March for Life
Education & Defense Fund

P O Box 90300
Washington DC 20090

TEL 202 - LIFE - 377
FAX 202 - 543 - 8202

July 23, 1993

Testimony of

Miss Nellie J. Gray
MARCH FOR LIFE Education and Defense Fund

before the
SENATE JUDICIARY COMMITTEE

in opposition to the
Confirmation of Judge Ruth Bader Ginsburg as Justice of the Supreme Court

* * * * * * * * *

Mr. Chairman, and Members of the Committee,

I am Nellie J. Gray, President of *MARCH FOR LIFE Education and Defense Fund*, which is guided by our *Life Principles*. We are a non-profit, non-partisan and non-sectarian corporation, with the purpose of assuring that our laws shall protect the unalienable and paramount right to life of each born and preborn human being in existence at fertilization. NO EXCEPTIONS! NO COMPROMISE! We are an organization of volunteers, working throughout the United States.

I come before this Senate Judiciary Committee at this time because of our long-standing and deep concern that there is a depreciation of the inherent value and dignity of innocent human beings, and that this depreciation is supported by actions of even our government through the Executive, Legislative and Judicial Branches. Yet, all Branches of our Federal Government have the power and authority to reaffirm the unalienable right to life of each human being in existence at fertilization, and then to act to assure that this paramount right is protected by our Constitution and Statutes.

In America today, the most prominent visible sign of callous disregard for our right to life is through abortion. Abortion is murder -- born human beings deliberately killing a preborn human being in existence at fertilization. Abortion terminates a child's life -- not merely a mother's pregnancy.

Therefore, Mr. Chairman, after listening to some of the hearings this week, I come to you today in strong opposition to confirmation of Judge Ginsburg as a Justice of our Supreme Court, because she has, by her own testimony, shown a personal and professional inclination to factors which disqualify any American as one to decide the fate of human beings, namely, (1) prejudice against a class of innocent human beings, (2) privilege for criminal behavior of women, (3) fatal error of fact and law, (4) cover-up of right fact and law, and (5) disrespect for the history of America which has bought freedom at home and abroad with the blood of patriots. And, I conclude with (6) what to do now.

BOARD OF DIRECTORS

PRESIDENT
NELLIE J GRAY
District of Columbia
202-LIFE-377

FIRST Vice President
TERRENCE M SCANLON
District of Columbia
202-333-4510

SECOND Vice President
DOLORES R BECKER
Delaware
302-475-6157

SECRETARY-TREASURER
CATHERINE McENTEE
New Jersey
609-822-3637

MEMBER
JEAN M GUILFOYLE
Maryland
301-654-6361

THE PURPOSES OF THE *MARCH FOR LIFE EDUCATION & DEFENSE FUND* ARE EMBODIED IN THE "LIFE PRINCIPLES"
Your contribution is tax deductible

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

I. PREJUDICE

Against A Whole Class of Innocent Human Beings

No American, and no nominee to the Supreme Court, may announce with impunity that any member in a whole class of innocent human beings is a non-person who is the subject of deliberate killing by another human being. Yet, the nominee seeking confirmation by this august Committee indicated in her testimony that she is prejudiced against preborn human beings, and has elevated her prejudice to the "right" of a pregnant mother to murder her own preborn child. This open and notorious show of prejudice, alone, disqualifies this nominee for any official position.

Mr. Chairman, before considering this nominee further, the Committee must open its eyes, head, heart, and ears to the simple fact -- not opinion -- of the humanity of each preborn child.

I say it is simple -- and I truly mean that. To deny that a preborn human being is in existence at fertilization is either intellectual dishonesty or culpable ignorance. Information on the humanity of a preborn child is available in popular literature and on TV shows, of which this Committee can take notice.

A unique human being comes into existence when the father's sperm fertilizes the mother's ovum. The genetic code is set, and the preborn human being, in the natural habitat of the mother's womb, grows until birth, and then grows from infancy throughout a natural continuum of life. At no period of that life span is that human being more or less human that at fertilization.

