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WITHDRAWAL SHEET

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File Folder: Appointments - Supreme Court - O'Connor [1] Box 2408

Date: 7/9/96

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. memo	Michael Uhlmann to Edwin Meese re candidacy of Judge O'Connor for the Supreme Court (2 pp.)	7/6/81	P5

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P-1 National security classified information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- F-1 National security classified information [(b)(1) of the FOIA].
- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-3 Release would violate a Federal statute [(b)(3) of the FOIA].
- F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].
- F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

O'Connor
Appointed in 74 by
James Schluniger.
Term expired
Dec, 1976

P A R T I C I P A N T S

DACOWITS FALL MEETING

November 14-18, 1976

DACOWITS MEMBERS

Dr. Ethel D. Allen
Mrs. Jean Boese
Mrs. Patricia A. Cramer
Dr. Marcia Curtis
Mrs. Piilani C. Desha
Dr. Helen G. Edmonds
Miss Rose M. Fanucchi
Mrs. Virginia M. Garrett
Miss Josephine L. Good
Dean Margaret F. Heyse

Mrs. Inez Y. Kaiser
Miss Martha C. Moore
Mrs. Aida C. O'Connor
Mrs. Barbara D. Reimers
Dr. Marjorie S. Ross
Miss Susan B. Schiffer
Mrs. Delphine N. Telles
Mrs. Judith N. Turnbull
Mrs. Betty P. Ward
Mrs. Bobbie Wygant

DIRECTORS OF WOMEN'S MILITARY COMPONENTS

BGen Mary E. Clarke, USA
BGen Madelyn N. Parks, ANC
Col Elizabeth Lambertson, AMSC
RAdm Maxine Conder, NC, USN
Cdr Cherry Hatten, MSC, USN
LtC Verna S. Kellogg, USAF

LCdr Joyce Kilmer, USN
Col Margaret A. Brewer, USMC
BGen Claire M. Garrecht, USAF, NC
Col Filomena Manor, USAF, BSC
LtC Vivienne Sinclair, USAF

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Capt Phyllis Elsass, USN
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Capt Mary Nielubowicz, USNC

Col Edith M. Nuttall, USA
LtC Eloise B. Strand, USA
Maj Ruth D. Woidyla, USMC

US COAST GUARD

Captain Mary E. Bachand, USCGR

RECRUITING REPRESENTATIVE

Colonel Teresa J. Tauroney, ANC

April 6-10, 1975

PROCEEDINGS

of

UTILIZATION SUBCOMMITTEE

TAB I

CHAIRMAN: Judge Elizabeth A. Kovachevich

MEMBERS ATTENDING: Dean Margaret Heyse, Mrs. Inez Y. Kaiser, Judge Sandra D. O'Connor, Miss Josephine Good, Miss Susan Schiffer, and former member Mrs. Elizabeth Durick

RESOURCE PERSONS ATTENDING: Brigadier General Mildred C. Bailey, USA; Rear Admiral Alene B. Duerk, NC, USN; Colonel Filomena R. Manor, USAF, BSC; Rear Admiral Charles F. Rauch, USN; Major Thomas R. Newell, USA; Mrs. Carole Frings, OSD; Ms Celia Hoke, Office of Armed Forces Information.

MEMBERS OF THE PUBLIC ATTENDING: Ms. Cecile Landrum, Defense Manpower Commission.

The Utilization Subcommittee met four times with the Chairman presiding. Miss Josephine Good served as recorder. The initial session convened in Room 6, OSD Conference area, the Pentagon at 3:55 pm April 7.

The Chairman announced that the Utilization Subcommittee will discuss the following topics from the recommendations made by DACOWITS at its October 1974 meeting:

1. Assignment of women to executive positions.
2. Service academies reassessment and women in the academies.
3. Promotion to flag/general officer rank.
4. Exercise of command.
5. Appointment and promotion of nurses and medical specialists.
6. Expansion of JR. ROTC
7. Conference of senior servicewomen in NATO

As new business to be discussed, the Chairman announced:

1. Use of women physicians and dentists
2. Length of tour of duty overseas for married and single persons.
3. Women in combat.
4. Projected utilization; i.e., "person power" in the services
 - a. Utilization of flight nurse reserves in Oklahoma National Guard.
 - b. Input from DACOWITS to the Defense Manpower Commission.

TAB G

TAB H

The Chairman assigned subcommittee members to research and report on the following topics:

Brigadier General Bailey and Mrs. Inez Kaiser will report on assignment of women to executive positions.

Service academy reassessment and women in the academies will be reported by Judge Sandra O'Connor.

Promotion to flag/general officer rank will be reported by Rear Admiral Duerk.

Exercise of command and appointment and promotion of nurses and medical specialists will be reported by Dean Margaret Heyse and Colonel Manor.

Expansion of JR. ROTC will be reported by Judge Kovachevich.

Conference of senior servicewomen in NATO will be reported by Mrs. Inez Kaiser and Brigadier General Bailey.

Length of tour of duty overseas for married and single persons will be reported by Dean Margaret Heyse.

Women in combat and projected utilization will be open topics.

It was moved by Judge O'Connor and seconded by Dean Heyse that of old business, the subcommittee's priorities will be women in the academies and JR. ROTC; and that of new business, projected utilization is the first priority.

The Chairman made an announcement concerning the public participation in the meeting and the use of tape recorders.

Upon motion, the meeting was adjourned at 4:45 pm.

The second meeting was convened at 10:30 am, April 8 at the Hotel Washington. The Chairman called for a reading of the minutes of the previous meeting. Upon motion by Judge O'Connor the reading of the minutes was dispensed with.

Judge O'Connor made the initial remarks concerning the inadequacy of the information given to DACOWITS to explain why women cannot be admitted to the service academies. She suggested that DACOWITS visit the academies, and if it has been done, visit them again. The theory that the academies exist for the purpose and training of leaders allows a place for women. She mentioned the response in the court action that the purpose is to train officers for combat duty; therefore, they are unable to admit women. It appears that DACOWITS ought to focus the attention of DoD on an analysis of "What is combat?"

There was a question as to the exact language of the statute which is the subject matter of the litigation. Carole Frings replied that there are two sets of statutes relating to the academies. One is Title 10. The statutes that spell out the qualifications for being nominated to the academy do not mention combat. However, in separate sections of Title 10 that do not relate to the academies per se, Air Force and Navy law would restrict women from combat roles, e.g. women may not be assigned to aircraft engaged in combat missions or to vessels of the Navy other than hospital ships or transport vessels. Army regulations, not law, prohibit Army women from serving in combat.

Judge Kovachevich brought up the public relations implications of women going into combat areas where they might be captured. Is the position a very real one with DoD -- not just what women say, but what the American public thinks.

