

The CHAIRMAN. Thank you very much, Congressman.
Congressman Owens.

STATEMENT OF HON. MAJOR OWENS

Mr. OWENS. Mr. Chairman, I also want to thank you for the opportunity to appear before this committee during this set of historic hearings. In the time allotted to me, Mr. Chairman, I want to make two important points. First, Judge Thomas should not be confirmed because as a Federal official of the executive branch of Government, he consistently demonstrated an open contempt for law. For the youth of America and all people of the world who believe in rule by law, Judge Thomas is a monstrous negative role model.

My second point relates to the obligation I feel to communicate to you the deep feelings of my constituents concerning this nominee and the process which led to the placement of his name before this committee.

Judge Clarence Thomas is being rewarded for the loyal and obedient execution of the orders of two Presidents and his political party. In the process of carrying out those orders, Judge Thomas has trampled on certain legal principles which are vital for the survival of our people.

It is important that I place on the record the response of the great majority of African-American people to his behavior and the clever maneuvers of his sponsor, the President.

On the matter of Judge Thomas' contempt for law, let me make it clear that I speak from the experience of direct observation. As a member of the Education and Labor Committee, which has oversight responsibility for the Equal Employment Opportunity Commission, I served on numerous panels which heard testimony from Judge Thomas.

At this point, I would like to state for the record that there is a voluminous set of records of hearings and General Accounting Office reports which comprise a body of evidence too little analyzed or referred to since Judge Thomas was nominated.

Judge Thomas has testified before congressional committees an extraordinary 56 times. This large number of appearances does not simply reflect the judge's long tenure. Very little of Clarence Thomas' congressional oversight testimony was mere reporting or was otherwise routine. Most of it was controversial and much of it expressed the exasperation of House committees with his administration of the law.

In the same vein are 10 GAO reports, an unusual number, and most of them highly critical of the nominee's administration of the laws under his jurisdiction. It is Judge Thomas' actual professional record while serving in the government that should count most to the outcome of these deliberations. How Judge Thomas has viewed his legal responsibilities in the past is the best evidence of how he is likely to discharge them in the future.

The conclusion that we have reached is that Judge Thomas failed over that period of time to carry out the constitutional obligation of members of the executive branch to, quote, "take care that the laws are faithfully executed," end of quote, and that he exhibited a pervasive disrespect for Congress and for the legislative process.

Our conclusion, which is amply supported by the evidence, is all the more damning when it is recognized that his years in the executive branch constitute almost all of the experience that Judge Thomas has to offer in support of the proposition that he is qualified to serve on the Supreme Court.

Far from assisting his candidacy, the performance of Judge Thomas as a Federal official provides powerful reasons why he should not be confirmed. Two years ago, 14 Members of the House of Representatives, including 12 chairs of committees having jurisdiction over the EEOC and 5 members of the Congressional Black Caucus, wrote to President Bush asking that Clarence Thomas not be nominated to the court of appeals.

After reviewing the record, the writers of the letter said that Thomas had, quote, "resisted Congressional oversight and been less than candid with legislators about agency enforcement policies," end of quote. These Members of Congress concluded that Thomas had demonstrated an, quote, "overall disdain of the rule of law."

Time will not permit me to offer more detail on this point. However, pages 4 through 9 of the written statement of the Congressional Black Caucus does provide amplification for this argument.

Like numerous other Reagan administration appointees, Judge Thomas repeatedly displayed great contempt for the law. Although sworn to uphold and implement the law, Judge Thomas repeatedly delayed, sabotaged and blockaded the process of enforcement of the laws entrusted to his administration.

In this pattern of behavior, Judge Thomas was certainly not unique among Reagan administration officials. For 8 years, contempt for the law was part of the style and the strategy of the executive branch of Government. Members of Congress repeatedly encountered this contempt for the law not only in the Equal Employment Opportunity Commission under Judge Thomas, but also in OSHA, EPA, the Department of Justice, and, as the whole world knows, on the National Security Council. Oliver North's separate government in the basement of the White House was the most visible and the most dangerous example of this contempt for law.

What must be recognized, however, by this committee is that the spirit of Oliver North was rampant throughout all of the units of the Reagan administration. As a Member of Congress, I regret very much the helplessness and inability of Congress to curtail and counteract the brazen contempt for law exhibited by so many executives who were sworn to uphold and implement the law. I pray that in the future we will find ways to guarantee that such a widespread hemorrhaging of the integrity of Government will never take place again.

But one giant step to restore respect for law, and thus resuscitate the vital moral authority of our Government, is a step that can be taken immediately by this committee and the Members of the Senate. Let it be clearly stated by this committee and this Senate that a new standard has been established that regardless of the desires of the President to reward the loyal and the obedient, any persons who have, in their public performance at any level of Government, displayed a contempt for the law shall not be sanctioned and confirmed for the Federal judiciary. In other words, the price of obeying orders instead of upholding and implementing the law

should be denial of the privilege of adjudicating and interpreting law.

In addition to his job performance, for example, before the youth of America and the people of the world. The nominee has used what could accurately be labeled as the equivalent of the Fifth Amendment as his run from his own record. What manner of Government are we, to tolerate people in high places who blatantly evade honest questions?

Finally, I would like to briefly convey to you the sentiments of my constituents on this nominee and the nomination process. I represent the 12th Congressional District of New York, which is 90 percent African-American. I have been a public official for more than 23 years, and I know how to read my constituents. The overwhelming reaction to the nomination of Clarence Thomas was one of disbelief and a sense of betrayal, and, among the youth, immediate bitterness.

If you want to truly understand the thoughts and feelings of the overwhelming majority of African-Americans in this country, then try to imagine how the French would have felt, if the collaborator Marshall Petain had been awarded a medal after the liberation of France in World War II, or if in Norway Quisling had been made a high official in the government. Try to put yourself in the place of a soldier in the Continental Army, after Valley Forge and all of the other difficult struggles, try to imagine the feelings of such a soldier, if he was forced to watch a ceremony where Gen. George Washington promoted Benedict Arnold to the level of a general. Imagine the tears in the eyes of those strong men that such an act would have generated.

The masses of black people judge Clarence Thomas as a man who has clearly and consistently stood against those legal principles, philosophies and ideas which are vitally necessary for our survival and continuing progress. The elevation of this man to the Supreme Court would be a gross insult, a cruel slap in the face of all African-Americans.

It is my plea that you and that the Senate should not acquiesce and permit the continuing erosion of the moral foundation of America. The Senate should not acquiesce and participate in the further trivializing of the Supreme Court of our Nation. On the appointment of Judge Clarence Thomas, it is my plea that the vote on confirmation be a clear and decisive no.

Thank you.

[Prepared statement follows:]