

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

STATEMENT OF REP. CRAIG A. WASHINGTON

Mr. WASHINGTON. Thank you, Mr. Chairman.

Mr. Chairman and members, I thank you for the privilege and honor of speaking before you today. We truly appreciate this opportunity to express our views on a vitally important nomination.

I speak in opposition to the nomination of Judge Clarence Thomas. My opposition to Judge Thomas has nothing at all to do with his personal political views. It has nothing at all to do with the politics that resulted in his nomination, but, rather, based upon a scientific, objective, reasoned and calm analysis of Judge Thomas' legal writings, legal opinions, editorial opinions, remarks and speeches. I have concluded at least the following:

Judge Thomas has a disturbingly paradigmatic disdain and disregard for legal precedents and *stare decisis*. In fact, I don't think he knows what *stare decisis* means. Judge Thomas has shown a previous long-standing disrespect for the civil liberties of groups. Judge Thomas has espoused as a fulcrum of his legal thought the concept of natural law, and Judge Thomas has shown a lack of respect for the rule of law.

We have reached these and other conclusions only after much research and analysis. As you know, it is often difficult to take a stand that would seem to be unpopular. It is our duty, however, as elected officials, to speak against the nomination of Judge Clarence Thomas, based upon the facts.

Our position is clearly based upon just that, the fact that the elevation of Judge Clarence Thomas to the Supreme Court of the United States is dangerous for all Americans. The quintessential underpinning of Anglo-Saxon jurisprudence is that, if you have a case with similar facts, similar evidence and similar legal predicates, you should reach a similar outcome. *Stare decisis*, which in Latin, as you know, means standing by decided matters, is a doctrine of following rules of principles laid down in previous judicial decisions.

The most blatant example of Judge Thomas' disregard for legal precedent came when Judge Thomas was chairman of the Equal Employment Opportunity Commission. As chairman of the EEOC, Judge Thomas spoke out against the Supreme Court's approval of racial and sexually defined employment goals and timetables.

Judge Thomas states that he considered goals and timetables to be a weak and limited weapon against forms of discrimination. There have been at least four Supreme Court decisions on race conscious remedies in which the Supreme Court has approved them. They are, as you know, *United States v. Paradise*, *Local 28 Sheet-metal Workers v. EEOC*, *Local 93 Firefighters v. Cleveland*, and *Johnson v. Transportation Agency, Santa Clara County, California*.

There are times when we all disagree with the law. Rules and regulations make our society stable. If we all agree that, for better or worse, the rule is that privates salute generals and that we should drive the speed limit as established by the legislatures of our various States, then we should obey those rules and regula-

tions. I might not like the person wearing the uniform of the general, but if I am a private and he or she is a general, I am bound to respect the rank of the general.

Judge Thomas' opinion of *Brown v. Board of Education* is simply this: If individual violations of discrimination came to Judge Thomas and complained of discrimination, they would be heard. However, if a group complained and presented evidence of group-wide systemic discrimination, he would not hear such evidence. This notion is in direct contradiction with the fundamental rights that the Constitution was intended to protect.

Moreover, the Bill of Rights and other amendments were intended to protect those who are similarly situated from the tyranny of Government. Natural law has as much to do with judicial opinion as voodoo has to do with the practice of medicine. As an example of the application of natural law would be to take the example I used earlier about driving the speed limit. Under a theory of natural law, the majority of people have agreed that we should drive the speed limit. If one were to adhere to a natural law philosophy, however, one could state, "Since I've paid for my car and I've paid part of the taxes to build this highway, I can drive as fast as I wish. I'm not bound by mere legal opinion, I'm bound only by myself." The logical extension of such a philosophy is that we would have no law, no order, and no rules to govern our society.

During Judge Thomas' tenure as chairman of the EEOC, he refused to process cases of age discrimination, in spite of the fact he had been ordered to do so by several governmental bodies. Instead, Judge Thomas allowed 13,000 age-discrimination cases to expire and go unresolved. It was Judge Thomas' duty to file these case. It did not matter that he disagreed with the law. He, like others, was bound to respect and follow the law, regardless of whether he liked it or not.

I oppose Judge Thomas based upon these aforementioned facts. The choice, based upon my evidence and that of my Congressional Black Caucus colleagues is that Judge Thomas is not a worthy successor to Justice Thurgood Marshall. The difference that we have is Judge Thomas does not stem from reasonable and understandable differences over particular cases or remedies. Rather, Judge Thomas repudiates the fundamental role of the Supreme Court as a guardian of the constitutional freedoms and rejects the legacy of Justice Marshall.

On behalf of 25 of the 26 members of the Congressional Black Caucus, we respectfully urge you to reject the nomination of Judge Clarence Thomas. At the appropriate time, I will be happy to respond to your questions.

Thank you.

The CHAIRMAN. Thank you.

Before we move to Congressman Lewis, Senator Kennedy has a responsibility to be over in the caucus on another matter, but maybe you—

Senator KENNEDY. Thank you, Mr. Chairman.

I just want to join in welcoming our friends from the House and their testimony. We are getting first-hand information, some of our colleagues here, of individuals who had oversight responsibilities that directly related to the work of Judge Thomas, and their pres-

entation and their experience is certainly unique in terms of the kind of presentations that we have had.

We have members who have been leaders, most all of them, but some in particular have been working in civil rights legislation and also in striking down discrimination in employment, so their testimony is particularly valuable.

Our next speaker, John Lewis, who was out there and still bears the bruises of the physical struggles in the late 1950's and early 1960's, was a civil rights leader, not because he named himself one, but because others looked to him for leadership, and we heard some remarks from Judge Thomas in disparagement of many of those that bled and I think even died to eliminate some of the barriers of discrimination.

So, I want to just say, as one member of the committee, how we welcome all of your comments. I think it is enormously valuable to us. I apologize to Congressman Lewis for not hearing the testimony, but look forward to reading it in its entirety.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

I suspect Congressman Lewis would rather see you get the extension of the unemployment compensation, than listen to him, as much as he would like you to listen to him.

Congressman Lewis.

STATEMENT OF HON. JOHN LEWIS

Mr. LEWIS. Thank you, Mr. Chairman.

Mr. Chairman and distinguished members of the committee, I am pleased and delighted to be here with you today.

When I was growing up in the rural South in the 1940's and 1950's, I saw for myself the evil system of segregation and discrimination. I was bused long distances over unpaved roads, dusty in summer and muddy in winter, to attend overcrowded, poorly staffed segregated schools. For many blacks, they were not called high schools then, they were called training schools. An evil system, a way of life had been built on a foundation of racism, greed, hatred and a denial of basic human needs and human rights. It was a closed society, and everywhere I turned, I found closed doors.

I saw those signs that said "white men," "colored men," those signs that said "white women," "colored women," those signs that said "white waiting," "colored waiting." I grew up in a family with a mother and a father, six brothers and three sisters. We were very poor. The house in which we lived had no indoor plumbing or electricity. I read by the light of kerosene lamps.

But that does not make me qualified to sit on the highest court of the land! If you are going to vote to confirm Clarence Thomas to sit on the highest court of the land, you must have some reason other than the fact that he grew up poor in Pin Point, GA.

I also come here as one who participated in the civil rights movement of the 1960's, as one who was beaten, arrested and jailed on more than 40 occasions. During the 1960's, as I traveled and worked throughout the South, I saw civil rights workers and many people whom we were trying to help, with their heads cracked open