Carole Frings reported that from a public relations standpoint, no one has taken any polls, but the majority would probably be opposed to women serving in combat. The only way DoD has of reflecting opinion is Congress and Congress has not chosen to change the law.

Major Newell commented that the whole issue of admission of women to the service academies has been obfuscated by the issue of combat.

At this point Judge O'Connor moved the following recommendation, which was seconded by Dean Heyse:

That careful analysis and definition of what is meant by "combat duty" and "combat assignment" be undertaken by the Department of Defense in order to clarify many questions which arise within the services relating to this question and in order to set forth a more uniform policy for the several branches of the services with respect to both enlisted and officer status.

There was further discussion as to the inclusion of enlisted personnel in this recommendation. It was decided to make a separate recommendation on admission to the academies. The above recommendation was adopted with dissent.

Judge O'Connor then moved the following recommendation, which was adopted:

That admission to the service academies be open to all qualified candidates to prepare military leaders for service in peace and war. That the Department of Defense alter its present position and take a positive position favoring admission of women to the service academies and implement it forthwith.

Judge O'Connor initiated discussion of Title 10, USC, Sec. 6015 relating to the Navy's prohibition against assignment of women to vessels other than hospital or transport vessels. Admiral Rauch commented on the matter in relation to DOPMA and the progress of ERA. The matter is not covered in DOPMA. This resulted in the following motion by Judge O'Connor, seconded by Dean Heyse: and agreed upon by all present:

That the Department of Defense initiate amendment of Title 10, USC, Sec. 6015 so as to remove the total prohibition against assignment of persons (male and female) to vessels and aircraft in accordance with the qualifications of the person to be assigned and the particular mission to be performed.

Mrs. Inez Kaiser reported that she had talked to General Bailey about the response to the recommendation made at the Fall Meeting concerning the assignment of women to executive positions. It was agreed that the information was too general and misleading. The Air Force spoke of "eligible women" What are the qualifications to be "eligible" and what are the career opportunities? Mrs. Kaiser made the following motion, seconded by Judge O'Connor, and adopted:

That DACOWITS request that the Army be more specific in identifying the executive positions that women hold; and

Second, that we ask the Air Force to spell out and be more specific, including all of the categories of executive positions that women hold; and

Furthermore, explain what the eligibility qualifications are for a woman to hold these positions and to specifically identify the career opportunities for women on the executive level in the Air Force.

In a discussion of the recommendation on the exercise of command, Admiral Duerk suggested that a definite date be set for separate action if DOPMA is not enacted into law and that we not accept inordinate delays. It was agreed that this would be considered further in the afternoon session. Dean Heyse was asked to prepare a motion on the subject.

There was some discussion about the JR. ROTC program, but action was deferred until the afternoon session. Mrs. Inez Kaiser spoke of her experience with the program; most of the instructors are retired officers and she thought the program should involve some active officers who can relate to today's young people and their problems.

Dean Heyse moved that the committee recess until 2:00 pm.

TAB I

Following this discussion, the committee again discussed JR. ROTC. Judge Kovachevich made the following motion, which was approved:

That the Department of Defense upgrade on its list of priorities the JR. ROTC program and that it reassess both the Congressional climate and what funds are available to expand the same; increasing the number of units and removing geographic restrictions regarding the establishment of units by a given department of the service.

Judge Kovachevich also moved that DACOWITS be given the following charge, which was approved by the committee:

That the DACOWITS members be charged to communicate with members of Congress regarding support of the program.

That the DACOWITS members take steps to encourage other civilian communication to members of Congress regarding support of the program.

Upon the motion of Dean Heyse, the Committee on Utilization adjourned at 4:30 pm.

The final session of the utilization subcommittee convened at 10:05 am on April 10.

Judge Kovachevich first emphasized the importance of every member being present at the afternoon session to constitute a quorum.

The Executive Committee made minor changes in the recommendations of the subcommittee on utilization. Each one was read by Judge Kovachevich and acted upon by the committee as follows:

That careful analysis and definition of what is meant by "combat duty" and "combat assignment" by the Department of Defense in order to clarify many questions which arise within the services relating to the same, in order to set forth a more uniform policy for the branches of the services with respect to both enlisted and officer status, as well as the mission and function of the service academies.

Dean Heyse moved the adoption of this recommendation as amended by the Executive Committee; seconded by Miss Schiffer, unanimously adopted.

That admission to the service academies be open to all qualified candidates to prepare military leaders for service in peace and war. That the Department of Defense accept the inevitable, alter its present position, take a positive position favoring admission of women to the service academies and implement it forthwith.

TAB G

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this recommendation was strengthened by the Executive Committee and approved as changed.

That the Department of Defense initiate amendment of Title 10, USC, Sec. 6015 to remove the total prohibition against assignment of women to vessels other than hospital or transport vessels thereby allowing assignment of persons (male and female) to vessels and aircraft in accordance with individual qualifications of the person to be assigned and the particular mission to be performed.

Miss Good moved the adoption of the recommendation as amended by the Executive Committee; seconded by Dean Heyse and adopted unanimously.

That, pursuant to DACOWITS Fall 1974 Recommendation #5, that the Army and the Air Force be more specific in identifying the executive positions that women hold and what opportunities are available to them; that they explain with particularity what the eligibility qualifications are for a woman to hold these positions.

Approved as amended by the Executive Committee.

That DoD vigorously pursue passage of DOPMA by Congress during the calendar year 1975; that if DOPMA is not enacted by Congress that provision be made for separate legislation to be introduced in 1975 to equalize opportunities for women in the armed services to be promoted to Flag/General officer rank; provide an opportunity for members of the Army Nurse Corps to exercise command within the Army Medical Department; and improve opportunity of nurses and medical specialists for appointment and promotion in the regular Army and regular Air Force and authorize their retention beyond mandatory retirement.

Colonel Manor explained that this wording did not fit the Air Force and asked that it be changed as follows: ... provide an opportunity for members of the Army Nurse Corps, the Army Medical Specialist Corps, Air Force Nurse Corps and Air Force Biomedical Services Corps to exercise command within the Army Medical Department and Air Force Medical Service; and... The changes were made and approved on motion of Dean Heyse; seconded by Miss Good.

That the Department of Defense inform NATO/SHAPE that a conference of the key women in the military services from the NATO/SHAPE countries is a desirable goal and that DoD initiate the opportunity for comment on the same from the command of NATO/SHAPE.

This recommendation was approved as amended; moved by Dean Heyse and seconded by Miss Schiffer.

DIAL ASSIGNMENTS AND DETAILS

Sec. 5986. Technical institutions: detail of naval officers to promote knowledge of naval engineering and naval architecture.

