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*O'Connor
Nomination*

OCTJLACO
JUL 10 1981

CONGRESSIONAL MAIL RECEIVED JUL 10 1981

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Mrs O'Connor Nomination

Office of the Attorney General
Washington, D. C. 20530



July 7, 1981

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM:

KENNETH W. STARR *KWS*
COUNSELOR TO THE ATTORNEY GENERAL

On Monday, July 5, 1981, I spoke by phone on two occasions with Judge O'Connor. She provided the following information with respect to her public record on family-related issues:

- As a trial and appellate judge, she has not had occasion to rule on any issue relating to abortion.
- Contrary to media reports, she has never attended or spoken at a women's rights conference on abortion.
- She was involved in the following legislative initiatives as a State Senator in Arizona:

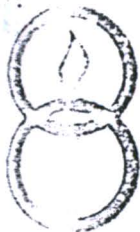
--- In 1973, she requested the preparation of a bill, which was subsequently enacted, which gave the right to hospitals, physicians and medical personnel not to participate in abortions if the institution or individual chose not to do so. The measure, Senate Bill 1133, was passed in 1973.

--- In 1973, she was a co-sponsor (along with 10 other Senators), of a bill that would permit state agencies to participate in "family planning" activities and to disseminate information with

STATEMENT BY SENATOR PAUL LAXALT

I discussed Mrs. O'Connor's appointment with the President this morning.

The President indicated that he is fully satisfied with Mrs. O'Connor philosophically and in terms of legal competence. Knowing this was a most important appointment and that the President considered a number of prospects, I'm satisfied she will make an excellent addition to the Court.



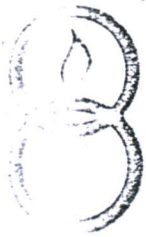
NATIONAL RIGHT TO LIFE

committee, inc.

Suite 341, National Press Bldg. — 529 14th Street, N.W. —
Washington, D. C. 20045 — (202) 638-4396

SANDRA O'CONNOR ABORTION RECORD

- 1970 Arizona Senate, a bill to legalize abortion.
Bill passed the Senate Judiciary Committee. Sandra O'Connor, a member of the committee, voted pro-abortion.
Bill defeated in Senate Republican Caucus with Senator Sandra O'Connor, a member of the caucus, voting pro-abortion.
- 1973 Sen. Sandra O'Connor was prime sponsor of S-1190, a family planning bill which would have provided family planning information to minors without parental knowledge or consent. The definition of "family planning" was broad enough to encompass abortion.
- 1974 HR 2012, a memorialization resolution calling upon Congress to pass a Human Life Amendment had passed the Arizona House by a wide margin. Sen. Sandra O'Connor voted against the resolution, which passed by a 4-2 vote, in the Senate Judiciary Committee.
- 1974 A bill to forbid abortions at the University of Arizona at Tucson passed 21-9 in the Arizona Senate with Senator O'Connor voting pro-abortion.
While a member of the Tucson Hospital Board, Sandra O'Connor voted for Blue Cross funds being used to pay for elective abortions.
- 1977 Sandra O'Connor was a keynote speaker at the pro-abortion International Women's Year state meeting in Arizona.



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PRESS RELEASE

FOR IMMEDIATE RELEASE

July 7, 1981— 2 p.m.

CONTACT: J.C. WILLKE, M.D.

(202) 638-4396

WASHINGTON, D.C.— "We are extremely disappointed with the appointment of Sandra O'Connor to the U.S. Supreme Court," National Right to Life Committee President Dr. J.C. Willke said today. "We intend to oppose her confirmation by the U.S. Senate because of her consistent pro-abortion record."

Willke said that information on O'Connor's pro-abortion record had been submitted to the White House, but apparently disregarded. "This appointment represents a repudiation of the Republican Platform pledge to appoint judges who respect the sanctity of innocent human life," Willke said.

The National Right to Life Committee will hold a press conference on the O'Connor appointment at 3:30 p.m. today at Room EF 100 at the Capitol (next to the Law Library).

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respect to family planning. The bill made no express mention of abortion and was not viewed by then Senator O'Connor as an abortion measure. The bill died in Committee. She recalls no controversy with respect to the bill and is unaware of any hearings on the proposed measure.

--- In 1974, Senate Bill 1245 was passed by the Senate. Supported by Senator O'Connor, the bill as passed would have permitted the University of Arizona to issue bonds to expand existing sports facilities. In the House, an amendment was added providing that no abortions could be performed at any educational facility under the jurisdiction of the Arizona Board of Regents. Upon the measure's return from the House, Senator O'Connor voted against the bill as amended, on the ground that the Arizona Constitution forbade enactment of legislation treating unrelated subject matters. In her view, the anti-abortion rider was unrelated to the primary purpose of the bill, namely empowering the University to issue bonds to expand sports facilities. Her reasons for so voting are nowhere stated on the record.

