

Testimony of Joan Bronk
President, National Council of Jewish Women
Senate Judiciary Committee, September 18, 1990

I am Joan Bronk, National President of the National Council of Jewish Women. I am not an attorney. I am not a constitutional law scholar, and my testimony has not been prepared in consultation with such experts. I speak as an American Jewish woman on behalf of an organization of 100,000 volunteers serving women and their families through community service, education and advocacy in 500 communities nationwide.

Each day, NCJW volunteers deal with the outcome of court actions, as volunteer service providers for juveniles involved in abuse and neglect cases, homeless families, victims of domestic violence, and youngsters in correctional facilities, among others. These people are affected by the courts and so, too, the outcome of your deliberations. They depend on the courts to make "the promises of the constitution a reality," an obligation expressly recognized in Judge Souter's testimony before this Committee.

We have listened carefully to the nominee's comments and explanations to discover the extent to which he is likely to fulfill that obligation. In two areas of vital importance to the National Council of Jewish Women, we were not reassured.

-2-

Time and again throughout his testimony, Judge Souter adamantly refused to discuss the issue of reproductive rights. Despite the fact that the nominee expounded on issues related to other upcoming or controversial cases, such as church-state relations and criminal justice, he would not elucidate even his methodology for approaching reproductive rights. He merely promised to listen to both sides--a restatement of what we know to be the obligation of all jurists.

Women cannot afford to take the leap of faith required to assume that Judge Souter would recognize and protect the fundamental right to privacy. Does the nominee only recognize that fundamental right as it pertains to procreation within a marriage? Based on the testimony we have heard, we have no indication to the contrary, and we are deeply concerned.

Reproductive rights, including abortion, is not just a woman's issue--it is a family issue. If women are not free to control their reproductive lives without government intervention, what kind of future can their families expect? If the Court continues to limit or eliminates the ability of women to make this basic personal decision, how can women ever hope to realize equality and freedom? In fact, NCJW believes that abortion rights is a religious liberty issue. When government eliminates freedom of choice in abortion, it pre-empts individuals from basing their decisions on religious beliefs and practices.

-3-

In addition to our concern about Judge Souter's silence on reproductive rights, we are wary of his views on gender discrimination. Although Judge Souter recognizes that such cases should not be left to the minimum scrutiny, his vagueness on how to handle gender discrimination is disturbing. So, too, was his statement expressing concerns about the present middle tier test because he has yet supported this as the minimum starting point.

In recent years, NCJW's community service and educational projects have focused on women in the workplace. From our experience, we are aware of the importance of protections against gender discrimination in employment and on the worksite. We are concerned that anti-discrimination protection for all workers has been severely eroded by recent Supreme Court decisions. We cannot risk continued setbacks in this critical area.

The Committee's deliberation on this nomination covered many areas beyond those we have addressed in our testimony. NCJW also has a wider range of concerns and activities. However, the National Council of Jewish Women believes that the right to privacy and equality for women are promises of the constitution that must be kept. Because of Judge Souter's failure to respond directly and adequately to questions concerning privacy and equality for women, we respectfully ask you to oppose his nomination.