1041, 70A struck out item 5984, which read: "Military institutions and colleges: details as superintendents and instructors", and item 5987, which read: "American National Red Cross: detail of officers in the Medical Corps".

1041, 70A President active list e of com-

1041, 70A professors and retired officers and petty officers of the Navy, with their consent, as instructors in military drill and tactics.

1041, 70A Forces Division of the American National Red Cross. See section 711a of this title.

555—ADMINISTRATION

Sec. 6021. Aviation duties: number of personnel assigned.

Sec. 6022. Aviation training facilities.

Sec. 6024. Aviation designations: naval flight officer.

Sec. 6027. Medical Department: composition.

Sec. 6028. Medical Service Corps: composition.

Sec. 6029. Dental services: responsibilities of senior dental officer.

Sec. 6031. Chaplains: divine services.

Sec. 6032. Indebtedness to Marine Corps Exchanges: payment from appropriated funds in certain cases.

Sec. 6034. Regulations for retired pay based on service in the Reserve.

1968 Amendment. Pub.L. 90-235, § 7(a) (5), Jan. 2, 1968, 81 Stat. 763, struck out item 6033, which read: "Woman member: definition of dependents".

1967 Amendment. Pub.L. 90-130, § 1(22), Nov. 8, 1967, 81 Stat. 380, eliminated item 6030 which read: "Nurse Corps officers: authority".

1961 Amendment. Pub.L. 87-123, § 5(24), Aug. 3, 1961, 75 Stat. 266, deleted item 6020

Notes 3. Force and effect

Navy Regulations approved by the President are endowed with the sanction of law. Cafeteria and Restaurant Workers Union, Local 473, AFL-CIO v. McElroy

roy, App.D.C.1961, 81 S.Ct. 1743, 367 U.S. 886, 6 L.Ed.2d 1230, motion denied 81 S.Ct. 1912, 366 U.S. 956, 6 L.Ed.2d 1251, rehearing denied 82 S.Ct. 22, 368 U.S. 869, 7 L.Ed.2d 70.

Navy regulations approved by the President, if constitutional, have the force of law. Garmon v. Warner, D.C.N.C.1973, 358 F.Supp. 206.

8. — Particular regulations

The phrase "tradesmen or their agents," as used in an article of the Navy Regulations providing that tradesmen or their agents shall not be admitted within a command except as authorized by the commanding officer, covered an employee of a cafeteria operated by a private corporation on a naval installation under a contract with board of governors of the installation. Cafeteria and Restaurant Workers Union, Local 473, AFL-CIO v. McElroy, App.D.C.1961, 81 S.Ct. 1743, 367 U.S. 886, 6 L.Ed.2d 1230, motion denied 81 S.Ct. 1912, 366 U.S. 956, 6 L.Ed.2d 1251, rehearing denied 82 S.Ct. 22, 368 U.S. 869, 7 L.Ed.2d 70.

Navy regulation requiring recommendation for discharge of naval enlisted person within three months of expiration of term by immediate commanding officer refers only to discharges for undesirability, inaptitude, physical or mental disability, unfitness, or on account of under age and does not extend to special order of the Secretary of the Navy or discharge ordered by chief of naval personnel. Unger v. U. S., 1964, 326 F.2d 996, 164 Ct. Cl. 400.

Navy regulation authorizing unsuitability discharges for alcoholism complied with this section requiring approval by President of navy regulations, where President, as authorized by section 301 of Title 3, authorized Secretary of Defense to approve alterations of navy regulations by Secretary of Navy and Secretary of Defense had approved regulation in question. Reed v. Franke, C.A.Va.1961, 297 F.2d 17.

Naval officers in command of naval installation have ample authority to control the ingress and egress of civilians to and from premises of command under naval regulations relating to security on naval installations. Cafeteria and

Restaurant Workers Union, Local 473, AFL-CIO v. McElroy, 1960, 284 F.2d 173, 109 U.S.App.D.C. 39, affirmed 81 S.Ct. 1743, 367 U.S. 886, 6 L.Ed.2d 1230, motion denied 81 S.Ct. 1912, 366 U.S. 956, 6 L.Ed.2d 1251, rehearing denied 82 S.Ct. 22, 368 U.S. 869, 7 L.Ed.2d 70.

Contention that policy, not articulated in approved military regulations, precluding Marine reservists from wearing short-hair wigs over long hair was justified because wigs would interfere with military operations could not be sustained in absence of evidence that there had in fact been any such interference or that any Marine reserve unit had in recent decades been called for instant distant combat duty, and in light of evidence that hair can be cut to Marine requirements in a very few minutes. Garmon v. Warner, D.C.N.C.1973, 358 F.Supp. 206.

In the case of Marine reservists, policy forbidding shorthair wigs over long hair at weekend drills, not articulated in any approved military regulation, was not supported by any legitimate military need despite psychological arguments related to discipline and morale, and thus exceeded statutory authority. Id.

9. Persons affected by regulations

Under Navy Regulations, commanding officer of a naval installation had power to summarily withdraw permission of a civilian employee of a private cafeteria operator to enter the installation, upon determination that she failed to meet security requirements of the activity. Cafeteria and Restaurant Workers Union, Local 473, AFL-CIO v. McElroy, App.D.C. 1961, 81 S.Ct. 1743, 367 U.S. 886, 6 L.Ed.2d 1230, motion denied 81 S.Ct. 1912, 366 U.S. 956, 6 L.Ed.2d 1251, rehearing denied 82 S.Ct. 22, 368 U.S. 869, 7 L.Ed.2d 70.

13. Instruction

Instruction by Bureau of Naval Personnel issued by Acting Chief of Naval Personnel was regulation having force of law and was, in legal effect, "in evidence" without offer as evidence, which was merely for convenience of trial court, and instruction should have been considered in construing enlistment extension agreement. Rehart v. Clark, C.A.Cal.1971, 448 F.2d 170.

§ 6015. Women members: duty; qualifications; restrictions

The Secretary of the Navy may prescribe the manner in which women officers appointed under section 5590 of this title, women warrant officers, and enlisted women members of the Regular Navy and the Regular Marine Corps shall be trained and qualified for military duty. The Secretary may prescribe the kind of military duty to which such women members may be assigned and the military authority which they may exercise. However, women may not be assigned to duty on vessels or in aircraft that are engaged in combat missions nor may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of a similar classification not expected to be assigned combat missions.

As amended Oct. 20, 1978, Pub.L. 95-485, Title VIII, § 808, 92 Stat. 1623.

1978 Amendment. Pub.L. 95-485 substituted provision prohibiting assignment of women to duty on vessels or in aircraft engaged in combat missions or assignment, other than to temporary duty, on naval vessels except hospital ships, transports, and vessels of similar classification not expected to be assigned combat missions for provision prohibiting assignment of women to duty in aircraft engaged in combat missions or duty on na-

val vessels other than hospital ships or transports.

