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Nomination of Judge Sandra Day O'Connor as  
Associate Justice of US Supreme Court

9/81

(Dolan/Elliott)

September 21, 1981

STATEMENT ON O'CONNOR APPROVAL

I want to express my gratitude to the Senate for overwhelmingly approving today the nomination of Judge Sandra Day O'Connor as an Associate Justice of the United States Supreme Court.

Mrs. O'Connor is, as I have come to know personally, a very warm and brilliant woman who has had an outstanding career in Arizona. I know the Court and the Nation will benefit both from her lifetime of work, service and experience in the legal profession, and from her solid grasp of our Constitution, which she reveres. This truly is a happy and historic day for America.

Judge O'Connor's judicial philosophy is one of restraint and constitutional conservatism -- she believes, as she said in her Senate testimony, that a judge is on the bench to interpret the law, not to make it. This philosophy of judicial restraint and caution needs representation in our courtrooms and especially on the highest court in our land.

Let me also say that Judge O'Connor's confirmation symbolizes the richness of opportunity that still abides in America -- opportunity that permits persons of any sex, age or race, from every section and every walk of life to aspire and achieve in a manner never before even dreamed about in human history.

THE WHITE HOUSE  
Office of the Press Secretary

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For Immediate Release

September 21, 1981

STATEMENT BY THE PRESIDENT

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# # #

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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.

*free*

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

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 <sup>a</sup>

Mrs. Marie Craven  
8026 South Francisco  
Chicago, Illinois 60652

RR:mel

✓cc:RR:H. vonDamm:D. Livingston:CF

810806

To: Mrs. Marie Craven

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 channels and~~ the mail department and over to my desk. So forgive me for that. I thank you for writing and <sup>appreciate the</sup> ~~for giving me an~~ opportunity to comment with regard to my Supreme Court appointment and my position on abortion.

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Sincerely,

/s/ Ronald Reagan



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.

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

July 7, 1981




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I am a Chicago resident, of  
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a committed Democrat.

I worked for your election, <sup>3</sup>  
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Mrs. Marie Craven  
826 S. Francisco  
Chicago, Ill. 60652

July 10, 1981

SANDRA D. O'CONNOR

BIOGRAPHICAL INFORMATION

Sandra D. O'Connor, 51, currently serves as a judge on the Arizona Court of Appeals. Prior to her appointment in 1979 to her present position, she served as a Superior Court judge in Phoenix, Arizona, from 1975 until 1979. She went on the bench after five years in the Arizona State Senate, where she became Senate majority leader in 1973. Before becoming a State Senator, Judge O'Connor served as Assistant Attorney General of Arizona from 1965 until 1969.

Judge O'Connor was born on March 26, 1930, in El Paso, Texas. She is the daughter of a pioneer Arizona ranching family, with ranching interests in Arizona and New Mexico. Because of the remoteness of her family home in eastern Arizona, Judge O'Connor was educated at a private girls' school in El Paso. She attended Austin High School, a public school in El Paso, and graduated in 1947.

In the fall of 1947, Mrs. O'Connor entered Stanford University. Majoring in economics, she graduated in 1950 at the age of 20. She graduated with the honor of Great Distinction, the highest academic honor bestowed by the University. Upon her graduation, she entered Stanford Law School, where she was elected during her second year to the legal honorary society, the Order of the Coif. Mrs. O'Connor was one of eight individuals in her class elected to that society as a second-year student. She also served on the Stanford Law Review, becoming a member of the Board of Editors of the Review during her third year.

Upon graduation from law school at the age of 22, Mrs. O'Connor was named Deputy County Attorney for San Mateo County, California. As Deputy County Attorney, Mrs. O'Connor represented municipal entities, including utility and other special districts, in a broad range of legal matters. She served in that capacity until 1953, when her husband, John Jay O'Connor III, who is now a lawyer in Phoenix, entered military service upon his graduation from the Stanford Law School. By virtue of Mr. O'Connor's assignment in Frankfurt, Germany, Mrs. O'Connor secured a position as a civil attorney on the staff of the Quartermaster General in Frankfurt. Engaging in the review, analysis and drafting of bids, contracts and other legal instruments, Mrs. O'Connor served in that capacity throughout her husband's tenure in Frankfurt.

