The CHAIRMAN. Thank you very much, Congressman.
Mr. Chambers.

STATEMENT OF JULIUS CHAMBERS

Mr. CHAMBERS. Thank you, Mr. Chairman. Thank you for permitting me to address the committee on behalf of the NAACP Legal Defense and Educational Fund.

I serve as director counsel of the NAACP Legal Defense Fund, a position previously held by retiring Justice Thurgood Marshall and Jack Greenberg, who is now dean of Columbia University.

The legal defense fund played a major role in litigating most of the civil rights cases during the past 50 years. We have litigated more than 500 cases in the U.S. Supreme Court, including many of those that this committee discussed during these proceedings——

The CHAIRMAN. 500, you say?

Mr. CHAMBERS. Yes. In addition to *Brown* v. *Board of Education,* the legal defense fund represented the Griggs plaintiff. I personally argued over eight cases in the U.S. Supreme Court, including *Albemarle Paper Company* v. *Moody, Swann* v. *Charlotte-Mecklenburg, Thornburgh* v. *Gingles,* and the recent *Houston Lawyers Association* case that was decided last term.

With great regret, as I think exists among several others who oppose this nominee, I urge you to reject this nomination and to advise the President that Judge Thomas, based on the evidence produced at these hearings, does not meet the standards for elevation to the U.S. Supreme Court.

In summary, my reasons are: first, that the nominee, with no articulated or supportable constitutional or judicial standards would reject much of what this country has done to ensure that African-Americans and other disadvantaged people will have an equal chance in life. This position, as I will develop, is based on the writings and speeches of the nominee as well as my own personal experience.

Second, even if we accept the nominee's recantations or explanations offered during these hearings, the committee and the Senate are left with a candidate who cannot possibly demonstrate qualifications or judicial attributes to serve on our highest Court.

For more than 50 years, the legal defense fund has appealed to the judicial system to ensure improved opportunities for minorities and disadvantaged Americans. We have had marked success and have convinced minorities that, despite its flaws, the Court offers a reasonably fair and peaceful means for seeking equality. We have raised hopes among African-Americans and others that whatever their grievances, they can be fairly or sympathetically heard and addressed in our judicial system. But these accomplishments and the progress we have made would be seriously threatened by Judge Thomas' elevation to the Supreme Court. He threatens and would challenge the precedents established in the Court and in Congress in practically every area of concern to us.

For example, in voting rights, he questions the effects test, established by Congress in 1972 and approved by the Court in *Thornburgh* v. *Gingles.* He questions the affirmative obligations imposed by the Court in *Green* v. *New Kent County* and *Swann* v. *Charlotte-*

Mecklenburg, which I argued, for school districts to disestablish the vestiges of past discrimination.

He has soundly criticized litigation such as class action lawsuits designed to bring about remedies to address systemic discrimination. He has problems with group or affirmative obligations established to ensure equal opportunities for minorities in the workplace.

Since Brown, the Court and Congress have tried to develop fair and effective means to make real Brown's promise of equality. The civil rights remedies that exist today are the product of experience drawn from a wide array of efforts, some successful and some which have not been.

For example, we have tried voluntary efforts like freedom of choice, broad prohibitions as in the voting rights area, and threatened damages as are available under the 1866 Civil Rights Act.

Whatever steps were finally taken have come only after careful analysis of the facts, the law, and proven experience. Judge Thomas would discard all of this.

Second, if we accept the nominee's statements during this hearing at face value, the Senate and the committee would be left with the fact that we have nothing here to determine whether the nominee has the qualifications, the judicial temperament to serve on the Supreme Court. We have prepared an exhibit, an appendix A to our submitted testimony, and I would like to call your attention to it because it lists the 48 Supreme Court Justices who were appointed during the 20th century.

In every instance here, the nominees possessed at least two major qualifications to serve on the Supreme Court. Judge Thomas possesses not one of those. We think when you make your comparison with this list with the qualifications that Judge Thomas has presented, you too would agree that this nominee simply does not have the qualifications to be elevated to the U.S. Supreme Court.

Thank you.

The CHAIRMAN. Thank you very much.

Mr. Rauh.

STATEMENT OF JOSEPH L. RAUH, JR.

Mr. RAUH. I testify this afternoon for organizations of people devoted body and soul to the Bill of Rights. But I also testify for myself.

I had the honor and privilege to serve as last law clerk to Justice Benjamin Cardozo and first law clerk to Felix Frankfurter, the two great successors to the legendary Oliver Wendell Holmes. When Senator Kennedy read Clarence Thomas' trashing of Oliver Wendell Holmes last week, I was made ill. I felt not only Holmes but Cardozo and Frankfurter, his great successors, were being trashed as well.

The years I spent with the Court in the 1930's were years when Presidents reached out for the best person. Republican conservative President Calvin Coolidge appointed Justice Harlan Fiske Stone, a great Justice and ultimately the Chief Justice. His successor, Republican conservative President Hoover appointed Justice Cardozo