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1/2. Constitutionality

Provision in this section barring assignment of female personnel to duty on navy vessels other than hospital ships and transports violates equality principle embodied in U.S.C.A.Const. Amend. 5. *Owens v. Brown*, D.C.D.C.1978, 455 F.Supp. 291.

1. Judicial review

Constitutional validity of Marine Corps regulation which mandated the discharge of women marines for pregnancy was subject to judicial review. *Crawford v. Cushman*, C.A.Vt.1976, 531 F.2d 1114.

Under either traditional or strict scrutiny standard, congressional classification of men and women into two categories for service upon combat vessels mandated by statute which provides that women may not be assigned to duty on Navy vessels other than hospital ships and transports violated no equal protection rights of plaintiff, an unsuccessful applicant for NROTC four-year scholarship, and thus difference between number of scholarships awarded and standards of eligibility for men and women were rationally related to provision, maintenance, government and regulation of the Navy. *Kovach v. Middendorf*, D.C.Del.1976, 424 F.Supp. 72.

2. Waiver

Without independent legal advice, female marine's failure to object to her discharge, under Marine Corps regulation which mandated the discharge of women marines for pregnancy, could not be treated as a "knowing" waiver of objection. *Crawford v. Cushman*, C.A.Vt.1976, 531 F.2d 1114.

3. Regulations

While the Marine Corps may as a matter of substantive policy constitutionally be given ample latitude to discharge an employee for pregnancy, as for any other disability where mobility and readiness or ability to perform work is likely to be impaired for any substantial period of time, the area appears to be one where the military police formulation and application is constitutionally required to take the form of individual decision making

since the ability of the individual employee to cope with the needs of the job is dependent upon her individual abilities. *Crawford v. Cushman*, C.A.Vt.1976, 531 F.2d 1114.

Marine Corps regulation which mandated the discharge of women marines for pregnancy could not rationally be justified on the basis of the administrative convenience of "knowing where your people are and their capacity to respond." *Id.*

4. Assignment of female personnel

Alleged morale and discipline problems caused by integration of men and women aboard navy ships furnished no basis for upholding ban on assignment of female personnel to duty on navy vessels other than hospital ships and transports since whatever problems might arise from integrating ships and crews were matters that could be dealt with through appropriate training and planning. *Owens v. Brown*, D.C.D.C.1978, 455 F.Supp. 291.

Fact that military affairs were implicated did not mean that challenge to ban on assignment of female personnel to duty on navy vessels other than hospital ships and transports raised a nonjusticiable political question. *Id.*

Likelihood of influencing legislative efforts to revise ban on assignment of female personnel to duty on navy vessels other than hospital ships and transports did not afford a principled basis for avoiding a determination of whether ban violated U.S.C.A.Const. Amend. 5. *Id.*

5. Class action

Action challenging ban on assignment of female personnel to duty on navy vessels other than hospital ships and transports was certified as class action, notwithstanding concern that some female personnel might not share representative plaintiff's desire to remove such bar, since issue was not whether Navy must assign female personnel to ship duty against their wishes but whether navy authorities must exclude women from ship assignments whether or not they wish to go to sea. *Owens v. Brown*, D.C.D.C.1978, 455 F.Supp. 291.

§ 6020. Repealed. Pub.L. 87-123, § 5(23), Aug. 3, 1961, 75 Stat. 266

Section, Act Aug. 10, 1956, c. 1041, 70A Stat. 376, provided for detail of Marine Corps officers for duty in the supply department for a period of four years.

§ 6023. Repealed. Pub.L. 92-168, § 2(1), Nov. 24, 1971, 85 Stat. 489

Section, Acts Aug. 10, 1956, c. 1041, 70A Stat. 376; Oct. 13, 1964, Pub.L. 88-647, Title III, § 301(15), 78 Stat. 1072, provided

qualifications to receive aviation designation of naval aviator. See section 2003 of this title.

§ 6024. Aviation designations: naval flight officer

Any officer of the naval service may be designated a naval flight officer if he has successfully completed the course prescribed for naval flight officers.

As amended Feb. 26, 1970, Pub.L. 91-198, § 1(2), 84 Stat. 15.

1970 Amendment. Pub.L. 91-198 substituted "naval flight officer" for "naval aviation observer" wherever appearing and struck out requirement that such officer have been in the air at least 100 hours.

Legislative History. For legislative history and purpose of Pub.L. 91-198, see 1970 U.S.Code Cong. and Adm.News, p. 2446.

§ 6025. Repealed. Pub.L. 92-168, § 2(2), Nov. 24, 1971, 85 Stat. 489

Section, Act Aug. 10, 1956, c. 1041, 70A Stat. 377, provided qualifications to receive aviation designation of aviation pilot. See section 2003 of this title.

§ 6026. Repealed. 86 Stat. 202

Section, Act Aug. 10, 1956, c. 1041, 70A Stat. 377, required Marine Corps to give go-

§ 6030. Repealed. 88 Stat. 380

Section, Act Aug. 10, 1956, c. 1041, 70A Stat. 378, gave Marine Corps authority over matters of their professional conduct of the Medical Department.

§ 6031. Chapter

(a) An officer according to the

(b) The conditions are attached to the service of the weather service diligently might God.

(c) All personnel behave themselves. As amended

1959 Amendment by Pub.L. 86-14 to report annual Navy the officials him.

§ 6033. Repealed. 76 Stat. 763

Section, Act Aug. 10, 1956, c. 1041, 70A Stat. 378; Sept. 6(1) (5), 76 Stat. L. 87-651, Title 10, for restriction

§ 6081. Chapter

(a) Except a per diem in service is on duty, including

(b) Each he is on active

(c) The condition

(b). As amended

Library refer

1962 Amendment 87-649 eliminated payment of the ration (b) of Title 3 the Uniformed Subsec. (c) provisions which to prescribe 1 ance of the cor See section 42 Allowances of Effective D Amendment of

The personal views and philosophy of a Supreme Court justice should be set aside, insofar as it is possible to do so, and matters before the Court should be decided based on the record of facts before the Court and on the applicable constitutional and legal principles. If confirmed, I would strive to disregard my personal opinions and views in resolving matter before the Court. Having explained that, I will attempt to articulate my personal views on several issues, as you have requested.

ABORTION:

I am opposed to abortion as a means of birth control or otherwise. The subject of abortion is a valid one for legislative action, subject only to any constitutional limitations.

My opposition to abortion has strengthened with the increase in public knowledge and awareness concerning the improved medical ability to keep premature infants alive, and to transplant and implant embryos, and to treat successfully certain ailments and deficiencies of the fetus before birth.

