

Washington, Jefferson, Franklin, Otis, and Paine are names that will forever be revered, not only here but wherever men meet to discuss freedom. These hallowed leaders laid down a set of rules and bid us follow them if we were to inherit from their sacrifice. Your function must be to guard their gifts for us and for posterity.

Thank you, Mr. Chairman.

Senator KENNEDY. Mr. O'Dwyer, I have no questions. Because of the exigency of time, we won't talk about the Irish Revolution today.

Mr. O'DWYER. I will be glad to take it up with you, Senator.

The CHAIRMAN. I have a statement. I announced this morning that I hoped before the day is over to put in the record some discrepancies that were inaccurate in the testimony on yesterday. We have not yet received the transcript of the testimony of yesterday afternoon; we have received that of yesterday morning. I am going to have to complain to the reporting service that it is their duty to get the transcript of the testimony up to the committee the morning following the testimony. But it will be done just as soon as we can receive it and go over the transcript of the testimony yesterday afternoon.

Thank you, sir.

Senator KENNEDY. Mr. Chairman, could I ask, are those items you just mentioned comments about both Mr. Rehnquist's and Mr. Powell's responses to these charges or allegations, or are they—what is the nature of it? Is the material being introduced now into the record?

The CHAIRMAN. No, sir. I said I did not have it.

Senator KENNEDY. Will it be in behalf of those gentlemen?

The CHAIRMAN. I am just going to point out discrepancies that I consider in the testimony yesterday.

John W. White. Proceed.

TESTIMONY OF JOHN W. WHITE, LEGISLATIVE DIRECTOR, NATIONAL ALLIANCE OF POSTAL AND FEDERAL EMPLOYEES

Mr. WHITE. Mr. Chairman and members of the distinguished Senate Judiciary Committee, I am John W. White, legislative director for the National Alliance of Postal and Federal Employees.

I am accompanied by Mrs. Celeste Gee, my secretary.

Mr. Chairman, at this point I would like to identify my organization as being a member of the Leadership Conference, and further state that we agree with the position that was taken by Mr. Clarence Mitchell and Mr. Joe Rauh yesterday in this room.

The Alliance is a national industrial union of 45,000 members who work for the U.S. Postal Service and other Federal agencies throughout America. Membership is made up predominately of blacks, females, and other minorities. It is black-controlled and came into existence in 1913 to resist a conspiracy between a white racist postmaster general and a white union to eliminate black Americans from the postal service. It is an independent union which addresses itself to the total needs of all postal and Federal employees, without regard to craft, race, color, sex, or national origin.

Fifty-eight years of struggle for civil rights and civil liberties have forced this organization to remain alert to all threats to the freedom of all American citizens, and that is our chief reason for being here today because of our concern.

Freedom of speech remains a question of very high priority to postal and Federal employees, which brings us to nominee Rehnquist's reported statements in an address September 18, 1970, on "Public Dissent and the Public Employee", before the Federal Bar Association in Washington, D.C.

He stated—

The free speech guarantee of the First Amendment is probably the best known provision of our Constitution. It is entirely proper that this is so, since the right of freedom of expression is basic to the proper functioning of a free democratic society.

He later qualified this statement thusly—

Less well known, but equally important, are those restrictions on complete freedom of speech which result from the balance of competing interests in the jurisprudential scale—the need to preserve order, the need to afford a remedy to the innocent victim of libel, need of government to govern. It is the conflict between the latter and the free-speech clause with which we shall deal today.

Mr. Chairman, as an aside, since the reorganization of the U.S. Postal Service, the Postmaster General imposed a gag rule on postal employees which dared us even to come to our Senators, such as you and others, to attempt to seek redress for our problems where we worked and in the community and, of course, this makes us further sensitive to the possibility of having a Member of the U.S. Supreme Court who would follow this line of thinking and of action.

Speaking further about American citizens who work for the government, he said—

The courts have made it quite clear that just as the government does not have the freedom to deal with an employee in this area as would a counterpart employer in private industry, so the public employee does not have the same freedom from government restrictions on his public statements as would the employees counterpart in private industry. The government as employer has a legitimate and constitutionality recognized interest in limiting public criticism on the part of its employees even though that same government as sovereign has no similar valid claim to limit dissent on the part of its citizens.

Public employees are second-class citizens if they are white and male because of the denial of freedom of speech and full political participation in the American elective process. They are third-class citizens if they are male and black or white and female. They are fourth-class citizens if they are female and black.

Mr. Chairman, my organization has long concerned itself with the plight of females in America, whether black or white, and they are the people, and other minorities, who will be hurt the most if Mr. Rehnquist goes to the Supreme Court. On the question of voting as a public servant, we are prohibited from seeking political office on a partisan basis.

Mr. Rehnquist's espousal of unilateral action against public expression by public employes and heightens the frustrations of employees in the private sector who embrace the first amendment concept of freedom of speech.

Contemplation of the nominee creates fears concerning his image. His appointment to the U.S. Supreme Court will do little to calm a disturbed America where blacks, females, the young, and others experience mounting frustrations because of the basic denials imposed on them.

