

TESTIMONY OF A PANEL CONSISTING OF MOLLY YARD, PRESIDENT, NATIONAL ORGANIZATION FOR WOMEN, INC.; PATRICIA IRELAND, VICE PRESIDENT, NATIONAL ORGANIZATION FOR WOMEN, INC.; JOSEPH RAUH, JR., VICE CHAIRMAN, AMERICANS FOR DEMOCRATIC ACTION, INC.; SUSAN DELLER ROSS, PROFESSOR, GEORGETOWN UNIVERSITY LAW CENTER, ON BEHALF OF THE LEGAL DEFENSE AND EDUCATION FUND OF THE NATIONAL ORGANIZATION FOR WOMEN; AND JEFFREY LEVI, EXECUTIVE DIRECTOR, NATIONAL GAY AND LESBIAN TASK FORCE

Ms. YARD. Thank you. I have, Senator, a much longer statement here than I will deal with at this particular point. And we will appreciate your having the whole record in your report.

The CHAIRMAN. It will be.

Ms. YARD. We are concerned about Judge Kennedy's appointment to the U.S. Supreme Court because of his positions on civil rights cases, and on cases of discrimination against women and employment.

I have with me our vice president, Patricia Ireland, who is a lawyer, who has had a long experience in title VII cases herself.

The CHAIRMAN. Ms. Ireland is sitting behind you to your right?

Ms. YARD. Right. And of course Professor Ross also has a long experience with title VII cases. So for us it is a landmark decision, a case which has gone against us, which has gone against our long struggle to improve wages and salaries for women in this country.

And we find it a very unsatisfactory decision because we believe that Judge Kennedy totally ignored the findings of fact which are very clear if read.

And we see no reason for his having ignored those facts except that he apparently wanted to come to a certain conclusion and therefore conveniently ignored the facts, which showed invidious discrimination, in the words of the district court judge; and which are clearly spelled out if you read the lower court case, and if you read AFSCME's appeal for a rehearing en banc, which was never gone into, because the State of Washington chose to settle out of court.

I want to deal with his membership in private, exclusive clubs, clubs which have not permitted the membership of minorities nor the membership of women; and I must say that I was somewhat horrified by his answers given here.

I think, if you will forgive me, I would like to have a lesson in what discrimination is. I think everyone in this room understands what Rosa Parks was doing and what she meant when she refused finally to move to the back of the bus.

She was saying, just because I am black, I am not going to be treated differently, and I am just as good as anyone else in this country, and I will sit at the front of the bus.

When a woman is invited to a club which discriminates against her, but she is invited by a member to go to lunch, and she goes to the front door, and she is told to go to the back door, the kitchen door, that is saying, to a woman, just as surely as it was said to Rosa Parks, you are inferior; you are a second class citizen; and we will not treat you the same as we treat white males.

It is unacceptable. We refuse to be put in that category. And to make the matter worse, the men who belong to these clubs, take their dues as a tax deductible business expense.

I think it is time we started to understand what discrimination is all about.

And our third reason for opposing Judge Kennedy is that we have no idea what he would do in *Roe v. Wade*. And I know you haven't either. And he won't answer it.

But I do think it is very alarming, his one case on privacy, where, in *Beller v. Middendorf*, he seemed to be saying there may be a right to privacy but that the requirements of the military supersede.

Is he saying that there may be a constitutional right for women to control their reproductive rights but the requirements of the State can supersede that?

All I can say to this judiciary committee is that I can conceive of very few situations which could be worse for this country than to overturn *Roe v. Wade*.

He is replacing Justice Powell, who was with the majority of the court on women's privacy rights. Women will not obey the law if that case is overturned.

Women will go, if they have got money, abroad to get abortions. Poor women will have no choice but to seek back alley abortions, or to self abort themselves. We will again have Saturday night massacres in the hospitals of this country, where women have desperately gone for whatever reasons in their life dictate that they must take this course, who will come to hospitals, hemorrhaging, ravaged from fever from infection, and they will either die or their reproductive lives will be ruined for all time.

It is an unacceptable position for women to be put in in this country, and I think it will bring back the underworld. The whole world of crime was into the business of abortion. It was a totally intolerable situation.

And we simply say, *Roe v. Wade* was the law of the land, and it must remain the law of the land. We are talking about living human beings, wives, your wives, your mothers, your sisters, your daughters, and mine.

And they should have the right to control their lives; and the State should have nothing to say about it.

Thank you.

[The statement of Molly Yard follows:]