

The CHAIRMAN. Thank you very much.
Governor.

STATEMENT OF MADELEINE MAY KUNIN

Ms. KUNIN. Mr. Chairman and members of the committee, I thank you very much for giving me the opportunity to join this panel and testify in regard to the confirmation of Judge Thomas as an Associate Justice of the Supreme Court.

My political experience has taught me that in our quest to make just laws, we must constantly remind ourselves of the nexus between the orderly world of public policy and the real world of human beings. It is their faces, as we have just heard from Kate Michelman, and their circumstances which we must bear in mind.

This is particularly true in regard to the ability of a woman to make a personal moral decision on the difficult question of whether to continue or terminate a pregnancy. It is essential to humanize this question, to visualize the anguish, the confusion, the inequity that will result if we continue to erode *Roe v. Wade*.

As a former Governor, I am acutely aware of the unequal burdens that would be born by States if this fundamental right is determined on a State-by-State basis, and I am equally cognizant of the unequal rights that would be meted out to women, dependent on where they happen to live, their access to information, money, and transportation.

It is Judge Thomas' silence on this question that causes such anxiety for so many women, who fear that his ascendancy to the Court will inaugurate a most painful era for American families, in contrast to the post-*Roe v. Wade* era where each has made a decision according to her conscience.

Judge Thomas has indicated that he is sensitive to the effect that the law can have on individual lives when he movingly described the impact of Jim Crow laws on his grandmother and on his grandfather.

What many Americans are asking is: Can he bring this same sensitivity to the contemporary question of reproductive freedom?

Can he understand the humiliation, embarrassment, and fear felt today by a woman who is escorted into a health clinic, past a yelling and threatening mob? Can he understand what it means to be patronized, to be dependent on charity and chance, instead of the equal protection of the law?

As a former elected official, I know that my constituency—you know this as well—would not tolerate any candidate for public office who would not make his or her position clear on this question.

We acknowledge the judiciary is different. We need not exact a pledge on how a judge would vote on a specific case. But neither should we absolve him of all accountability.

I cannot accept the premise that underlies what I have heard, that there is some objective legal truth that will naturally reveal itself, that the answers to the most divisive social questions of our time will emerge if our judges purge themselves of all ambiguity, opinion, and feeling, and focus, without blinking, on the facts.

Frankly, if that were the case, these cases would have been decided long ago.

There are many judges who have a knowledge of the law. That is the easy part. It is the contradictions within the human condition, the agony of ambiguous moral choices, the pain of weighing one truth against another. That is what is hard. And those are the heavy burdens that we ask the highest judges of our land to carry.

I must tell you the very fact that Judge Thomas has succeeded in not clarifying his philosophy on this issue creates a quiet fury in many women. Once again, when it comes to our issues, we find ourselves repeating the ancient cycle of helplessness that women have experienced throughout history. The sense of powerlessness is painful. It is apparent right here in this room where women are not equally represented in the decisionmaking process of this country. We are put in the position of pleaders, asking you to ask our questions for us, to be our standins, to intercede on our behalf.

Once again, our question, central to our lives, the one that women all over this country are asking is not being answered. We have to take our chances. We have to live on hope. We have to believe that silence equals fairness when, in fact, we fear that silence equals just the opposite.

I believe I speak for many women when I say we have a right to a forthright answer on this most wrenching moral issue. And the American people, regardless of their view on this issue, have a right to expect any nominee to the Supreme Court of the United States to describe his or her record and philosophy.

In a democracy, it is a sad day, indeed, when silence assures victory.

I respect that each Senator, after a great deal of thought, will reach his decision on whether or not Judge Thomas has met the basic standard for the Supreme Court.

My conclusion is that Judge Thomas has not provided sufficient information to earn confirmation.

After 2 weeks of hearings, the question remains unanswered: Who is Judge Thomas?

Any nominee to the Supreme Court has the obligation to give that answer to the American people.

Thank you kindly for permitting me to share my views.

[The prepared statement of Ms. Kunin follows.]