

*APPOINTING A
SUPREME
COURT
JUSTICE
THE CASE OF
SANDRA DAY
O'CONNOR*



**GRADES
8-12**



EDUCATION

Appointing a Supreme Court Justice: The Case of Sandra Day O'Connor *A Lesson for Secondary Students*

Developed by
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Appointing a Supreme Court Justice: The Case of Sandra Day O'Connor

Overview:

The Constitution of the United States grants the President the power to appoint people to a variety of positions throughout the government. All of these appointments require careful thought and consideration since the people in these positions can have a great impact on the lives of many Americans during that President's term. Some appointments need even greater thought and consideration, and those are to the federal judicial system and more importantly, to the Supreme Court of the United States. Justices of the Supreme Court (and other federal courts) serve lifetime appointments and will still be sitting on the bench long after the President that appointed them has left the White House. The rulings of these Justices as they interpret the Constitution, and other situations as outlined in Article III of the Constitution, can have far reaching effects on the entire nation for generations to come. With this awesome power to appoint comes an equally awesome responsibility to make sure that the individuals appointed are the best people for the job and for the nation.

In this lesson, students will examine the appointment of one particular Supreme Court Justice, Sandra Day O'Connor, who was also the first female Justice in the 191 year history of the Court to that point in time. Students will examine the process by which a President makes the appointment selection and the steps that lead to that person being confirmed by the Senate (or not).

Standards:

C3 Framework:

- D1.5.9-12 Determine the kinds of sources that will be helpful in answering compelling and supporting questions, taking into consideration multiple points of view represented in the sources, the types of sources available, and the potential uses for the sources.
- D2.Civ.4.9-12 Explain how the U.S. Constitution establishes a system of government that has powers, responsibilities, and limits that have changed over time and that are still contested.
- D2.Civ.10.9-12 Analyze the impact of personal interests and perspectives on the application of civic virtues, democratic principles, constitutional rights, and human rights.
- D2.Civ.11.9-12 Evaluate multiple procedures for making governmental decisions at the local, state, national, and international levels in terms of the civic purposes achieved.
- D3.1.9-12 Gather relevant information from multiple sources representing a wide range of views while using the origin, authority, structure, context, and corroborative value of the sources to guide the selection.
- D4.1.9-12 Construct arguments using precise and knowledgeable claims, with evidence from multiple sources, while acknowledging counterclaims and evidentiary weakness.

English Language Arts Standards (Reading: Informational Text & History/Social Studies):

- RH.11-12.2 Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationships among the key details and ideas.
- RH.11-12.3 Evaluate various explanations for actions or events and determine which explanation best accords with textual evidence, acknowledging where the text leaves matters uncertain.
- RI.11-12.1 Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.

Objectives:

Student will be able to:

- Examine and analyze primary and secondary source documents.
- Analyze the factors that have a bearing on the executive decision-making process.
- Identify the actors involved and explain their role in the entire process from nomination to confirmation.

Classroom Procedures:

Item	Time	Teacher is...	Student is...
1. Agenda: - Hook - Essential Questions - Primary Source Exploration - Independent Practice & Assessment - Extension Assignment		<ul style="list-style-type: none">• Preparing the class for the lesson.	<ul style="list-style-type: none">• Copying the agenda into their notebook.
2. Hook: You have been accused of stealing. Which of the three people shown in the pictures would you want judging you and why? What was it about the other two people that made you not want them to judge you?	5-10 min	<ul style="list-style-type: none">• Print out copies of three different people (they should be people in different situations and from different backgrounds). Post these pictures on the board or around the classroom where all students can see them (or print multiple sets).• Instruct students that they are to pick the person they would most like to have judge them for the crime of theft and to give the specific reasons why. Also ask what it was about the other two people that made the student not want them as a judge.• Ask students to write down their answer in their notebooks.• Have students share out their answers.• Ask students: 'What did you just do?' They judged others. They made a decision based on their own thoughts and beliefs. Lead a discussion on the fact that they judge others and are judged by others every day.	<ul style="list-style-type: none">• Students are considering which of the three people they would want to judge them and why.• Students should keep their answers to simple characteristics and should refrain from making any comments that could be considered derogatory. It should be answers like, 'the homeless man would understand need', 'the grandmother looks kind', 'the lawyer would know the law'.• Students are writing their answers in the notebooks.• Students share out their thoughts with the class.• Students discuss the process of judging others and being judged.

<p>3. Essential Question(s): What kind of person should be appointed to the Supreme Court and making decisions that will impact the entire country?</p>	<p>5 min</p>	<ul style="list-style-type: none"> • Explain that today they are going to be learning the process by which Supreme Court Justices are selected and approved. • Ask students to think about what kind of information would be helpful in answering this kind of question. How can they be sure they are hearing all sides of the argument? • Solicit responses from the students. 	<ul style="list-style-type: none"> • Students should think for a minute and talk to a partner about what information would best help them answer the essential questions. • Students should report out on their ideas.
<p>4. Primary Source Exploration:</p>	<p>30-40 min</p>	<ul style="list-style-type: none"> • Distribute Student Handouts A and A1-A6. • Divide students into groups of 5-6. Give each group two pieces of blank paper. • Activate prior knowledge by asking students what they already know about the responsibilities of the President regarding appointments and the role of Supreme Court Justices. • Have each group write 'President' on one blank page and 'Supreme Court' on the other. • Students will have a few minutes to pass the sheets around the table with each student writing one thing they know about either the President's appointment power or the role of the Supreme Court when that page comes around to them. Students are to keep passing the sheets around until time is up. • Have students share out what their groups came up with and discuss any salient points and clarify any misconceptions. 	<ul style="list-style-type: none"> • Students receive Student Handouts A and A1-A6. • Student will form their groups and groups should receive two sheets of blank paper. • Students begin thinking about what they know about the President's appointment power and the role of the Supreme Court. • Students will write President on one blank page and Supreme Court on the other. • Students will pass around the sheets and write down one thing they know about the topic on the page and then pass it to the next person. Student will continue to pass around the sheets and add more information until the teacher calls time. • Students share out what their group wrote down on their sheets.