--- In 1970, House Bill 20 was considered by the Senate Committee on which Senator O'Connor then served. As passed by the House, the bill would have repealed

Arizona's then extant criminal prohibitions against abortion. The Committee majority voted in favor of this pre-Roe v. Wade measure; a minority on the Committee voted against it. There is no record of how Senator O'Connor voted, and she indicated that she has no recollection of how she voted. (One Senator voting against the measure did have his vote recorded.)

Judge O'Connor further indicated, in response to my questions, that she had never been a leader or outspoken advocate on behalf of either pro-life or abortion-rights organizations.

She knows well the Arizona leader of the right-to-life movement, a prominent female physician in Phoenix, and has never had any disputes or controversies with her.

false!

On the two crucial votes on abortion, Sandra O'Connor "Cannot remember" how she voted.

That was told to the senior staff in a secret briefing before the announcement.

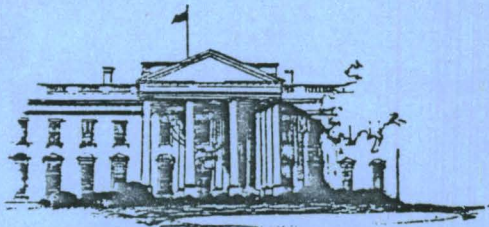
That refers to her 1970 vote in committee to legalize abortion by removing all criminal penalties for it.

That also refers to her 1974 leadership of the opposition to Arizona's calling upon Congress for a Human Life Amendment. There was no record vote. The pro-life lobbyists in Arizona vividly recall O'Connor's ~~opp~~ pro-abortion position. O'Connor "cannot remember" what her position and her vote were.

Please note another lie: The last paragraph of Ken Starr's memo -- and by the way, does anybody know about Ken Starr at Justice? check that one out -- is a dreadful deceit.

The woman physician referred to is Dr. Carolyn Gerster, a bitter opponent of O'Connor and everything she stands for.

No one at the White House bothered to check this out because they did not want to know the truth.

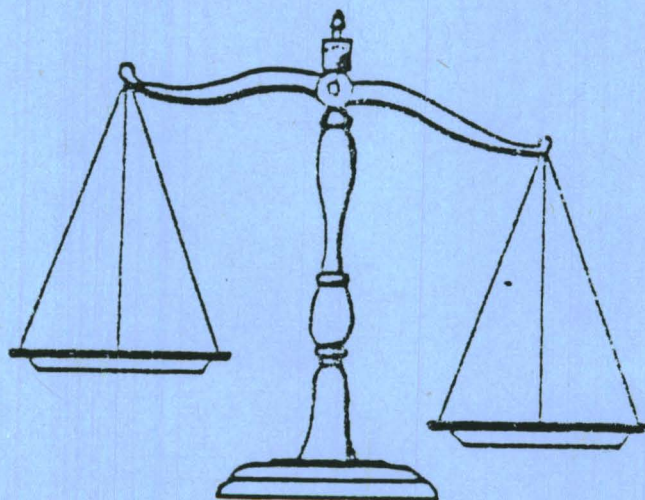


The White House NEWS SUMMARY

First woman is named to U.S. Supreme Court

THE NOMINATION OF JUDGE O'CONNOR

Initial Editorial Reaction to President Reagan's Announcement



A White House News Summary Special Edition

Wednesday, July 8, 1981

THE NOMINATION OF JUDGE O'CONNOR

Initial Editorial Reaction to President Reagan's Announcement

A Landmark For The Court

"The highest court in the land has been an all-male bastion for much too long, and we're happy to see Reagan breach the wall. Let's hope the Senate will act on the nomination as speedily as possible - in fairness to Judge O'Connor and to the court, which ought to be at full strength when it reconvenes in the fall."
(The New York Daily News, 7/8)

The Retiring Judiciary

"There is going to be continuing pressure in the future to deimperialize the Judicial Branch. But maybe along the way it would be well to remember that insofar as the disenchantment with the overreaching judges was more than a partisan complaint, it was not an end in itself...That, and not a simple passivity, is the kind of restraint we're going to be looking for from Mrs. O'Connor's opinions and from Mr. Reagan's future appointments."
(The Wall Street Journal, 7/8)

A Person For The Court

"President Reagan has chosen a woman for the Supreme Court - and more. Other Presidents have had the will, or the opportunity, but never both. The very presence of a woman in the cloister will have a healthy effect on justice."
(The New York Times, 7/8)