Abortion is murder -- that is, the elements are present: (1) the criminal act of one human being killing another human being, and (2) the criminal intent of deliberately killing an innocent human being. Abortion is not merely to terminate a pregnancy, it is to deliver a dead baby.

Thus, the right to life of each human being in existence at fertilization must be protected by the laws of the United States. NO EXCEPTIONS! NO COMPROMISE! The Supreme Court made it clear in footnote 54 of *Roe v. Wade* that it is inconsistent and untenable for a society and its laws to treat the murder of a preborn child as a crime of less degree than the murder of a born human being.

To deny facts and embrace inconsistency about human life is to pre-judge that an innocent preborn human being is property. Our country has suffered that error before in our history, as indicated, below.

II. PRIVILEGE FOR BORN FEMALE

Not Equal Rights for Male and Female, Born and Preborn, But Privilege for Born Females

The nominee has stated, in effect, that only a woman shall decide whether or not to have an abortion -- that is, only a pregnant mother shall decide whether or not to hold her innocent preborn child captive and deliver her child to the paid killer at the abortatorium. This is advocating raw privilege based on female gender and not equal rights for male and female. The nominee has demonstrated and spelled out her avowed devotion to privilege for females, her preference for the Equal Rights Amendment, and her tendency to be acutely aware of possible "sex discrimination" against females -- not males. All of this strongly suggests that the nominee has a long-standing inability to judge fairly on the basis of gender.

The nominee has openly declared that she has pre-judged that the aberrant behavior of murder, when decided to be perpetrated by a pregnant mother against her preborn child, is privileged behavior, but the same aberrant behavior decided by a male would not be privileged. Women libbers have been successful in intimidating men to let females have their unprincipled way, even for killing preborn children. Observation over the past several years indicates that women libbers gained this remarkable achievement by aggressive and ugly behavior to put-down men, by loud name-calling, such as "male chauvinist pigs," and a hate-filled attitude toward men, women, preborn children, family, church, government, army, country, and much else. It is extremely important that men no longer wimp-out before the women libbers'

onslaught of ugly and radical behavior. Otherwise, men will have denied themselves their rights of fatherhood and their responsibility to protect their own wives and born and preborn sons and daughters.

Further, the nominee has declared that she has pre-judged to extend the raw "privilege" of abortion/murder to born females and treats preborn male and female human beings as property at the disposal of her favored and privileged born female. There is no indication that a born female has serious responsibility to the well-being of self, child, family, husband, law, order, or society.

In addition, data seem to suggest that the female privilege has developed into the ugly area of genocide. One example is the District of Columbia, where almost 80% of all abortions for DC residents were suffered by black pregnant mothers. Would this be tolerated if occasioned by anything other than women libbers ugly demands for "privileges."

Equal Care and Protection for Both Mother and Preborn Child

The pregnant mother and physician are the natural protectors of a preborn child. But, the nominee has set up an unnatural and needless conflict between a pregnant mother and her preborn child, whereby the mother would have sole decision over the right to life of her preborn child. The nominee tries to establish an untenable notion that a pregnant mother "decides" about the life or death of her preborn child, even though no one owns the right to life of another human being. With a pregnancy, there are two human beings, each of whom has an unalienable right to life vested in each human being at fertilization. These rights are compatible and are not in conflict. Nor does the protection of the right to life of a preborn child establish self-defense for the pregnant mother. And, the government has a valid interest in protecting the life of both the pregnant mother and her preborn child, because murder is well-established as such anti-social behavior that society must protect itself against this felonious crime.

There is no justification for deliberately killing a preborn child. For the record, I shall submit a longer statement on "Equal Care for both Mother and Preborn Child."

Prejudice is Disqualifying

This nominee has indicated her determination to pre-judge, by which she shall extend the raw "privilege" of murder to a pregnant mother. In doing so, she has demonstrated her inability to view fairly a case before her on the facts and evidence of record, which prejudice is totally inconsistent with basic qualifications for any Judge or Justice. And, when the prejudice would result in attempting to give license to the deliberate killing of an innocent preborn child, the nominee's qualifications are fatally flawed.

