

NOMINATION OF SANDRA DAY O'CONNOR

WEDNESDAY, SEPTEMBER 9, 1981

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 1202, Dirksen Senate Office Building, Senator Strom Thurmond (chairman of the committee) presiding.

Also present: Senators Mathias, Laxalt, Hatch, Dole, Simpson, East, Grassley, Denton, Specter, Biden, Kennedy, Metzenbaum, DeConcini, Leahy, Baucus, and Heflin.

Staff present: Vinton D. Lide, chief counsel; Quentin Crommelin, Jr., staff director; Duke Short, chief investigator; and Candie Bruse, chief clerk.

OPENING STATEMENT OF CHAIRMAN STROM THURMOND

The CHAIRMAN. The Judiciary Committee will come to order.

It is a privilege to welcome each of you to the opening session of the Committee on the Judiciary to consider the nomination of Judge Sandra Day O'Connor of Arizona to serve as an Associate Justice of the Supreme Court of the United States. This is truly a historic occasion, as it is the first time in the history of our Nation that a President has nominated a woman to serve on this august body. Today we begin the consideration of this nomination.

Under the Constitution, the Senate is charged with the responsibility of deciding whether to grant consent to the nomination. While the entire Senate will participate in the ultimate decision, the members of this committee have an initial and solemn duty to conduct an indepth inquiry into the qualifications of Judge O'Connor.

In response to the trust placed in this committee both by our colleagues in the Senate and by the American people, we will conduct this proceeding in a full, fair, and orderly manner. In a spirit of nonpartisanship, we have made arrangements to receive both the testimony of the nominee and that of many persons representing the views of various constituencies.

As we begin our deliberations, we are keenly aware that a Supreme Court appointment is unique, not only because it grants life tenure but, more significantly, because it vests great power in an individual not held accountable by popular election. Accordingly, on behalf of the people it is our responsibility to reflect upon the qualifications necessary for one to be an outstanding jurist. We then must satisfy ourselves that this nominee possesses those qualifications.

Many believe that the courts of our Nation, over the past decades, have lost the confidence of the American people. This, we are told, results from far-reaching and sometimes burdensome decisions which have affected virtually every aspect of our lives.

As one of three coequal branches of our Federal Government, the judiciary plays a crucial role in interpreting the Constitution and in applying the laws of Congress. The ability of the Supreme Court to carry out effectively these responsibilities depends upon the perception of the people that the Court is worthy of such esteem. It is absolutely essential that the President nominate and the Senate confirm only individuals who will contribute to the restoration of public confidence.

We seek, first, a person of unquestioned integrity—honest, incorruptible, and fair.

We seek a person of courage—one who has the fortitude to stand firm and render decisions based not on personal beliefs but, instead, in accordance with the Constitution and the will of the people as expressed in the laws of Congress.

We seek a person learned in the law—for law in an advanced civilization is the most expansive product of the human mind and is, of necessity, extensive and complex.

We seek a person of compassion—compassion which tempers with mercy the judgment of the criminal, yet recognizes the sorrow and suffering of the victim; compassion for the individual but also compassion for society in its quest for the overriding goal of equal justice under law.

We seek a person of proper judicial temperament—one who will never allow the pressures of the moment to overcome the composure and self-discipline of a well-ordered mind; one who will never permit temper or temperament to impair judgment or demeanor.

We seek a person who understands and appreciates the majesty of our system of government—a person who understands that Federal law is changed by Congress, not by the Court; who understands that the Constitution is changed by amendment, not by the Court; and who understands that powers not expressly given to the Federal Government by the Constitution are reserved to the States and to the people, not to the Court.

Judge O'Connor is the first nominee to the Supreme Court in 42 years who has served in a legislative body. It is my belief that her experience as majority leader in the Arizona Senate will help her and, through her, the other members of the Court in recognizing and observing the separation of legislative, executive, and judicial powers mandated by the Constitution.

Judge O'Connor is also the first nominee to the Supreme Court in the past 24 years who has served previously on a State court. That experience gives us hope that she will bring to the Court, if confirmed, a greater appreciation of the division of powers between the Federal Government and the governments of the respective States.

Judge O'Connor, we welcome you to the committee and to the Senate. I know you share our anticipation as we begin the process which allows us the opportunity to renew the essence of the American experiment in government.