


 AMERICAN BAR ASSOCIATION

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 JUDICIARY

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September 8, 1981

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 The Honorable Strom Thurmond
 Chairman
 United States Senate
 Committee on the Judiciary
 Washington, D.C. 20510

Dear Mr. Chairman:

This letter is submitted in response to your invitation to the Standing Committee on Federal Judiciary of the American Bar Association ("the Committee") to submit its opinion regarding the nomination of the Honorable Sandra Day O'Connor of Arizona to be an Associate Justice of the Supreme Court of the United States.

The Committee has unanimously adopted the following evaluation of Judge O'Connor based upon the investigation described below.

The Committee is of the opinion that Judge O'Connor meets the highest standards of judicial temperament and integrity. Her professional experience to date has not been as extensive or challenging as that of some other persons who might be available for appointment to the Supreme Court of the United States. Nevertheless, after considering her outstanding academic record, her demonstrated intelligence and her service as a legislator, a lawyer and a trial and appellate judge, the Committee is of the opinion that she is qualified from the standpoint of professional competence for appointment to the Supreme Court of the United States.

The Committee's investigation of Judge O'Connor was limited to her professional qualifications -- her professional competence, judicial temperament and integrity. Consistent with the Committee's longstanding tradition, the Committee has not undertaken to make any determinations about Judge O'Connor's general political ideology or her views on any issues that she may face

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should she be confirmed to serve on the Supreme Court of the United States. These issues are not matters properly of concern to the Committee. */

The Committee's investigation of Judge O'Connor included the following inquiries:

- (1) Members of the Committee interviewed a large number of federal and state judges throughout the United States.
- (2) Members of the Committee interviewed a cross section of practicing lawyers, including government lawyers, legal services and public interest lawyers and private practitioners, both in and outside of Arizona.
- (3) Members of the Committee interviewed a number of deans and faculty members of law schools throughout the country.
- (4) Members of the Committee interviewed a number of members of the Arizona State Senate.
- (5) A group of practicing attorneys and two groups of law professors reviewed Judge O'Connor's judicial opinions.
- (6) Three members of the Committee interviewed Judge O'Connor.

*/ The Committee's approach in this respect is based on well established standards of behavior governing the conduct of those seeking judicial positions. These standards, which are set forth in the American Bar Association's Code of Judicial Conduct, provide that a candidate for judicial office "should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; [or] announce his views on disputed legal or political issues" ABA Code of Judicial Conduct, Canon 7, ¶ B(1)(c). Because it would be improper for a nominee to address such political matters, it would be inappropriate for the Committee to evaluate a nominee on that basis.

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Professional Background

The Committee's investigation revealed that Judge O'Connor's career has included service as a practicing lawyer, a legislator, and a judge. She received an A.B. degree with great distinction from Stanford University in 1950. She received an LL.B. from Stanford Law School in 1952. While in law school, Judge O'Connor was a member of the Board of Editors of the Stanford Law Review and was elected a member of the Order of the Coif, an honorary scholarship society. She was admitted to the Bar of the State of California in 1952 and to the Bar of the State of Arizona in 1957.

Judge O'Connor spent a year in 1953 working at the San Mateo District Attorney's Office in California, first as a law clerk and then as a Deputy District Attorney. Thereafter, from 1954 through 1957 she worked as a civilian attorney at the Quartermaster Market Center in Frankfurt, West Germany.

From 1959 to 1965, Judge O'Connor was engaged in the private practice of law in Maricopa County, Arizona. Her practice covered a broad spectrum of matters, including contracts, domestic relations, and criminal matters. She was also active in community volunteer work, including work in county bar activities and service as a juvenile court referee.

From 1965 to 1969 Judge O'Connor was an Assistant Attorney General in Arizona, representing the state finance department, the state auditor, the governor's office and the state welfare department. Then in 1969 she was elected to the Arizona State Senate where she served two terms until 1975. During this period Judge O'Connor was elected Majority Leader of the Arizona State Senate and served as Majority Leader during 1973 and 1974.

In 1975 Judge O'Connor was elected Superior Court Judge in Maricopa County, Arizona. She was elevated to the Arizona Court of Appeals, an intermediate state appellate court, by Governor Babbitt in 1979 and has served as a judge of that court until the present.

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Through interviews of those who worked with Judge O'Connor during various stages of her professional career, the Committee learned that she has performed her work very competently, has demonstrated a high degree of integrity and has displayed excellent judicial temperament.

1. Interviews With Judges

In its investigation the Committee interviewed more than three hundred persons of whom over a hundred and fifty are federal, state and local judges. A significant number of the judges interviewed are judges sitting in Arizona who are familiar with Judge O'Connor and her experience as a trial and appellate judge. Judge O'Connor received uniformly favorable reviews from these individuals. Her colleagues on the Arizona Court of Appeals referred to her as "a tremendous worker," "a careful and exacting lawyer" and "a person of superb quality and keen intelligence." In addition, judges from the U.S. Court of Appeals for the Ninth Circuit who are familiar with Judge O'Connor expressed their admiration for her performance on the bench, her integrity and her judicial temperament.

The Committee also interviewed federal and state judges outside Arizona. Although most of these judges have no firsthand knowledge of Judge O'Connor's performance, those who do described her in favorable terms. She was characterized as "intellectually well prepared," "very thoughtful" and "capable of mastering anything she puts her mind to master." Many judges who do not personally know Judge O'Connor have a favorable impression of her based on conversations they have had with their colleagues. On the whole, the Committee found that the judicial community -- both in and outside of Arizona -- supports Judge O'Connor's nomination.

