

horse people. You know, the Vanderbilts, the Whitneys and everybody.

I was the only black person in the room, not only the only one on the platform, but the only one in the room.

The CHAIRMAN. And you were president of this organization?

Mr. COLLEY. No, I was chairman of the California Horse Racing Board, and I was the keynote speaker.

The CHAIRMAN. Oh, California——

Mr. COLLEY. And this lady sitting next to me kept looking at me uncomfortably. And she kept looking, and I thought she was really flirting with me, but I overestimated myself.

And finally she blurted out to me, "For whom do you groom?"

She presumed that I must be a groom who cleaned the stalls, and I told her that sometimes for my wife a little bit, and sometimes for myself—I have a horse or two.

And then when I was introduced to speak, and I spoke on the issues before the convention, and I looked back, she'd fled. I never saw her again, because that seat stayed empty when I got back to it.

The CHAIRMAN. Well, thank you for relating that story.

Senator THURMOND. Mr. Chairman, I just want to suggest to the able Senator from Ohio he might want to look into the NOW organization, since you were looking at these organizations.

Senator METZENBAUM. I don't have any problem about doing that. As a matter of fact, I think they do give us some facts and figures as to how many members they have.

I think that when people come before us and say, we speak for so many people, that we have a right to ask them to give us some back-up, whether it's NOW or whether it's Concerned Women for America, or whether it's the XYZ group.

Senator THURMOND. I just wanted to be sure you didn't single out this particular organization.

Senator METZENBAUM. I really wasn't. But I've heard this 500,000 figure so many times before that I've become a little bit sensitive about it, and just thought that perhaps the message could be taken back that one of the members of the Senate would like to know the back-up facts.

The CHAIRMAN. Senator, before you speak, how many people do you represent?

Senator SPECTER. I represent 12 million Pennsylvanians.

The CHAIRMAN. All right. Well, you're entitled to speak then.

Senator SPECTER. Ms. Kuhl, there has been considerable concern expressed about Judge Kennedy's sensitivity to women.

You were a law clerk for Judge Kennedy. Can you be explicit and tell us what evidence you have, from your personal observations, if any, about Judge Kennedy's sensitivity to women's rights and women's issues?

Ms. KUHL. I was Judge Kennedy's first female law clerk. That was in only his third year on the bench.

One of the things that has always been quite wonderful about clerking for Judge Kennedy, and I think remains so, is something that Wendy Collins Perdue mentioned, and that is that a law clerk for Judge Kennedy is treated like a colleague.

Certainly the Judge does his own work, and writes his own opinions, but he enjoys very much discussing his work with his law clerks.

This was immediately true for me, just as it was true for my male co-clerk, and for any of the other male clerks who have worked with Judge Kennedy.

I never found Judge Kennedy to make any distinction on account of sex, and moreover, I have valued Judge Kennedy's collegueship, if I may presume to say so, so much that I have, throughout my career at various points, sought his advice and counsel, which I value greatly, about my own career.

He has been very helpful to me in giving of his time, and I feel very close to his family, as does my husband; and in all respects Judge Kennedy has been a great—

Senator SPECTER. But you think he's sensitive to women's issues, based on your experience with him?

Ms. KUH. Certainly based on his treatment of me, I know of no reason to think that he would not be sensitive to women's issues, and certainly can assure you that he treats women the same as he treats men.

Senator SPECTER. Mr. Colley, I, too, was very much interested in your reasons for choosing your law school. When you commented about Stanford not welcoming blacks, and Columbia having a quota system, and Harvard was too far from Harlem.

But my experience suggests that there were some good reasons, otherwise, for your going to the Yale Law School.

I enjoyed reading your statement. I noted your allergies; I recall having some myself, but I very much appreciated your comment about, you can come from anywhere and go anywhere if you really try.

I started off in Kansas and got to the Yale Law School, and I think that those words of yours are very important, aside from the context of Judge Kennedy's confirmation proceedings.

The CHAIRMAN. He eventually ended up in Philadelphia.

Mr. COLLEY. He has a presumption that he has a superb education.

Senator SPECTER. Well, there are a lot of good things to recommend the Yale Law School besides the process of elimination.

Mr. COLLEY. Had I had any doubts about Yale I never would have made that kind of remark, but its reputation is such that we can joke a little about it.

Senator SPECTER. Well, I'm sure of that.

Mr. Colley, the question that I have for you turns on your evaluation—and you've already testified about it—as to Judge Kennedy's sensitivity to civil rights.

I have read your statement, and it is all the more credible when you take *Aranda* and say that he made a mistake there, and you thought that it should have been decided differently, not on motion for summary judgement.

You make reference to *Flores v. Pierce*, which I had commented on, which is favorable on civil rights.

I would refer back to the *Pasadena School Board* case, and the case that you have cited is the 1977 decision by the ninth circuit, and I had questioned Judge Kennedy earlier about a 1979 decision

of the circuit on the same case, because it was in the circuit on a number of occasions—even got to the Supreme Court of the United States.

And the concern that I had about his decision in the *Pasadena School Board* case turned on his overruling, or disregarding, the findings of fact of the district court, and I had read him one finding in the memorandum opinion of the court, and I would like you to comment about that.

And it is this: The trial judge said, "A majority of the defendants have acted with unyielding zeal and overt antipathy to the desegregated concept of the Pasadena plan. Promising return to neighborhood schools with the recognition that it cannot be accomplished without resegregation of Pasadena schools is bad faith, not only to the principles of constitutional duty, but also to their own constituency."

And knowing the *Pasadena* case as you do, and knowing Judge Kennedy as you do, and being the lawyer that you are, in terms of fact finding, and the district judge, and the appellate scope of review, I'd be interested in your observations on this issue

Mr. COLLEY. I think that decision, overruling the findings of the trial judge, was an incorrect decision. I think that the decision did not show sufficient sensitivity to the real problems, and I think what really happened there, the court just was tired of that *Pasadena* case, because it had been in the courts so long.

And all of the pupils who were there when the case was filed had long since graduated, and they simply felt it was time to turn it back over to the school board.

But since the school board had not carried out the mandate, and since the problem still existed, the district court should have kept jurisdiction and they should have compelled compliance.

Senator SPECTER. Well, I appreciate that answer. That kind of direct disagreement, I think, underscores your credibility generally, and I appreciate your comment.

Thank you very much.

The CHAIRMAN. The Senator from Alabama.

Senator HEFLIN. Mr. Colley, I think the members of this panel ought to know that since you went to Yale to law school, where did you go to undergraduate school?

Mr. COLLEY. Well, I stated in the beginning, I went to Tuskegee on a 5-year work plan because I didn't have any money to go there in 4 years, so I worked my way through.

I made up for it when I went to Yale, because I graduated in 2 years instead of 3, because I was so smart. It took 5 years because I was so poor, and I made it up later on in 2 years because I was so smart.

Senator HELFIN. Well, we are delighted to see this group here, and the hour is getting late, but we appreciate your testimony of each and every one of you.

Senator METZENBAUM. Mr. Chairman?

The CHAIRMAN. Right. The Senator from Ohio.

Senator METZENBAUM. Mr. Chairman, my inquiry concerning this group was not—

The CHAIRMAN. Which group are you referring to, Senator?