

Statement of
Professor Charles Lawrence
before the
Senate Committee on the Judiciary
Hearings on the Nomination of Judge Clarence Thomas
to be Associate Justice of the Supreme Court
September 17, 1991

Mr Chairman, Senators:

It is with a considerable anguish that I come before this committee to oppose the confirmation of Judge Clarence Thomas. No one who has himself experienced the headwinds of American Racism can easily oppose an individual who has traveled the same buffeted road. No one who has been participant and witness to the courageous struggles that have opened doors so long closed to us is anxious to say that one of our own should not pass through one of those doors. But after a long and careful consideration of Judge Thomas's record as a public official, after listening to his testimony before this committee, I find that I must oppose him.

When Judge Thomas made his opening statement before this committee, he invoked the legacy of Justice Thurgood Marshall. He said, "Justice Marshall, whose seat I have been nominated to fill, is one of those who had the courage and the intellect... to knock down barriers that seemed so insurmountable." When I heard that invocation, I wished with all my heart that this was a man capable of fulfilling that legacy. I wanted to believe that he knew what it meant to stand on the shoulders of this great champion of racial justice, that he was an individual with the acuity of intellect, the integrity and the strength of character to carry on the monumental vocation that was Justice Marshall's. I know that millions of Black Americans shared this longing.

Justice Marshall was our first and only voice on the nation's highest court. In the judicial conference room, on the pages of the Supreme Court Reports and in the public discourse, we counted on him to make our story heard. On a Court increasingly insensitive to the plight of those denied the full fruits of citizenship, he was also a voice for women, for gays and lesbians, for the poor and for other minorities. This is Justice Marshall's legacy. And those of us who believe in the Court's special role as guardian of those without political voice, must do more than hope and trust in Judge Thomas's invocation of that legacy.

Judge Thomas has told us of his humble beginnings, of his own experience with the humiliation of segregation and racial denigration. He has assured us that he will not forget those beginnings, those experiences of shame. I am certain that he will not. But we must ask another question: What has Clarence Thomas done with this experience? By what path has he come from those humble beginnings to the threshold of the Supreme Court? What does the record of his life, and particularly his record as a public servant, tell us about his values and character, about whether he can be counted on to be a voice for those who have not been so fortunate as he.

Thurgood Marshall chose the path of leadership within his own community, of legal advocacy on behalf of those who were least powerful, of constant challenge to the institutions and politicians who exploited race and poverty. His way was to speak truth to power. Judge Thomas has come to this crossroad by a very different route. His choice was to serve those who are most powerful in this society and he has served them well. The President has nominated Judge Thomas to the Supreme Court precisely because he has proven his willingness to advance the ideology of his patrons without dissent. He has demonstrated his loyalty as an administration footsoldier. He has been an eager spokesperson for the agenda of the radical right. One cannot help but wonder what this history of accommodation has done to Clarence Thomas's character. In always striving to please those who have been his benefactors, has he lost himself? It is somehow not surprising that we have heard him, in the course of these hearings, disavow so much of what he has said before.

This is a political nomination. Let there be no mistake about that. The framers anticipated this inevitability and gave to the Senate the job of checking the president's power to make a Supreme Court in his own image. This president is determined to do just that; to push the Court even more solidly to the ideological right than it already is. When this is so, it is especially important that the Senate not shirk its responsibility in the process. It is your duty to insure that there remains on the Court some meaningful diversity of judicial philosophy and political orientation, that there remains some voice for those whose voices too often go unheard.

It is your duty to reject this nomination and reject each nominee that follows until you are assured that this new Justice will stand against the current Court's assault on Roe v. Wade, Brown v. Board of Education, and Griggs v. Duke Power. It is not enough to guess, to hope, or even to pray, as I have, that if confirmed, Judge Thomas will grow and change. It is your responsibility to insure the American People that the legacy of Justice Marshall will live on.