, I thought that there would be great debates about principles and policies in this city. I worked as a legislative assistant for Senator John C. Danforth. I expected these great debates to occur in the Senate. Like so many of you, I was surprised to see soliloquies spoken in almost empty chambers, and unspoken statements included in the Congressional Record as though spoken.

For some reason that now eludes me, I expected citizens to feel passionately about what was happening in our country, to candidly and passionately debate the policies that had been implemented, and suggest new ones. I was disabused of this heretical notion in December of 1980, when I was unwittingly candid with a young *Washington Post* reporter. He fairly and thoroughly displayed my naïve openness in his op-ed about our discussion, in which I had raised what I thought were legitimate objections to a number of sacred policies, such as affirmative action, welfare, school busing—policies that I felt were not well serving their intended beneficiaries.

In my innocence, I was shocked at the public reaction. I had never been called such names in my entire life.

Justice Thomas here moves along to other matters in the speech, matters of Law and the Constitution that need not concern us here any more than they concerned him on December 12 when he voted to award the presidency to the son of the man who put him on the court.

In the spring of 1980, I received a call asking if I had any interest in going to the Office for Civil Rights in the Department of Education. Until then, for the good of my career, I had assiduously avoided any work that was related to civil rights and frankly I had no interest in such a position. Then a dear friend of mine, Jay Parker, spoke to me about it, insisting that these issues were of great importance to me, and that I had a point of view that should be a part of the policy process and the continuing debate. I had to admit that what happened in this area did mean a lot to me. But I didn't want to be the one arguing publicly for policies that would raise the ire of the civil rights establishment. I had just gotten a taste of the penalties for candor and honesty as a result of the *Washington Post* op-ed, and I had no interest in a repeat performance.

Supreme Court Justice Thomas remembers the Washington Post piece as running in December of 1980, which would mean that in the spring of 1980 obscure Senate aide Thomas had yet to taste the penalties for honesty. At no time in 1980, however, was the black establishment in charge of staffing the new administration; Ronald Reagan was. And in 1981, Mr. Thomas was indeed named Assistant Secretary for Civil Rights at the Department of Education.

There is, of course, such a thing as self-preservation. Also, I was insulted that I was being offered the job for no reason other than my race...

Graver insults of this sort were to come. Far graver.

Some years ago, I wrote a dissenting opinion which argued that a prisoner who had been beaten but only received minor injuries could not, in this case, base a claim on the “cruel and unusual punishment” clause of the Eighth Amendment.

Among the minor injuries, the guards knocked the prisoner’s teeth out.

Now, there are obviously different, legitimate points of view on this case. If not, I would not have been in dissent. But what is striking is that I was widely denounced for advocating the beating of prisoners, which is ridiculous...

Of course it is. Justice Thomas was not advocating the beating of prisoners. He was merely allowing it.

Today, there is much talk about moderation. It reminds me of a former colleague at the Equal Employment Opportunity Commission who often joked that he was a “gun-toting moderate”—a curiously oxymoronic perspective. Just think of that, dying over half a loaf.

Or, as Senator Goldwater once put it, “...and let me remind you also that moderation in the pursuit of justice is no virtue!”

...It is not comforting to think that the natural tendency inside us is to settle for the bottom, or even the middle of the stream. This tendency, in large part, results from an overemphasis on civility.

None of us should be uncivil in our manner as we debate issues of consequence. No matter how difficult it is, good manners should be routine. However, in the effort to be civil

in conduct, many who know better actually dilute firmly held views to avoid appearing “judgmental.”

And some of them even have the nerve to call themselves “judges.”

They curb their tongues not only in form but also in substance. The insistence on civility in the form of our debates has the perverse effect of cannibalizing our principles, the very essence of a civil society.

Your assignment, class, is to figure out what that last sentence means.

That is why civility cannot be the governing principle of citizenship or leadership. As Gertrude Himmelfarb observed in her book, *One Nation, Two Cultures*, “To reduce citizenship to the modern idea of civility, the good-neighbor idea, is to belittle not only the political role of the citizen but also the virtues expected of the citizen—the ‘civic virtues,’ as they were known in antiquity and in early republican thought.”

...Gertrude Himmelfarb refers to two kinds of virtues. The first are the “caring” virtues. They include “respect, trustworthiness, compassion, fairness, decency.” These are the virtues that make daily life pleasant with our families and those with whom we come in contact.

To sharpen the point, these are the “girly” virtues.

The second are the vigorous virtues. They include courage, ambition, and creativity. These heroic virtues “transcend family and community and may even, on occasion, violate the conventions of civility. These are the virtues that characterize great leaders, although not necessarily good friends.”

And these are the “studly” ones.

She notes that the vigorous virtues have been supplanted by the caring ones. Though they are not mutually exclusive or necessarily incompatible, active citizens and leaders must be governed by the vigorous rather than the caring virtues. We must not allow our desire to be decent and well-mannered people to overwhelm the substance of our principles or our determination to fight for their success. Ultimately, we should seek both caring and vigorous virtues—but above all, we must not allow the former to dominate the latter.

Or we will all turn into a bunch of pathetic “pansies.”

Again, by yielding to a false form of “civility,” we sometimes allow our critics to intimidate us. As I have said, active citizens are often subjected to truly vile attacks; they are branded as mean-spirited, racist, Uncle Tom, homophobic, sexist, etc. To this we often respond (if not succumb), so as not to be constantly fighting, by trying to be tolerant and nonjudgmental—i.e., we censor ourselves. This is not civility. It is cowardice, or well-intentioned self-deception at best.

Immanuel Kant pointed out that to escape shame and self-contempt we must learn to lie to ourselves.

So why not give it a try in your own life? It's working for Clarence!



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