More Than A Woman

"It is as a woman that Mrs. O'Connor's nomination is most newsworthy, but it is as a judge on the court of last resort that her nomination will be and should be appraised. And if she does join the court, in the long run it is as a jurist, not a woman, that she will leave her footprints in the sands of time."
(The Baltimore Sun, 7/8)

The Nomination of Mrs. O'Connor

"That President Reagan has gone to the second tier of a state court structure in his search for a female nominee may be less a commentary on Judge O'Connor's qualifications than on a system that, until the quite recent past, kept almost all women lawyers from reaching high places in their chosen profession. Our first impression of her qualifications is that the Senate will find nothing to impede her confirmation."
(The Washington Post, 7/8)

New Ground, New Directions

"It was important as a symbol of the nation's new sensitivity toward equal rights that a woman be appointed to the U.S. Supreme Court for the first time in its 191-year history. It was important that the nominee possess the necessary qualifications... and from the evidence at hand, O'Connor is well qualified."
(The Los Angeles Times, 7/8)

A Landmark Appointment to the Supreme Court

"The choice of Sandra Day O'Connor is also a commendably prompt redemption of Reagan's campaign pledge to fill 'one of the first Supreme Court vacancies in my administration' with the 'most qualified woman I can find.' It's all the more commendable because political compatability with all of the President's single-issue constituencies is not among O'Connor's qualifications."
(Newsday, 7/8)

Reagan Choice For High Court Good Politics

"And what Ronald Reagan has done in this case is make a safety play by keeping both his promise to appoint a woman and his commitment to choose someone with conservative views on the functions of the judiciary. That may not satisfy the extremists of left or right, but it is winning politics in anyone's book."
(Jack W. Germond & Jules Witcover, The Washington Star, 7/8)

-end-

(Copies of editorials and columns attached.)

A landmark for the court

From all accounts, President Reagan picked a winner and made history as well by selecting Sandra O'Connor to fill the vacancy on the Supreme Court.

The highest court in the land has been an all-male bastion for much too long, and we're happy to see Reagan breach the wall. It's a signal honor for the Arizona jurist and a long-overdue recognition of the fact that in law, as in other fields, women have come into their own.

But Judge O'Connor promises to bring to the court more than a history-making label. She was a top student at Stanford Law School, a respected lawyer in Arizona and the Republican majority leader of the State Senate before being named to an appellate court—by a Democratic governor.

People familiar with Judge O'Connor's work on the bench give her high marks on all counts—grasp of the law, judicial temperament and clear, cogently written opinions.

The chorus of approval is not unanimous. The Right to Life Committee and the Moral Majority already have protested what they regard as Judge O'Connor's "pro-abortion" leanings. What that means, we suspect, is that as a private citizen the judge doesn't share their particular views on abortion.

But her entire record argues that she would not on the bench let her personal views intrude on her judicial actions. Apparently, she does not subscribe to the old Earl Warren philosophy of the Supreme Court's right to invade every nook and cranny of American life.

In this sense, Mrs. O'Connor is judicially nonpartisan in the best meaning of that term. She is not the Warren kind of "activist" judge that Reagan himself said he did not want on the high bench. And that should be enough for the Moral Majority and its allies.

The President is satisfied that Judge O'Connor shares his view that judges should interpret the laws, not make them. He has made his choice, and it looks like a good one. Let's hope the Senate will act on the nomination as speedily as possible—in fairness to Judge O'Connor and to the court, which ought to be at full strength when it reconvenes in the fall.

The Retiring Judiciary

When he announced his intention yesterday to name Sandra O'Connor to the U.S. Supreme Court, President Reagan seems to have fulfilled not one but both of his long-standing commitments on the subject. First, of course, he had promised to search for a qualified woman to fill a vacancy; not surprisingly, it appears he has easily found one. But second, it looks like the nominee meets the ideological test Mr. Reagan said he would apply—not the test of political conservatism, but the test of belief in a philosophy of judicial restraint. Mr. Reagan is fed up with the imperial judiciary. So are a lot of people. So is the Supreme Court itself. The question is whether they are fed up for the right reasons.

About five years ago commentators began to notice that a new kind of judicial activism was abroad in the land. It involved a certain role reversal: The traditionally conservative courts seemed now to be fighting the Executive and Legislature in behalf of the liberal principle of extending government's protective scope.

Moreover, the new activism seemed on its way to becoming entrenched so that it could not be easily reversed by elections or swings of opinion. The courts were operating by expanding the definitions of basic constitutional concepts like standing and due process; such ground once broken is difficult to abandon. The courts also had a seemingly ever-growing field of overall government activity and public interest lawyers to cope with; this, too, seemed a near irreversible trend.

