



**National Organization for Women, Inc.**

1000 18th Street, NW, Suite 700, Washington, DC 20036-5705 (202) 331-0066 FAX (202) 785-8576

TESTIMONY OF  
MOLLY YARD  
President, National Organization for Women, -  
Before the Judiciary Committee  
of the United States Senate  
regarding the  
Confirmation of Clarence Thomas  
September 20, 1991

My name is Molly Yard. I am the president of the National Organization for Women. I am pleased to be here today to testify regarding the nomination of Clarence Thomas to the United States Supreme Court.

You may be aware that I am recovering from a stroke that I suffered several months ago. I am still working on physical and speech therapy. Despite that, I was absolutely determined to present this testimony. I felt that I must make yet one more appeal to you to stand up for the rights of women and other oppressed groups.

NOW is adamantly opposed to the nomination of Clarence Thomas. Mr. Thomas has demonstrated none of the qualities necessary for a member of this nation's highest court. While a Supreme Court Justice must be compassionate, Mr. Thomas has shown scorn for the oppressed. While a Justice must have respect for the law, Mr. Thomas has demonstrated a willingness to promote his conservative personal agenda in defiance of the law of the land. While a Justice should be forthright, Mr. Thomas has been evasive. Clarence Thomas has simply not shown himself to be worthy of a seat on the Supreme Court.

Mr. Thomas seems to be doing his best to imitate the Teflon candidacy of David Souter. Perhaps he feels that a blank slate is an unimpeachable one. Yet

how can the good of this country possibly be served by a man who has spent weeks backing away from his own record?

Perhaps the most blatant example of Mr. Thomas' attempt to rewrite history is his claim that we should not take seriously his public praise for Louis Lehrman's antiabortion polemic. Mr. Thomas now would have us believe that he did not agree with the piece but was only citing to it to gain the support of his conservative audience. Frankly, I don't believe that story and neither should you. But even if I did, Mr. Thomas' defense -- that he says things that he doesn't believe in order to win an audience -- does not inspire confidence in the statements he has made before this committee and certainly does not make me secure that he will be a strong and zealous guardian of our constitutional rights. Similarly, even if we were to accept Mr. Thomas' astonishing claim that he has never given much thought to Roe v. Wade, this lack of interest in one of the crucial civil rights issues of the last 20 years would show Mr. Thomas to be so disengaged from modern legal and social debate as to disqualify him from sitting on the Supreme Court.

In fact, Clarence Thomas is not the enigma he would like to be. Both his words and his actions show him to be cold and callous. Mr. Thomas compiled a record

of neglect at the EEOC, particularly with regard to women's rights. This man insulted women who have suffered discrimination in employment by calling their legitimate complaints "clichés." He said that women avoid professions like the practice of medicine because it interferes with our roles as wives and mothers. This type of medieval claptrap would doom any politician running for electoral office. How, then, can it be considered acceptable for a Supreme Court nominee? .. .

It is always easy to cut through people's pretensions by looking at how they treat their families. Many saints have been unmasked as sinners in the privacy of their homes. Clarence Thomas used his own sister, Emma Mae Martin, as an example to denigrate people on welfare. Yet Mr. Thomas' sister overcame a life of poverty to graduate high school and enter the workforce. After she was deserted by her husband, she supported her young children by working at two minimum wage jobs. She was indeed on welfare during a period when she was forced to leave her jobs to take care of her (and Mr. Thomas') aunt, who had had a stroke. She now works as a cook on a shift that starts at 3 o'clock in the morning. As is too often the case, it appears that in Mr. Thomas' family the male child was given the opportunity to get a college

education and a professional career, while the girl accepted the responsibility of caring for the family. To me, Emma Mae Martin sounds like a brave, strong woman, committed to her family and fighting to do the best she can. Yet Clarence Thomas sees her as dishonorable.

Mr. Thomas' cruel remarks would be bad enough when said of a total stranger. That he would use his own sister as the butt of such an insult is shocking. Mr. Thomas has been nominated for a position that requires, above all, sensitivity and concern about all those who come before the courts seeking justice. Rather than demonstrating those qualities, he has instead shown himself to be cynical and cold.

This nomination is particularly poignant for me because of the man that Clarence Thomas has been nominated to replace. Had Thurgood Marshall never spent one day on the bench, his brilliant career as an activist civil rights lawyer would have guaranteed him a place in history and in the hearts of all people who believe in equality and justice. Yet Thurgood Marshall went on to champion the rights of the oppressed from the Supreme Court, tirelessly fighting to uphold the very principles that Clarence Thomas sees as outmoded or unnecessary. While nothing can extinguish the light that Thurgood Marshall

lit, it would be sad to replace him with a man who is committed to dousing the torch that Justice Marshall carried so proudly.

It has become increasingly difficult to come here on each succeeding Supreme Court nomination and beg for women's lives, only to have our pleas ignored. We urged you, in the strongest terms, to understand that the confirmation of Justices Kennedy and Scalia would lead inevitably to the erosion of women's right to safe, legal abortion. Those predictions proved true two years ago as the court severely undercut Roe v. Wade in the Webster case, and went on a year later in the Akron and Hodgson decisions to take away the rights of young women to control their bodies. We warned that David Souter, silent though he was on many significant issues, would be yet another conservative, anti-abortion vote. As we feared, Justice Souter was an instrumental part of the majority last term, when the Court took the incredible step of holding that women had no right to be informed by their physicians and other medical personnel of even the fact that abortion exists.

Senators, many of you and your colleagues in the House have spent time in recent sessions trying to restore the civil rights that the Court has undercut,

fighting to reverse the gag rule that the Court has upheld, and working to guarantee the right to abortion that the Court has imperiled. Yet had you held fast against the unsuitable nominees put before you by the Reagan-Bush administration, these efforts would not have been necessary. Your constitutional role is not to be a rubber stamp for the President. Instead, you must look into your hearts and judge what is best for this country before you advise and consent on nominations. It is not just your prerogative but your duty to protect the fundamental constitutional rights of all of the people. How can you in good conscience consent to an increasingly unbalanced court that represents one judicial philosophy, a philosophy that ignores the needs of the majority of this country?

The conservative tide has swept over the Supreme Court. With each Reagan-Bush nominee that the Senate confirms, you entrench still more firmly a Supreme Court that is at best indifferent and at worst hostile to the rights of women, people of color, lesbians and gays, the handicapped, the elderly, the poor -- all those who most need protection from the nation's highest court. You still have some ability to stem that tide, to give the dispossessed and disenfranchised a faint glimmer of

hope that someone cares about them, that the entire government of the United States is not a cynical enterprise run by the privileged for the privileged. I urge you, once again, to stand up for equality, for justice, and for compassion. Vote against the confirmation of Clarence Thomas.