

PROLOGUE

The spark that fueled the wildfire was a nomination to the U.S. Supreme Court, a white male from Florida named G. Harrold Carswell.

On January 19, 1970, President Richard M. Nixon had reached back into the pool of southern federal judges to fill a vacancy on the high court. His first nominee, U.S. Circuit Judge Clement Haynsworth, had been rejected by the Senate two months before. Carswell was a younger judge, a relative newcomer to a different federal circuit court.

There was much to question in Carswell's record, and his opponents quickly found it. There were the statements he had made about white supremacy when he ran for the Georgia legislature in 1948. There were the cases in which he had ruled against the interests of organized labor. There was the high rate at which his district court opinions had been overturned by appellate courts. In the midst of the confirmation battle, Republican Sen. Roman Hruska of Nebraska did the nominee no favors when he observed that "even if he were mediocre, there are a lot of mediocre judges and people and lawyers. They are entitled to a little representation, aren't they, and a little chance?"

But there was something else. A few months before, Carswell had joined his fellow jurists in declining to hear the case of a woman named Ida Phillips, who was denied an assembly-line job at Martin Marietta Corporation because she had preschool-aged children.

January 29, 1970, the third day of Carswell's confirmation hearings, marked the first time in American history that women challenged a federal judicial nomination because of the nominee's positions on sex discrimination. Democratic Rep. Patsy T. Mink of Hawaii told the Senate Judiciary Committee that Carswell's nomination was "an affront to the women of America." She went on to charge that "male supremacy, like white supremacy, is equally repugnant to those who believe in equality." When Republican Sen. Marlow Cook of Kentucky pointed out that ten other judges on the circuit court had agreed with Carswell's decision to deny a full-court review, lawyer Mink replied, "Yes, I am well aware of that, Mr. Senator. But the other nine are not up for appointment to the Supreme Court."

Mink was followed by Betty Friedan, then the president of the National Organization for Women (NOW). Friedan observed that more and more sex discrimination cases were working their way through the courts. She contended that Carswell would be "a sexually backward judge" who would deny the cases a hearing before the Supreme Court.

Dr. Jo-Ann E. Gardner, an experimental psychologist at the University of Pittsburgh, also sought to testify. Gardner said she represented FOCUS on Equal Employment for Women, what she described as a bipartisan national coalition with chapters in several cities. "In 1948," she observed in her prepared remarks, "the people of this country were not sensitive to the dreadful inequities produced by white supremacist statements. Today, in 1970, the people are generally unaware of the dreadful inequities that result from parallel but more subtle male supremacist beliefs."

In Ann Arbor, Michigan, a newly minted lawyer and Democratic activist got wind of Gardner's efforts and decided to organize a FOCUS chapter there. Back then, Jean King later recalled, "Ten people were enough to form an organization." She invited a few friends to meet in the living room of her modest home on Sunnywood Drive, a shady street west of downtown. Their first goal was to support Gardner, who, King remembered, "planned to travel to Washington and chain herself to a chair in the Senate hearings. . . ."

On February 3, a story on the front page of the *Detroit Free Press's* "For and About Women" section spotlighted King and FOCUS's "cross-country telephone campaign" through which members were calling two

friends and urging them to send a telegram to their senators, protesting the nomination. They were then supposed to recruit more friends to join the opposition network.

“We feel that there is a real groundswell of indignation among women of all ages and political preferences,” King and Mary Yourd, her Republican co-chair, were quoted in another news story, “and we want this indignation to become visible to the men who decide whether Carswell could make fair decisions for all Americans, men or women, white or black.”

Carswell’s confirmation vote was delayed.

On March 31, King distributed instructions to her troops in Michigan, urging them to send telegrams to Republican Sen. Robert P. Griffin, who sat on the Senate Judiciary Committee, and to get friends from other key states to do the same. King noted, “It will cost you about \$3.00 for one phone call and a wire. That is less than a penny a month for the 30 years Carswell may spend on the Court unless he is rejected by the Senate.”

