

Senator SIMPSON. Well, I think that's overly dramatic and untrue, based on his testimony.

So I have no further questions.

Senator KOHL. Thank you, and thank you very much. We appreciate your being here this morning.

Senator KOHL. Our next panel is composed of Gail Norton, who is the attorney general of Colorado; Larry Thompson of Atlanta's King and Spaulding; Judge John Kern, representing the Judiciary Leadership Development Council; Barbara K. Bracher of Wilmer, Cutler & Pickering, and Sadako Holmes, of the National Black Nurses Association.

We'd like to have each of you come up here and take a seat at the table. Senator Brown would like to introduce our first panelist this morning.

Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

I am particularly pleased that Colorado's attorney general has been able to come and testify before us today. Gail Norton is the first woman attorney general in Colorado's 115-year history. She has a distinguished legal background—both her bachelor's and juris doctorate degrees are from the University of Denver. She has extensive years of practice. She was a national fellow for Stanford University's Hoover Institute and in addition has a distinguished career here in Washington in previous years as Assistant to the Deputy Secretary of Agriculture and then later on as Associate Solicitor of the Interior.

She is well-known in Colorado as a person of great integrity and exceptional brilliance, and I particularly appreciate her coming back to share with us her thoughts today.

Senator KOHL. Thank you very much.

Ms. Norton.

STATEMENTS OF A PANEL CONSISTING OF HON. GAIL NORTON, ATTORNEY GENERAL, STATE OF COLORADO; LARRY THOMPSON, KING & SPAULDING, ATLANTA, GA; HON. JOHN W. KERN, III, JUDICIARY LEADERSHIP DEVELOPMENT COUNCIL; BARBARA K. BRACHER, WILMER-CUTLER & PICKERING; AND SADAKO HOLMES, NATIONAL BLACK NURSES ASSOCIATION

Ms. NORTON. Thank you.

Mr. Chairman and members of the Committee, and Senator Brown, it is an honor to be here today and personally urge you to confirm Judge Clarence Thomas to the Supreme Court of the United States.

State attorneys general like myself have a vital interest in who sits upon the U.S. Supreme Court because we are involved in almost one-third of the cases that are handled in front of that Court. We litigate issues as diverse as taxation, antitrust, superfund hazardous waste cleanups, and business regulation.

Furthermore, my office is responsible for most of the criminal appeals handled in the State of Colorado, and it is from that perspective that I wish to comment on today's nomination.

Perhaps this is somewhat surprising, but as a prosecutor, I do not desire a pro-prosecution judge. I would like to see a fair one. I

do not advocate unfettered freedom to use coerced confessions, arbitrary and intrusive searches, or draconian punishments. That is, I value justice—not simply securing convictions.

As Attorney General, I am very concerned that we achieve an adequate balance between the rights of the accused and society's interest in effective law enforcement. This balance is critical in a society facing devastating issues of law and order, a drug war, a murder rate of epidemic proportion, and an alarming decline of the respect for property and persons.

The promise of Judge Thomas is that he brings a realistic and balanced perspective on law enforcement. He has expressed his deep concern about crime. Today, we face a world where crime is a constant concern. In an average lifetime, 72 percent of us will see our homes burglarized, and 83 percent of us will suffer a violent crime of either assault, rape or robbery. Crime's most tragic and enduring legacy is the pain, suffering and mental scars of its victims.

The Supreme Court has recently shown a willingness to reconsider the broad sweep of some of its previous holdings. While critics have attacked this trend in apocalyptic terms, it is often simply a return to common sense criminal jurisprudence.

While Judge Thomas has not extensively explained his approach to criminal law jurisprudence, nor certainly should we expect him to reach his conclusions before he becomes a member of the Court. The possibility that he would join with the new Court majority should not be viewed with alarm.

Judge Thomas began his distinguished career as a criminal prosecutor, arguing cases for the Missouri Attorney General's Office. One concern that has been raised about Judge Thomas is his relatively short time on the Federal bench. But of the 105 people who have served on the U.S. Supreme Court, 40 had no prior judicial experience whatsoever. That included John Marshall, Earl Warren, Felix Frankfurter, William O. Douglas, and Byron White. If that list is any indication, Judge Thomas is in superb company.

Judge Thomas' appellate decisions are strikingly careful, thorough and evenhanded. He has adhered to the proper role of a judge, enforcing the requirements of the Constitution and statutes, rather than his own views. All seven of the criminal decisions authored by Judge Thomas dealt with drug offenses. Two of those cases provide an interesting contrast and illustrate the care with which Judge Thomas reviews the decisions and evaluates evidence.

In *United States v. Harrison*, police arrested three men in a van with a substantial quantity of drugs. Two of the men carried guns. The third, defendant Butler, was seated next to some ammunition and wore a bullet-proof vest. All three were convicted of the drug offense and of using or carrying a firearm in committing a drug trafficking crime. Butler challenged his firearm conviction, saying he was not carrying a gun. A unanimous panel of the Appeals Court joined Judge Thomas in ruling that Butler constructively used the firearms of his companions.

In *United States v. Long*, Judge Thomas faced a similar situation. The defendant was apprehended in an apartment that "brimmed with evidence" of drug activity. In that apartment was a firearm unloaded in the seat of the sofa. In that case, Judge Thomas re-

fused to infer that the defendant had constructively or actually used the revolver. This illustrates the way in which he carefully evaluates the difference between the circumstances that he is faced with. He faces cases with unbiased integrity.

I strongly believe he would be fair to both prosecutor and defendant alike. Therefore, I urge this committee to vote favorably on the nomination of Judge Clarence Thomas.

Thank you.

[The prepared statement of Ms. Norton follows:]