	<ul style="list-style-type: none"> • Inform students that they will now be reading selections from Federalist 78 (Handout A1). Some of the language can be difficult for students. If you feel there may be too many issues, look at the resources from http://freedom-school.com/law/federalist-papers-in-modern-language.pdf. It has all of the Federalist Papers in more modern language. • Instruct students to read the selections and answer the questions on Student Handout A. • Have students read through the Overview of the Appointment Process (Handout A2) and answer the questions on Handout A. • Ask students where they think a nominee’s appointment could get bogged down. If not brought up by the students, be sure to highlight: <ul style="list-style-type: none"> ○ Background check ○ Committee hearing ○ Potential for a filibuster ○ Final vote in the Senate • Have students read Handout A3 which highlights President Reagan’s criteria for nominations to the federal bench and answer the questions on Handout A. • Ask a few students to share which criteria they selected for their answers and his/her rationale. Open the class for discussion on which criteria would be the most important for a Supreme Court Justice. 	<ul style="list-style-type: none"> • Students read selections from Federalist 78 (Handout A1) and ask questions if they have difficulty with the language. Students will answer the questions on Student Handout A. • Students read through the Overview of the Appointment Process (Handout A2) and answer the questions on Handout A. • Students share their impressions of where a nominee could run into problems through the confirmation process. • Students should put themselves in the shoes of the President and decide which of the criteria from the list would be their most important consideration as well as which one they would consider least. Students should explain their reasoning for each and should be prepared to share the criteria they selected and their rationale.
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		<ul style="list-style-type: none"> • Have students read Handouts A4-A6 which is comprised of three letters to President Reagan. Two of the letters are from White House staffers arguing for the selection of a female Supreme Court Justice. The last letter is from the National Women’s Political Caucus outlining their rationale as well as giving several potential candidates (including the future Justice, Ruth Bader Ginsburg). It should be noted though that none of the proposed candidates were on the ‘short list’ for consideration. • Ask student to share the one argument that they found particularly compelling and why. 	<ul style="list-style-type: none"> • Students should read the three letters in Handouts A4-A6 and identify what they think are the most and the least compelling arguments for nominating a female Justice. Students will highlight one sentence in particular that resonates with them the most and the reason why they feel it is such a compelling argument. Students will write their answers on Student Handout A. They should be prepared to share their answers. • Students share their answer and reasons with the class.
<p>5. Independent Practice and Assessment:</p>	<p>20-30 min</p>	<ul style="list-style-type: none"> • Keep students in their assigned groups or mix things up if desired. Distribute Student Handouts B and B1-B7 to students. • Students will either read all of the letters (Handouts B1-B7) or you can have each group divide the letters amongst themselves (depending on the amount of time available and/or reading ability). Once the letters have been read, students will collaborate on the Press Release. Students are to make sure the letter is both professional as well as addressing the criteria presented earlier. • Have groups share their Press Release or highlights with the class. 	<ul style="list-style-type: none"> • Students remain in previous groups or find new a new team and should receive Student Handouts B and B1-B7. • Depending on what is assigned, students will read either all of the letters in Handouts B1-B7 or only a couple each. Either way, students should take notes on important points on the front side of Student Handout B. Each group will collaborate on the Press Release and one student from each group will transcribe the Press Release on the back of Student Handout B. • A student (or students) other than the one that drafted the Release will share their group’s Press Release or just the highlights.

<p>6. Extension Assignment:</p>	<ul style="list-style-type: none"> • (Optional) Distribute Student Handout C: Extension Assignment. Students will be pretending that Justice Ruth Bader Ginsburg has just announced her retirement. Students will write a letter to the President asking him/her to appoint a Justice that the student would like to see on the bench. A compelling argument must be made for what type of characteristics and temperament they believe the new Justice should embody. • You may want to highlight (or not) the change in the balance of the court that could occur depending on the nominee. Currently the court is considered to be split five conservative Justices and four liberal Justices. Justice Ginsberg is one of the liberal Justices. • You may also wish inform the students that Justice Ginsberg’s replacement may be sitting on the bench for the next 25-30 years (if not longer). • As an alternate or additional assignment, you could assign them a role and have the students write the letter from the point of view of a specific demographic. Examples could be a religious leader, an activist for a variety of groups (NARAL, National Right to Life, NRA, Brady Campaign, Human Rights Campaign, National Organization for Marriage), or a Democrat/Republican. 	<ul style="list-style-type: none"> • Students receive Student Handout C and complete the assignment.
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Primary Source A1: Federalist 78 – Publius (Alexander Hamilton)

Directions: Read the selections from Federalist 78 and answer the following questions.