Conservatives didn't like the development because they saw liberals using the courts to protect themselves against the swelling conservative tide in electoral politics. But conservatives said the problem was more general than that. The danger, they argued, was that the courts were reaching for partisan definitions of constitutional rights in order to subvert the legitimate authority of democratic politics.

The Burger Supreme Court had certainly done its share of the judicial colonizing the critics were worried about, but in the decisions it handed down this term the court showed that it has begun to take the case against the imperial judiciary quite seriously.

There were first of all the big decisions. The Justices upheld the President's power to take U.S. citizens' claims against Iran out of American courts and put them in the hands of an international tribunal. The court similarly upheld the Secretary of State's

authority to take away Philip Agee's passport once he had decided that the former CIA agent threatened national security. And the court endorsed the discretionary power of Congress to set up an exclusively male military draft.

There were other such decisions as well: upholding Congress's and OSHA's right to promulgate unreasonable occupational health standards, defending localities' powers to ban topless dancing and keep Hare Krishna proselytizers from wandering around state fair grounds, standing up for state government powers in the imposition of severance taxes. Of course there were qualifications in these opinions, and partial dissents, and the special circumstances of particular cases, and disclaimers by the Justices about how the holdings were really narrower than they might appear. But through the opinions did run the thread of a newly self-conscious deference to Legislative and Executive authority.

On some of these decisions we liked the bottom line and on some we didn't. We think the holding on Iran was a big mistake; in distinct contrast, we are not mourning the obliteration of Philip Agee's passport. But like them or not, we found the majority opinions in the prominent cases sometimes disquieting. On issues from Hare Krishna to the draft, they trotted past free speech, due process or equal protection issues that were not merely lurking in the bushes but standing in the middle of the road waving banners. You don't have to be overly sensitive to think such questions were at least worth a more extended arm wrestle.

There is going to be continuing pressure in the future to deimperialize the Judicial Branch. But maybe along the way it would be well to remember that insofar as the disenchantment with the overreaching judges was more than a partisan complaint, it was not an end in itself. It called for deference to the democratic process, but not an indiscriminate deference: It asked instead that individual rights be both defined with self-discipline and defended with care. It was a plea, in other words, that the judicial concern for individuals not be allowed to fly apart into an incoherent defense of both anarchy and statism.

That, and not a simple passivity, is the kind of restraint we're going to be looking for from Mrs. O'Connor's opinions and from Mr. Reagan's future appointments.

A Person for the Court

President Reagan has chosen a woman for the Supreme Court — and more. Other Presidents have had the will, or the opportunity, but never both. Give him credit, as the National Organization for Women does in calling the appointment of Sandra Day O'Connor a victory. The nation's highest court, which remained segregated by race for a century after the Civil War, is a male club no more.

Give the President credit also for honoring his own campaign promise. Not the cheap pledge that he would soon name a woman justice, but the assurance he gave after the Republican platform called for naming only judges who "respect traditional family values and the sanctity of human life."

He would not be so straitjacketed, he said, but would, as Presidents are entitled to do, seek jurists who shared his philosophy. The right-to-life movement and other extremists are already giving him — and Justice-designate O'Connor — the backhanded honor of opposing the nomination because she showed moderation on some social issues during the

period that she served as an Arizona state Senator.

Mrs. O'Connor's political record in the Arizona legislature will surely be aired in the confirmation process. Her total record, we suspect, will show a lawyer, public servant and state court judge of the even temperament and open mind that the nation's highest court deserves.

The President has been fortunate to find in Judge O'Connor a woman of legal talent and public accomplishment as well as the right political bent. Those who know her agree that she is scholarly and smart. She is described as neither as brilliant nor as reactionary as some of the men the President considered. She is a person of ability in a profession still dominated by male achievers.

The retiring Justice Potter Stewart said he admired most a judicial opinion that did not betray the sex of the author. That is a test the brethren of the Court would have flunked as recently as last week. The very presence of a woman in the cloister will have a healthy effect on justice.

More Than a Woman

President Ronald Reagan is certainly going to leave his footprints in the sands of time. He will go down in the history books as the president who finally nominated a woman for the Supreme Court. After 192 years and 101 brethren, we have a sister, Sandra O'Connor.

It's long past due.

This assumes Mrs. O'Connor will be approved by the Senate. She is already being opposed by those elements in the Republican party who object to the Equal Rights Amendment, which she has supported, and by the right-to-life lobby, because she has supported abortion in some cases. But we do not believe a Republican Senate will turn down a Republican president's first nomination to the court.

