

Senator KENNEDY. Carol Browner, let me just ask you about the Judge's 1983 position about the nondelegation doctrine, the constitutional anomaly of independent agencies. This is the recognition—it is the unified presidency, meaning that these independent agencies really don't have the authority to carry—If we carried that concept through to its logical end, where would we be, for example, on environmental issues, just generally, on clean air, clean water?

Ms. BROWNER. Well, I think we would be in complete disarray and the amount of protections we have been able to provide to date probably wouldn't be there. I mean, Congress has very wisely delegated to the Environmental Protection Agency the difficult work of making sure that all the science is there before a pollution standard is set, making sure that both industry and the public at large get to comment on this. There is a whole process that unfolds. If Congress were not able to delegate that authority to the executive branch, to the independent agencies, I suspect that either nothing would happen or it would happen much more slowly, because Congress would be left to do that.

We made a decision when I was in the administration to set tough public health air pollution standards for ozone and fine particles, sometimes referred to as soot and smog. These are standards that will prevent tens of thousands of premature deaths. They are very important. A lower court found that that was an unconstitutional provision of the Clean Air Act. In the Supreme Court we did win 9–0, but it is important to protect that going forward.

Senator KENNEDY. My time is just about up. Mr. Chairman, thank you.

Chairman SPECTER. Thank you very much, Senator Kennedy.

Thank you all. The time has expired, so we are going to go to vote. There may be two votes, but we will be back as promptly as we can to proceed with Panel IV.

Thank you all very much.

[Recess from 2:57 p.m. to 3:16 p.m.]

Chairman SPECTER. The hearing will resume.

Before turning to our fourth panel, I want to correct the record on a statement which I made yesterday when I was questioning Judge Roberts on *U.S. v. Morrison* and the alleged rape of a woman. I said by three VMI students, Virginia Military Institute, and that was incorrect. It was VPI, Virginia Polytech Institute. I regret the confusion and apologize to VMI and correct the record.

And now, on to the panel. Our first witness is Ms. Catherine Stetson, a partner in Hogan and Hartson concentrating on appellate and Supreme Court litigation. She had been clerk to Judge Harris on the D.C. District Court and Judge Catell on the D.C. Circuit.

Thank you for joining us, Ms. Stetson, and the floor is yours.

**STATEMENT OF CATHERINE E. STETSON, PARTNER, HOGAN
AND HARTSON, WASHINGTON, D.C.**

Ms. STETSON. Thank you, Mr. Chairman, members of the Committee. Thank you for the opportunity to testify today. My name is Kate Stetson. I am a partner in the law firm of Hogan and Hartson and I am here today to speak in strong support of the nomination

of my friend and my former colleague, Judge John Roberts, to be Chief Justice of the United States.

You have heard many times over of the Judge's unsurpassed skill as an advocate. I can speak to that issue, as well, but I don't believe you need to hear that from me today. What I would like to do instead is talk to you about my personal experience working for the Judge and his role in guiding me from early in my legal career through partnership in my firm.

I came to Hogan and Hartson as an associate in 1997, after those two judicial clerkships. Those clerkships both gave me a deep appreciation for good advocacy, but I grew up as a lawyer on Judge Roberts's watch. It was my 6 years working for him at Hogan and Hartson, first as an associate and then as his law partner, that taught me to be an advocate.

No one could have had a better teacher, but having a mentor and not just a teacher is equally important to any young lawyer's career and Judge Roberts was a mentor to me, as well. He counseled me on matters I handled for clients. He acted as a mock judge for moot courts that I held before my oral arguments. He demanded a lot from me, he praised me, and he supported me unstintingly.

I will give you just one example. Several years ago, I gave my first D.C. Circuit argument. Judge Roberts came and he sat in the audience and watched, and after the argument was over, he and I walked back together from the courthouse to our offices, as we often had done after the Judge's own oral arguments, and together we discussed and dissected the panel's questions and my answers. I will remember that day and that long walk for a long time.