Returning to Arizona following her husband's military service, Mrs. O'Connor established a private law practice in Maricopa County in 1959. She engaged full time in the general practice of law until the birth of her sons, Scott who is now 22, Brian, 19, and Jay, 17. From 1961 until 1965, Mrs. O'Connor raised the family's three children, practiced law part-time, and was active in civic and political affairs in Phoenix.



In 1965, Mrs. O'Connor returned to her professional career full time, being selected as Assistant Attorney General of Arizona. Representing state agencies such as state hospitals and the state welfare department, Mrs. O'Connor served in that capacity until 1969.

In 1969, Mrs. O'Connor was appointed as a member of the Arizona State Senate by the Maricopa County Board of Supervisors to fill the unexpired term of a state senator who left to accept a government position in Washington, D.C. She was elected to the State Senate in her own right in 1970 and was overwhelmingly reelected in 1972. In 1972 and 1973, she served as Chairman of the State, County and Municipal Affairs Committee in the State Senate. In 1973, Mrs. O'Connor was elected as Majority Leader of the Arizona State Senate, the first woman in Arizona to hold that position, and one of the first women in the Nation to serve in such a capacity.

After two years as Majority Leader, Mrs. O'Connor determined to leave the legislative arena and to enter judicial service. She ran for and was elected as a Superior Court judge in 1974, taking office in 1975. As a state trial judge, Judge O'Connor handled numerous civil and criminal cases. She received a 90 percent rating in September 1976 from members of the Phoenix bar for overall performance, with a 97 percent rating for integrity in carrying out the duties of her office. In a 1978 survey of Phoenix attorneys, Judge O'Connor garnered an 85 percent overall rating and a 97 rating for integrity. In the November 1978 election, Judge O'Connor was retained in office as a trial court judge.

Following four years of service on the state trial bench, Judge O'Connor was elevated in 1979 by Governor Bruce Babbitt to the Arizona Court of Appeals, the twelve member intermediate appellate court of the State. Judge O'Connor has served in that capacity until the present time, garnering in 1980 a 90 percent overall rating from the bar and a 97 percent rating for judicial integrity.

In addition to her positions in public service, Judge O'Connor has served as a Member of the Board of the Smithsonian Associates, a Member of the Board of Trustees of Stanford University, and as president of the Board of Trustees of the Heard Museum in Phoenix. She also served as president of the Junior League of Phoenix and as a board member of the Salvation Army Advisory Board, the YMCA of Maricopa County, the Phoenix Historical Society, the Phoenix Country Day School, and Golden Gate Settlement. Mrs. O'Connor also served as a member of the board of directors of the First National Bank of Arizona and of Blue Cross/Blue Shield Arizona. She continues to serve as a member of the board of her family's ranching firm in Duncan, Arizona.

Besides her numerous board memberships, Judge O'Connor served as Vice Chairman of the Select Law Enforcement Review Commission in 1979-1980, Chairman of the Maricopa County Bar Association's Lawyer Referral Service in 1960-1962, Chairman of the Maricopa County Juvenile Detention Home Visiting Board 1963-1964, and as Chairman of the Arizona Supreme Court Committee to Reorganize Lower Courts in 1974-1975. Active in Arizona political circles, Mrs. O'Connor was Co-Chairman of the Arizona Committee to Re-Elect the President in 1972 and served as Republican District Chairman and as a member of the Arizona State and Maricopa County Republican Committees. She was actively sought out as a Republican gubernatorial candidate during two election races.

In recognition of her achievements, Mrs. O'Connor was selected in 1975 for the Annual Award of the National Conference of Christians and Jews. In 1972, she was selected as "Woman of the Year" by the Phoenix Advertising Club. Arizona State University presented her in 1980 with the Distinguished Achievement Award.

Judge O'Connor is a member of the State Bars of Arizona and California and is a member of the Maricopa County Bar Association.

She resides with her husband, a senior partner in the Phoenix law firm of Fennemore, Craig, von Ammon & Udall, in the Phoenix suburb of Paradise Valley.