However easy this nomination may fare in the Senate, it still took boldness on Mr. Reagan's part. He could have avoided a fight, by naming a man, since his campaign promise was only that *one of his first* Supreme Court nominees would be a woman. Or he could have named a woman who had no record on sensitive issues, or whose record was acceptable to the right wing. That the president did not take an easy path says something about him. He not only has a sense of history, he has a sense of appropriateness. It would have been as wrong to name a woman who opposes the femi-

nist movement on its most important issue, E.R.A., as it would have been in the 1960s to choose as the first black justice one who did not offend segregationists.

So we think Mr. Reagan deserves high praise for his decision.

There is something remarkable about this nominee besides her sex. Her judicial experience is four years as a state court trial judge and two years on Arizona's intermediate appellate court. Not since the Civil War has a justice joined the court direct from a court of this level. Even justices chosen from states' highest courts are rare. Mrs. O'Connor's five-year service in the Arizona Senate is also a characteristic not usually found among justices. Her state court and legislative careers could be valuable to the court, providing as they do a state perspective on federalism. You would assume that as a Supreme Court justice she would give proper Reaganist deference to the decisions of state lawmakers and state judges.

It is as a woman that Mrs. O'Connor's nomination is most newsworthy, but it is as a judge on the court of last resort that her nomination will be and should be appraised. And if she does join the court, in the long run it is as a jurist, not a woman, that she will leave her footprints in the sands of time.

The Nomination of Mrs. O'Connor

THE DECISION of President Reagan to nominate Sandra Day O'Connor of Arizona for a seat on the Supreme Court is far more than the fulfillment of a campaign commitment. It marks the end of a long road for all those women who have ever practiced or aspired to practice law. Just 109 years ago, the court on which Judge O'Connor will sit if the Senate confirms this nomination upheld the power of the states to prevent women from becoming lawyers.

The vestiges of the thinking that produced that now unthinkable discrimination linger on. But the ascension of Judge O'Connor to the nation's highest court would help eliminate more of them, regardless of how she votes on constitutional questions. The fact that a woman has, at long last, been selected for one of these seats of great power will make the continuance of sexual barriers in lesser jobs more difficult to justify.

In some ways, when you think of it, it is incredible that this should have to come as such a momentous event in 1981, that it should have this aspect of novelty and "breakthrough" to it. And we hasten to suggest that it will merely compound the grotesque thinking that has created such a situation if the great legal and political powers that be regard a seat on the court for one female as some kind of equity. Female justices should not be considered as some one-of-a-kind token or representative or quota-filler. Mr. Reagan has helped redeem the shame of his predecessors who wouldn't quite dare to do what he has done. He is to be congratulated for that. Now let us hope there will always be men and women on the court and that this will come to seem ordinary.

From her record in Arizona, it appears Judge

O'Connor has been a good politician, a quality lawyer and a far better than average trial and appellate judge. The kinds of cases she has handled on the state bench, naturally, bear little or no resemblance to those that routinely come before the Supreme Court. This means there are few, if any, clues in her judicial career as to how she will vote on broad constitutional questions. But that is not unusual. Rarely has the public record of any nominee laid bare his judicial philosophy, and sometimes the public record has been totally misleading as an indicator of judicial behavior.

Those who have known Judge O'Connor's work over the years describe her as a conservative but not reactionary Republican and believe she is more likely to end up closer to the philosophical position of Chief Justice Burger than to that of the other Arizonan on the court, Justice Rehnquist. If that is so, the change on the court from Justice Stewart to Justice O'Connor may not alter its direction substantially.

Rarely, if ever, has a president reached so far down into the state judiciary to find a Supreme Court justice. Most of them have come from higher ranks of the judicial system, from national political positions or from the nationally known law firms. That President Reagan has gone to the second tier of a state court structure in his search for a female nominee may be less a commentary on Judge O'Connor's qualifications than on a system that, until the quite recent past, kept almost all women lawyers from reaching high places in their chosen profession. The Senate, of course, must now subject Judge O'Connor's record to the same close scrutiny it has given other nominees. We don't know how this will turn out. Our first impression of her qualifications is that the Senate will find nothing to impede her confirmation.

New Ground, New Directions

It was important as a symbol of the nation's new sensitivity toward equal rights that a woman be appointed to the U.S. Supreme Court for the first time in its 191-year history. It was important that the nominee possess the necessary qualifications.

President Reagan's selection of Arizona Judge Sandra D. O'Connor to succeed Justice Potter Stewart met the compelling historic requirement of putting a woman on the court, and, from the evidence at hand, O'Connor is well qualified.

Since her graduation from Stanford University law school in 1952, she has had a distinguished career in public life that embraces both law and politics.

