

Honorable Carl Levin  
 United States Senate  
 Washington, D.C. 20510

Dear Senator Levin:

I have received from your office the following question: "During your private meetings with public officials since your appointment, did you make any statements relative to your position on the substantive issues which may come before the Court? If so, please describe those statements."

Since my nomination I have not made any statements concerning my position on substantive issues which may come before the Court, either in private meetings with public officials or public testimony. Nor did I do so during the selection process leading up to the nomination.

I believe judges must decide legal issues within the judicial process, constrained by the oath of office, presented with a particular case or controversy, and aided by briefs, arguments, and consultation with other members of the panel. I also believe it would be quite improper for a nominee to take a position on an issue which may come before the Court in order to obtain favorable consideration of the nomination.

Thank you for the opportunity to set forth my views in response to your question.

Sincerely,

  
 Sandra D. O'Connor

#### THE CASE AGAINST WOMEN IN CERTAIN OCCUPATIONS

(By Willel W. G. Reitzer, private citizen, Washington, D.C.)

A century ago, Justice Joseph Bradley of the U.S. Supreme Court wrote in a decision upholding the right of a State to deny a woman a license to practice law: "The harmony, not to say identity, of interests and views which belong or should belong, to the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband" (*Bradwell v. State*, 1872).

This is not a wild harebrained notion such as sometimes slips into our highest court's opinions. Rather it was a fundamental precept firmly fixed in the common law—that respectable system of jurisprudence which underlies our national foundation.

But it did not originate there. Interestingly, those who rail against this precept do not seem to know where it did originate. Some ascribe it to romantic paternalism; others to a male conspiracy to perpetuate male ascendancy. The fact is, it goes clear back to Creation.

Holy Writ informs us that after God created a man, and then made a woman "out of" him and "for" him, He said: "Therefore shall a man leave his father and his mother, and shall cleave unto his wife, and they shall be one flesh" (*Genesis* 2:24). One flesh means one entity: one mind, one interest, one aspiration. Jesus Christ Himself upheld the authenticity of this precept—as well as the historicity of this event (*Matthew* 19:4,5).

No wonder Justice Bradley went on to say: "So firmly fixed was this sentiment in the founders of the common law that it became a maxim . . . that a woman had no legal existence separate from her husband, who was regarded as her head and representative in the social state; and notwithstanding some recent modifications of this civil status, many of the special rules of law flowing from and dependent upon this cardinal principle still exist in full force in most states" (e.s.). Hence women had no separate right to make contracts, to vote, to hold public office, to enter the priesthood and certain other occupations.

What happened in 100 years to bring about so great an erosion? It is the Garden of Eden syndrome all over again. Believing the forbidden fruit to more fulfilling, the woman reached out for it and ate. And she offered it to the man, and he ate also. It

keeps recurring in history. In the 8th century B.C., prophet Isaiah lamented a national spiritual decline in ancient Israel: "As for my people, children are their oppressors, and women rule over them. O my people, they which lead thee cause thee to err. . . ." (Isa. 3:12).

Here is grievous error indeed: direct tampering with the Creator's design for His beloved creatures, implying He was either inept or deliberately deprivative. Restructuring it disparages His wisdom and justice and goodness.

And for what? For blanket equality of roles for men and woman. Why is this so superior? This does not exist even among the angels—nor among the three Persons of the blessed Trinity. For it is not a matter of ability or opportunity, but of organization. Every creature has its God-given role. Therefore each has its particular endowments. The male-female distinction is so basic to planet earth it pervades also the animal, fish, and fowl realm. It serves to reflect a subordination principle that also pervades the supernatural realm, and is not only for instruction. It also facilitates efficient human function, as well as the acquisition of virtue—particularly the greatest of them: not equality, but love (which is much more noble and meaningful between superiors/subordinates than between equals). In God's plan the basic social unit is the family, not the individual or the state. So fathers are to be breadwinners and mothers—and grandmothers—homemakers (1 Tim.3:14; Tit. 2:8-5). The percept of authority in the male perforce is exclusive; women are not even to put themselves into positions of teaching or commanding men outside the home (1 Tim.2:12-15). Thus it was wise of our juridical forefathers to incorporate this design into law, thereby affording the marriage institution needed protection against temptations to undermine it.

Equality is not proving itself superior in practice. On the contrary. As more women go into more occupations, divorce rates keep climbing, male unemployment and instability keep increasing. The hard fact is: Mrs. O'Connor is putting another man out of work. She is setting an example and precedent that will put other men out of work. Women in certain occupations put greater strain on men: psychologically, sexually, in other ways. All this in turn puts a greater strain on family members, on the family as an institution, and on society as a whole. The result is the social fabric keeps developing new tears—and the innocent in some measure having to suffer adversity along with the guilty.

What then is the bottom line? It is the same the Apostle Paul made on Mars' Hill in Athens when he confuted the sophistry of the Greek philosophers who had perverted basic truths that regulated paramount human conduct (Acts 17:30,31): Cease and desist, for there is a Judgment Day coming when everyone will have to give an account of what he has done here on earth whether it be good or evil.