In announcing on July 7 his intention to nominate Judge O'Connor as an Associate Justice of the United States Supreme Court, President Reagan stated: "Judge O'Connor brings a truly outstanding background to the Court. She has served with great ability as a lawyer for the State of Arizona, as a State Senator who rose quickly to become Senate Majority Leader of her State, and as a distinguished trial court judge and appellate judge. Her academic background is superb. Judge O'Connor brings to the bench the qualities of excellence, competence, temperament and a strong sense of the appropriate role of the judiciary and of the federal government in our lives. I have every confidence that, upon her confirmation, she will be an outstanding and distinguished Justice."

July 10, 1981  
5 p.m.

MEMORANDUM FOR FILE

Spoke with Bob Hill, x7610, who gave me the following breakdown of telephone calls, mailgrams, and telegrams re the O'Connor nomination:

Telephone Calls

Pre-Announcement (July 2,6)	20 - pro	941 - con
Post-Announcement (July 7, 8, 9, 10)	<u>1269</u> - pro	<u>1037</u> - con
Total	1289 - pro	1978 - con

Mailgrams, Telegrams

Pre-Announcement (July 2,6)	138 - pro	2362 - con
Post-Announcement (July 7, 8, 9, 10)	<u>758</u> - pro	<u>387</u> - con
Total	896 - pro	2749 - con

Bob said the telephone figures are accurate but that the figures for the mailgrams and telegrams are off by about one hundred.

M.W.

*David Geizer -*  
*1-41-81*  
*not*  
*pls. send me copy, then do*  
*Bill Hand -*

WHY, MR. PRESIDENT?

By Patrick J. Buchanan

WASHINGTON -- That sound you hear, beneath the loud reveling at the President's precedent-shattering nomination of a woman to the Supreme Court, is the cracking apart of Ronald Reagan's Great Coalition.

The White House boys have just made the most basic mistake you can make in politics: They have compromised the vital interests of the President's most ardent followers, to score brownie points with their political enemies. A frivolous campaign promise has been kept, and a solemn written commitment violated. Political adultery.

Eighteen months ago, in the Iowa caucuses, the Right-to-Life movement saved Ronald Reagan from a carefully prepared ambush by his now-vice president -- a defeat which could have made Ronald Reagan a footnote in the history books. A month later, in New Hampshire, the Right to Lifers provided

a significant share of that astonishing margin of victory which gave candidate Reagan irresistible momentum through the early, conclusive primaries.

In return, the movement asked Mr. Reagan for a surprisingly small return. Only that Reagan support their Human Life Amendment and its progeny; that his Supreme Court nominees -- be they black, white, yellow, brown, red, male or female -- share the President's internalized belief that the unborn child has the God-given right to live. As politics goes, this was a simple, inexpensive bargain. The candidate would get the volunteer labors of thousands, the allegiance of millions, in return for remaining true to his stated convictions.

The Right to Lifers more than kept the bargain. When the White House asked that they place their agenda at the end of the line, while the President's vast economic vessel transited the Congress, they acceded.

Their reward: to be ridiculed as a pack of "extremists" by some chowderhead editorial writer on the New York Times -- bulletin board of the Abzugian wing of the Feminist party -- which is chortling in print over the President's nomination to the high court of an Arizona co-sponsor of legislation to legalize abortion on demand.

Why? What will the White House receive, that is tangible and enduring, to compensate for breaking the hearts of the President's most faithful followers?

This is not to demean Ms. Sandra Day O'Connor, the President's nominee. Her academic, political and judicial records are, at least, (ital) cum laude (end ital); even her critics in Arizona admit her brilliance. Had she been elevated to the Cabinet, she might have gone unopposed.

But this is the United States Supreme Court -- the court that will decide, when the new medical evidence is reviewed, whether it made a historic blunder in (ital) Roe v.

Wade (end ital), the court which will pass on all congressional restrictions upon its jurisdiction, the court which will have final word on legislation moving through Congress that sets the moment when, constitutionally, life begins, the unborn child becomes a "person," and his or her right to life must be protected by the state.

In nominating Ms. O'Connor, the White House has left the Right to Life Movement no choice but to oppose her with all its resources, no choice but to depart, temporarily and perhaps permanently, from the President's coalition, no choice but to put the heat on senators like Orrin Hatch -- up for re-election in 1982.