O'Connor, 51, was first appointed to the Arizona Senate in 1969, was elected twice to that body and in 1973-74 served as Republican majority leader—the first woman in the country ever elected to that post. During her service in the Arizona Senate, she supported a modernized mental-treatment and -commitment law, pushed for open-meeting laws and supported constitutional spending limits. Gen-

erally regarded as a conservative, she reflected a more liberal stand on women's issues. In 1974, she sponsored a bill to present the equal rights amendment to an advisory referendum. On an even more controversial issue that same year, she opposed a bill that would have forbidden abortions unless the mother's life was endangered.

She left the Legislature in 1974, and was elected a Superior Court judge, a position that she held until appointed to the Arizona Court of Appeals 18 months ago. Her service on that court drew praise from her colleagues. Appeals Judge Donald Froeb said of her, "She has a razor-sharp mind, which, combined with a steady temperament, makes her well-suited for the tough questions that would be presented to a Supreme Court justice."

Sen. Dennis DeConcini (D-Ariz.) called her "a conservative, but not in a reactionary sense." His judgment appeared to be confirmed by the instant displeasure over her appointment voiced by right-wing leaders. But their opposition will not likely have much effect, nor should it.

A Landmark Appointment to the Supreme Court

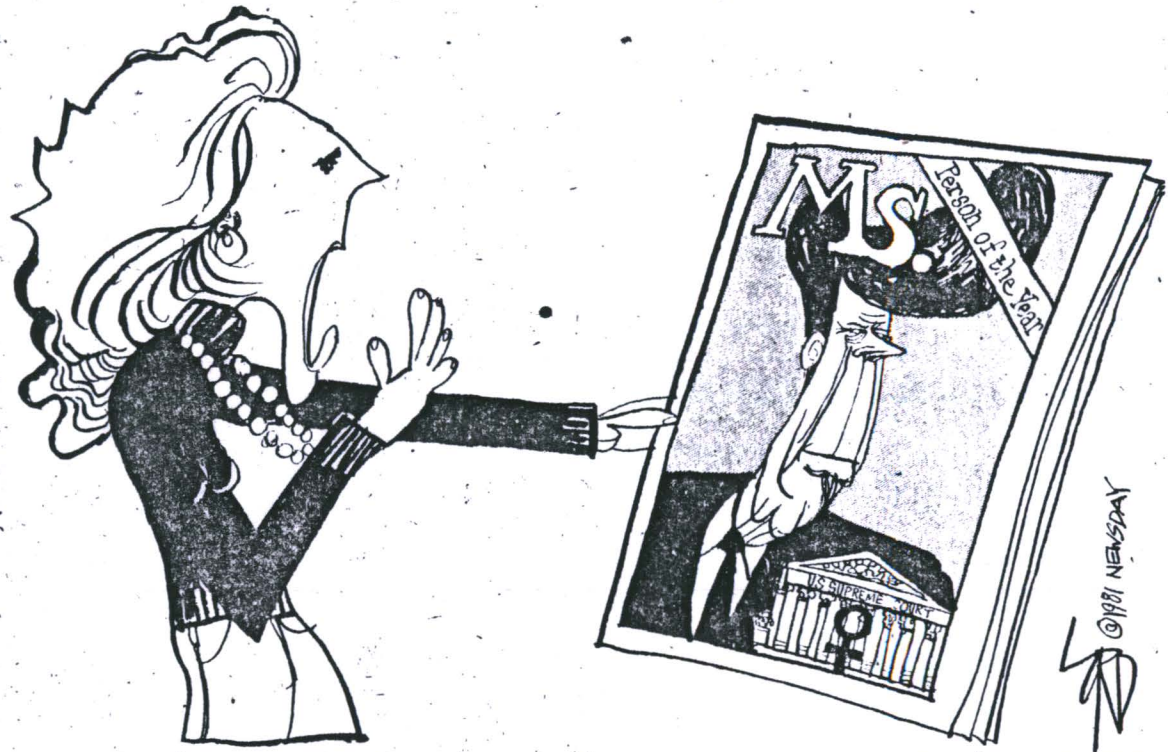
President Reagan's selection of a woman to sit on the Supreme Court is a landmark decision that departs from 101 precedents; that's how many male justices there have been since 1790.

The choice of Sandra Day O'Connor is also a commendably prompt redemption of Reagan's campaign pledge to fill "one of the first Supreme Court vacancies in my administration" with "the most qualified woman I can find."

It's all the more commendable because political compatibility with all of the President's single-issue constituencies is not among O'Connor's qualifications. Within hours of the announcement that she would be nominated, she was under public attack from the right-to-life movement and the Moral Majority.

It seems that O'Connor, as an Arizona state senator in the early '70s, supported ratification of the Equal Rights Amendment. She also opposed a bill that would have banned abortions at the state university hospital except when a woman's life was endangered.