Why does Hamilton think it so important that Supreme Court Justices serve ‘during good behavior’ (a lifetime appointment unless they are impeached and removed from office)? [Paragraph 1]

Which branch of government did the Founders expect to be the weakest of the three and why? [Paragraph 2]

Why must the Judicial Branch be separate from the Executive and Legislative Branches? [Paragraph 3]

What does Federalist 78 say about the power of the judiciary to declare unconstitutional laws void? [Paragraphs 4-6]

An independent Judicial Branch is intended to protect the people from the Executive and Legislative branches. What other group does it protect against and why? [Paragraphs 7 & 8]

Secondary Source A2: Overview of the Judicial Appointment Process

Directions: Read through the steps involved in the appointment process for federal judges and highlight points at which you think the nomination may have problems or become completely derailed and why.

Potential Problem Points and Reasoning:

Primary Source A3: FFF 6/18/81 – Judicial Selection Criteria

Directions: Read the Judicial Selection Criteria, Memorandum for Fred F. Fielding, and Considerations for Judicial Appointment to the Supreme Court. If you were President and having to select a Supreme Court Justice for a lifetime appointment to the bench, which criteria would be the most important to you? Which criteria would be the least important? Explain your reasoning. Be sure to ask your teacher if you have any questions about any of the criteria.

Which criteria would be your most important and why?

Which criteria would be your least important and why?

Primary Source A4-A6: Memoranda from Lyn Nofziger and Wendy Borchardt; Letter from the National Women’s Political Caucus

Directions: Read the memoranda from both Mr. Nofziger and Ms. Borchardt and the letter from the National Women’s Political Caucus. As you read these letters, which arguments are the most compelling to you? Which arguments do you find to be the least compelling? Why? Find one sentence from any of the letters that you feel makes the most powerful argument. Explain why this sentence resonates with you.

Most compelling arguments:

Least compelling arguments:

One sentence that really resonates with you and why:

(Selections From)
Federalist No. 78: The Judiciary Department (Hamilton)

To the People of the State of New York:

WE PROCEED now to an examination of the judiciary department of the proposed government.

[1] According to the plan of the convention, all judges who may be appointed by the United States are to hold their offices DURING GOOD BEHAVIOR; which is conformable to the most approved of the State constitutions and among the rest, to that of this State. Its propriety having been drawn into question by the adversaries of that plan, is no light symptom of the rage for objection, which disorders their imaginations and judgments. The standard of good behavior for the continuance in office of the judicial magistracy, is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince; in a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright, and impartial administration of the laws.

[2] Whoever attentively considers the different departments of power must perceive, that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The Executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.

[3] This simple view of the matter suggests several important consequences. It proves incontestably, that the judiciary is beyond comparison the weakest of the three departments of power; that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks. It equally proves, that though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter; I mean so long as the judiciary remains truly distinct from both the legislature and the Executive. For I agree, that "there is no liberty, if the power of judging be not separated from the legislative and executive powers." And it proves, in the last place, that as liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments; that as all the effects of such a union must ensue from a dependence of the former on the latter, notwithstanding a nominal and apparent separation; that as, from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its co-ordinate branches; and that as nothing can contribute so much to its firmness and independence as permanency in office, this quality may therefore be justly regarded as an indispensable ingredient in its constitution, and, in a great measure, as the citadel of the public justice and the public security.

[4] There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

[5] If it be said that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other departments, it may be answered, that this cannot be the natural presumption, where it is not to be collected from any particular provisions in the Constitution. It is not otherwise to be supposed, that the Constitution

could intend to enable the representatives of the people to substitute their WILL to that of their constituents. It is far more rational to suppose, that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.

[6] If, then, the courts of justice are to be considered as the bulwarks of a limited Constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges which must be essential to the faithful performance of so arduous a duty.

[7] This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community. Though I trust the friends of the proposed Constitution will never concur with its enemies, in questioning that fundamental principle of republican government, which admits the right of the people to alter or abolish the established Constitution, whenever they find it inconsistent with their happiness, yet it is not to be inferred from this principle, that the representatives of the people, whenever a momentary inclination happens to lay hold of a majority of their constituents, incompatible with the provisions in the existing Constitution, would, on that account, be justifiable in a violation of those provisions; or that the courts would be under a greater obligation to connive at infractions in this shape, than when they had proceeded wholly from the cabals of the representative body. Until the people have, by some solemn and authoritative act, annulled or changed the established form, it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge, of their sentiments, can warrant their representatives in a departure from it, prior to such an act. But it is easy to see, that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the Constitution, where legislative invasions of it had been instigated by the major voice of the community.

[8] The benefits of the integrity and moderation of the judiciary have already been felt in more States than one; and though they may have displeased those whose sinister expectations they may have disappointed, they must have commanded the esteem and applause of all the virtuous and disinterested. Considerate men, of every description, ought to prize whatever will tend to beget or fortify that temper in the courts: as no man can be sure that he may not be tomorrow the victim of a spirit of injustice, by which he may be a gainer to-day. And every man must now feel, that the inevitable tendency of such a spirit is to sap the foundations of public and private confidence, and to introduce in its stead universal distrust and distress.

PUBLIUS.

Overview of the Judicial Appointment Process



When an opening occurs for a judicial position (either through retirement, removal, or death), the President nominates someone to fill the position.

The President will try to find a nominee that matches their philosophy but will also take into account the opinion of experts and key Senators.



Once a nominee is selected, his or her name is sent to the Senate Judiciary Committee.