III. Fatal Error of Fact and Law

Abortion is Not Respectable and is Not "Legal"

Not Learning from History that Prejudice and Privilege are Anathema to Any Society

As stated, above, it is a simple and indisputable fact that a human being is in existence at fertilization. The unalienable and paramount right to life of each human being endowed by Our Creator is vested at fertilization. The government does not give us our right to life. No one owns the right to life of another human being in existence at fertilization.

Error of Fact.

It is an error of fact that any human being in existence at fertilization is a non-person to be treated as property. Our country has suffered through this error on at least three separate occasions: Slavery, Hitler's Final Solution, and Abortion. Each of these situations produced unrelenting conflict for our country because each was based on the error of fact in defining a whole class of human beings as non-persons. This error of fact created error of law, which, for a time, permitted innocent human beings to

be denied dignity, freedom, protection and life.

The apportionment clause of our Constitution defined slaves as three-fifths man and two-fifths property, and a Federalist paper argued for this dual character of the slave in order to gain a compromise and ratify the Constitution. However, the compromise did not bring peace, because people could not tolerate a society in which each human being did not have full protection of the law. Slavery was such provocation to the society that there was finally open conflict to eliminate the odious definition as "less than human." Our Constitution was amended to provide due process and equal protection for all.

Nazis defined a whole class of people as non-Aryan, and fashioned a Final Solution, by which Nazis enslaved and killed human beings in the defined class. Allied forces not only fought to end the Final Solution, but also held the Nuremberg Trials to establish a firm precedent that crimes against humanity would not be tolerated by free people. We World War II veterans participated in an Allied effort to stop forever the absolute evil of killing innocent human beings, which occurred "over there."

It is incongruous to see that the absolute evil of deliberately killing even one innocent human being could happen "over here" in our beloved America. It is even more incongruous to see that any public official would try to elevate this absolute evil as a "right" protected by our Constitution. In doing so, of course, abortion is provoking unrest, because no people can tolerate the slaughter of the innocents.

Error of Law

Our country must not suffer the innocent blood of even one preborn brother or sister. The government must protect the right to life of each human being in existence at fertilization. No one and no government may take away the right to life of another human being in existence at fertilization. The Nuremberg Trials reaffirm that there is no justification for an individual to participate in crimes against humanity, which include abortion and genocide. Abortion is not "Legal," as indicated by the following principles applied by the Nuremberg Tribunal, by which our government participated in hanging Nazis found guilty of crimes agains. humanity.

It is oft-heard that the Supreme Court "legalized" abortion by its infamous decisions of January 22, 1973. What has really happened is that the Supreme Court has declared in *Roe v. Wade* that, for now, punishment will not be administered under federal, state or local law for the crime against humanity of born human beings killing innocent preborn human beings.

The court is now in the anomalous position of *trying* to "legalize" an abomination. Further, the Court is in the anomalous position of running counter to history, when our own Government has stated and acted on the principle that "Crimes Against Humanity" cannot be made legal by any individual or governmental power.

We look to history for some standards by which a government, elected and appointed official, individual, and organization can be tested. For instance, there are standards set out by the Tribunal sitting in Nuremberg in 1945 in judgment of our foreign enemies. Surely, the same level of standards should apply to domestic organizations. The Charter of that Tribunal, in setting forth the jurisdiction and general principles, provides in Article 6 that:

> The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:
>
> * * *
>
> (c) CRIMES AGAINST HUMANITY: namely, murder, against any civilian population, . . . whether or not in violation of domestic law of the country where perpetrated.
>
> Leaders, organizers, instigators, and accomplices participating in the formulation or execution of a Common Plan or Conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

Article 7 provides that an official position shall not be considered as freeing anyone from responsibility or mitigating punishment. Article 8 provides that the fact that an individual acted pursuant to order of his Government or of a superior shall not free him from responsibility. Articles 9 and 10 provide that an organization can be declared to be criminal, and individuals may be tried for membership in such organizations.

It is interesting to note that our Government, sitting in judgment of foreign enemies at the Nuremberg trials, held those enemies to a standard of humaneness above and beyond what was "legal." Similarly, merely because abortion has been said to be "legal" in our country today, does not make the act of abortion less inhumane or less a crime against humanity.