Judge Roberts mentored me in less tangible ways, as well. I watched him for years interact with colleagues and staff at the firm, no matter what their position, always in the same decent, gentlemanly way. Whether he was dealing with clients or with adversaries, he was unfailingly courteous, never strident, never engaging in the luster that so often characterizes discourse among lawyers. I learned a lot from him in those more subtle respects, as well.

Five years ago, Judge Roberts and his wife, Jane, adopted their two children, Josephine and Jack. In that same year, my husband and I had our first child, as well, so all four of us learned at the same time what a delightful, chaotic, sometimes frustrating, and always joyful thing it is to be a parent.

When I came back to Hogan and Hartson after maternity leave, I faced the difficult challenge of being a new mother and a law firm associate. The transition back to work is hard for any working mother, and I was no different in that regard. But the transition back to working with Judge Roberts was seamless. We just picked up where I had left off a few months before. Judge Roberts never questioned the balance I chose to strike between my obligations to my family and to my colleagues and clients at the firm. He supported me in both of those roles and he did it quietly and without fanfare.

At the end of the year 2001, I was being considered for partnership at my firm. I had taken a few months of maternity leave that year. I was also an associate working on a part-time schedule. Now, either of those considerations might have impeded my pro-

motion to partnership at another firm. Neither of those considerations mattered to Judge Roberts or to my firm. What mattered to Judge Roberts was that I was a good lawyer. And so with his strong support, I became a partner at Hogan and Hartson at the end of that year.

Now, by the time the Judge left for the D.C. Circuit bench, we had worked on many matters together, issues as diverse and arcane as patent appeals, ERISA briefs, energy cases, preemption issues. The issues that we dealt with varied widely from week to week and from case to case, but a few things were constant—the Judge’s keen intellect, prodigious beyond description, his depth of preparation for every case, his kind and quiet sense of humor, and his devotion to the law.

No one is more dedicated and more devoted to the law than Judge Roberts. It was my honor to work for him for several years and it is my honor to appear before you today to speak on his behalf. Thank you.

Chairman SPECTER. Thank you very much, Ms. Stetson.

[The prepared statement of Ms. Stetson appears as a submission for the record.]

Chairman SPECTER. Our next witness is Ms. Marcia Greenberger, founder and Co-President of the National Women’s Law Center, a graduate of the University of Pennsylvania, both Bachelor’s and law degree. She practiced with the Washington firm Kaplan and Drysdale, had been Director of the Women’s Rights Project of the Center for Law and Social Policy, which became the National Women’s Law Center. She is also on the Executive Committee of the Leadership Conference on Civil Rights.

Thank you for being with us today, Ms. Greenberger, and we look forward to your testimony.

**STATEMENT OF MARCIA GREENBERGER, CO-PRESIDENT,
NATIONAL WOMEN’S LAW CENTER, WASHINGTON, D.C.**

Ms. GREENBERGER. Thank you, Mr. Chairman. Thank you. I am Marcia Greenberger, Co-President of the National Women’s Law Center, which since 1972 has been involved in virtually every major effort to secure and defend women’s legal rights in this country. We were directly involved, as a result, in many of the battles to save women’s rights that Judge Roberts worked to undermine.

I thank you for your invitation to testify and ask that my written statement and attached report be made a part of the record.

Some have claimed that because Judge Roberts has been so supportive of women family members and friends and wonderful colleagues that he must also support women’s legal rights. But Judge Roberts’s record consists of document after document detailing his past work to undermine women’s legal rights on the job, in schools, and in government programs.

This week, Judge Roberts told Senator Feinstein he could not identify anything he would change in his writings and memoranda except the tone he used in support for limiting life tenure for judges. Judge Roberts provided a clear explanation for this seeming contradiction. He testified that he forms his legal views without regard to his life experiences, and this is his quote, “a father, husband, or anything else,” end quote. Unfortunately, John Roberts’s