"We feel betrayed by the President," said Paul Brown of the Life Amendment Political Action Committee. "We've been sold out."

That kind of politics is so alien to what is known of Ronald Reagan, the question must be raised. Was the President

misled about Ms. O'Connor's record? Misled by the Department of Justice, by the White House Staff, or by Judge O'Connor herself?

According to the acting press secretary, Larry Speakes, Ms. O'Connor told the President she was "personally opposed" to abortion, found it "personally abhorrent." Yet, according to the Right to Life Movement, she not only co-sponsored and supported legislation legalizing abortion, she opposed a resolution urging Congress to support a constitutional amendment to overturn the abortion decision.

(What would we say of an individual who said he found racial segregation "personally abhorrent," then voted to overturn the Civil Rights Act of 1964?)

The abortion issue is not just a social issue; it is the overriding social issue that split the FDR coalition and sent millions of Southern evangelical Christians and Northern Catholics into the camp of a Republican President with whom



they may disagree on a dozen other issues. Their  
demoralization is a political tragedy of the first order --  
and so damned unnecessary.

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Tax cut - comparison on the spectrum?  
O'Neill promise to fast track tax bill by  
Windfall profits tax?  
Break w/ Dole.

Any news?  
Did she lie about Justice  
AWACS - letter  
F-11-

QUESTIONS REGARDING JUDGE O'CONNOR:

1. How did the President make the decision (did he review her background, did he discuss it with aides, how much time did he ponder the situation, did he compare her to lots of other people, or just dwell on her qualifications alone?)
2. What is her position on ERA?
3. What is her position on Roe vs. Wade (Sup. Ct. woman's right to abortion)
4. Will you respond to the press conference held this morning by many right-to-life groups and their charges that the Ken Starr memo was incorrect. (In the memo Starr states that O'Connor "knows well the Arizona leader of the right-to-life amendment, a prominent female physician in Phoenix, and has never had any disputes or controversies with her." At press conference, this was disputed - physician has said they "disagree about everything." (Why didn't we check more carefully).
5. In the President's telephone conversation with Jerry Falwell, Falwell claims that a suggestion was made that Judge O'Connor meet with the pro-life people and the President said "that's a good idea..I guess the ball is in my court." Will there be such a meeting? (and if she meets with the pro-life people, will she also meet with the pro-choice people and any other group that might have a question or concern?)
- \* 6. Did Judge O'Connor endorse the Republican platform? (Sen. Hatch says that the President told him that she does).

As sitting judge  
she is non-partisan

(note: The first three questions were ones that either Larry or David "took" during briefings...the last three came up today)

guidance Anti-trust policy  
Congressional - logistical aspects

THE WHITE HOUSE  
WASHINGTON

TO: Dave Gergen

FROM: KARNA SMALL

Here are the questions --  
when you get answers, let  
us know whether to post  
them etc.

- North-South
- Energy (G/W)
- Trade - Economic Interest rates
- ~~Int~~ East-West trade issues
- Preparations for TT
- Realist
- ~~penal~~ clint
- WPC
- US
- TT within process

QUESTIONS REGARDING JUDGE O'CONNOR:

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6. Did Judge O'Connor endorse the Republican platform? (Sen. Hatch says that the President told him that she does).

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SANDRA D. O'CONNOR

Born: March 26, 1930 El Paso, Texas

Marital Status: December 20, 1952 John Hay O'Connor III  
3 children

Education: Stanford University AB magna cum laude 1950  
LL.B 1952

Bar: California 1952  
Arizona 1957

Experience: Arizona State Senator,  
1969-1975

Judge, Superior Court  
of Arizona, 1975-1979

Judge, Arizona Court of  
Appeals, 1979-present

Board of Trustees,  
Stanford University

Board of Trustees,  
Heard Museum

Board of Trustees,  
Phoenix Historical Society

Advisory Board,  
Salvation Army

Advisory Board,  
Taft Institute

Advisory Board,  
Junior Achievement

Advisory Board,  
National Defense Advisory Committee  
on Women in the Service, 1973-1976

