

helpful if the staff on both sides have a chance to at least meet the witnesses. If you would be good enough to request them to do that, Mr. Chairman, I would appreciate it.

The CHAIRMAN. No objection. We will do that.

Senator BIDEN. All the Arizona witnesses come around the back. Just meet in the back room.

Senator METZENBAUM. All of the witnesses from out of town, Arizona, California.

The CHAIRMAN. You may proceed.

TESTIMONY OF PANEL CONSISTING OF IRENE NATIVIDAD, NATIONAL WOMEN'S POLITICAL CAUCUS, AND JOHN SILARD, JUDICIAL SELECTION PROJECT

Ms. NATIVIDAD. Mr. Chairman and members of the committee, I too would like to hear the Arizona witnesses, but I thank you for giving me this opportunity to speak to you today.

The CHAIRMAN. You might state your name and who you represent.

Ms. NATIVIDAD. I am Irene Natividad. I am chair of the National Women's Political Caucus which is a nationwide bipartisan organization with 77,000 members and 300 State and local caucuses.

Our primary work is to gain equal representation for women in elective and appointed office, and we speak out on issues of direct concern to women.

As was said before, and which I would like to underline, women's full rights as citizens are dependent on the Supreme Court's interpretations of the due process clause and equal protection clauses of the 14th amendment and of laws passed by Congress. This is important for all of us to note because, as was said before and which needs repetition, women do make up the majority of the people in this country.

It is for this reason that we in the National Women's Political Caucus oppose the nomination of Justice William Rehnquist to be Chief Justice of the Supreme Court. His opinions on cases coming before the Court betray a consistent bias against equality for women under the law that prevents him from applying his seemingly brilliant intellectual and analytical powers in an objective fashion to cases related to sex discrimination.

Furthermore, it is our view that his opinions portray an attitude which is out of sync, to use the vernacular, with the reality faced by women nowadays.

A 19th century mind set about women has no place in the 21st century where we know we will still see Justice Rehnquist.

Our complete testimony is on file and it cites a number of cases in which Justice Rehnquist interpreted the 14th amendment and title VII very narrowly and very often to the disadvantage of women.

In the short time I am allotted, I will discuss a couple of pregnancy discrimination cases which illustrate my point.

One of the realities of the 20th century American woman is that she works outside the home, many times because she has to, so that we now comprise 44 percent of the labor force.

The capacity to bear children is the chief reason given in the past for restricting women's opportunity in the areas of employment, and while not articulated openly nowadays by employers, it is still a major reason.

I consider the impact of pregnancy discrimination invidious, to use Justice Rehnquist's own adjectives yesterday, as invidious as racial discrimination.

The *Cleveland Board of Education v. Le Fleur* and *Cohen v. Chesterfield* are cases involving school board regulations that required pregnant teachers to go on leave 4 or 5 months prior to their due date. In Cleveland, teachers could not return to duty until the regular semester after the child was 3 months old.

Now, you can imagine the impact of these regulations on the pocketbooks of these very women who needed money at that time.

Seven Justices found these regulations in violation of the 14th amendment. Justice Rehnquist dissented, criticizing primarily the Court's resting its invalidation of the regulation on the due process clause rather than equal protection law which he thought would be more appropriate.

It is interesting that Justice Powell, who did rest his concurrence with the majority opinion on the very same equal protection clause, found the regulation irrational. Justice Powell observed that the record, and I am quoting him here, "abound with proof that a principal reason behind the adoption of the regulation was to keep visibly pregnant teachers out of the sight of young children."

Senator HATCH. Ms. Natividad, your time has expired.

We will put your full statement in the record.

Ms. NATIVIDAD. Thank you very much.

[Statement follows:]