The concept of harsh law and order enforcement and the denial of the freedom of speech are closely associated with Mr. Rehnquist by

members of this organization, and they represent 45,000 people throughout America, and this feeling about Mr. Rehnquist is associated with his public undemocratic statements and actions.

The nominee's active opposition to an ordinance, in Phoenix, Ariz., 7 years ago, requiring restaurant owners or other public facilities to admit people of all races and his opposition to busing to eliminate discrimination in education, identify him with the great white majority in power who make a mockery of the Bill of Rights, the American Constitution, and human dignity.

At this time, Mr. Chairman, with your permission, I would like further to identify myself with the statements of Mr. Joseph Rauh and Mr. Clarence Mitchell, which were made here yesterday. It is with a sense of bitterness that my organization expresses the view that the white majority in power in America is responsible for the social and economic conditions which now adversely affect us, which confuse us, and divide us.

The white majority in power has driven responsible minded blacks and other people to a point of frustration because of the knowledge that no action is taken many times by that majority to meet the needs of its citizens, particularly where they are black or other minorities, and I would plead with the chairman of this committee, and later, the Senate, to take the indicated action here to give us hope.

Confirmation of Mr. Rehnquist will further erode the confidence of the black, the young, the women, the foreign born, and those who work and pray for a better America. Continued nomination of individuals who place property rights above human rights feed the disillusionment.

It is significant that so many nominees must be forgiven for their past sins in race relations in order to receive confirmation to America's highest court. The nominee in this case must be forgiven or rejected. You are urged to vote against Mr. Rehnquist.

Mr. Chairman and members of the committee, it is a further insult to this organization to observe the President of the United States continue to submit the names of individuals who possess biased views and social and economic issues. This is an affront to people in this organization when he continues to send up such nominees, and it is puzzling that so much time is consumed in considering such individuals with poor records in racial relations, and it is wondered why we cannot reject them more readily and force the President of the United States to submit the names of people, of nominees for the Supreme Court, who have an appropriate background and who are responsive to the needs of all Americans.

Mr. Chairman, I thank you for this opportunity to appear before your august committee and I truly enjoyed being here.

The CHAIRMAN. Thank you.

Mr. HOLLOMAN. There are a number of witnesses here today who have indicated a desire to testify generally with respect to the abortion issue and who have indicated their intention to appear together before the Committee en banc.

They are, and if they would come forward, Lucille Buffalino, Margaret Devlin, Mrs. Florence Quigley, Annette Garkowski, Elizabeth Corbett, Imeld Jensen.

The CHAIRMAN. Ladies, we will put your statements in the record. We would like to hear your comments.

**TESTIMONY OF LUCILLE BUFFALINO, CELEBRATE LIFE
COMMITTEE, LONG ISLAND, N.Y.**

Mrs. BUFFALINO. Honorable Chairman, honorable Senate committee members, my name is Lucille Buffalino and I represent the Long Island Celebrate Life Committee.

Many people in this country feel that abortion is at the head of their list of injustices in the world. The Rabbinical Council of America and various other faiths have also echoed their sentiments along this line.

This viewpoint has been embodied for many years in laws passed by State legislation. These laws regard the unborn child as a living human being, whose life is sacred, and entitled to the law's protection.

In recent years, attacks have been launched against laws which protect unborn life. Although at first these attacks in State legislatures were successful, of late they have been consistently defeated, as the great majority of the American people have asserted their sentiments that these laws should be preserved.

But those seeking to overturn laws protecting defenseless life have opened a second line of attack on laws protecting the unborn. They have filed lawsuits seeking to declare laws protecting the lives of unborn children "unconstitutional."

Normally a minority group seeks to preserve statutes giving it equal protection, but one of the largest minorities in the United States—its unborn children—cannot do so because they cannot speak. Our group has asked me to come here to ask you, the members of the Senate Judiciary Committee, and the Members of the U.S. Senate, to speak for the unborn and to preserve their lives.

This can be done by appointing to the U.S. Supreme Court men who will uphold the longstanding laws of the various States which protect the lives of innocent unborn children. No one has the right to destroy innocent, unborn life—not even a Justice of the U.S. Supreme Court—who may be disposed to reach for the label "unconstitutional" in order to strike down statutes to which he may, as a personal matter of philosophy, disagree.

We oppose the nomination of any man to the U.S. Supreme Court whom inquiry discloses is ready to substitute his own personal philosophy for the majority will of Americans, expressed for many years in statutes which regard unborn children as human beings whose lives are protected by law. If inquiry discloses that any of the present nominees are disposed to reach for the label "unconstitutional" to strike down laws protecting the unborn, or to weaken them by loose interpretations, we ask that such nominees be rejected.

TESTIMONY OF MARGARET DEVLIN, WANTAGH, N.Y.

Mrs. DEVLIN. Mr. Chairman and distinguished members of the committee:

My name is Margaret Devlin. I am from Wantagh, N.Y.

It is certainly not necessary to remind you that our Nation's founding fathers held as self-evident truths that all men are created equal and that they are endowed by their creator with certain unalienable rights, among which are liberty, the pursuit of happiness, and life it-