Awards: 1972 - Phoenix Ad Club Woman of the Year

1974 - National Conference of Christians  
and Jews Humanitarian Award

SANDRA D. O'CONNOR

Judge O'Connor, 51, received both undergraduate and law degrees from Stanford University (LL.B. 1952). She practiced law for a number of years in Phoenix and has been active in Arizona politics, serving in the Arizona Senate from the late 1960s to 1973. She served as Superior Court Judge for Maricopa County from 1973-1979. Mrs. O'Connor was recently considered a strong Republican candidate for Governor of Arizona, but declined to run in favor of remaining on the bench. She was appointed to the Arizona (intermediate) Court of Appeals in 1979.

Judge O'Connor is reputed to be a dynamic, hard-working judge with an outstanding intellect. Her Court of Appeals opinions display a concise, logical style. As a state judge and former state legislator, Judge O'Connor would bring to the Court an important and valuable perspective on issues of federalism.

On the other hand, Judge O'Connor's state appellate court cases-largely involve more pedestrian legal issues and have not afforded her the opportunity to address the sorts of constitutional and federal law questions which are the steady diet of the Court. Moreover, Judge O'Connor has not written extensively on such questions. Thus, it is more difficult to discern from her writings her approach to the issues which can be expected to be extremely important in coming Court Terms.

Judge O'Connor's appellate opinions do, however, demonstrate a conservative judicial philosophy. She generally limits the scope of her review of lower court or administrative proceedings as narrowly as possible and displays a healthy deference to lower court findings. Her approach to statutory construction reflects a similar discipline and reluctance to stray too far beyond the legislative language itself.

As noted above, Judge O'Connor has not had many opportunities to deal with significant constitutional issues. Her opinions do reflect, however, a logical approach to equal protection review of state legislation, an approach which involves reasonable deference to state legislative judgments. In criminal matters, she reasonably employs the "waiver" doctrine to limit the scope of criminal appeals and avoids undue second-guessing of trial court factual determinations.

In short, Judge O'Connor has an outstanding reputation in Arizona and appears to be extremely well-qualified intellectually. Justice Rehnquist apparently shares this assessment. It is safe to say that she has a conservative judicial philosophy, but her

state court opinions cannot shed as much light on this determination as would be desirable. Thus, reputation evidence must play an important role in any final evaluation of this apparently strong candidate.

SANDRA J. O'CONNOR (Arizona Court of Appeals)

<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
A	<u>Helena Chemical Co. v. Coury Bros. Ranches, Inc. (1980)</u>	Standard for granting new trial.	For plaintiff-appellant. Restrictions by trial judge upon cross-examination and refusals to admit evidence are generally not grounds for a new trial if objections are not raised in a timely fashion at trial.	1. Reversed trial court grant of new trial. 2. Conclucory but concise opinion based upon need for finality in litigation.
B	<u>Blair v. Stump (1980)</u>	Equal Protection	For plaintiff-appellee. Forcible entry and detainer statute which requires tenant to post bond of double annual rental irrationally discriminates on its face against indigent and many nonindigent tenants.	1. Upheld lower court findings. 2. Concise and clear equal protection analysis.
C	<u>Cooper v. Arizona Western College District Governing (1980)</u>	State Open Meeting Law	For defendant-appellant. Actions of college governing Board were not irreversibly void under open meeting statute because they were taken in executive session, since a later public session to discuss the Board decisions could cure the defect.	1. Reversed lower court nullification of Board actions. 2. Opinion displays impressive statutory construction skills and desire not to overturn executive branch administrative actions if at all feasible.
D	<u>J.C. Penney Co. v. Arizona Dept. of Revenue (1980)</u>	Equal Protection: Constitutionality of rental occupancy tax.	For defendant-appellee. Legislative distinction between tenants of tax-exempt lessors and non-tax-exempt lessors is rational in view of entire state tax legislative scheme.	1. Affirmed lower court findings. 2. Opinion engages in a careful review of entire tax law scheme in an effort to preserve state legislation.
E	<u>O'Malley Lumber Co. v. Riley (1980)</u>	Construction of State Mechanic's Lien Statute.	For plaintiff-appellee. Plaintiff contractors who rebuilt defendants home from the foundation created a new "dwelling" which permitted recordation of mechanic's lien under state law.	1. Affirmed trial court. 2. Opinion reasons that statutory construction should avoid resort to extraneous evidence of legislative intent when statute's meaning is clear on its face.



