

Judge LANTZ. Well, if you make it single space it is about a page and a half but it is very important to us, inasmuch as the American Bar Association report is going to be part of it and——

The CHAIRMAN. Without objection, we will put it in at your request.

Judge LANTZ. Thank you so much.

Mr. Chairman, I have had the privilege of watching you all day, and I know that you have not only acted in good faith but I do not know if I could have done the job that you have done all day in being fair and equitable to all the witnesses, irrespective of their background or irrespective of their opinion. I have to commend you for that.

Thank you, sir.

The CHAIRMAN. Thank you for your kind remarks.

The next witness here has to catch a plane soon, so we will call him up now: Father Charles Fiore, representing the National Pro-Life Political Action Committee. Father Fiore, will you come around? Is he here?

If you will raise your hand, some priests desire to use "affirm" rather than "swear." I will put both; use either one you want to.

Father FIORE. As you wish, Senator.

The CHAIRMAN. Do you affirm or swear that the evidence you give in this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Father FIORE. I do.

I do not mind swearing, Senator, under these circumstances, since God is my witness.

#### **TESTIMONY OF FATHER CHARLES FIORE, CHAIRMAN, NATIONAL PRO-LIFE POLITICAL ACTION COMMITTEE**

Father FIORE. First of all, Senator, I have submitted a text of my remarks which, with your permission, I would like inserted into the record, and I will spend the time allotted to me synthesizing those remarks if I may.

The CHAIRMAN. All right. Without objection, so ordered, but try not to duplicate.

Father FIORE. I will. Thank you, Senator.

Mr. Chairman, I thank you and the members of the committee for this opportunity to appear before you as founder and chairman of the National Pro-Life Political Action Committee, and on behalf of the tens of thousands of our supporters in all States and right-to-lifers everywhere who oppose the nomination of Judge Sandra Day O'Connor to the U.S. Supreme Court.

As you well know by now, Mrs. O'Connor's nomination by President Reagan has been the occasion of virtually unanimous disappointment on the part of rank-and-file right-to-lifers because it represents a breach of the 1980 Republican platform on which he ran, and on the basis of which he convinced millions of blue collar, traditionally Democratic ethnic, Catholic, and fundamentalist and evangelical Protestant voters to switch parties and vote for him.

I say these things at the outset not because they have any bearing on Mrs. O'Connor's qualifications but because they have something very much to do with the larger processes of representative government which are also at stake in these hearings.

Now the facts of Judge O'Connor's legislative and judicial careers are matters of public record and they have been amply set forth for examination by other witnesses who have already appeared before the committee, so I will not belabor that part of my testimony.

I had listened for the past 2 days to Mrs. O'Connor's explanations of her proabortion votes while a member of the Arizona State Senate, and I was especially interested to hear last evening from six members of the Arizona State Legislature. I must say I was impressed and moved by their testimony but it would have to come, I am sure, under the heading of being character witnesses for her probity and her good character.

However, Senator Biden yesterday underscored our reaction and puzzlement when he told Mrs. O'Connor that she had not answered most of the questions which had been posed to her. Senators Denton, East, Grassley, and Hatch, despite their best efforts, could not get Judge O'Connor to admit that she was anything more than "personally opposed" to abortion.

Now I appreciate her personal opposition to abortion but, for the record, those words since the 1973 *Roe v. Wade* decision have become a catch phrase used by many making public policy in our State legislatures and in the Congress, who on the other hand do not wish to do anything to protect the innocent unborn.

Senator, if I may digress for a moment, I would like to thank you for your statement a little bit earlier this afternoon in which you spoke to the fact that in your opinion the Supreme Court really did not have jurisdiction to do what they did on the *Roe v. Wade* decision. I am not a lawyer, I am not a Member of Congress, obviously, but I concur heartily in that judgment, as you know indeed many constitutional attorneys do.

Judge O'Connor rightly said she could not speak to how she might rule in any future case to come before the Court. She also said that she would not comment on the 1973 *Roe v. Wade* decision of the Court because, her explanation was, that matter might once again come before the Court as the subject of litigation.

On the other hand, busing might again come before the Court as a matter of litigation, and Judge O'Connor categorically said that she opposes busing. The death penalty might once again come before the Court as a matter of litigation, and Judge O'Connor said she favors the death penalty.

However, on the grounds that the 1973 *Roe v. Wade* decision might again come before the Court, in other words, on the same grounds, she again and again refused to give any direct or categorical comment on the legal or substantive aspects of the *Roe v. Wade* decision, or even on the matter of abortion itself. She would only say she was personally opposed.

Now what does that mean for one who will adjudicate laws that the legislatures will make? Is she opposed to abortion for other people, and not merely personally?

Mr. Chairman, we see no evidence of a change of heart or of mind on the part of Judge O'Connor from the proabortion stance that admittedly dominates her public record in the Arizona State Senate. We do now know what questions the President asked of her in his private meeting, or the questions that were posed to her by members of this committee in their private meetings with her.

I understand Mrs. O'Connor's ambition and desire to become the first woman Justice of the Supreme Court of the United States, a perfectly valid ambition. I find, however, her philosophy as exemplified in her record as a legislator and leader in the State Senate of Arizona clearly proabortion, and so on the basis of criteria set forth by the platform of the majority party in the Senate and by the President who nominated her, she would appear to be unqualified.

One final comment: All of us in public life must realize at times like these that our judgments are themselves subject to reexamination. I sincerely hope, as has been implied by members of the Arizona State Legislature, that she has changed her opinion on abortion. With Dr. Gerster, I hope that that is the case. In fact, I might even say I pray for that.

However, all of us will be subject to reexamination by the one judge who alone is just and to whom all of us must finally submit our thoughts and hopes, our words, our deeds, our very lives, all of which and each part of which ultimately will be germane. Mr. Chairman, Members of the committee, I ask that the Members of the Senate and in particular the members of the Judiciary Committee not confirm the nomination of Judge Sandra Day O'Connor, unless and until such time as she comments on these matters of her public record.

I thank you.

The CHAIRMAN. I do not believe there are any questions because there are no other Senators here, and I do not believe I have any questions. We thank you for your appearance here and for your testimony.

Father FIORE. I thank you, Senator.

[Material follows:]