GUN CONTROL:

As a state legislator I did not support measures to limit the right of law abiding citizens to acquire or to own guns for sport and self defense. I did support, however, laws to prevent the carrying of concealed weapons, and to define a concealed weapon, as well as laws increasing criminal penalties for criminal offenses committed with the use of a gun or deadly weapon.

In 1974 and 1973 I voted in the state legislature for memorials to Congress and the President asking that certain federal firearms control legislation be opposed. In 1971 I co-sponsored and voted for a bill, Senate Bill 7, to permit residents of Arizona to purchase firearms in other states in accordance with the Federal Gun Control Act of 1968

As a judge I have had occasion to preside over a number of criminal trials and cases involving offenses committed by the use of guns, and have imposed sentences on those found guilty of such offenses.

BAR POLL RESULTS:

In Arizona, a poll is taken by random selection among attorneys within the state for the purpose of rating judges prior to general elections. A copy of my rating on the 1980 bar poll is attached. The poll was taken in less than one year after I had become an appellate court judge. A total of twelve appellate court judges were rated. 90% of those polled believed I should be retained in office, which percentage ranked 8th among those rated. In the rankings of those judges who were rated "excellent" on the categories of knowledge of the law, quality of written opinions, and consideration of briefs and authorities, I ranked second.

PORNOGRAPHY:

As a citizen and as a State legislator I have expressed concern with the extent of availability and distribution of pornographic material, especially that which is available to minors. Again, however, my personal views and opinions are not relevant to the process of reaching a decision as a judge in any particular case involving 1st Amendment protections for freedom of speech.

As a legislator I favored enactment of those measures designed to extend and provide appropriate curbs and restrictions on sale and distribution of pornographic material which I believed would withstand challenges in court if passed into law. I opposed certain measures which I believed were improperly or inadequately drafted or submitted.

As a legislator I voted in 1974 for Senate Bill 1227, which amended Arizona's obscenity laws in a manner consistent with the requirements set forth in Miller v. California, 413 U.S. 15 (1973). In 1972 I voted for Senate Bill 1320 which increased the penalty for certain obscenity related offenses where the defendant had previously been convicted of similar offenses. In 1971 I voted for House Bill 301 which made it unlawful to publicly display explicit sexual material. In 1970 I co-sponsored Senate Bill 42 which provided for restrictions on the sale and distribution of pornographic literature to minors. I also voted in 1970 for a virtually identical House Bill 21.

As a judge, I am no longer in a position of deciding what is the best approach to regulating obscenity as a matter of public policy, but, rather, whether the approach taken by a state or locality complies with the Constitution's protection of free speech.

PROSTITUTION:

I am morally opposed to prostitution. It is a demeaning and immoral practice which is inconsistent with family values. It is in my view an appropriate subject for state regulations.

ERA:

When the Congress of the United States passed the ERA in 1972 and submitted it to the states for consideration, I was serving as an Arizona State Senator. I requested and obtained approval of the Judiciary Committee of the Arizona State Senate to introduce a resolution of ratification as a majority of the committee measure. The measure never passed out of the committee. Hearings on a ratification resolution were held each year thereafter while I served in the Legislature, with the same results. As time passed, public concern and opposition to the amendment increased. I co-sponsored in 1974 a measure to submit the question of ratification of the ERA to the voters of Arizona for an advisory opinion. I believe that legislators should be adequately informed about the views of their constituents on a constitutional amendment of such public controversy before taking legislative action on the issue. That measure was also held in Committee. Since going on the bench in 1975, I have taken no public position or action concerning The ERA.

I have always believed that if gender based discrimination had been subject to a standard of strict scrutiny, such as that applied to discrimination based on race, alienage and national origin, the ERA might well have been superfluous. However, the Supreme Court has applied a somewhat fluctuating standard of scrutiny of governmental classifications based on sex.

If the ERA were to become a part of our Constitution, and were I to be sitting on the Supreme Court at the time, I would expect to be passing on any questions as to its effect only after very careful thought and study of the amendment. I would, however, venture some very general observations. I think it logical to assume that ratification of the ERA would lock into place the sometimes fluctuating level of scrutiny which the Supreme Court has applied to governmental classifications based on sex. Whether the new standard would more resemble the standard articulated by the Supreme Court under the Equal Protection Clause in Craig v. Boren, 429 U.S. 190 (1976), -- such classifications must be substantially related to an important government interest -- or the even higher standard applied by the Supreme Court in cases involving racial discrimination -- "strict scrutiny" -- is not a question I feel I can answer at this point in time.

Mr. Chairman and Members of the Committee

I would like to begin my brief opening remarks by expressing my gratitude to the President for nominating me as an associate justice of the United States Supreme Court, and my appreciation and thanks to the members of this committee and its distinguished chairman for your courtesy and for the privilege of meeting with you.

As the first woman to be nominated as a Supreme Court Justice, I am particularly honored and hope and believe that honor is shared with all the women of this nation. As a citizen, as a lawyer and as a judge, I have from afar, always regarded the Court with the reverence and the respect to which it is so clearly entitled because of the function it serves, ~~and the power it holds~~. It is the institution which is charged with the final responsibility of insuring that ^{such as} ~~the~~ basic constitutional doctrine ^{of the separation of powers} will be continually honored and enforced. It is the body to which all Americans look for the ultimate protection of their rights. It is to the United States Supreme Court that we all turn when we seek that which we want most from our government: justice.

I suppose that few, if any, of those previously nominated to the Supreme Court ever realistically dreamed of ~~expected~~ that they would ~~ever~~ sit as a member of our highest Court. Rather, I imagine they found themselves, in the main, as I have in the case of my own nomination:

a somewhat surprised beneficiary of a series of basically unrelated circumstances. I expect those who have preceded me were awed and fascinated, as I am, by the unknown challenges that lie ahead. If ~~my nomination is~~ confirmed by the Senate, I will apply ^{all my} ~~whatever~~ abilities I ~~may have~~ ^{may} to insure that our government is preserved and that justice under our Constitution and the laws of this land, will always be the foundation of that government. ✓

Let me now say something about my views as to what I can and cannot properly discuss with you during the course of this hearing. I do not believe that, as a nominee, I should either endorse or ^{presenting issues which may come} criticize specific Supreme Court decisions made by those justices now ~~sitting on the Court~~. I believe most people, and probably all lawyers and judges, would agree and understand that ^{of this nomination} I cannot now tell you how I might vote on a particular issue which may come before the Court. The first problem with such a statement is that it would mean I have prejudged the matter or have morally committed myself to a certain position. This, of course, is precisely one hundred eighty degrees from what the attitude of a judge ^{should} ~~is supposed~~ to be; namely, to approach each problem and issue with an open mind. Moreover, such a statement by me as to what I might do in a future court action might make it necessary for me to disqualify myself on the matter. This would result in my inability to do that which ^{under sworn duty to do} ~~the President wishes me to do~~; namely, to decide cases that come before the court. Finally, neither you nor I know today the precise way in which any issue will present itself in the future or what the facts or arguments may be at that time or how the statute being interpreted may read. Until those crucial factors become known, I suggest none of us really know how we would resolve any

issue. At the very least, we would reserve judgment until that time.

