



NATIONAL DISTRICT ATTORNEYS ASSOCIATION
1033 NORTH FAIRFAX STREET, SUITE 200, ALEXANDRIA, VIRGINIA 22314
(703) 549-9222

TESTIMONY

OF

HONORABLE THOMAS J. CHARRON
DISTRICT ATTORNEY
COBB JUDICIAL CIRCUIT (MARIETTA), GEORGIA
AND
PRESIDENT
NATIONAL DISTRICT ATTORNEYS ASSOCIATION

BEFORE THE

SENATE JUDICIARY COMMITTEE

CONCERNING

THE APPOINTMENT OF JUDGE CLARENCE THOMAS
TO THE SUPREME COURT

ON

SEPTEMBER 17, 1991

September 17, 1991

Mr. Chairman, members of the Committee, I appreciate the opportunity to testify here today in support of President Bush's nomination of Judge Clarence Thomas to the U. S. Supreme Court.

I am Thomas J. Charron, elected district attorney of the Cobb Judicial Circuit which includes Marietta, Georgia. I am also the President of the National District Attorneys Association.

Judge Clarence Thomas has participated in more than 150 cases since joining the D.C. Circuit Court of Appeals and is the author of 17 majority opinions; he has authored 2 dissents and 2 concurrences. Seven of the 17 majority opinions related to drug convictions. Judge Thomas' criminal law opinions reflect scholarship, an appropriate adherence to the rule of law, and judicial restraint.

But these hearings have not focused on Judge Thomas' criminal law rulings or even his extrajudicial statements relative to the criminal law. Other issues are paramount. Political issues, religious issues, ethical issues, and moral issues. In the context of Judge Thomas' confirmation hearing, "safe streets" is not foremost in the minds of members of this Committee nor, frankly, foremost in the minds of the public at large. But, I offer a word on the subject, nevertheless:

As a D.C. Circuit judge, Clarence Thomas has demonstrated a great concern for the safety of an innocent public. He has closely followed the federal rules of evidence and criminal procedure as enacted by the Congress of the United States. He has given great deference to the fact-finding process of the lower court, leaving to the jury its proper role in assessing the sufficiency of the evidence. He has avoided basing conclusions on personal moral preferences rather than legal reasoning. He abhors the application of judicial fiat to achieve ends that are political and properly left to legislative bodies. We can ask no more than this. If he has conducted himself in this fashion as a judge on the D.C. Circuit Court of Appeals I think we can assume that he will continue to do so as a member of the Supreme Court.

The Committee has delved quite extensively into Judge Thomas' "natural law" philosophy. He has stated that his foray into this murky and esoteric area was for the primary purpose of showing the fundamental injustice of discrimination, an attempt to plumb "the philosophy of the founders of our country and the drafters of our Constitution." Judge Thomas is an honorable man and I am satisfied with his repeated assurances that "natural law" should not be used in constitutional adjudication; that his use of that concept calls for judicial restraint and does not permit a judge to insert his own notion of right and wrong into a case or on that basis strike down legislation passed by Congress. This is important to all of us since Judge Thomas' pre-eminent task as a Supreme Court justice will be constitutional and statutory interpretation.

Relative to the interpretation of statutes passed by Congress, we can, I believe, gain some insight by looking to Judge Thomas' ruling in Otis Elevator v. Secretary of Labor in which he

looked closely at the legislative history of the act and declared his belief in the principle that "a statute should be construed so that effect is given to all its provisions." Although this is only one case, the position taken in that case certainly indicates that he would give great weight to Congressional intent.

We believe that Judge Thomas, as a member of the Supreme Court, will be a staunch protector of individual rights guaranteed by our Constitution, faithfully protecting the progress so hard won by minorities.

Judge Thomas is an unpretentious and intellectually honest man who has chosen a philosophical path which requires independence, courage, and commitment to advancing the fundamental and constitutional rights of all Americans. He will make a great Supreme Court Justice and we urge this Committee and the Senate to confirm his nomination to the Court with as little delay as possible.