

Senator SIMON. Thank you very much.  
 Is there any preference about who goes next?  
 Ms. WILLIAMS. I will go next.  
 Senator SIMON. Patricia Williams.

#### STATEMENT OF PATRICIA WILLIAMS

Ms. WILLIAMS. Good afternoon, Senator Simon and ladies and gentlemen.

I come today before you on behalf of the Center for Constitutional Rights, and it is with great regret that we oppose the nomination of Clarence Thomas. Based on his candidacy, it would be presenting a threat to the assiduous protection of civil liberties, particularly in the areas of women's rights, affirmative action, and rights of the elderly.

I would start by making a brief observation about the course of these hearings. There has been a deeply disconcerting pattern of Judge Thomas either revising or disclaiming many of the most troubling aspects of his record over the past decade.

If one believes in this epiphanous recanting, we are left with the disturbing phenomenon of a Supreme Court nominee who didn't read his own citations, who misunderstood the legal import of his own obstructionist administrative actions, and who really didn't mean most of what he said. And if one is not inclined to believe that Clarence Thomas' keen intelligence could leave him in quite so disingenuous a state of disarray, then you the Senate must come to terms with the fact that you are confronted with an outright practiced refusal to answer questions, and this is a tremendously serious violation of the Senate's right to answers about any nominee's views and his position to uphold precedent, judge facts, interpret new law.

Ambiguity is not the standard. A senatorial leap of faith, as the Philadelphia Inquirer put it yesterday, is not good enough. The Senate has a constitutional duty to ensure that the Court remains a place where both popular and unpopular causes may be heard.

There have been many careless accusations about how politicized the hearings have become, but the Constitution expressly makes the senatorial process of inquiry a political one. The Constitution specifies that no nominee shall be confirmed, without the advice and consent of the Senate. And let me be clear, this concern has nothing to do with whether Clarence Thomas is conservative, liberal, Republican, or Democrat. This concern has nothing to do with whether Clarence Thomas is a role model or not. It is about the Court's actions. The job is more than a role, and Clarence Thomas would be more than a model. It is about real power over the real fates of very real future generations.

If the Senate is confronted with a tabula rasa or even a tabula not so clara, mystery, as even some of you have acknowledged, then there is little basis for knowledgeable advice or informed consent, and this again is a severe threat to the functioning of our tripartite system of government, to the balance of political input that the involvement of several branches of government must provide, before somebody is placed into that most sensitive position of dis-

cretionary insularity, that shielded office of highest trust that is the Supreme Court.

Second, one of the most distinguishing features of Clarence Thomas' philosophy is his wholesale rejection of statistics and other social science data, and with it the rejection of a range of affirmative action remedies that have been central to our social and economic progress.

While self-help and strong personal values are marvelous virtues, they are no standard for the zealous protection of civil and human rights, that protection being the paramount task of the judiciary in any democracy and of our Supreme Court in greatest particular.

The problem with Clarence Thomas' espousal of self-help values is that he positions them in direct either/or tension with any other value. Self-help is presented as bitterly competitive, rather than in complete concert with those social remedies and measures that would help ever more, rather than ever fewer people.

I recently saw a television program, something that we have all seen, I think, over voices presenting statistics about the lack of educational opportunity for black children in inner-city schools, about dropout rates, drugs, crime, teacher apathy, lack of funding, padlocked public libraries, and the low expectations of officials and school administrators.

At the end of this very depressing summary, the anchor turned to four teenagers, all black and all excellent students in a special program designed to encourage inner-city black youths with an interest in math and science, "Are you here to show us that's a lie?" asked the commentator. The students then proceeded to try to redeem themselves from the great group of the "not very good" inner-city black kids, by seeing themselves apart as ambitious, dedicated, different in one sense, yet just the same as the majority of all other kids at the same time.

It was unbearable listening to these young people try to answer this question. It put them in an impossible double bind. They were lower-class kids who came from tough inner-city neighborhoods, where very few of their friends could realistically entertain aspirations to become neurosurgeon or microbiologists, and it was this community from which they were being cued to be different, in order to prove the truth of their individualism.

Let me be very clear, I am not faulting, but praising these young people's aspirations and goals, but what concerns me is the way in which not only the TV anchor, but also many in the society, including many blacks and including Clarence Thomas, force them and others like them to reconcile their successful status by presenting the conditions from which they were so serendipitously rescued as mere fiction, waiting to be willed away by the mere choice to overcome it.

Moreover, a question, a model that asks children whether they can prove statistics to be a lie does not treat statistics as genuinely informative. If the actual conditions of large numbers of people can be proved a lie by the accomplishments of an exemplary few, then social science data only reinforce an exception that proves the rule. They do not represent the likely consequences of social impoverishment, they bear no lessons about the chaotic costs of the last sever-

al years of having eliminated from our social commitment the life nets of basic survival.

Rather, social science data are reduced to evidence of deserved destitution and chosen despair, the numerical tracking of people who dissemble their purported deprivation, and dismissed as mere lockstep thinking opinion, rather than empiricism.

The Supreme Court in recent cases, perhaps most vividly in *City of Richmond v. Croson*, has persistently done something with statistical evidence that is very like asking schoolchildren if they can make into a lie the lost opportunities of countless thousands of others.

The dismissiveness of Clarence Thomas' analysis of social science evidence exceeds even that of the majority's reasoning in *Croson*. For all his constant and admittedly quite moving anecdotalizing about his own history, Thomas by this gesture effectively supplants our larger common history with individualized hypotheses about free choice, in which each self chooses her destiny, even if it is destitution.

Clarence Thomas has not clearly committed to an historical context that gives at least as much weight to the possibility that blacks and other groups historically disenfranchised groups have not had as many chances to be in charge of things as to the possibility that they just don't want to or that they just can't.

If we do not begin to take the horrendous social conditions of black people seriously as social and constitutional matters, not just individual problems, we risk becoming a permanently divided society. Social necessity not only must have, it may and does have at least some place in the Supreme Court's considerations into the next century.

Thank you.

[The prepared statement of Ms. Williams follows.]