Further, any government, elected or appointed official, individual, or organization which supports abortion, even though abortion is decriminalized, is subject to a serious question of accountability, now or later, for crimes against humanity.

Error in Selectively Applying the Law

The nominee has indicated a strong preference for assuring that individuals may make decisions about their own action without governmental interference, unless the action interferes with another human being. Our government does assert its right now to protect society in many areas of civil rights -- such as employment, education, welfare, housing -- by interfering with individual decisions and actions. Our government even asserts its rights over the policies of civil rights of foreign sovereign nations, and may withhold assistance on the basis of a poor civil rights record. But, this nominee selectively would permit the deliberate murder of an innocent preborn child, and declare that the murderous acts by a pregnant mother, physician, counsellor, and other collaborators do not impinge on the right to life of a preborn child, or the rights of the father or of society.

The Nuremberg Trials reaffirm that there is no justification for an individual to participate in crimes against humanity, which include abortion and genocide. The Trials reaffirm that those who participate in these crimes are individually responsible for the crimes, and have no tenable defense that they were merely a "good soldier" following orders or that the crime was authorized by the government.

In order to embrace the error in fact and law that abortion is not murder, we must ask what other disqualifying leap into error of fact and law is possible for this nominee.

IV. Cover-Up of Abortion Evil

There is no Description of What is Abortion

Just a short time ago, the word "abortion" was so evil that it was not uttered in private or public Abortion not only murders a preborn child but also traumatizes and devastates a mother's mind and body. However, women lobbers have managed to cover-up the evil of murder/abortion so effectively that the word "abortion" is used casually in these hearings before this Committee to determine the qualifications -- or lack thereof -- of a nominee to the Supreme Court. Here on public TV we hear the word "abortion" used as if it were a respectable act -- a "right," a "service," and a "necessity." But, no matter how women lobbers try to make abortion respectable, it is still just murder of the preborns and destruction of mothers.

Mr. Chairman, it is necessary, therefore, to ask some pertinent questions of Members of this Committee and of the nominee:

- Can a woman be just "a little bit pregnant?"
- What really goes on behind the closed front doors of an abortion chamber?
- Why do press and media not show the American public what abortion looks like, just as they show us what slavery and the Final Solution look like?
- Is there really informed consent for a pregnant mother and her preborn child entering an abortion chamber?

No Justification for Murdering Preborn Children

Yes, America, the intent of abortion is to kill a baby. But, in order to try to justify murdering preborn children, abortionists use rhetoric to divert away from and cover up the torturing of pregnant mothers and killing of preborn children inside their abortion chambers. For instance:

- ***Diversionary Rhetoric.*** Abortionists do not truthfully and accurately describe their evil deeds inside their abortatoria. Rather, they use euphemisms, such as: pro-choice (to murder a son or daughter), termination of pregnancy (by murdering a son or daughter), right of privacy (to murder a son or daughter), and who decides (to murder a preborn son or daughter) Abortionists must

tell the truth about what happens to a pregnant mother and her preborn child behind the abortionists' front doors.

