

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE  
IN SUPPORT OF JUDGE CLARENCE THOMAS

BY

TALBERT O. SHAW, PRESIDENT  
SHAW UNIVERSITY  
RALEIGH, NORTH CAROLINA

MR. CHAIRMAN, AND DISTINGUISHED MEMBERS OF THIS JUDICIARY COMMITTEE, I AM TALBERT O. SHAW, PRESIDENT OF SHAW UNIVERSITY IN RALEIGH, NORTH CAROLINA, AND I DEEPLY APPRECIATE THIS OPPORTUNITY TO TESTIFY BEFORE YOU IN SUPPORT OF THE APPOINTMENT OF JUDGE CLARENCE THOMAS TO THE U.S. SUPREME COURT.

ALTHOUGH I DO EXPRESS, TODAY, OPINIONS OF MY OWN, IT IS SIGNIFICANT THAT I SPEAK AS THE PRESIDENT OF SHAW UNIVERSITY, AN HISTORICALLY BLACK, LIBERAL ARTS, COEDUCATIONAL INSTITUTION, FOUNDED IN 1865, FULLY ACCREDITED BY THE SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS, AND PRESENTLY OFFERS BACCALAUREATE DEGREES IN MAJOR ACADEMIC DISCIPLINES TO OVER 2,000 STUDENTS.

I DO NOT APPEAR BEFORE YOU, DISTINGUISHED LEGISLATORS, CLAIMING ANY EXPERTISE IN AMERICAN JURISPRUDENCE, ALTHOUGH PHILOSOPHY IS MY ACADEMIC DISCIPLINE; BUT I DO BRING A KEEN INTEREST IN HISTORY, GENERALLY AND AMERICAN HISTORY IN PARTICULAR, ESPECIALLY THAT ASPECT OF OUR HISTORY THAT FOCUSES ON THE EVOLUTION AND DEVELOPMENT OF DEMOCRATIC PRINCIPLES, PRINCIPLES THAT SEEK OBJECTIVITY, EQUALITY AND JUSTICE, ALL REPRESENTING A QUEST FOR THE COMMON GOOD. IT'S A COMMON GOOD PREDICATED ON OBJECTIVITY, I.E., ALLOWING THE FACTS TO SPEAK FOR

THEMSELVES, BUT A GOOD WHICH FOSTERS OPPORTUNITY, I.E., WHEN THE FACTS HAVE SPOKEN, THEY SHOULD BE ALLOWED TO COME TO FRUITION. THIS, I BELIEVE, IS THE FOUNDATION OF THE AMERICAN DREAM OF ECONOMIC AND SPIRITUAL WELL-BEING. IT IS A DREAM PREDICATED ON EQUAL OPPORTUNITY FUELED BY PREPARATION AND COMPETENCE.

IT SEEMS CONVINCING THAT IF THESE INDICES OF PREPARATION, COMPETENCE, AND OPPORTUNITY ARE APPLIED IN DETERMINING JUDGE THOMAS' ELIGIBILITY TO SERVE ON THE SUPREME COURT, HE WOULD EASILY PASS THE TEST. JUDGE THOMAS BRINGS TO THE BENCH IMPECCABLE CREDENTIALS. HE HOLDS A LAW DEGREE FROM YALE UNIVERSITY LAW SCHOOL, ONE OF THE MOST DISTINGUISHED INSTITUTIONS IN THE COUNTRY. OBJECTIVITY IN ASSESSING THE JUDGE'S CREDENTIALS EASILY GIVES HIM AN EXCELLENT GRADE. THEREFORE, HIS PREPARATION TO BE A DISTINGUISHED JURIST IS BEYOND QUESTION.

IN ADDITION TO ACADEMIC CREDENTIALS, EXPERIENCE HAS ALSO PREPARED THE NOMINEE FOR THIS DAY. HAVING SERVED AS ASSISTANT ATTORNEY GENERAL IN THE STATE OF MISSOURI, LEGISLATIVE ASSISTANT TO SENATOR DANFORTH, LEGAL OFFICER WITH THE OFFICE OF CIVIL RIGHTS AT THE DEPARTMENT OF EDUCATION, CHAIRMAN OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, AND NOW JUDGE IN THE D.C. COURT OF APPEALS, WHICH IS CONSIDERED THE SECOND HIGHEST FEDERAL COURT, JUDGE THOMAS' PROFILE OF SERVICE REVEALS A CONVINCING PROGRESSION UP HIS APPROPRIATE PROFESSIONAL LADDER.

IN FACT, HIS EXPERIENCE AS A GEORGIA YOUTH IN THE DAYS OF

SEVERE RACISM REMINDS HIM THAT HE GREW UP IN THE "OTHER AMERICA," WHERE ONE IS NEVER ALLOWED TO FORGET HIS BLACK SKIN, AND THAT ONE NEVER ESCAPES THE GHETTO WHETHER ONE LIVES ON A FARM IN GEORGIA OR SITS ON THE U.S. SUPREME COURT. IN HIS OWN WORDS WHICH APPEARED IN THE ATLANTIC MAGAZINE IN 1988 AND QUOTED IN JET, MAY 22, 1991, PAGE 8, JUDGE THOMAS STATES, "THERE IS NOTHING YOU CAN DO TO GET PAST YOUR BLACK SKIN. I DON'T CARE HOW EDUCATED YOU ARE, HOW GOOD YOU ARE AT WHAT YOU DO. YOU WILL NEVER HAVE THE SAME CONTACT OR OPPORTUNITIES."