The Judiciary Committee collects information about the nominee, including a background check by the FBI, and reviews the nominee's record and qualifications.



The Judiciary Committee holds a hearing on the nominee. Witnesses speak both in favor and against the nomination. Senators ask questions of the nominee.

The Judiciary Committee votes on the nomination, and depending on the vote, will either recommend that the Senate vote to approve or reject the nomination.



The full Senate debates the nomination.

A vote of 3/5 of the Senate (60 senators) is required to end debate. This is called a cloture vote. If enough senators wish to delay a vote on a nominee, they can filibuster by not voting to end debate.



When debate ends, the Senate votes on the nomination. Confirmation requires a simple majority of the senators present and voting.

If approved, the President commissions the Justice and they begin their term on the bench.



Source: Congressional Research Service Report: Supreme Court Appointment Process: Roles of the President, Judiciary Committee, and Senate. CRS Report #7-5700; www.crs.gov

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6/18/81

JUDICIAL SELECTION CRITERIA

The President's criteria for federal judicial appointments is well established: excellence, competence and judicial temperament. As he has often stated, in filling these more important positions he will not seek only candidates who necessarily agree on every position, but rather who share one key view: The role of the courts is to interpret the law, not to enact new law by judicial fiat. With these conditions, he will be seeking candidates from all segments of the public.

CONSIDERATIONS FOR JUDICIAL APPOINTMENT TO THE SUPREME COURT

Work Capacity

Age
 Length of anticipated service on court
 Health
 Diligence/Industriousness
 Ability to make a decision
 Promptness in rendering decisions or completing legal work
 Craftsmanship
 Administrative Ability
 Ability to live and carry out the obligations to a family on a judicial salary
 Sobriety

Interpersonal Relationships

Obvious Judicial Demeanor
 Ability to function effectively in a collegial decisionmaking context
 Attentive
 Calmness under pressure
 Courteous/Considerate
 Openminded/Willingness to learn
 Sense of Humor
 Sensitivity to differences in others

Character

Mature
 Dignified
 Has integrity
 Exhibits moral conduct; has high personal and professional ethics
 Is fairminded and free from prejudice
 Has good personal habits
 Patient
 Courageous
 Not unduly affected by criticism or adverse comments
 Unlikely to be influenced by partisan demands, public clamor or considerations of personal popularity or notoriety
 Independent
 Statesman
 Favors traditional values

Professional Background

Prior Occupations
 Educational Achievements
 Reputation
 - personal
 - professional
 - community
 Unquestioned Legal Ability
 Distinguished Legal Experience
 Prior Trial Experience
 Knowledge of the Appellate Process
 Prior Judicial Experience
 - trial court
 - appellate court
 -- quality of opinions
 -- frequency of dissenting opinions
 - Frequency of Reversal on appeal
 - Number of cases handled over a period of time
 - Type of cases handled
 - Sentence Data
 - Disparity of sentencing as compared to other judges of the same court and in the same court system
 Broad Knowledge
 - government
 - history
 - human freedom
 - economics
 - technology
 Writings other than Judicial Opinions
 Civic and Community Activities

Special Questions to be asked

Will this person be an obviously good choice?
 Does he/she have a great potential for judicial leadership?
 How has this person exercised judicial restraint in the past?
 Is there a commitment to being an interpreter, rather than a creator of the law?
 What does this person believe are the most important issues before the court?
 And, what will be the most important issues before the court in 5 years?
 What experience does this person have with those social issues?
 Is this person strongly convinced of his/her own philosophy? Will they likely be unduly swayed by liberal, academic, media, peer or other pressures?
 Is this person able to sever relationships (business/social/political/other) so that there will be no appearance of a conflict of interest?
 Is this person dedicated to making the legal system work?
 Has any tendency been exhibited which would indicate possible abuse of the office?
 Are there any disqualifying factors, controversial items or potential problems with this candidate?

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

The President has seen _____

June 22, 1981

MEMORANDUM FOR: The President
FROM: Lyn Nofziger

WS

C.F.

OK PR 0196955
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PR005-06

I think it is imperative that you appoint a woman to the Supreme Court.

1. It means you will live up to a commitment you made and have that behind you.
2. It will go a long way towards solving the problem we have with the lack of women in this Administration in high places.
3. It will take off of your back the impression, however unjustified, that you and your senior staffers are anti-women.
4. It would be a very good political move. It will strengthen our base among women and probably among men also.

I believe there is a strong feeling in this country that a woman deserves a chance to serve on the Supreme Court. I think also that if you do not appoint a woman you will be perceived to have renegeged on your promise and that will hurt you in the Congress if your effort to get your legislative package passed and will certainly hurt you in the polls and, all in all, will have a strong negative effect that will hurt your overall standing and your overall ability to get your legislative program through the Congress.

I think it will also hurt our chances to pick up seats in the next election - - especially if another vacancy does not occur before then.

One more thing - - it's the right thing to do.

cc: Jim Baker
Mike Deaver
Dave Gergen
Ed Meese

29 JUN 1981

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*PFF met w/ her
no response req'd*
37F
SC Mem 81
(5)

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

DATE: 26 June 1981
TO: Fred Fielding
FROM: Wendy Borchardt *W.B.*
SUBJECT: Appointment to the United States Supreme Court

As the Associate Director of Presidential Personnel responsible for placing women in the Executive Branch of the government, (and now also wishing for some visibility for a woman in the Judicial Branch!), I am sending you some suggestions for potential nominees. In addition, Fred, I would like to stress the political ramifications of a woman's appointment to the Supreme Court. Although I realize that the President did not state on October 14th that the first appointment would be a woman, the perception out there is that he will strongly consider one, and I know that he will do so. However, let me strongly urge that a woman be appointed at this juncture, for the women's constituencies perceive that there is no woman in the Cabinet, and this judicial appointment would give high visibility to a woman in a most responsible area. Ambassador Jeane Kirkpatrick is not considered in the eyes of the women's constituency to be a "full-fledged" member of the Cabinet since she works in New York and does not attend many of the Cabinet meetings.