On April 5, a letter from Mary Dabbs appeared in the *Michigan Daily*, the University of Michigan’s student newspaper. Dabbs was a mother of two who, ten years before, had been turned down for a secretarial job in Atlanta because she had scored too high on an IQ test. Identifying herself as a FOCUS member, Dabbs urged *Daily* readers to phone key senators to oppose the nomination. “The next great moment in the history of the Supreme Court may be when it decides whether or not women are persons under the Constitution,” she wrote. “Carswell is most unlikely to make a useful contribution to those deliberations.”

Three days later, the Senate rejected Carswell’s nomination by a bipartisan vote of 51 to 45.



The battleground now seems so familiar, that it can be hard to remember what a different time that was. 1970. Fifty years had passed since American women had won the right to vote. More than a hundred years had passed since Congress had approved legislation to create public land-grant universities, open to both men and women.

But, as *New York Times* columnist Gail Collins wrote of that time, “. . . it seemed that once women had gotten the right to vote, they never got anything else. There was an endless list of ways they were discriminated against or treated unfairly, from lower salaries to inferior facilities for girls’ sports in public schools to the different—and less generous—way that Social Security benefits were computed on women’s wages. Few people seemed to think all this posed much of a problem. Many of the women who experienced the most discrimination took it for granted; those who didn’t saw little possibility for major change.”

And universities, those bastions of progressive values and liberal thinking at mid-century, turned out to be no better than most other U.S. institutions when it came to defining the roles women were expected to play.

Throughout the first half of the 20th century, women earned college degrees and went into the workplace in growing numbers. But when World War II came to an end, so did all of those gains. As GIs returned to campuses to finish their degrees, more than one college recognized the veterans’ wives with a “PhT” certificate—short for “Putting Hubby Through.” When women did earn legitimate degrees, they were advised that their ultimate goal should still be marriage and children.

Adlai Stevenson, twice the Democratic presidential nominee in the 1950s, delivered the 1955 commencement address at Smith College and began by poking fun at the lofty themes of most graduation speeches. “But for my part,” he went on, “I want merely to tell you young ladies that I think there is much you can do about that crisis in the humble role of housewife—which, statistically, is what most of you are going to be whether you like the idea or not just now—and you’ll like it!”

Stevenson continued, telling the graduates that they “may be hitched to one of these creatures we call ‘Western man,’ and I think part of your job is to keep him Western, to keep him truly purposeful, to keep him whole. . . . This assignment for you, as wives and mothers, has great advantages. In the first place, it is home work—you can do it in the living room with a baby in your lap, or in the kitchen with a can opener in your hands. If you’re really clever, maybe you can even practice your saving arts on that unsuspecting man while he’s watching television.” It

was important work, Stevenson asserted, no matter how well educated they were, to assure the defeat of totalitarianism.

W. K. Jordan, president of Radcliffe College in the same era, welcomed entering women students by telling them that their education would “prepare them to be splendid wives and mothers and their reward might be to marry Harvard men.” In his 1950 book, *Educating Our Daughters*, Lynn White, Jr., president of Mills College, the all-women school in California, proposed a new curriculum that would prepare a woman to “foster the intellectual and emotional life of her family and community.” He called for college courses in home economics that would teach his students the “theory and preparation of a Basque paella, of a well-marinated shish kebab, [and] lamb kidneys sautéed in sherry.”

As Betty Friedan, a member of the Smith Class of 1942, approached her 15th reunion, she and two classmates prepared a survey to assess their class’s attitudes about the education they had received. Her findings uncovered a widespread sense of dissatisfaction, and led her, in 1963, to write *The Feminine Mystique* and call out “the problem that has no name.”

When she was at Smith, Friedan recalled that she had met future Yale president Kingman Brewster when they were both editors of their campus newspapers: “There was something in the way that the men like Kingman Brewster were expected to do big things in society and that expectation propelled them to do it. I don’t think that this could possibly have been true at Smith. It was still too much of a freaky thing for women to do anything at all, and then it wasn’t that big. Sure you might have been expected to go on and get your PhD and do the academic thing—that was about it. . . . The Smith education was geared to produce very intelligent wives of executives and other prominent men, who would do traditional community service.”

