

Testimony of
Eleanor Cutri Smeal
President, National Organization for Women

As President of the National Organization for Women, I am representing today the largest membership organization in the United States dedicated to the advancement of equal political, legal, and economic rights for women. On behalf of NOW's membership, I would like to urge this Committee to confirm the nomination of Judge Sandra Day O'Connor for the position of Associate Justice to the U.S. Supreme Court.

The nomination of Judge Sandra Day O'Connor to the Supreme Court is truly an historic and a major victory for women's rights. After 191 years and 101 male justices, the appointment of the first woman to the Supreme Court is important both symbolically and actually.

The National Organization for Women has long been fighting for equal opportunity for women in law school and in the judiciary. When we began this fight some 15 years ago, women were outnumbered by men 23 to 1 in law school and less than 3% of the lawyers were female. Today some 32% of law school students are female, and over 7½% of all attorneys are female. In the past decade, the percentage of females in the judiciary has increased from 1% to approximately 7%.

The National Organization for Women has appeared before this committee before to voice our concerns about sex discrimination in the law, in the judiciary, and in appointments. The appointment of Judge Sandra Day O'Connor marks an end to the 191 year exclusion of females from the Supreme Court. Further, it not only opens an important door for women, but it also establishes a landmark in the journey toward full political and legal equality for women.

We believe that the appointment of Judge Sandra Day O'Connor is a result of years of work by women's rights advocates who will not accept the tortured reasoning that equal justice under the

law is possible while women are excluded or have merely token representation in the ranks of the judiciary. We hope that the appointment of Judge Sandra Day O'Connor will be the first among many women to the Supreme Court, so that in the not too distant future the sex of an appointee will not be a consideration. Of course, that day is not here, and today's nominee is meritorious both because of her individual achievement and because she is the first woman appointment.

In fact, Judge Sandra Day O'Connor's achievements are even more remarkable considering the sex discrimination she had to face as a woman. The honors that she achieved in the Stanford law school class of 1952, as a law editor and high honor of the Coif, are impressive in their own right and even more outstanding to have been won by a woman in 1952. Her varied career is nothing short of remarkable considering the pervasive sex discrimination against women in the law profession during the 1950's, '60's, and '70's. As Deputy County Attorney, a civilian lawyer for the Army, a lawyer in private practice, an Assistant Attorney General in Arizona, the Majority Leader of the Arizona Senate (the first woman), as Superior Court Judge, and as an Arizona Court of Appeals Judge, she has a wide range of professional experience, unusual and nearly unobtainable for women at that time. Her experience as a homemaker and community volunteer, although not unique for a woman, will add a unique and vitally needed perspective to the Supreme Court.

Much has been made of the legislative record of Judge O'Connor vis-a-vis social issues. Her record indicates a commitment to equal justice under the law.

Her sensitivity to women's rights, we believe, is particularly noteworthy and important. Surely it would be a mockery of justice if the first female appointment to the Supreme Court -- the first woman to have so fully benefited from the work of those who have fought so hard for women's

rights -- would be a woman who was not concerned with the advancement of women. Our investigation of Judge Sandra Day O'Connor's record clearly shows that she has demonstrated a sensitivity to discrimination against women and that she has worked to advance the legal status of women. Among her legislative accomplishments, many concerned women. For example, she:

- introduced and accomplished major revisions in community property law, e.g., abolishing husband management of the marital property.
- introduced and accomplished "sex-neutralizing" code language; state equal pay act.
- introduced and accomplished repeal of protective labor law limiting hours women could work.
- voted for bill allowing distribution of family planning information to minors without parents' approval (1973, SB 1190).
- introduced and accomplished divorce law reform, allowing no-fault; making child's best interest controlling; establishing conciliation court. Laws 1973, Ch. 139.

The National Organization for Women does not purport to agree as an organization with all of Judge O'Connor's legal and political views. For example, Arizona NOW opposed some of the changes in divorce reform Judge O'Connor sponsored while in the Arizona Senate. We believe, however, that discrimination she suffered, her life experiences, and her understanding of discrimination provide a necessary perspective to the Court. If she did not have such an understanding, it would be a travesty. No one would expect that the first Black appointment would be insensitive to discrimination against Blacks. Nor should one expect less of the first woman appointment.

Judge O'Connor has also demonstrated her concern for women's rights through support of professional associations working to eliminate sex discrimination. She is or has been a charter member of the National Association of Women Judges, the Arizona Women

Lawyers, and Charter 100 (a business and professional women's network group). She has been appointed as one of the few non-academics to serve on a state panel of the American Council on Education, which was organized to identify and promote top women to administrative positions in colleges and universities. And, as a victim of employment discrimination herself, she has deplored such unjust practices. In a 1971 interview, she said:

"A woman with four years of education earns typically \$6,694 a year while her male counterpart earns \$11,795 for the same job. The more education a woman has, the wider the gap between men and women's earnings for the same work."

Judge O'Connor's appointment is extremely important for the advancement of all women and enshrines the principle that there is no such thing as a "woman's place." The opponents of Judge Sandra Day O'Connor's appointment, we warn, are really opposed to women's rights and the advancement of women. They have been opposed to every major proposal that would allow for significantly more opportunity for women. We are not surprised by their opposition to Judge O'Connor. The opposition to Judge Sandra Day O'Connor on the basis that she does not "respect traditional family values" only exposes its own myopic views of the family. We believe that many of those opposing her are doing so precisely because she is a woman who did not know her place. A female judge by definition is not a traditional woman. The first woman appointed to the Supreme Court cannot be and is not a traditional woman. In fact, she represents a wide departure from tradition. We believe, however, she also represents the best of American traditions which for too long has been ignored when it comes to females: Equality and Justice for All.

We urge your confirmation of a most remarkable woman whose record speaks for itself, and because her appointment is a long overdue victory for women's rights. Let no one here forget that it has taken the combined efforts of thousands, beginning with Myra Bradwell, and some 191 years, for a woman to be placed in nomination for Associate Justice of the United States Supreme Court.