I am confident that a woman can qualify for membership on this prestigious body, and I do believe that the time is now to make that appointment. The political benefits to the President would be immense at this particular time when we have not been able to appoint women in what are some of the top level positions in the Executive Branch.

The following names have been suggested in telephone conversations last Friday after Potter Stewart's announcement of his retirement. I shall continue to send you additional names as they cross my desk.

1. Carla Hills
2. Cornelia Kennedy
3. Sylvia Bacon
4. Rita Hauser
5. Mildred Lillie

!>

cc: Ed Meese

P. S.

If you need additional information on the above prominent women, please do not hesitate to contact my office



NATIONAL WOMEN'S POLITICAL CAUCUS

1411 K STREET, N.W. WASHINGTON, D.C. 20005 (202) 347-4456

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EXECUTIVE DIRECTOR

Carol S. Silverthorn

June 18, 1981

The President
The White House
Washington, D.C. 20500

029329

Dear Mr. President:

Last October, you pledged to the American people that you would appoint a woman to the United States Supreme Court. With the resignation of Justice Potter Stewart, we urge you to fulfill that promise now.

A woman serving on the highest court in our land is a fundamental step toward achieving true and equal justice in this country. Such an appointment is long overdue. There are scores of highly qualified women lawyers and jurists who would make an outstanding contribution to the work of the U.S. Supreme Court. Over 45,000 women are practicing law in the United States. There are more than 700 women judges on courts of record. Of these, 44 women serve on the federal bench, and a dozen women judges are on the highest state courts. In addition, there are hundreds of prominent women partners in law firms, corporate executives, government officials and law professors from whom to choose.

Examples of the many women well qualified to serve are: Justice Shirley Abrahamson, Wisconsin Supreme Court; Elizabeth Hanford Dole, Special Assistant to the President; Judge Rita C. Davidson, Maryland Court of Appeals; Judge Ruth Bader Ginsburg, U.S. Court of Appeals for the District of Columbia Circuit; Carla Anderson Hills, partner, Latham, Watkins & Hills; Shirley Hufstедler, former judge of the U.S. Court of Appeals for the 9th Circuit; Judge Amalya Kearse, U.S. Court of Appeals for the 2nd Circuit; Justice Joan Dempsey Klein, California Court of Appeals and president of the National Association of Women Judges; Jewel Lafontant, former Solicitor General; Betty Southard Murphy, partner, Baker & Hostetler and former chairman of the National Labor Relations Board; Judge Dorothy Nelson, U.S. Court of Appeals for the 9th Circuit and former dean of the University of Southern California Law School; Justice Rosalie Wahl, Minnesota Supreme Court; and others.

37

P.G.

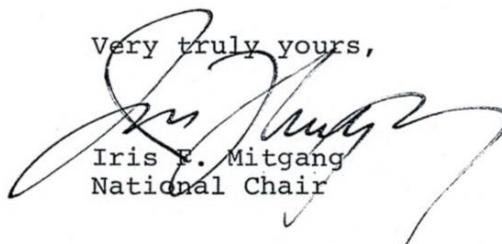
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FG051

The President
June 18, 1981
Page two

This list is merely illustrative of the many fine jurists and legal scholars who are women. We will continue to send you names of highly qualified women for your consideration.

We share your commitment to the highest standards of excellence for our nation's judicial system. Among the many women who meet these standards, we know that you will find the one who will enable you to make this historic nomination. In doing so, not only will you be fulfilling your pledge to the American people, but also, you will have begun to rectify the great imbalance on our nation's highest court.

Very truly yours,



Iris F. Mitgang
National Chair

IFM/sn

In July 1981, President Reagan made the decision to move forward with the nomination of Judge Sandra Day O'Connor to the Supreme Court. Judge O'Connor's nomination was both hailed and reviled and many people and groups wrote the President to give their thoughts.

Directions: It is late summer, 1981 and your **GOAL** is to put together an argument about why Judge O'Connor is the best choice for the Supreme Court and to give reasons for people to change their minds about her. Your **ROLE** is that you are a member of the White House Press Office. Your **AUDIENCE** is the American public, members of Congress, and special interest groups that aren't convinced about Judge O'Connor. The **SITUATION** is that your team has just been handed letters and articles both in support of Judge O'Connor as well as against her appointment. You and your team have been tasked by the President to take this information and make a well supported argument that supports Judge O'Connor and answers the concerns of those who oppose her. The **PRODUCT** you will be creating is a Press Release for the President to sign and distribute.

STANDARDS - The Press Release must contain the following:

- The style should be formal enough for the President to deliver on national television or publish in newspapers. - The Release must highlight at least three (3) of the Judicial Selection Criteria from earlier in the lesson that apply to Judge O'Connor. These should be used to explain why she would make a good Supreme Court Justice.
- The Release must reference the arguments from at least one (1) of the memos from the White House staff.
- The Release must directly respond to at least two (2) concerns from Members of Congress, the public, or interest groups.