<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
F	<u>State v. Miguel</u> (1980)	Requirement of 12-member jury in Criminal trial.	For defendant-appellant. Arizona statute requiring 12-member jury for felonies involving potential prison terms of more than 30 years applies to multi-count criminal charges in which consecutive sentences would exceed 30 years.	<ol style="list-style-type: none"> <li>1. Ordered retrial with 12-member jury.</li> <li>2. Despite retrial order, Judge O'Connor addressed and rejected the defendant's sufficiency of evidence objection to guide the lower court on retrial.</li> </ol>
G	<u>State v. Brooks</u> (1980)	Armed robbery: 1. Fourth Amendment propriety of automobile stop. 2. Voluntariness of confession.	For state-appellee. 1. Investigative stop of defendant's automobile was based upon reasonable suspicion. 2. Trial court determination that defendant's confession was voluntary under all circumstances was not erroneous.	<ol style="list-style-type: none"> <li>1. Upheld lower court conviction.</li> <li>2. Opinion thoroughly reviews more than 10 procedural objections asserted by defendant, deferring to the trial court determination or employing "harmless error" rule in each case.</li> </ol>
H	<u>Ryan v. Industrial Commission of Arizona</u> (1981)	Eligibility for state employee benefits.	For defendant-respondent. State industrial commission finding that employment contract was consummated outside of Arizona and therefore is not governed by Arizona law, is supported by substantial evidence.	<ol style="list-style-type: none"> <li>1. Upheld administrative determination in favor of employer.</li> <li>2. Concise opinion which accords reasonable deference to administrative agency determinations.</li> </ol>
I	<u>Andrews v. Andrews</u> (1980)	Review of trial court child support ruling.	For defendant-appellee. Trial court setoff of mortgage payments made by husband against child support arrearages was not abuse of discretion.	<ol style="list-style-type: none"> <li>1. Upheld trial court judgment.</li> <li>2. Opinion is noteworthy only in its application of a deferential standard of review.</li> </ol>

<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
J	<u>Thompson v. Ariz. Department of Economic Security (1980)</u>	Entitlement to State unemployment benefits.	For plaintiff-appellant. The fact of consistently late payments of wages may make employee's resignation sufficiently "involuntary" to entitle her to statutory unemployment benefits.	1. Remanded administrative agency dismissal of claim. 2. Well-reasoned opinion.
K	<u>Town of El Mirage v. Industrial Commission of Arizona (1980)</u>	Administrative procedure requirements at workmen's compensation claim hearing.	For defendant-appellant. Award of workmen's compensation cannot be based upon hearing in which employer was not afforded an opportunity to cross-examine claimant on key factual issues.	1. Award to claimant set aside. 2. Award of social insurance funds must be based upon fair hearing procedures.
L	<u>State v. Ferrari (1975) (Sitting on Arizona Supreme Court by designation)</u>	Review of trial court evidentiary rulings and jury instructions in murder trial.	1. Felony-murder instruction was proper. 2. Failure of court to change venue was proper in view of limited and stale nature of pretrial publicity. 3. Calling of certain fact witnesses by the court was not an abuse of discretion.	1. Trial court conviction upheld. 2. Extremely thorough but deferential review of each basis for the appeal.
M	<u>State v. Blevins (1981)</u>	Sufficiency of evidence to support manslaughter conviction.	For the State. Vehicular manslaughter conviction may be sustained on circumstantial evidence alone.	1. Trial verdict upheld 2. Deferential review of trial court fact findings.
N	<u>Magma Copper Co. v. Arizona Department of Economic Security (1980)</u>	When misconduct by employee disqualifies him for unemployment benefits.	For plaintiff-appellee. Mere fact that employee is incarcerated does not, without more, disqualify him for unemployment benefits unless employer proves work-related misconduct.	1. Administrative agency determination upheld in well-reasoned opinion.
O	<u>State v. Schoonover (1981)</u>	1. Voluntariness of guilty plea. 2. Review of evidence adduced at sentencing hearing.	1. If guilty plea agreement clearly sets forth constitutional rights which defendant waiving by guilty plea, judge need not orally apprise defendant of each right waived. 2. Judge's refusal to permit defendant to take certain depositions prior to sentencing hearing was not abuse of discretion.	1. Sentence and guilty plea upheld. 2. Reasoned application of waiver and harmless error rule in appellate review of criminal matters.