- ***Define Away A Person.*** Abortionists want to define a preborn human being as not a "person." But, abortionists may not unilaterally decide who is and who is not a "person," in order selectively to kill an innocent human being in existence at fertilization.
- ***Most Abortions are Performed During the First Trimester.*** Murder by abortion is murder, whether the human subject is a few seconds old as a fertilized ovum or whether the preborn child is several weeks or months old and in the second or third trimester.
- ***Establish and Maintain a "Proper" Value of Life.*** No one has a right to determine whether or not another human being has a "value" of life sufficient to protect the other human being from murder.
- ***Death Chambers Not Health Clinics.*** Abortionists refer to their killing centers as "medical facilities." This is an aberration. Nothing relating to "health" occurs in an abortatorium. A pregnant mother's body and mind are violated and her preborn child is murdered. Hitler called his Death Chambers "Relocation Centers," as indeed we now know they were.
- ***No "Need" to Murder -- Equal Care.*** Abortionists refer to the "need" for abortion, or that abortion is "medically indicated." But, there is no malady for which the standard treatment is "murder a preborn child." In a pregnancy, there are two separate and distinct patients: a pregnant mother and her preborn child. The standard treatment is to provide equal care for both the mother and her child. Please see "Equal Care," page 3, above.
- ***Privacy or Equal Protection.*** Abortionists plead that abortion is protected by the right of privacy. Abortion is murder, and homicide is always a public matter for any society, as we see from the principles of the Nuremberg Trials. Murdering preborn children is done in public facilities, with public dollars, and can never be tolerated as a matter or right of "privacy" or "equal protection" for anyone -- pregnant mother, father, preborn child, or society.
- ***Poor Women.*** Abortionists plead for tax dollars from the public treasury to help "poor women." That is, they plead that if a rich woman can afford to murder her preborn child, the public must pay for a poor woman to murder her preborn child. Neither rich nor poor pregnant mothers may murder their preborn children with impunity in America. And, our Land of the Free is great enough to provide true benefits to poor families rather than the wherewithal to murder their children. No society shall reduce the welfare rolls by murdering the young, and public dollars for abortion is really forced abortions for poor families who deserve respect and dignity.
- ***Teenagers.*** Abortionists plead for tax dollars to "help" teenagers. Abortionists provide murdering a preborn child as their response to the violation and destruction of statutory rape. Abortionists destroy the family by using secret abortion to build a wedge between parents and their teenagers. Abortion is the cause rather than the solution for any problem facing young people today.

N.B. These are the same old tired arguments which were repudiated for slavery and the Holocaust. The slave-owner said that the slave was his property with which he could do as he decided and without governmental interference. Nazis acted as sovereigns who decided life or death. Now, abortionists want to decide life or death, and inflict America with the shame of administering the "death penalty" to more than 4,000 innocent preborn human beings each day. And, abortion shall be repudiated by America in favor of life.

V. *Disrespect for the American Way of Life*

The protection of the right to life of each human being in existence at fertilization was purchased for

us as a country and a generation by the blood of patriots shed since the declaration of our independent Nation This same patriotic blood bought for us an end to slavery and threats by foreign nations to impose a Final Solution on our freedoms and way of life.

It is untenable disrespect for our hard-won freedoms that our Nation today permits the shedding of innocent blood of our preborn brothers and sisters by decriminalized murder/abortion. To condone, tolerate or participate in this disrespect is disqualifying for anyone to serve in a position of public trust for our country.

VI. What is to be Done!

Mr. Chairman, and Members of the Committee,

Why will the controversy about abortion not go away in our country, even though it is now two decades since the Supreme Court handed down its infamous *Roe v. Wade* decision? There is no mystery about this conflict -- it is heated because it involves life or death, and there is no in-between position for compromise. The abortion issue must and shall be decided in favor of life for both the pregnant mother and her innocent preborn child. The contentious issue of slavery lingered for decades because it had no compromise, and our Nation decided it in favor of freedom. Certainly, Germany has learned by its past inglorious history, and has decided not to commit more crimes against humanity by murder/abortion.

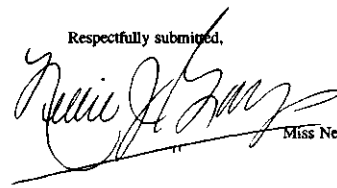
> **N.B. At the dedication of the Holocaust Museum here in Washington *a few weeks ago, survivors gave a strong message of (1) Never Again,* and (2) Do Not Stand By. This message was not for just another time and another place, but for all time and for all places, including the United States to stop slaughter of the innocents now.**

Mr. Chairman, and Members of this Senate Judiciary Committee,

Our country suffers if the law of our land permits the deliberate killing of even one born or preborn human being in existence at fertilization. Our country suffers if even one elected or appointed public official operates under the wrong impression that the law of our land permits the deliberate killing of even one born or preborn human being in existence at fertilization.

It is your responsibility to assure that Judge Ruth Bader Ginsburg is not confirmed to be a Justice of our Supreme Court, because her own testimony indicates her disqualification based on pre-judging and selectively permitting privileges.

Respectfully submitted,



Miss Nellie J Gray
President

The CHAIRMAN. Thank you for your testimony.