Feminist Gloria Steinem, who followed Friedan in the Smith Class of 1956, recalled, “The justification of education for women which I heard at Smith, and the one I myself used to justify why I was there. . . was that educated children could only be produced by educated mothers. . . . There was an attitude of apology all the time, so that everybody was proud of having four times more male faculty than female faculty, and saying, ‘Well, it’s all right to educate women because they’re going to be mothers.’ There was no sense that we were going to be anything else. There

was also no preparation for the kinds of discrimination we would meet if we did try to get a job—no one ever told us anything, at least not that I can remember. We were taught that our education was terribly important, but the Vocational Department still suggested jobs as researcher and so on, and didn't object to recruiters who asked only if we could type."

When Hillary Rodham Clinton spoke on behalf of her classmates at her 1969 commencement ceremony at Wellesley, she mused, "The question about possible and impossible was one that we brought with us to Wellesley four years ago. We arrived not yet knowing what was not possible. Consequently, we expected a lot. Our attitudes are easily understood having grown up, having come to consciousness in the first five years of the decade—years dominated by men with dreams, men in the civil rights movement, the Peace Corps, the space program—so we arrived at Wellesley and we found, as all of us have found, that there was a gap between expectation and realities." Among the "impossibilities" Clinton and her classmates had encountered was the chance to earn their degrees from Harvard. That university did not admit women as regular undergraduates until after Clinton had moved on to law school.

And that barrier was not unique to the Ivy League. The University of Virginia first admitted black students to its undergraduate programs in 1955. But it was 15 more years before it made the same concession to women.

As some women of the post-war generation pursued advanced degrees and teaching jobs at universities, they found that if they encountered sex discrimination—if they even understood what that word meant—they had few ways in which to fight it. As Congress began addressing discrimination against blacks in the mid-1960s, its southern members figured out that the easiest way to kill a civil rights bill was to build in protections for women. Consequently, as Congress debated the Carswell nomination in the first months of 1970, this was the landscape that women faculty members faced:

- The Equal Pay Act of 1963 exempted professional and executive women, including women teachers, faculty, and administrators at all levels of education in the United States. The exemption had been supported by the bill's woman sponsor as the price she had to pay to win passage of the legislation.

- Title VII of the Civil Rights Act of 1964, which prohibited job discrimination based on race and sex and other criteria, excluded employees “in their educational activities.”
- Title VI of the same law barred discrimination based on race, color, and national origin in federally assisted programs but did not include discrimination based on sex.

The University of Michigan was no different from many other campuses at that time—and in some ways, worse. Although it admitted its first woman in 1870, around the time the land-grant colleges were founded, it had a longer history than most of the country’s other public universities. Since it opened its doors in 1817, it had promoted the same kind of clubby male atmosphere found at the eastern Ivy League schools, viewing itself as a sort of “Harvard of the West,” as “the West” was then defined.

Barbara Newell arrived in Ann Arbor in the late 1960s as executive assistant to the new U-M president, a position that made her the university’s highest-ranking woman administrator. But she still remembered her first visit two decades earlier, when she was in high school and her father was teaching at Amherst. “My father was invited to lecture and we were to stay in the Student Union,” she recalled. “We found the Student Union, and Dad said, ‘Well, here, why don’t you get out and go in and register and I’ll find a place to park the car.’ Logical. So my mother and I got out of the car, went to the front door of the Student Union, and were told to walk around the building.” Women were not permitted to use the front door of the Michigan Union until 1954. “So *that*,” Newell recalled, “was my introduction to Ann Arbor.”

Later, after she assumed a leadership role on women’s issues, Newell observed, “I had the sense that there was an awful lot of Ann Arbor that was like that front door. It just didn’t open for a long, long time.”

In 1969, Michigan women still could not get a lifetime membership in the Union because the facility’s 1904 Constitution prohibited it. Nor did the Science Research Club, a university fixture since 1902, accept women members. As for the hallowed ground of Michigan Stadium, the rules had just been loosened a bit. In the fall of 1969, dogs were permitted on the field for the first time, but women and children still were not. *Michigan Daily* staff member Sara Krulwich was confronted by security

officials when she sought to shoot photographs of a football game at the start of that season. Women would still be barred from the Michigan Marching Band for three more years.

But change, when it finally came, was rapid, so rapid, in fact, that it was easy to forget how challenging the battle had been.

The Carswell nomination helped the friends in the Ann Arbor chapter of FOCUS find their voices. The judge's defeat gave them a sense of power. And within a matter of months, they would be among the many women around the country who were making new headlines of their own.