The observations I have just made are consistent with the recurring statements and positions I have read in the transcripts of the hearings of the presently sitting members of the United States Supreme Court, men whose personal views and backgrounds are obviously quite diverse.

On a personal note, I would now like to say something to you about my family and to introduce them to you. By way of preamble, I would note that some of the media have correctly reported that I have performed some marriage ceremonies in my capacity as a judge. I would like to read to you an extract from a part of the form of marriage ceremony I prepared. "Marriage is far more than an exchange of vows. It is the foundation of the family, mankind's basic unit of society, the hope of the world and the strength of our country. It is the relationship between ourselves and the generations to follow."

That statement represents not only advice I give to the couples who have stood before me, but my view of all families and the importance families in our lives and in our country.

My nomination to the Supreme Court has brought my own very close family even closer together.

First, I would like to introduce my oldest son, Scott. Scott graduated from Stanford two years ago. He was our state swimming champion. He is now a pilot, a budding gourmet cook and a businessman.

My second son, Brian, is a senior at Colorado College. He is our adventurer. He is a sky-diver with some four hundred jumps, including

many team jumps and a sky-dive off of the top of El Capitan at Yosemite. I look forward to his retirement from that activity so he can spend more time enjoying his status as a pilot.

My youngest son, Jay, is a sophomore at Stanford. He is our writer. He acted as assistant press secretary and then press secretary for me for a few days after the news of the nomination surfaced.

Finally, I would like to introduce my husband, John. We met on a Law Review assignment at Stanford Law School and will celebrate our 29th wedding anniversary in December. He has been totally, unreservedly and enthusiastically supportive of this whole endeavor.

Finally, I want to thank you, Mr. Chairman and Members of the Committee, for all the kindnesses and courtesies that you have extended to me.

I would now be happy to respond to your questions.

The personal views and philosophy of a Supreme Court justice should be set aside, insofar as it is possible to do so, and matters before the Court should be decided based on the record of facts before the Court and on the applicable constitutional and legal principles. If confirmed, I would strive to disregard my personal opinions and views in resolving matter before the Court. Having explained that, I will attempt to articulate my personal views on several issues, as you have requested.

ABORTION:

I am opposed to abortion as a means of birth control or otherwise. The subject of abortion is a valid one for legislative action, subject only to any constitutional limitations.

GUN CONTROL:

As a state legislator I did not support measures to limit the right of law abiding citizens to acquire or to own guns for sport and self defense. I did support, however, laws to prevent the carrying of concealed weapons, and to define a concealed weapon, as well as laws increasing criminal penalties for criminal offenses committed with the use of a gun or deadly weapon.

In 1974 and 1973 I voted in the state legislature for memorials to Congress and the President asking that certain federal firearms control legislation be opposed. In 1971 I co-sponsored and voted for a bill, Senate Bill 7, to permit residents of Arizona to purchase firearms in other states in accordance with the Federal Gun Control

Act of 1968.

As a judge I have had occasion to preside over a number of criminal trials and cases involving offenses committed by the use of guns, and have imposed sentences on those found guilty of such offenses.

BAR POLL RESULTS:

In Arizona, a poll is taken by random selection among attorneys within the state for the purpose of rating judges prior to general elections. A copy of my rating on the 1980 bar poll is attached. The poll was taken in less than one year after I had become an appellate court judge. A total of twelve appellate court judges were rated. 90% of those polled believed I should be retained in office, which percentage ranked 8th among those rated. In the rankings of those judges who were rated "excellent" on the categories of knowledge of the law, quality of written opinions, and consideration of briefs and authorities, I ranked second.

PORNOGRAPHY:

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ABORTION

1. Personal views -- abortion as a moral issue; when can it be justified?

- (a) If opposed to abortion, why support it in Arizona legislative?
- (b) Have you ever indicated to anyone that you are not opposed to abortion?
- (c) Is abortion a killing?
- (d) Is abortion an appropriate subject for state regulation? In what respect?
- (e) Do you personally favor a constit. amendment to prohibit abortion? Favor Sen. East's bill defining when life begins?
- (f) As you as a personal matter favor financing abortions with fed. funds?

2. Roe v. Wade

- (a) Was it properly decided? Could it have been decided more narrowly?
- (b) Aware of criticisms of Roe v. Wade? What are they?
- (c) If abortion is appropriate for state regul., then isn't Roe v. Wade inconsistent with your own personal views?
- (d) Are you willing to consider overruling Roe v. Wade?
- (e) Is a constit. amendment an appropriate vehicle for overruling a decision that the people find abhorrent?
- (f) Is a fetus a "person" under the 14th Amendment?
- (g) Do you think the American people want Roe v. Wade to be overruled?
- (h) When a Supr. Ct. opinion generates so much scholarly & public criticism, then doesn't the Court have a duty to take a second look at it?
- (i) What did you think of Roe v. Wade when it was handed down?
- (j) Is there a right of privacy? What basis in the Constit.?

3. Arizona legislative record

a) 1970 - H.B. 20. Reasons for supporting it? Wouldn't it have eliminated all criminal prohibitions agst abortion? Wasn't it in effect an abortion on demand statute? How could you have supported it if you were morally opposed to abortion? Would you support it now if you were still in the legislature?

→ Did you tell the President that you supported this bill? Did you tell the A.G. or other DOJ representatives?

→ Nick Timiras's column -- why couldn't you remember this vote? Why didn't you remember disputes & controversies with Dr. Carolyn Gerster?

→ How can you square your entire legislative record with your statements to the President on abortion?

(1) Did he tell you that he was satisfied with your legislative record?