Ms. Hirschmann.

STATEMENT OF SUSAN HIRSCHMANN

Ms. HIRSCHMANN. Mr. Chairman and members of the committee, thank you for the opportunity today to testify before you on this important occasion.

My name is Susan Hirschmann, and I am the executive director of Eagle Forum, a national conservative, pro-family organization headed by Phyllis Schlafly, of Alton, IL.

We are concerned that Judge Ginsburg's record has not been given the thorough examination that the writings of other recent Supreme Court nominees have had. I have included a list of 20 questions that will be part of my testimony that we believe should be answered before she is confirmed.

Most of these questions are based on the book she coauthored in 1977, called "Sex Bias in the U.S. Code," which was published by the U.S. Commission on Civil Rights, for which she was paid by the Federal taxpayers under contract No. CR3AK010. The purpose of the book was to identify how Federal laws must be changed to conform to the "equality principle" for which she is a leading advocate.

So the questions that I think should be asked before she is confirmed will follow:

Do you still believe, as you wrote in 1977, that the equality principle means that women must be drafted into military service anytime men are?

Do you still believe, as you wrote in 1977, that there is a "need for affirmative action" for women in the armed services?

Do you still believe, as you wrote in 1977, that the age of consent for sexual acts should be lowered to 12 years?

Do you still believe that the equality principle requires that statutory rape laws be eliminated, because they only protect minor girls?

If you would approve of statutory rape laws, at what age would you favor having them take effect?

Do you still believe, as you wrote in 1977, that the equality principle requires that prostitution be legalized or decriminalized?

Do you still believe, what you wrote in the 1974 Report of Columbia Law School Equal Rights Advocacy Project on the Legal Status of Women under Federal Law, that "replacing Mothers Day and Fathers Day with Parents Day should be considered as an observance more consistent with a policy of minimizing traditional sex-based differences in parental roles," as you wrote?

Do you still believe, as you wrote in 1977, that the equality principle requires that prisons and reformatories be sex-integrated?

Do you still believe, as you wrote in 1977, that the Boy Scouts and the Girl Scouts must change their names and become sex-integrated, in order to conform to the equality principle and eliminate the "stereotyped sex roles"?

Do you still believe, as you wrote in 1977, that the equality principle requires that college fraternities and sororities be sex integrated into "social societies"?

Do you think that young adults on college campuses should not be allowed to make their own choices of organizations, but that the

government should dictate what gender-based organizations are not allowed?

Do you still believe, as you wrote in 1977, that the concept of a breadwinner husband and homemaker wife "must be eliminated from the code, if it is to reflect the equality principle?

Do you still believe, as you wrote in 1977, that the equality principle "should impel development of a comprehensive program of government-supported child care"?

In your 1977 book, you wrote that "the Constitution * * * was drafted using the generic term man." Will you show us in what still-operative section of the U.S. Constitution the term "man" appears?

Do you still disagree with the Supreme Court decisions ruling that taxpayers do not have to pay for abortions, as you wrote in 1980 in the book "Constitutional Government in America"? Do you believe that the equality principle requires taxpayers to pay for abortions for women?

Do you believe that the equality principle requires that there be no legal restrictions on a woman's right to abortion?

Is the New Republic magazine article correct in its August 2 issue, wherein it states that, during the 1970's, you artfully concealed the effect the equal rights amendment would have on abortion rights, in order to assist ratification of ERA, but after it was dead, you then made public your theory that the principle of gender equality requires legal access to abortion?

Do you believe in affirmative action for women in the workplace?

Finally, exactly what changes in the law do you favor, in order to attain the equality principle for which you are known as the leading advocate?

We think that, if these questions are answered, the myth of Judge Ginsburg as a "moderate" will be debunked. In fact, her writings betray her as a radical feminist, far out of the mainstream.

I would ask that these oral remarks, as well as additional written remarks be included as part of my testimony.

The CHAIRMAN. Without objection, it will be.

Ms. HIRSCHMANN. I would like to express my appreciation for you allowing another side to be presented today. Thank you very much for the opportunity to testify.

[The prepared statement of Ms. Hirschmann follows:]