HOWEVER, BECAUSE OF HIS CREDENTIALS, EXPERIENCE, AND AMBITION, AN OPPORTUNITY IS KNOCKING AT HIS DOOR TODAY. IT IS AN OPPORTUNITY DEEPLY EMBEDDED IN THE AMERICAN DREAM WHICH SAYS THAT COMPETENCE, INDUSTRY, AND CREATIVITY WILL BE REWARDED. THAT DREAM INSTILLED IN HIM BY HIS PARENTS KEPT HOPE ALIVE IN THE LONG JOURNEY OF 43 YEARS ALONG THAT CIRCUITOUS PATH FROM PINPOINT, GEORGIA TO, HOPEFULLY, THE HIGHEST COURT OF OUR LAND.

WITH CREDENTIALS AND EXPERIENCE DOCUMENTED, WITH AN INESCAPABLE PAST THAT WILL KEEP HIM TIED TO HIS ROOTS, THUS SENSITIVE TO THE STRUGGLES OF THE "OTHER AMERICA," JUDGE THOMAS' APPOINTMENT TO THE U.S. SUPREME COURT IS FURTHER LEGITIMIZED BY ITS SYMBOLIC SIGNIFICANCE. A NATION WITH SUCH ETHNIC DIVERSITY SHOULD CONSCIOUSLY SEEK REPRESENTATION OF ALL ITS CITIZENS IN THE HALLS OF JUSTICE. IT FURTHER SYMBOLIZES THAT THE AMERICAN DREAM IS ACHIEVABLE; IT SAYS TO EVERY AMERICAN THAT REGARDLESS OF RACE, CREED OR COLOR, "YOU CAN DREAM THE 'IMPOSSIBLE' DREAM, YOU CAN CLIMB EVERY MOUNTAIN."

NEITHER AM I DISTURBED BY THE EVOLUTIONARY PROCESS EVIDENCED IN THE JUDGE'S THINKING ON A VARIETY OF LEGAL AND SOCIAL ISSUES, FOR INTELLECTUAL DISHONESTY INVOLVES CLINGING TO OUT-DATED OPINIONS DESPITE CONVINCING EVIDENCE TO THE CONTRARY. OPENNESS, THE POSTURE FOR GROWTH IN A WORLD OF NOVELTY AND CHANGE IS THE ONLY HONEST INTELLECTUAL ATTITUDE TO ASSUME IN THE MARKETPLACE OF IDEAS. ESPECIALLY IS THIS TRUE IN THE INEXACT SCIENCES, LIKE JURISPRUDENCE, WHERE INTERPRETATION IS THE METHODOLOGY OF PRACTICE IN QUEST OF UNDERSTANDING AND TRUTH. UNREADINESS TO ASSUME INFLEXIBLE POSITIONS ON LEGAL ISSUES COMPLICATED BY TIME AND CIRCUMSTANCE IS, IN MY OPINION, INTELLECTUALLY MATURE, AND PROCEDURALLY APPROPRIATE. AGAIN, IF THE JURISTS INTERPRETATION OF LAW IS INFORMED BY GENERAL PRINCIPLES AND SPECIFIC SITUATIONS, THEN THERE IS A DIALECTIC WHICH PROVIDES SPACE FOR SUBJECTIVITY ON WHICH GROUNDS APPEAL COURTS OVERTURN LOWER COURT DECISIONS. IT IS THIS ARENA OF INTERPRETATION THAT LEGITIMIZES SHIFTS IN OPINIONS IN THE LIGHT OF NEW EVIDENCE, FOR "TIME MAKES ANCIENT GOOD UNCOUTH."

THEREFORE, DISTINGUISHED MEMBERS OF THE JUDICIARY COMMITTEE, ON SUCH GROUNDS AS ACADEMIC CREDENTIALS, EXPERIENCE, SYMBOLIC SIGNIFICANCE, AND INTELLECTUAL HONESTY, I STRONGLY RECOMMEND THE CONFIRMATION OF JUDGE CLARENCE THOMAS FOR THE UNITED STATES SUPREME COURT.

THANK YOU.

ON CLARENCE THOMAS

Last night as I watched CNN report on hearings of this past Tuesday, I was encouraged to hear testimony of Dean Guido Carbaresi of Harvard Law School express the need for openness in the quest for truth, and that inflexible pre-established positions on complex legal issues is intellectually irresponsible, and could in fact be pragmatically dishonest.

A Supreme Court Justice with such pre-packaged attitudes would provide a great disservice to the American people. I had already written my testimony before hearing the Harvard Law Dean and thus was greatly comforted to hear my position affirmed by such a distinguished scholar.

Perhaps the Clarence Thomas, who brackets his previous positions and opinions in the quest for clarity and truth, assuming a willing posture to adjust his thinking as facts and circumstances dictate, is the most promising nominee for the highest court of our land in recent years. Resisting the temptation to nurture frozen and predictable judgments on complicated legal and social issues that plague the American people, Judge Thomas, if confirmed, could be a new refreshing voice on the Supreme Court and could possibly initiate a new era in American jurisprudence where such mischievous and nonenlightening labels as conservative and liberal are relegated to the dustbins of legal history.