

decision should be as well accepted in area of law as *Brown v. Board of Education*.

Senator DECONCINI. Well, that is——

Ms. MICHELMAN. And if there were any question about Judge Souter's views in *Brown*, I think, without giving us assurances, he would have much more difficulty being confirmed and that is what we——

Senator DECONCINI. I guess that is where I disagree with you, I think there is a great distinction here, because, quite frankly, I think the majority of Americans, are opposed to abortion, even though the polls show that a majority feel that choice should be left to the individual. So, to me you have a great weight of authority and great following here in opposition to the moral issue, maybe not the *Roe v. Wade* decision in and of itself, far different than *Brown v. Board of Education*, but that may be just a difference of opinion.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

The Senator from Iowa, Senator Grassley.

Senator GRASSLEY. Thank you, Mr. Chairman.

Thank you, both of you, for being good witnesses and for your testimony. I have a different view than you do and I hope you can respect my view, as I respect your view.

Let me start by saying that I have no more insight into this question I am going to ask you than anyone else. I am worried, too, but for different reasons, as you can imagine.

What if the nominee, Mr. Souter, would have said that he thought that *Roe v. Wade* was wrongly decided, but that he would uphold it, as a matter of precedent, as a matter of settled law? Would that have been good enough for you and your organization?

Ms. MICHELMAN. It certainly would have been a much stronger statement and it would have reassured us more than we have now. If he categorically made the statement that he would uphold *Roe v. Wade*, we would feel much differently about his position on the Court.

Senator GRASSLEY. What is the history of both of your organizations, when it comes to Supreme Court nominees? I do not know the answer to this, either, but my supposition, I have a supposition—has either of the groups you represent ever supported a nominee to the Supreme Court?

Ms. WATTLETON. We have not actively supported a nominee to the Supreme Court. This is the second or, I should say, the third nominee that we have opposed.

Ms. MICHELMAN. We have—I think we have in the past, but I have not been with NARAL more than 5 years. We have been concerned over the last 10 years with an administration's deliberate use of the judicial process, judicial appointment process to explicitly reach the goal of overturning this right, of taking away this right, so we have been very careful in scrutinizing the nominees to come before the Court in the last 10 years.

Senator GRASSLEY. So, in the case of Kennedy, Scalia, O'Connor, Rehnquist, you did not support them. Do you——

Ms. MICHELMAN. We did not take a position on Justice Kennedy. I am not sure that I would say that was the best decision NARAL ever made, given what we know about Justice Kennedy right now.

Ms. WATTLETON. We opposed his confirmation, but did not launch an active campaign against him.

Senator GRASSLEY. Do either of you remember whether your organizations supported Judge Stevens in 1976, when he was before—

Ms. MICHELMAN. I do not remember.

Ms. WATTLETON. I was not head of Planned Parenthood.

Senator GRASSLEY. Mr. Chairman, I have no further questions.

The CHAIRMAN. Thank you very much.

The Senator from Alabama, Senator Heflin.

Senator HEFLIN. The issue of *Roe v. Wade* is a national issue and certainly on our minds. In the future, the question of whether it will or will not be reversed will bring into consideration two major elements for the Court to look at. One is the issue of prochoice/prolife, and the other issue is stare decisis, the precedent which Senator Grassley referred to. There may be other elements that would enter into it.

Would you give us your evaluation of what you have read and heard relative to Judge Souter's writings and statements pertaining to stare decisis?

Ms. MICHELMAN. Well, before I get to that point, Senator, I would just like to say that the issue really is not prolife/prochoice, it is who decides, it is who decides what is the right thing to do, the individual or the State.

As far as stare decisis, he did not indicate how he would rule, how he would use the issue of precedent as it relates to *Roe v. Wade*. He did not discuss—

Senator HEFLIN. He spoke generally pertaining to—

Ms. MICHELMAN. He spoke generally.

Senator HEFLIN. Well, give us your evaluation of his general statements and writings relative to stare decisis.

Ms. MICHELMAN. Well, his general statement, he said that he has respect for precedent.

Ms. WATTLETON. I believe in his statement he also said that stare decisis was but one element that should be considered—

Ms. MICHELMAN. Right.

Ms. WATTLETON [continuing]. In whether the earlier decision had been right or wrong in its impact on the American or the people and that he would evaluate what impact it would have on the people, before making a decision to overturn it.

Ms. MICHELMAN. And he also went further in the area of privacy, to say that this whole area is open for reevaluation and, in fact, it would be years before it would be settled. So, there is a mixed review on the precedent view, his view of precedent as it relates to *Roe v. Wade*.

Senator HEFLIN. That is all. Those are all the questions I have.

The CHAIRMAN. Thank you very much.

The Senator from Pennsylvania, Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman.

I would start with the very basic question as to whether you think that President Bush will submit a nomination more to your