(2) Did he ask you about it? What did he ask you?

b) 1973 - S.B. 1190 -- family planning methods and information. Reasons for supporting it? Wouldn't it in effect have permitted abortion to minors without parental consent? Weren't you aware of this effect -- what about the Arizona Republic editorial on March 5, 1973, referring to this bill as reflecting an "energetic state promotion of abortion?" How then could you tell Justice Dept. officials that you didn't think of this bill as an abortion bill?

c) 1974 - Abortions at hospitals -- was the only reason you voted against this the non-germueness issue? Were you just wrong on that score since the constit. was upheld by

Dr. Zou
Sup. Ct?

d) April 1974 - - House approved right to life memorial. Reasons for voting against it? Isn't your real view that, while you don't personally approve of abortions, and you don't think doctors should be required to perform them, the govt should not prohibit them? Isn't you at bottom agree with the publ. policy reflected in Roe v. Wade?

e) Population growth -- are you concerned about birth rates in developing countries? Do you approve as a personal matter of providing birth control methods and information to such countries?

f) Should the State or Fed. govt. regulate in the area of morality -- such as homosexual activities & standards? Is there a right to privacy? Where is that right found?

g) What do you say to the millions of Americans who are horrified by the carnage of 10 million bodies who have been killed since Roe v. Wade? Should we just be grateful to prevent this carnage? What should those Americans do who want to protect the unborn? Is this an area of legitimate civil rights concerns?

4) Das diligente issue

a) Were you asked your views on abortion prior to meeting w/
the President?
c) Asked about the Republican platform? Do you personally
subscribe to " " "
e) Are you prepared to tell this Committee, under oath, that
you find abortion morally repugnant? If so, why did
you suggest a legislative initiative that permitted abortion?

Judicial philosophy -- describe it. Activist? Strict constructionist?

Stare decisis -- importance of precedent

(a) Distinction between statutory & constitutional rulings. Do you feel fully bound by Warren Court decisions -- did the Warren Court go too far?

Constitution -- how do you go about interpreting it? Evolving document, to change with the times? What is relevance of views of Founding Fathers? Conclusive or advisory?

Collegiality & the divided Court -- should there be an effort at consensus? Should Justices try to write separately?

What efforts will you make to achieve a more harmonious relationship on the Court? Talking Justices -- O.K.? Was The Brethren a good thing for the Court?

Should conferences and communications be confidential? Doesn't the public have a right to know about the activities of the judicial branch?

Should FOIA apply to the judiciary?

Should Justices hold press conferences, or grant interviews with the press?

Process of confirmation hearings

(a) Is Senate entitled to know your views on

a case that has already been decided? Or

Scott v. Brown v. Board -- why not on Roe v. Wade?

(b) Isn't the distinction that the Senate is not

entitled to a commitment on how you would be voted, rather than on your present views of a past case

Con. philosophy as to amending the Constitution?

Role of Court vs. Role of Congress

Imperial judiciary -- how do we constrain the judiciary to remain within rightful limits?

What Justice do you admire most & why (of those not sitting on the Court)

Misc.

Constitutional Convention -- under Art. V, can a const. convention be limited in purpose? Advantages & disadvantages? Should the country opt for congressional resolution, rather than by const. convention?

Directing Supreme Court of jurisdiction -- can Congress do it? Should it? Inferior courts?

1st Amendment issues

- a) Voluntary prayer -- should it be permitted? Does the case law forbid genuinely vol. prayer?
- b) Tuition tax credits -- are they constitutional? Are they good policy?

- c) Borneography -- is it protected under 1st Amend. Is it subject to state regulation?
- d) Aid to parochial schools -- permissible? Should it be permissible?
- e) Free press vs. fair trial -- how do you strike the balance? Should courtrooms be closed?

→ Role in Ariz. Senate re pornography.
→ Statement in Phoenix magazine on "constit. of aid to private schools."

- ERA - Ratification
- a) Present view of ERA?
 - b) What would legal effects be?
 - c) Why hasn't it been ratified?

Gender discrimination

- a) What do you feel is the nature & extent of the problem of sex discrimination today?
- b) The present state of the law in this area is confusing -- views on this?
- c) Women in the military -- should women be subject to registration and to any draft?
- (i) Serve in combat?

→ Role on Advisory Committee on Women in Military

Rate of reversal by H.R. Supreme Ct and H.R. Ct of App.

Conflict of interest

- a) Standards of disqualification
- b) Husband's law practice
- c) Describe all outside income since you've been on the bench?
- d) Wall St. J. of 8/4/81 suggested that Justices were too quick to recuse themselves, thus affecting the Court's decisions? Views?

Court + Jurisdiction issues

- (a) National Court of Appeals -- good idea? Necessary?
- (b) Diversity jurisd. -- should it be eliminated?
- (c) Federal court caseload -- are there ways to reduce the amt of litigation in the cts? Eliminating mandatory juris of Supr. Ct.?
- (d) Habeas corpus + finality --
 - (i) Are there ways to reduce all these habeas petitions?
 - (ii) Are the federal judges really crying wolf -- does it impose that much of a burden to protect these precious rights?
- (e) How do we make judges more accountable to the people?

Eighth Amendment

- a) Does death penalty, in your view, constitute cruel & unusual punishment? Are there circumstances where it would - e.g. death for armed robbery where no one was harmed?
- b) The Court last Term decided that double celling does not, in itself, violate the 8th Amend. Do you agree with this?
 - (1) Does solitary confinement violate 8th?
 - (2) Would permitting hunger strikes to die violate 8th?
 - (3) Under what kinds of circumstances could state prison conditions violate 8th?
- c) As a general matter, have courts been too quick to take over the running of state prison facilities? What can be done to restore the rightful prerogatives of the States in this area?
- d) Does the death penalty deter crime?
- e) Can the death penalty be equitably administered? Why are the majority of death row inmates in Southern prisons? Why blacks disproportionately high?

Public employees - right to strike

- a) Should public employees have the right to strike?
- b) " they have the right to unionize? If so, what the point without the " " strike?
- c) Should jail terms be imposed on illegal strikers?
- d) Should the govt. be held liable in event of any disaster in the air?

Crime in America

- a) Why is there so much crime in this country?
- b) How can we reduce the crime rate?
 - (1) Hard gun laws?
 - (2) Determinate sentences?
 - (3) Bail reform?
- c) Abolish the insanity defense?
- d) " or modify the exclusionary rule?
 - (1) Is this appropriate for Congress to do?
- e) From your standpoint as a former state legislator & now as a state judge, what can Congress & the Fed. Govt. do in this area?
- f) Do we need more prisons? Should Fed Govt pay the tab -- part of it?
- g) Is plea bargaining a problem in the state system? Is this system in need of reform?
- h) Grand juries -- should a witness have the right to counsel in the grand jury room?
 - (1) Is grand jury system abused by prosecutors?
- i) Has the balance in the crim. justice system been struck in favor of criminal defendants?
- j) Has Miranda been an impediment to law enforcement? Was it rightly decided?

Civil Rights

- a) What are your views on busing? Has it worked? Should it continue to be used? Do the courts require busing to be used as a matter of law, or is this just a matter of discretion?
- (1) What remedies other than busing should be used?