Write down notes below and write your draft letter on the back of this sheet.

NOTES:

THE WHITE HOUSE
WASHINGTON

FOR IMMEDIATE RELEASE:

JOHN J. RHODES
15th DISTRICT, ARIZONA

MEMBER:
COMMITTEE ON
RULES

Congress of the United States
House of Representatives
Washington, D.C. 20515

2310 RAYBURN HOUSE OFFICE BUILDING
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SUITE 4
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(602) 968-7297

June 23, 1981

029858

The President
The White House

Dear Mr. President:

The purpose of this letter is to recommend the appointment of Judge Sandra O'Connor as Associate Justice of the Supreme Court -- a subject discussed with Mr. John Dressendorfer of your staff on June 19.

Judge O'Connor is an individual whose background and experience clearly qualify her as an outstanding candidate for the vacancy created by the resignation of Justice Stewart. She served four years as Arizona's Assistant Attorney General, six years in the State Senate, and four years as a Superior Court Judge. In 1979 she began a six-year term as a presiding judge on the Arizona Court of Appeals.

It is important to note that during these years of public service, Judge O'Connor has held a number of responsible positions outside of government. She has been a member of Stanford University's Board of Trustees and is currently President of the Board of Directors of the Heard Museum and a member of the Board of Directors of the Phoenix Historical Society.

Without question, Judge O'Connor would serve with distinction as a member of our highest court. She is not only recognized as an outstanding jurist, but also as an individual with the highest moral and ethical values. Accordingly, it is requested that she be given every possible consideration.

Thank you, and best wishes.

Yours sincerely,


Barry Goldwater


John J. Rhodes

JJR:ad



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

July 31, 1981

Dear Mr. President:

I have the honor to enclose a nomination in favor of Sandra Day O'Connor, of Arizona, to be an Associate Justice of the Supreme Court of the United States vice Potter Stewart, retired.

Judge O'Connor was born March 26, 1930 in El Paso, Texas, and was raised on a ranch in Eastern Arizona. She is married and has three children. She was graduated from Stanford University with Great Distinction in 1950, where she majored in economics. She then entered Stanford Law School, from which she graduated in 1952 as a member of the legal honorary society, the Order of the Coif. She also served as a member of the Board of Editors of the Stanford Law Review. She was admitted to the Bar for the State of California in 1952 and to the Bar for the State of Arizona in 1957.

She served as Deputy County Attorney for San Mateo County, California from 1952 to 1953; as a Civilian Attorney, Quartermaster Market Center, Frankfurt/Main, W. Germany from 1954 to 1957; was in the private practice of law in Maryvale, Arizona from 1958 to 1960; was an Assistant Attorney General, State of Arizona from 1965 to 1969; and was a State Senator, Arizona State Senate, from 1969 to 1975, where she served in 1973 and 1974 as Senate Majority Leader. She then served as a Judge on the Maricopa County Superior Court from 1975 to 1979. Since 1979, she has served as a Judge on the Arizona Court of Appeals. She has served in each of the foregoing capacities with great distinction.

Judge O'Connor bears an excellent reputation as to character and integrity, possesses judicial temperament, and is well qualified, I believe, to be an Associate Justice of the Supreme Court of the United States.

I recommend the nomination.

Respectfully,

The President
The White House

STROM THURMOND, S.C., CHAIRMAN
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 ARLEN SPECTER, PA.
 VINTON DEVANE LIDE, CHIEF COUNSEL
 QUENTIN CROMMELIN, JR., STAFF DIRECTOR

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

July 7, 1981

PERSONAL AND CONFIDENTIAL

The President
The White House
Washington, D.C. 20500

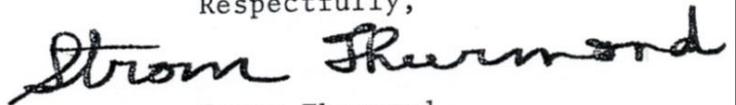
Dear Mr. President:

I am attaching a list of objections to the nomination of Sandra O'Connor that were sent to me by various people.

I felt that you should have this list for your use in such discussions as you may have with Senators and interested citizens.

With best personal regards,

Respectfully,



Strom Thurmond
Chairman

ST:jep

Enclosure

SANDRA O'CONNOR

1. During 1970 she supported an abortion on demand bill in the Committee on the Judiciary of the Arizona Senate and in the Arizona Senate Republican Caucus.
2. In 1972 she introduced in the Arizona Senate the Equal Rights Amendment ratification resolution.
3. In 1973 she was the prime sponsor in the Arizona Senate of S. 1190, a bill to allow abortion information to be sent to minors without parental consent.
4. In 1974 she voted in the Arizona Senate against a resolution petitioning the United States Congress for passage of the Human Life Amendment.
5. In 1977, at the request of Bella Abzug, she served as keynote speaker at the Arizona state convention of the United Nations' International Women's Year.
6. The July 2, 1981 issue of the Phoenix Gazette stated
"In 1974, O'Conner sponsored a measure to submit the Equal Rights Amendment to an advisory referendum but it died in committee. That same year she was one of 9 Senators to oppose a bill which would have outlawed abortions in Tuscons University Hospital unless the mother's life was in danger."
7. Women Today, which publishes a directory of feminist organizations, lauded her in a feature article.
8. She is reported to be an intimate friend of Mary Crisp and other Republicans generally identified with the liberal wing of the Republican Party.
9. She is believed to have gone on record against tuition tax relief.
10. She may have publicly espoused stringent gun control.
11. As a judge of an inferior court of a state bench she is viewed by many as inadequately experienced for the position of Justice of the United States Supreme Court.



