

for people of every religion and color and national background and station in life. This is an extremely high standard, but it is an extremely high court to which you aspire.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.  
Senator Brown.

**OPENING STATEMENT OF HON. HANK BROWN, A U.S. SENATOR  
FROM THE STATE OF COLORADO**

Senator BROWN. Thank you, Mr. Chairman.

Judge Thomas, it is a pleasure for me to join with others on this committee to welcome you here, along with your beautiful family. I don't know how this committee will resolve the question before it as to your judicial competence, but in terms of your ability to be an excellent listener, I think you have already passed the test. I suspect a further trial is ahead of you, though, in that regard.

You have perhaps enjoyed so much your other four Senate confirmation process that you have been anxious to go ahead with a fifth. You have come here before us a husband, as a father, as a son, and a brother. I only hope at the end of this deliberation that your family feels that you have had a full and a fair opportunity to present your viewpoint. I think that is important for us to make the right kind of decision.

Mr. Chairman, as we consider Judge Thomas for the position of the 106th Justice of our Supreme Court, we fulfill an important constitutional duty. Over the course of the next several weeks, the American people will have an opportunity to witness the three branches of our Government coming together to fulfill those duties and to chart the course for our judicial history in the future of this Nation.

I think it is important that we gather and do this job in a thorough manner that has been laid out. We judge not only the nominee, but I think in some measure we judge ourselves as well.

The American people are unique in the history of mankind. We are unique in our commitment to individual and personal rights. It is perhaps a phenomenon that the Constitution and its amendments deal as much with preserving individual freedom from the powers of Government as they deal with establishing the very framework of that Government itself. That approach, that uniqueness, says a great deal about us as Americans, and I think says a great deal about what has made us so extraordinarily successful.

I am one of those that believes it is appropriate for this committee to inquire into the judicial philosophy of the nominee. Mr. Chairman, your own op-ed piece that appeared in the Washington Post I thought was not only a very thoughtful work but one that set forth many of the important questions that we ought to be dealing with. But I also believe for us to request specific answers to potential cases before the Court would be a great disservice to the American people. It would be a disservice because I think all of us would feel how wrong it would be to have a judge sit in judgment of us when he has already made up his mind or pronounced a decision. A willingness to have an objective review of the facts in any

case is at the very foundation of the American commitment to justice.

I believe we ought to seek a Court committed to constitutional principle. Our judges must be guardians of individual rights whether they agree with the cause or the issue or not. Their job is to stand up and protect our rights, sometimes even for us to make mistakes.

I hope also, Judge Thomas, that you and the other judges who sit on the Supreme Court will understand clearly and firmly that amending the Constitution and legislating are not the province of the Court, are not now and never should be the province of the Court, but that these are reserved under our Constitution to others and ultimately to the people that they serve.

This committee has approved a number of judicial nominees who I think could fairly be called judicial conservatives. Those approvals have come in recent years as a variety of nominees have come before this committee.

I am very concerned that, unlike Justice Souter and some other nominations, special interest groups in our country have announced their decision on your nomination, have come out in opposition to your nomination, even before this committee has had a chance to delve into the facts and the issues before it. This process of sentencing someone before they have a trial I think is a bad practice. It is a bad practice for members of this committee. It is a bad practice for interest groups in our society. Frankly, it is a practice that I hope you, Judge Thomas, will never engage in.

We must ask ourselves, I think, if Judge Thomas is to be held to a different standard than that of Justice Souter or Justice Kennedy or Justice Scalia or Justice O'Connor. I hope he will not be held to a different standard. I hope the standards that ruled the deliberations with regard to those Justices will be the same ones that we use with regard to your nomination.

In short, this committee should not prejudge Judge Thomas, as unfortunately some have done already.

Some discussion has already been laid before the committee with regard to the qualifications and the judgment of the American Bar Association. I believe it's important to have their determination of the qualified status of Judge Thomas in the record because I think the standard they use in determining if a judge is qualified I think is so important. Here is that standard as presented by the American Bar Association: To merit the committee's evaluation of qualified or well qualified for the Supreme Court, the nominee must be in the top of the legal profession, have outstanding legal ability and wide experience, and meet the highest standards of integrity, professional competence, and judicial temperament.

The question has already been raised in the opening statements about your commitment to equal justice. In that regard, the American Bar Association has considered that. To quote from the Bar Association themselves, in investigating temperament the committee considers, among other factors, the prospective nominee's compassion, decisiveness, open-mindedness, sensitivity, courtesy, patience, freedom from bias, and commitment to equal justice. I don't know if anyone has ever accused the American Bar Association of being the spokesman for President Bush. Far from it. But I believe the

question of commitment to equal justice has been considered by the American Bar Association and Judge Thomas found qualified.

Mr. Chairman, it was 28 years ago that Martin Luther King stood on the steps of the Lincoln Memorial and gave a speech that I believe helped shape the conscience of this Nation. He said, "I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin, but by the content of their character."

We are here to learn more about the judicial philosophy of Judge Thomas. But I must say I am flatly and frankly impressed with the personal background and the character of Judge Thomas. He knows what it is like to work for a living. He understands what it is like to truly help others. Throughout his life, he has rolled up his own sleeves to help those in need. Whether serving breakfast to disadvantaged children or tutoring school children, Clarence Thomas has been there.

He understands our legal system from a wide variety of experiences, and I think that variety of experiences is important in making a Justice of the Court. He has worked in a legal aid clinic and practiced corporate law, from drafting legislation for the U.S. Senate to hearing cases on the District of Columbia Circuit Court of Appeals.

Clarence Thomas brings to the Court an understanding of segregation as one who has felt its oppression. He brings to the Court an understanding of poverty as one who has experienced it firsthand. And I believe he brings to the Court an understanding of the American dream as one who has lived it.

Thank you, Mr. Chairman.

[The prepared statement of Senator Brown follows:]