

STATEMENT OF SENATOR EAST ON CONFIRMATION OF SANDRA O'CONNOR

Mr. Chairman, I thank you for this opportunity to make a few opening remarks on this very important nomination.

Perhaps the most important question before the Committee today is not whether Judge O'Connor is to be confirmed as a Supreme Court Justice, but what the role of the United States Senate ought to be in the process of selecting a Justice of the Supreme Court. The Constitution imposes on the Senate the duty to exercise an advice and consent function. In my view, this duty includes a responsibility to scrutinize carefully all of the nominee's qualifications to sit on the High Court. Among the most important of these qualifications is that the nominee have a profound respect for the Constitution. Such respect for the Constitution can only be evidenced by a determination to interpret that document according to its true meaning, and to abjure the law-making function that the Supreme Court has taken unto itself in recent years.

If I am correct in thinking that the Senate must scrutinize the degree to which a nominee respects the Constitution as a document to be interpreted according to its true meaning, then the question arises how

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Senators are to inform themselves in this area. Unlike education and experience, a nominee's constitutional philosophy cannot be reduced to lines on a resume. Nor is a nominee's own self-description as a "strict constructionist" or a "judicial conservative" likely to be helpful, since such labels mean different things to different people. Unless a nominee has a long record of prior judicial decisions on constitutional law, or other writings on the Constitution and what it means, the only way for a Senator to find out whether the nominee will interpret the Constitution according to the intentions of its framers is to ask specific questions about constitutional law.

There is, of course, a significant limitation on a Senator's right to receive candid answers from a nominee on questions of constitutional law: It would be wrong to expect promises of certain votes in particular future cases. But this is no bar to full discussion of past cases and competing doctrines. Such discussion does not amount to a promise because the Senators and the nominees ought to understand that no judge can decide how to rule on a case without having read the briefs, heard the oral arguments, and conferred with the other members of the court.

With the understanding that no promises will be requested or received, I fervently hope that Judge O'Connor will be willing to share with us her views on constitutional law, including her reactions to the Supreme Court's past cases.