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

2 JUL 1981
7 pm

July 1, 1981

The President
The White House
Washington, DC 20500

Dear Mr. President,

It has come to our attention that Sandra D. O'Connor, an Arizona jurist, is a candidate for the U. S. Supreme Court vacancy. I would like to submit our evaluation of her from a prolife standpoint. This is an elaboration of our listing of her as "not acceptable" in the list of candidates which we delivered to you on June 26.

While an Arizona State Senator in 1974, she was a member of that body's judiciary committee. A memorialization resolution asking the U. S. Congress to pass a Human Life Amendment had passed the Arizona House by a wide margin. It was killed in the majority caucus of the Arizona State Senate and it is our understanding that hers was one of the deciding votes against the memorialization.

Prior to the International Women's Year Conference in Houston in 1977, there were preliminary meetings in each state to elect delegates. With several notable exceptions, all states including Arizona sent delegations composed almost exclusively of people who were pro-abortion, pro-ERA, and pro-lesbian. Sandra O'Connor keynoted the Arizona meeting, reflecting these anti-life and anti-family themes.

The immediate past president of the National Right to Life Committee is Dr. Carolyn Gerster, a practicing cardiologist in Scottsdale, Arizona. She knows Ms. O'Connor personally and politically. She has stated that Ms. O'Connor is "strongly pro-abortion" and that her appointment to the U. S. Supreme Court would be "a prolife disaster."

With all due respect and best wishes, I submit this information to you. Our organization concurs with Dr. Gerster's evaluation and recommends in the strongest possible way that Ms. O'Connor be dropped from consideration. The appointment of a person such as Ms. O'Connor would be interpreted by prolife people across the nation as a direct repudiation of both the Republican Platform and of your public commitment regarding judicial appointments.

Sincerely,



WARREN G. SWEENEY
EXECUTIVE DIRECTOR

+ Education
+ Legislation
+ Political Action
= Human Life Amendment

341 Nat'l Press Bldg.
529 14th St., N.W.
Washington, DC 20045
(202) 638-7940
(202) 638-4396

J. C. Willke M.D.
W.D.S.

John C. Willke, M. D.
President

THE WHITE HOUSE
WASHINGTON

July 8, 1981

MEMORANDUM FOR THE PRESIDENT

FROM: Max L. Friedersdorf *m.l.f.*

SUBJECT: Supreme Court *OK
MR*

Senator Helms called today to invite Mrs. O'Connor to appear next week before the Senate Republican Steering Committee, the conservative Senate organization which Senator Helms chairs.

The invitation will have to be carefully considered, but other Helms comments in connection with the proposal reflect a softening of his opposition.

He said that he believes such a meeting would allay the fears of conservative Senators.

Helms went on to say that he thinks the President "is right" about the nomination, and that the nomination "will be alright," and the goal should be to "get 100 Senators to vote for her."

Helms said he expects to receive "flak from the other Senators," if he supports the nomination, but gave the impression that he is now leaning that way.

Apparently Senator Goldwater has worked on Helms, because he mentioned that Barry had requested Helms help with the nomination.

As you know, Senator Helms can be changeable at times, but he sounds positive today.

July 7, 1981

Dear President Reagan:

A number of pro-life people are planning on picketing you at your departure point tonight to protest your confirmed appointment of Judge O'Connor from Arizona to the office of Supreme Court Justice.

Instead of participating in this protest, I have decided to write this letter.

I have been an active pro-lifer since April of 1973. I have served and am serving on Boards of Directors of local pro-life groups, have served as Chairman of Illinois Citizens Concerned for life and have contributed too many valuable hours away from home and family (including 5 small children) to let what you have done today go unnoticed.

I have both anger, resentment and frustration pent up in me at this moment because I sincerely feel you have betrayed me and millions of Americans including over 8 million pre-born babies. They will continue to be aborted every 30 seconds simply because they are a simple inconvenience to so many of our countries women.

I am a Chicago resident, of Irish Catholic heritage and up until my involvement in pro-life, a committed Democrat. I worked for your election, along with countless others, distributing your campaign literature, making phone calls, coordinating blitz's etc. I don't want any credit for any of this. I just want you to know that at this precise moment I know that the power of your office has taken precedence over your party platform and your campaign promises.

2

I feel I am a grass roots citizen -- and I am sickened by witnessing once again the broken promises of the politician.

When you were shot, I prayed for your swift recovery. I continue to pray for you daily that your judgements will be wise ones.

Today I am having difficulty believing that you meant the words of a letter you sent to National Right to Life Convention on June 18, 1981... "I share your hope that someday soon our laws will reaffirm this principle. (that abortion is the taking of human life) We've worked together for a long time now, and like you, I am hopeful that we will soon see a solution to this difficult problem."

By this appointment, you have betrayed pro-life. Judge Sandra O'Connor is a known advocate of pro-abortion legislation. How, then, can this appointment bring us closer to our goal of protecting the preborn children of America?

I only hope that the U.S. Senate rejects your appointment. Maybe this is your ultimate goal - your appointment of a woman to satisfy the pro choice feminists -- followed by rejection of her appointment by the Senate and an alternative candidate appointed to satisfy all factions.