2. Interviews With Lawyers

In our evaluation of Judge O'Connor, the Committee contacted about a hundred practicing lawyers throughout the United States. We talked with a broad cross section of the legal community, including lawyers

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who represent women's groups, minority groups, labor unions, large corporations, individuals in civil litigations and defendants in criminal cases. Without exception the Arizona lawyers who were interviewed reported favorable impressions of Judge O'Connor, her abilities as a lawyer and her performance as a trial and appellate judge. They described her as "bright" and "objective" and as a "quick study." Lawyers who have tried cases before Judge O'Connor reported that she is always prepared and runs a "tight ship" in the courtroom. These interviews convinced the Committee that, although her experience as a trial and appellate judge has been limited, Judge O'Connor has demonstrated the necessary qualities of professional competence, judicial temperament and integrity.

Very few lawyers interviewed who practice outside of Arizona are personally familiar with Judge O'Connor. However, the uniform reaction of those who have a basis for opinion is favorable. One lawyer aptly summed up the comments received by saying that he would give Judge O'Connor "high marks in every department."

3. Interviews With Deans and Professors of Law

The Committee spoke to more than forty deans and faculty members of a number of law schools throughout the country. Only a few of those to whom we spoke know Judge O'Connor personally or are familiar with her work on the bench. However, those individuals spoke favorably of Judge O'Connor.

4. Interviews With State Senators

The Committee interviewed approximately a dozen Arizona State Senators -- both Democrats and Republicans -- who had served with Judge O'Connor. They were uniform in their praise of Judge O'Connor, describing her as "an excellent Senator," "an enormously intelligent person," "a woman of integrity" and a "very fair and open-minded" person. The Committee was assured that "she has no prejudices with respect to race, creed or color."

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5. Survey of Judge O'Connor's Opinions

Judge O'Connor's opinions and other legal writings were examined for the Committee by a group of practicing attorneys and by two groups of law school professors. Those consulted expressed differing views concerning the strength of her opinion writing. Judge O'Connor has written relatively few published opinions -- approximately thirty -- since she became a judge in 1975. She has also written two published articles. Not surprisingly, Judge O'Connor's opinions deal almost exclusively with issues of state law. For the most part, the subject matter of her opinions is such that they do not involve the elaborate legal analysis or complex social issues often found in Supreme Court decisions. Nonetheless, the Committee concluded that the opinions are competently written and her writing style is clear and logical.

6. Interview With Judge O'Connor

Judge O'Connor was interviewed by three members of the Committee. Their impression of Judge O'Connor is that she is an intelligent, articulate person who is committed to the law and to equal justice and who is concerned about people and their problems. She will approach her new position, if confirmed, with enthusiasm, determination and dedication.

* * *

Based on the investigation described above and notwithstanding the fact that Judge O'Connor's professional experience has not been as extensive or challenging as that of others who might be available, the Committee has unanimously found that Judge O'Connor has the professional qualifications required of an Associate Justice of the Supreme Court of the United States.

Those who have worked with Judge O'Connor describe her as very intelligent, analytical, thorough and hard-working. The diversity of her experience as a practicing lawyer, legislator and judge provides a valuable background for a Supreme Court Justice. She is dedicated to the legal profession and has made significant contributions to her community.

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Furthermore, the Committee's investigation has demonstrated that Judge O'Connor has an appropriate judicial temperament. Her judgment is sound, and she is well respected by her colleagues. Her integrity is above reproach.

This report is being filed at the commencement of the Senate Judiciary Committee's hearing. We will, as a matter of routine, review our report at the conclusion of the hearings and notify you if any circumstances have developed that may require modification of our views.

Respectfully submitted,

Brooksley E. Landau
Brooksley E. Landau
Chairperson

BEL:djr

The CHAIRMAN. Now we have a lady here that has to catch a plane and is also scheduled to testify, we will take her next: Ms. Kathy Wilson, National Women's Political Caucus. Ms. Wilson, will you come around?

Raise your right hand and be sworn in.

Do you swear that the evidence you give in this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. WILSON. I do.

The CHAIRMAN. Have a seat, and we will be glad to hear from you.

TESTIMONY OF KATHY WILSON, NATIONAL WOMEN'S POLITICAL CAUCUS

Ms. WILSON. Thank you.

I am Kathy Wilson, chair of the National Women's Political Caucus. Accompanying me today is Susan Ness, director of the NWPC judicial appointments project. In addition to my organization, I speak today on behalf of 21 organizations, which include the American Association of University Women, Arizona Women Lawyers' Association, Federally Employed Women, Mexican-American Women's National Association, National Association of Negro Business and Professional Women's Clubs, National Council of Jewish Women, National Federation of Business and Professional Clubs, National Women's Party, Rural American Women, and the Women's Equity Action League.

Mr. Chairman and members of the Senate Judiciary Committee, thank you very much for providing the National Women's Political Caucus with the opportunity to testify before you in support of the confirmation of Judge Sandra Day O'Connor, nominee for Associate Justice of the U.S. Supreme Court.

The millions of women I speak for today are delighted by the appointment of Judge O'Connor, the first woman selected to serve on the U.S. Supreme Court in its 190-year history.

As a jurist, Judge O'Connor has consistently demonstrated those qualities that are the foundation of the American judicial system: the highest standards of professionalism, competence, integrity, ju-