Predictably, the head of the National Right-to-Life Committee complained that Reagan had ignored the 1980 Republican platform plank calling for the appointment of judges "who respect traditional family values and the sanctity of innocent human life." But ignoring the platform is a president's prerogative, and Reagan pronounced himself "completely satisfied" with his nominee's position on abortion.



Newsday Cartoon by M.G. Lord

Predicting a Supreme Court justice's judicial philosophy on the basis of political inclinations is a notoriously treacherous business, and in any case that's not the purpose of Senate confirmation hearings. But whatever the flavor of her Republican politics, there's no doubt that O'Connor is an achiever.

She was a Stanford law graduate at 22, ranking third in the class in which William Rehnquist, now a Supreme Court justice, was first. She has spent most of her working life in government service. She was majority leader of the Arizona senate

in her third term, and she was elevated to the state's second highest court 18 months ago (by a Democratic governor) after five years as a trial judge. She got high marks for integrity in an Arizona bar association poll last year; 90 per cent of the respondents recommended her reappointment.

That resume, as far as it goes, would be a credit to any judicial nominee. Now the Senate should give Sandra Day O'Connor exactly the same careful scrutiny it would give to any other aspirant to the ultimate guardianship of the nation's laws and Constitution.

Germond & Witcover

Reagan Choice For High Court Good Politics



The selection of Sandra D. O'Connor for the Supreme Court is a vintage example of the pragmatic political style of Ronald Reagan.

Neither the president nor any of his political advisers have any illusions about his ability to win broad or lasting support among women's movement activists. His own attitude on abortion and the Equal

Rights Amendment makes that an impossibility.

But by using his first opportunity to fulfill his promise to choose a woman for the court, Reagan has disarmed the most vocal of his critics and put them on the defensive with the great majority of those voters for whom women's issues are not central concerns.

As a practical matter, everyone knowledgeable about government and politics understands that the appointment of a woman to the court, in itself, isn't going to improve the position of women in general in achieving equality under the law. That would be true even if Sandra O'Connor were a flaming zealot on women's issues, which is something she most decidedly is not. So-called "women's issues" make up only a tiny fraction of those that reach the court, after all.

But to those millions of voters for whom those issues aren't emotional imperatives, the president now can be presented as a leader who not only kept his promise but was willing to do something so many of his liberal predecessors never managed to accomplish, for all their high-blown talk about equality for women.

The fact that O'Connor's record in support of abortion and ERA already has inspired a backlash among Reagan's most conservative backers is, in a sense, an added political benefit for the president. It makes it easy for the White House to depict him as a man following a reasonable middle-course unsatisfying to the extremists on either end of the ideological spectrum.

And if there has been a single message in the opinion surveys of the last few years, it has been a reaction against political extremism. We

have an electorate that is determinedly middle class and middle road — and, more to the point, one impatient with arguments over political theology at the expense of practical effectiveness in dealing with national problems.

In making this decision, as in his campaign against Jimmy Carter last year, Ronald Reagan has aimed directly at that great center and, in the bargain, found a jurist whose opinions apparently coincide with his own desire for what Richard Nixon used to call "strict constructionists" on the court.

The short-term benefit of the president's decision is obvious. The choice of O'Connor at the first opportunity is certain to make Reagan's life easier when other vacancies occur on the court over the next few years. There could be as many as four or five other openings, and the president now will be free to fill them without a lot of nagging from the press and the women's movement about keeping commitments.

There may come a time, of course, when the cry will go up for women to enjoy equality of representation on the Supreme Court, which is clearly a reasonable enough expectation. But it is likely to be some years before that kind of demand has serious political credibility with the public at large.

Over the long term, the choice of Sandra O'Connor is not likely to mean much politically, assuming that her confirmation by the Senate is achieved without serious incident. Supreme Court appointments get a lot of attention at the moment they are made, and a president can do himself considerable damage with a choice that goes sour. Richard Nixon's nomination of G. Harrold Carswell, for example, was not something he was anxious to boast about in later years.

But the fact is that voters who make decisions on presidents on the basis of their appointments to the court are clearly the exception rather than the rule. Political and legal professionals may make judgments about the quality of judicial appointments, but the Supreme Court is too far removed from the lives of most people to influence their verdicts.

On the other hand, voters do form judgments about how well a president is doing on the basis of how much controversy he evokes — and from what quarters he is subject to criticism.

And what Ronald Reagan has done in this case is make a safety play by keeping both his promise to appoint a woman and his commitment to choose someone with conservative views on the function of the judiciary.

That may not satisfy the extremists of left or right, but it is winning politics in anyone's book.

