

PREPARED STATEMENT OF THE HON. JOAN DEMPSEY KLEIN

It is with extreme pleasure that I appear before this honorable Committee to speak on behalf of the confirmation of the first woman nominee to the United States Supreme Court in its 191 years of existence. It is indeed a glorious occasion for women everywhere, and in particular for the women judges of America.

I am before you in my capacity as President of the National Association of Women Judges, an association with which over one-half of the nation's female federal and state judges have affiliated, along with a number of male judges.

The purposes of the National Association of Women Judges are as follows:

". . .[T]o promote the administration of justice; to discuss legal, educational, social and ethical problems mutually encountered by women judges and to formulate solutions; to increase the number of women judges so that the judiciary more appropriately reflects the role of women in a democratic society; and, to address other important issues particularly affecting women judges. . . ."

As you might well imagine, the appointment of a woman to assume a rightful seat on the highest court has had top priority on our agenda. It seems to have been such a long time coming, but when considered in historical perspective, perhaps the 191 years is a reasonable period of time.

The legal roots of this nation are in the English common law and that law classified women in the same category as chattels, children and incompetents. As a consequence, women's activities outside the home were extremely restricted, including the opportunity to become educated. Even so, Myra Bradwell qualified herself, but she was denied a license to practice law by the State of Illinois in 1873. In refusing her that right, the Supreme Court said:

"The paramount destiny and mission of women are to fulfill the noble and benign offices of wife and mother.

"The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life"

The cherished words of the Declaration of Independence that "all men are created equal" and are entitled to the "unalienable rights [of] life, liberty and the pursuit of happiness" -- were written with only white males in mind. From the beginning, women have had to wage a constant struggle to participate in "civil life." A constitutional amendment was required just 61 years ago to allow women to engage in the most basic and sacred right in a democracy -- the right to vote. Although adopted in 1868, the much heralded clause in the 14th Amendment guaranteeing "all persons" the equal protection of the laws has not protected women from laws that discriminate against women on the basis of sex. It was not until 1971 that the United States Supreme Court declared unconstitutional a blatantly sexually discriminatory state law because it violated the 14th Amendment.

Societal changes in the lives of American women have come about slowly but surely. Compared to our mean beginnings,

the changes are of staggering proportions. Women constitute over 42% of the nation's work force, and over 50% of all women are gainfully employed outside the home. Women are seeking professional training in law and medicine and are participating in political decision-making in ever-increasing numbers. Today's factual knowledge of women indicates that indeed they are engaged in all aspects of "civil life."

However, as timely as we consider this appointment to be, and as eager as we are to have such an appointment become a reality, we are emphatic that the woman selected be of the highest caliber. By virtue of the fact that so many of us have been the "first woman judge" or the "only woman judge" in any number of situations, we are keenly aware of the spotlight focused on our every act, and the scrutiny to which we are continually subjected. Such attention will be magnified in the case of the "first woman justice on the Supreme Court!" Her performance will reflect on all of us lesser judicial luminaries, and we want to be assured that she has the capacity to succeed.

For these reasons and more, I am very pleased to report that the National Association of Women Judges finds the nominee, the Honorable Sandra Day O'Connor, to be exceptionally well qualified.

Certain selected Association members participated in the evaluation of Judge O'Connor and made the customary inquiries relating to professional competency, judicial temperament and integrity.

In addition, each of the 14 district directors of the Association from throughout the country were contacted, and each one commented favorably on Judge O'Connor and urged my appearance on her behalf before this honorable body.

The investigation disclosed among other data that Judge O'Connor is 51 years of age, mature, yet youthful, and possessed of great vitality and good health. She graduated from Stanford Law School, one of the most prestigious institutions of legal education in the world, where she was a member of Law Review, and graduated Order of the Coif in 1952.

Her diversified legal/judicial career includes service as a deputy county attorney in California, a civil lawyer for the Quartermasters Corps of the United States Army, private practice, and an assistant state attorney general in Arizona.

Judge O'Connor rather uniquely also served in the Arizona State Senate, where her colleagues elected her majority leader.

Following her legislative career, she presided as a trial judge in the superior court until her elevation to the Arizona Court of Appeals. She was sitting with distinction as an associate judge on the appellate court at the time President Reagan made his momentous decision to name a woman to the highest court. During that time, she authored some 29 opinions, which are described as concise and cogent, orderly, lucid and logical. I have read several of them and would agree with that analysis.

Judge O'Connor's experience on the appellate bench serves to prepare her for the work ahead. By contrast, at least 15 of the prior 101 Supreme Court justices had no judicial experience whatsoever, or a bare minimum prior to their appointments. These numbers include three of the justices currently serving with distinction.

In discussing Judge O'Connor with persons who either know her personally or who have knowledge of her, certain words keep recurring -- brilliant, fair, pragmatic, rational, hard-working, self-confident, flexible, conscientious, tough,

and perfectionist. She has a reputation as an evenhanded, no-nonsense person with a precise legal mind, given to judicial restraint.

Her integrity is above reproach and she is financially sound. She is a stable, moderate, gracious, and well-adjusted woman. With her high degree of professional competency, innate intelligence and passion for hard work, she has every potential for becoming an outstanding Supreme Court Justice. As the first justice with experience in all three branches of government -- executive, legislative and judicial -- and as a woman -- she will bring to the high court a valuable perspective it has lacked to date.

In conclusion, I reiterate my pleasure at participating in this historical event on behalf of the National Association of Women Judges. We hereby set forth our evaluation with the finding that Judge O'Connor is exceptionally well qualified to this honorable Committee for its consideration. We urge the immediate confirmation of Judge O'Connor so that she can be in place and ready to proceed on "The First Monday in October."

Respectfully submitted,



Joan Dempsey Klein,
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President,
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