- 6) Affirmative action -- what does it mean to you? Should govt, as a policy matter, grant preferential treatment on grounds of race? Must govt be absolutely color-blind?
- (1) As a general matter, when would you permit race-conscious remedies?

- c) Do you think that black Americans and other minorities have actually overcome the legal disabilities of the past? Is discrimination still a problem in the US?

- d) What activities in your professional career show a commitment to equal justice under law for all Americans?

- e) Do you think that States can be treated unequally by the fed govt -- does the application of a law to a State but not to another, raise any constitutional issue in your mind?
- (1) In your view, how well has the Voting Rights Act worked?
- (2) If you were a member of Congress, would you vote for extension of the Act?
- (3) Should it be extended to all 50 States?

- f) Do you think that the Court should continue to have a black member, once Justice Marshall's time is ended?

- g) Should affirmative steps be taken to get more women & minority judges?

- h) Legal Services Corp. -- legal services to poor & federal role?

National security

- a) Does President have power to authorize warrantless electronic surveillance and physical searches for nat'l security purposes?
- b) Is there a "national security" exception to the 4th Amendment? To the 1st Amendment? Should there be? Does it justify a prior restraint? What about the Progressive case?
- c) Did the President act wisely in pardoning Miller & Felt, who clearly authorized FBI blackbag jobs?
- d) As a policy matter, should the govt punish those who disclose the identities of our intelligence agents?

Separation of powers

a) Legislative veto -- any views on it?

(1) Do you think that excessive govt regulation is a problem in this country, as a general matter?

(2) Should Congress try to get control over the bureaucracy? Isn't the legislative veto a good way of doing so?

b) What about the Bumpers Amendment? Do you favor it?

c) As a general matter, do you think that too much power has shifted to the judiciary and away from Congress? How can this shift be redressed?

d) Do you think that Congress has passed laws that are too broad or vague -- has this contributed to judicial activism?

e) Right now, what is the most powerful branch of govt?

STROM THURMOND, S.C., CHAIRMAN

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QUENTIN CROMMELIN, JR., STAFF DIRECTOR

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

QUESTIONNAIRE FOR JUDICIAL NOMINEES

Your answers to the following questions will assist the Senate Committee on the Judiciary in evaluating your nomination. In answering these questions, please use letter size paper. Repeat each question and place your answer immediately beneath it. Please provide four copies of the completed questionnaire to the Committee in the enclosed envelope.

You will note that certain portions of the questionnaire will be made available for public inspection and others will be maintained on a confidential basis for use of the Committee. Please do not staple these two parts together.

If you have any questions concerning this questionnaire or the Committee's confirmation process, please contact Mr. Duke Short, Chief Investigator, Senate Committee on the Judiciary at (202) 224-8248/5706.

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).
2. Address: List current place of residence and office address(es). List all office and home telephone numbers where you may be reached.
3. Date and place of birth.
4. Are you a naturalized citizen?
5. Marital status (include maiden name of wife or husband's name). List spouse's occupation, employer's name and business address(es).
6. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.
7. List (by year) all business or professional corporations, companies, firms or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms, with which you were connected as an officer, director, partner, proprietor or employee since graduation from college.
8. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and present status.
9. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.
10. Bar Associations: List all bar associations, legal or judicial related committees or conference of which you are or have been a member and give the titles and dates of any offices which you have held in such groups.
11. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list any other organizations to which you belong, (e.g. civic, educational, 'public interest' law, etc.) which you feel should be considered in connection with your nomination.
12. Court Admission: List all courts in which you have been admitted to practice, with dates of admission. Give the same information for administrative bodies which require special admission to practice.

13. Published Writings: List the titles, publishers and dates of books, articles, reports, or other published material you have written. You may also list any significant speeches which you feel may be of interest to this Committee.
14. Health: What is the present state of your health? List the date of your last physical examination.
15. Judicial Office (if applicable): State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.
16. State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

1. Legal career:

- a. Describe chronologically your law practice and experience after your graduation from law school and until the present including:
 1. whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;
 2. whether you practiced alone, and if so, the addresses and dates;
 3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;
 4. any other relevant particulars.
- b.
 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?
 2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.
- c.
 1. Did you appear in court regularly, occasionally, or not at all? Please explain.
 2. What percentage of these appearances was in:
 - a. federal courts
 - b. state courts of record
 - c. other courts
 3. What percentage of your litigation was:
 - a. civil
 - b. criminal
 4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

5. What percentage of these trials was:

- a. jury
- b. non-jury

2. Describe ten of the most significant litigated matters which you personally handled and give the citations, if the cases were reported. Give a succinct statement of what you believe to be the particular significance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the dates of the trial period or periods;
- b. the name of the court and the name of the judge before whom the case was tried; and,
- c. the individual name, address, and telephone numbers of co-counsel and of counsel for each of the other parties.

3. Judicial office:

Describe ten of the most significant opinions you have written or attach copies of them to your answers, and give the citations if the opinions were reported, as well as citations to any appellate review of such opinions.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Describe all financial arrangements, stock options, deferred compensation agreements, future benefits, and other continuing relationships with business associates, clients or customers.
2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.
3. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.
4. Have you ever held a major position or played a major role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.
5. If applicable, please describe the arrangements you have made to dissolve your financial interest in your law firm. What time period is involved? What arrangements have you made to be compensated for your work on pending litigation?
6. Please complete the attached financial net worth statement in detail.

NET WORTH

[illegible]

III. GENERAL (PUBLIC)

1. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government. Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;
 - b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
 - c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
 - d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
 - e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.
2. What actions in your professional and personal life evidence your concern for equal justice under the law?

IV. CONFIDENTIAL

1. Full name (include any former names used).
2. Address: List current place of residence and office address(es). List all office and home telephone numbers where you may be reached.
3. Have you ever been discharged from employment for any reason or have you ever resigned after being informed that your employer intended to discharge you?
4. Are all your taxes (federal, state and local) current as of this date?
5. Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? If so, give particulars.
6. Have you or your spouse ever been the subject of any audit, investigation or inquiry for either federal, state or local taxes? If so, give full details.
7. Have you or your spouse ever declared bankruptcy? If so, give particulars.
8. Have you to your knowledge ever been under federal, state or local investigation for a possible violation of a criminal statute? If so, give full details.
9. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct or been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee, or other professional group? If so, give particulars.
10. Have you ever been sued by a client or a party? If so, give particulars.
11. If you are a member of any club that restricts membership on the basis of race, sex or religion, please give full details.
12. Please advise the Committee of any unfavorable information that may affect your nomination.

AFFIDAVIT

I, _____, do swear that the information
provided in this statement is, to the best of my knowledge,
true and accurate.

(DATE)

(NAME)

(NOTARY)