THE WHITE HOUSE

WASHINGTON

SCHEDULE FOR JUDGE O'CONNOR

WEEK OF JULY 13, 1981

Monday

4:45 p.m. Arrival at National Airport and is met by Powell Moore and Pete Roussel.

5:30 p.m. Meeting in Max Friedersdorf's office. Participants:

Judge O'Connor
The Attorney General
Max Friedersdorf
Powell Moore
Bob McConnell

Purpose: Review plans for the week.

Tuesday

9:30 a.m. Judge O'Connor is picked up at her quarters by Powell Moore.

10:00 a.m. Meeting in the Attorney General's conference room. Participants:

Judge O'Connor
The Attorney General
Fred Fielding
Bob McConnell
Powell Moore

Purpose: Development of strategy for courtesy call.

12:00 noon Lunch in the Attorney General's dining room. Participants same as above except Powell Moore.

1:45 p.m. Meeting in the Attorney General's conference room. Participants:

Judge O'Connor
The Attorney General
Senator Goldwater
Senator DeConcini
Max Friedersdorf
Powell Moore

Purpose: Prepare to depart for Senate contacts.

2:00 p.m. Motorcade to the Capitol. Participants:

Judge O'Connor
Senator Goldwater
Senator DeConcini (in one car)

The Attorney General
Max Friedersdorf
Powell Moore (in a second car)

2:15 p.m. Arrive at the Capitol. Proceed to the Majority Leader's office. Participants same as above and Senators Thurmond and Baker.

2:45 p.m. Judge O'Connor proceeds to Senator Byrd's office for meeting with Senators Byrd and Biden.

3:00 p.m. Proceed to Office of the Speaker.

3:10 p.m. Meeting in the Speaker's office. Participants:

Judge O'Connor
The Speaker
The Attorney General
Max Friedersdorf

3:30 p.m. Depart the Speaker's office for the Minority Leader's office.

3:35 p.m. Meeting in the Minority Leader's office. Participants:

Judge O'Connor
The Attorney General
Max Friedersdorf
Congressman Bob Michel
Congressman Eldon Rudd
Congressman John Rhodes

4:30 p.m. Meeting in Powell Moore's office. Participants:

Judge O'Connor
Powell Moore
Bob McConnell

Purpose: Review.

Wednesday

10:00 a.m. Meeting with the President. Participants:

Judge O'Connor
The Attorney General
Max Friedersdorf

Purpose: Courtesy call and photo opportunity.

Additional courtesy calls throughout day.

Thursday

Additional courtesy calls

Friday

Additional courtesy calls

12:00 noon American Bar Association interview. Participants:

Judge O'Connor
Brooksley Landau, Chairperson, ABA
Federal Judiciary Committee

THE WHITE HOUSE

WASHINGTON

DUTIES AND RESPONSIBILITIES OF INDIVIDUALS INVOLVED IN THE CONFIRMATION OF JUDGE SANDRA O'CONNOR TO BE ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT

- I. Max Friedersdorf, Assistant to the President for Legislative Affairs, has supervisory responsibility within the Executive Branch for planning and executing a strategy in the Senate leading to the prompt confirmation of Judge O'Connor.
- II. Powell Moore, Deputy Assistant to the President for Legislative Affairs (Senate), will coordinate confirmation strategy on a day-to-day basis.
- III. Bob McConnell, Assistant Attorney General for Legislative Affairs, will coordinate the research in preparation for the confirmation hearings, provide primary assistance in connection with the preparation of an opening statement for the hearing and prepare the nominee for questioning by members of the Senate Judiciary Committee. He will carry out this function under the supervision and guidance of the Attorney General and Fred Fielding, Counsel to the President. McConnell will also be the nominee's primary source of staff support in connection with complying with financial and conflict of interest requirements of the committee.
- IV. Pete Roussel, Deputy Press Secretary, will be the point of contact for the media in connection with this confirmation effort. He will coordinate public comment by the White House press Office at the daily briefing and by the Justice Department's Public Information Office. No public comment will be made without coordinating with him and prior clearance on public comments should be obtained from Friedersdorf and/or Moore. This aspect of the confirmation process is particularly crucial, realizing that that historically, the media has had a major role in untracking previous nominees. Far more investigative resources will be applied to the nominee's background by the media than by the Justice Department, the White House, and the Senate Judiciary Committee combined.

The current situation in the Senate does not make it necessary to wage a major campaign to generate public support for the nomination. However, the White House political staff, communications staff, public liaison staff, and intergovernmental relations staff should remain abreast of developments relating to the confirmation procedures in the event the situation changes. These offices should also be sensitive to information received from their contacts, realizing such information could provide early warning of changing attitudes in the Senate.