I hope for the sake of our nations' most vital resource, our children, I am right.

Sincerely,

Mrs. Marie Craven

8026 S. Francisco

Chicago, Illinois 60652

035659

4000

PV1 FG 051

WE 003

August 3, 1981

Dear Mrs. Craven:

I'm sorry to be so long in responding to your letter, but I've found in all the channels of government, it often takes a while for letters such as yours to get through the mail department and over to my desk. So forgive me for that. I thank you for writing and appreciate the opportunity to comment with regard to my Supreme Court appointment and my position on abortion.

Pres
I believe that most of the talk about my appointment was stirred up principally by one person in Arizona. I have done a great deal of checking on this and have found this person has something of a record of being vindictive. I have not changed my position; I do not think I have broken my pledge. Mrs. O'Connor has assured me of her personal abhorrence for abortion. She has explained, as her attacker did not explain, the so-called vote against preventing university hospitals in Arizona from performing abortions.

What actually happened occurred back when she was a Senator in the state government. A bill had been passed by the Senate and sent over to the House calling for some rebuilding of the football stadium at the university. The House added an amendment which would have prevented the university hospitals from performing abortions. But the constitution of Arizona makes it plain that any amendment must deal with the subject in the original bill or it is illegal. For this reason the Senate, including Mrs. O'Connor, turned that down.

Much is being made now of her not coming out with flat declarations regarding what she might do in the future. But let me point out it is impossible for her to do this because such statements could then be used to disqualify her in future

2

cases coming before the Supreme Court. She is simply observing a legal protocol that is imposed on anyone who is in the process of a judicial appointment. I have every confidence in her and now want you to know my own position.

I still believe that an unborn child is a human being and that the only way that unborn child's life can be taken is in the context of our long tradition of self-defense, meaning that, yes, an expectant mother can protect her own life against even her own unborn child, but we cannot have abortion on demand or whim or because we think the child is going to be less than perfect.

I thank you for your prayers in my behalf and for your support. I hope that I have cleared the air on this subject now because I would like to feel that I did have your continued approval.

Thanks again.

Sincerely,

RONALD REAGAN *a*

Mrs. Marie Craven
8026 South Francisco
Chicago, Illinois 60652

RR:mel

✓ cc:RR:H. vonDamm:D. Livingston:CF

810806

Directions: Justice Ruth Bader Ginsburg has just announced her retirement from the Supreme Court. You decide that you want to tell the President what kind of Justice you believe he/she should nominate. You may be assigned to write the letter from your own point of view or the point of view of a specific group or demographic. You should explain to the President what you consider to be the most important characteristics that the new Justice should embody and the positions on legal issues you think they should hold (for example: social issues, gun control, government programs).

Use the area at the bottom of this page to draft ideas and write your letter on the back of this page.

NOTES

Letter to the President

Date:

The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr./Ms. President,



EDUCATION



About Us

The Walter and Leonore Annenberg Presidential Learning Center (APLC) at the Ronald Reagan Presidential Foundation is committed to engaging the future leaders of America in the study of our nation's democratic process with the aim of developing proactive informed, educated, and conscientious citizens and leaders.

Programs

- **Speaker Series for Students:** The Speaker Series for Students is designed to bring students into contact with leading thinkers, practitioners, and heroes in the field of civic engagement. Past events have included a Veteran's Day panel, Buzz Aldrin, Medal of Honor recipients and Justice Sandra Day O'Connor.
- **Educator Programming:** The APLC develops project based, backwards designed curriculum, and distributes this to educators at no cost. By creating and distributing free curriculum resources, the APLC shares information about both its programming and the current state of civics education. This classroom curriculum is available for free on our website: www.reaganfoundation.org/lesson-plans-overview.aspx
- **Professional Development:** Over the years we've collaborated with some of the finest professional development organizations in the country to offer high quality training and resources to teachers. We've worked with the National Constitution Center, Gilder-Lehrman, Constitutional Rights Foundation, the National Writing Project, and the California History-Social Science Project. We offer free professional development sessions for educators from Elementary through High School. With the goal of embedding civic learning in the classroom, our Educator Professional Development sessions tackle important skills such as developing student writing and communication skills. Professional Development is offered both onsite and on-line.
- **Leadership and the American Presidency:** The *Leadership and the American Presidency* is a program designed to facilitate leadership development among undergraduate students through the unique lens of the American presidency. The accredited course is grounded in real history as students critically examine the leadership journeys of presidents in relation to their own lives. Students hear from real leaders in the business, government, and nonprofit sectors, learning lessons on leadership, while simultaneously applying all of these skills in the real world in an internship setting and in an authentic culminating course assessment. Utilizing Washington DC as a classroom, presidential sites will be leveraged to capitalize upon power of place and result in a meaningful & transformative leadership experience for students.

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- Ronald Reagan Presidential Foundation Scholar Program
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- Ronald Reagan Student Leader Award Program

Learn about these opportunities to recognizing outstanding students on our website: www.reaganfoundation.org/scholarships

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The Discovery Center allows students to face the responsibilities and challenges faced by the Executive Branch, military, and media. Students have the opportunity to role play in a realistic, interactive environment. Learn more about the Discovery Center and how to visit here: www.reaganfoundation.org/DISCOVERY-CENTER.aspx

Contact Us: 40 Presidential Drive, Simi Valley, California 93065 • 805.522.2977 • aplc@reaganfoundation.org