

California Women Lawyers commends President Reagan for his selection of Judge Sandra Day O'Connor. Such a nomination demonstrates the administration's commitment to equal justice under law and recognition of the importance of an independent judiciary.

Sandra Day O'Connor will bring to the Court a unique combination of experience as a legislator, a government lawyer, a trial judge, and an appellate judge. The quality and breadth of her legal background evidence her outstanding credentials for this appointment. An honors graduate of Stanford University Law School, her entire legal career has been a progression of distinguished records of achievements and accomplishments. Her record reflects a commitment to the principle of equal justice under law.

California Women Lawyers supports the confirmation of Judge O'Connor because she is a highly capable and eminent jurist of outstanding quality. Sandra Day O'Connor is a person of intelligence, integrity, and discipline. Her presence as a Justice of our Nation's highest forum will serve as a model for all persons and will inure to the profound benefit of our society.

The CHAIRMAN. I do not believe there are any questions.

I want to thank you for appearing here today on behalf of your organization and presenting testimony. Thank you very much. You are now excused.

Our next witness is Gordon S. Jones, representing United Families of America.

Mr. Jones, come around. Mr. Jones, you have 5 minutes.

Hold up your hand and be sworn in.

Do you swear that the evidence you give in this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

**TESTIMONY OF GORDON S. JONES, EXECUTIVE DIRECTOR,  
UNITED FAMILIES OF AMERICA**

Mr. JONES. I do.

Mr. Chairman, my name is Gordon Jones. I am the executive director of United Families of America. I do have a prepared statement which I would like to have included in the record, and then I would like to make some separate statements, if that will be all right.

The CHAIRMAN. Without objection, that will be done. Try not to duplicate.

Mr. JONES. I will try not to duplicate.

Mr. Chairman, I also would like to congratulate you on the forthright statement you made about the propriety of the Supreme Court's action in 1973 in rendering the *Roe v. Wade* decision. I am a little bit afraid that you have disqualified yourself as a potential Supreme Court nominee, however, on the basis of testimony that we have heard over the last 3 days.

I confess, Mr. Chairman, that I am somewhat disappointed at the direction the hearings have taken, the apparent acquiescence in the idea that nominees to the Supreme Court should not be required or do not need to express their views on important constitutional and social issues.

In my prepared testimony I discussed some public polling data which indicate that the American people as a whole have lost

confidence in the Federal judiciary. The data in the poll, which was a recent poll conducted by the Sindlinger Corp., indicate that 90 percent of the American people do not think that the Federal judiciary reflects their views. As many as 80 percent would like to see jurisdiction withdrawn from the Federal courts in such sensitive areas as busing and abortion. Almost 70 percent would like to see Supreme Court Justices elected, and nearly three-quarters would favor seeing Justices of the Supreme Court stand for reconfirmation.

The performance of this committee and Judge O'Connor during the nomination proceedings can only, in my opinion, widen that gap between the people and their judges. In fact, it appears to United Families of America that the committee is in the process of completing a total abdication of final policymaking authority to the Federal courts in the United States.

Judge O'Connor asserted during her hearing that it would be inappropriate for her to comment on the most important issues facing the American people and their policymakers today. To a very great extent, that simple assertion has been enough to discourage even the most tenacious cross-examiner on the committee, including former district attorneys.

That principle has been asserted in the past, of course, by other nominees, though I find it nowhere justified in the Constitution, in statutes, or in canon, but never in the past has it been acquiesced in so completely. In the case of past nominees, either there was an adequate public record so that close questioning was not really needed, or members of the committee persisted anyway in examining the nominee until they got the answers that they wanted after all.

During the hearings in the last 3 days, Judge O'Connor refused to answer Senator Metzenbaum as to the constitutionality of anti-trust policy. She refused to answer Senator Laxalt about the constitutionality of the exclusionary rule. She refused to answer Senator Hatch's questions about the constitutionality of affirmative action. She refused to answer Senator Grassley's questions about the legislative veto.

Senator Dole asked her about the rights of aliens, and she declined to give an opinion on the constitutionality of limitations on the rights of aliens. Senator Specter talked about setting bail, and she declined to answer questions in that respect. She declined to answer anybody's questions about *Roe v. Wade*, with the possible exception of Senator Mathias who apparently asked her during a private visit to his office what she thought about that, and she—according to the *New York Times*—told him that she would abide by that precedent.

The fact is, Mr. Chairman, that Federal judges are policymakers. They are policymakers, moreover, who sit totally outside the democratic process. We cannot vote on them. They are appointed essentially for life, and once they are there, they are beyond our reach. Our only hope is that Senators during the confirmation process will ask them the kinds of questions that will elicit from them their policy views on the important issues which they will deal with on the Supreme Court.

If Senators will do that and nominees will be forthcoming about their views, then the American people can determine whether the Senators are acting responsibly in voting to confirm those nominees. When you allow nominees to refuse to answer questions of this type, you deny us the opportunity to render a political judgment on the only possible object of that judgment, Senators seeking reelection.

In the very brief time that remains, I would like to distinguish between a nominee's personal views and what her views or his views are of what the Constitution says. I do not care what Judge O'Connor thinks about abortion. Frankly, she can run an abortion clinic on the side and it will not bother me, so long as she cannot find in the Constitution an absolute right to abortion, which is what the Supreme Court did in 1973.

I reiterate that the issue is not abortion but judicial activism. *Roe v. Wade* happens to be the worst example of judicial activism in this century but there are many other examples of it. What we need to know is what Judge O'Connor thinks about the Constitution. How does she regard that? What previously undiscovered rights does she find there that nobody noticed in the last 200 years?

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Jones, for your appearance here and the testimony you have given. You are now excused.

[Material follows:]