<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
P	<u>State v. Morgan</u> (1981)	Propriety of prosecution closing arguments.	For State. Prosecution mention of defense's failure to present any evidence was not, in context, a violation of defendant's Fifth Amendment right to remain silent.	1. Conviction affirmed. 2. Opinion strains somewhat to avoid overturning conviction but appears to be correct on the facts.

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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

June 22, 1981

MEMORANDUM FOR: The President

FROM: Lyn Nofziger 

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



Office of the Director

June 19, 1981

Joanna Bistany:

Attached is the suggested guidance we've come up with over here and plan to stick pretty much to it.

Larry can bail himself out of saying that the president first learned May 18 by saying that's when he formally learned (got the letter).

The other key is to not go too far on raising expectations for woman appointee--even to the point of avoiding saying we're making a special effort to seek out women (since that would be affirmative action, and we're not too sure how we feel about affirmative action).

A handwritten signature in black ink, appearing to be "Tc", is located below the typed text.

Tom DeCair

D R A F T

Dear Justice Stewart:

It is with the deepest regret and ~~much~~ appreciation for your long and outstanding service to our nation that I accept your retirement as Associate Justice of the Supreme Court of the United States, <sup>effective July 3rd.</sup> Throughout your distinguished judicial career you have shown unfailing dedication to the Court, to the highest standards of the legal profession, and to the fundamental principles and protections of our Constitution. Your opinions have reflected concern for striking appropriate balances between federal and state authority, between individual freedoms and the legitimate interests of community and government, and between preservation of our timeless values and the need to allow for reform and change. And you have expressed your views with special grace and lucidity, which will help make yours an enduring presence in our law.

When you came to the Court you swore to "administer justice without respect to persons," and to "do equal right to the poor and to the rich... agreeably to the Constitution and laws of the United States." You can leave with the assurance that you have kept your solemn oath. <sup>IP</sup> I hope that the nation can continue to call on your services, and I wish you and Mrs. Stewart a long and happy retirement.

Sincerely,

Comment from the Attorney General re: Supreme Court

"My responsibility is to make recommendations to the President regarding the next appointment to the Supreme Court, and that I will do. As I have said before, my name will not be among those that I recommend."

Statement of June 22, 1981

Status of Ed Meese

Ed told President Reagan last week that he wished to remove himself from any possible consideration for the Supreme Court because he thought it would be inappropriate to serve as an adviser to the President and simultaneously be in the running for a Supreme Court appointment.



6/19/81

PROPOSED DOJ-WHITE HOUSE GUIDANCE ON SCOTUS PROCESS:

--The Attorney General has already begun the process of identifying potential candidates for the Supreme Court to recommend to the President. (If pressed, the Attorney General has had this process underway for over two months.)

--The process will involve a systematic canvassing of lawyers, judges and academicians across the country to seek qualified persons. (If pressed, we expect that women will be among those considered very carefully.)

--The President will be seeking to identify superbly qualified candidates who demonstrate the kinds of qualities that commend themselves to appointment to the bench. Those qualities are: excellence, competence and a judicial temperament. There will not be a litmus test on views on every issue, but the President has said that he wants to nominate to the Supreme Court a person who believes that the role of the courts is to interpret the law, not make it.

--The Attorney General is confident that this process, which will be conducted expeditiously but with great care, will yield qualified men and women candidates who will be recommended to the President for his selection and nomination.

--We hope that this process will be completed in time to have a new Justice in place for the beginning of the Fall Term of the Court.

6/19/81

ADDITIONAL Q&A:

Q: Will you consult the ABA?

A: I'm sure we will at the appropriate time.

Q: Before the announcement?

A: I don't know whether it will be before or after the announcement. (Nor will we indicate)

Q: When did the President first learn of this?

A: Justice Stewart personally gave his letter to the President in a meeting at the White House on May 18. The meeting was arranged by the Attorney General, who also attended it.

(If pressed)

Justice Stewart apparently made his intentions known to the Attorney General at the end of March, just before the President was shot. Then after the President was back here at the White House, the Attorney General conveyed that message to the President on April 21. (FYI: Until May 18, the President and the Attorney General were the only two members of the Administration who were aware of Justice Stewart's intention.)

Q: Are you going to make any effort, any special effort, to find qualified women candidates?

A: We expect that the process that is underway will yield women who will be considered very carefully.

Q: When will you consult (Congress, ABA, any other group)?

A: At what we feel is an appropriate time, we will be consulting with all of the appropriate people and organizations.

THE WHITE HOUSE  
WASHINGTON

10-14-50

" I am announcing today that one of the first Supreme Court vacancies in my administration will be filled by <sup>the</sup> most qualified woman I can possibly find, one who meets the high standards I will demand for all Court appointments. It is time for a woman to sit among our highest jurists. I will also seek out women

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THE WHITE HOUSE  
WASHINGTON

to appoint to other Federal  
Courts in an effort to  
bring about better  
balance on the Federal  
bench. "

THE WHITE HOUSE  
Office of the Press Secretary

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For Immediate Release

June 18, 1981

TEXT OF A LETTER FROM THE PRESIDENT TO JUSTICE STEWART

Dear Mr. Justice:

It is with the deepest regret and appreciation for your long and outstanding service to our Nation that, at your request, I accept your retirement as Associate Justice of the Supreme Court of the United States, effective July 3, 1981.

Throughout your distinguished judicial career you have shown unfailing dedication to the Court, to the highest standards of the legal profession, and to the fundamental principles and protections of our Constitution. Your opinions have reflected concern for striking appropriate balances between federal and state authority, between individual freedoms and the legitimate interests of community and government, and between preservation of our timeless values and the need to allow for reform and change. And you have expressed your views with special grace and lucidity, which will help make yours an enduring presence in our law.

When you came to the Court you swore to "administer justice without respect to persons," and to "do equal right to the poor and to the rich ... agreeably to the Constitution and laws of the United States." You can leave with the assurance that you have kept your solemn oath.

I hope that the Nation can continue to call on your services, and I wish you and Mrs. Stewart a long and happy retirement.

Sincerely,

Ronald Reagan

# # #

THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release

June 18, 1981

The President today announced his intention to nominate John R. Van de Water to be a Member of the National Labor Relations Board, for the remainder of the term expiring August 27, 1981, vice John A. Penello. He will also be nominated for the full five year term expiring August 27, 1986. Upon confirmation, the President intends to designate Mr. Van de Water chairman.

Since 1949 Dr. Van de Water has been President of Van de Water Associates, Inc., Consultants to Management. He is also Executive Vice President of Promanent International, Inc., specializing in the audio-visual presentation of professional management development programs. Dr. Van de Water created and served as the first Director of the California State Bar Program for the Continuing Education of the Legal Profession. He has served as Director of The Executive Program for UCLA's Graduate School of Management and as a member of that School's faculty for 20 years, and as Adjunct Professor of Industrial Relations and Management at the Graduate School of Business Administration, University of Southern California.

Dr. Van de Water is an Attorney at Law and member of the California Bar. He has served as a representative of management for North American Aviation, Inc., and the Ford Motor Company. He has served on the Labor Arbitration and Collective Bargaining Law Committee of the American Bar Association and the Labor Relations Committee of the United States Chamber of Commerce.

Dr. Van de Water graduated from the University of Chicago (A.B., 1939) and the University of Chicago Law School (J.D., 1941). He is the author of many articles and publications in the areas of management, labor law, and industrial production.

Dr. Van de Water is married, has seven children, and resides in San Pedro, California. He was born March 26, 1917 in Long Beach, California.

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RF  
6/18/81

## JUDICIAL SELECTION CRITERIA

The President's criteria for federal judicial appointments <sup>are</sup> 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.