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High Court Nominee Coasts Toward Confirmation

By LINDA GREENHOUSE
Special to The New York Times

WASHINGTON, Sept. 9 — Judge Sandra Day O'Connor moved easily today toward confirmation as an Associate Justice of the Supreme Court, emphasizing before a generally appreciative Senate Judiciary Committee her belief that "the proper role of the judiciary is one of interpreting and applying the law, not making it."

The first of three scheduled days of confirmation hearings produced few surprises. Members of the Judiciary Committee asked the Arizona Court of Appeals judge questions that she seemed to have expected, and she provided answers that the Senators seemed pleased to hear. Members of the committee, including its chairman, Strom Thurmond, a South Carolina Republican, indicated that confirmation was a virtual certainty.

But if the hearing lacked doubt, it did not lack drama or a sense that history was being made by the imminent confirmation of the first woman to be appointed as a Supreme Court Justice in the Court's 191-year history.

"Better 190 years late than never," Senator Bob Dole, Republican of Kansas, told the nominee. "You are among friends."

'Happily Share the Honor'

"As the first woman to be nominated as a Supreme Court Justice, I am particularly honored," Judge O'Connor told the committee in her opening statement. "But I happily share the honor with millions of American women of yesterday and today whose abilities and conduct have given me this opportunity for service."

Judge O'Connor's opening statement, which came after an hour of comments by members of the committee, set the tone for much of what followed. She outlined the theme to which she would return frequently in the questioning: that

her experience as a legislator and state court judge made her especially sensitive to the role of the states in the Federal system; that lawmaking was the job of legislators and not judges, and that state courts could provide adequate forums for protecting constitutional rights.

The 51-year-old judge, who had to pass anti-abortion pickets to reach the hearing room, also quoted from a marriage ceremony she had written in which she referred to the family as "mankind's basic unit of society, the hope of the world and the strength of our country."

Anti-abortion groups tried to defeat the nomination on the ground that Judge O'Connor's voting record when she served in the Arizona State Senate did not reflect implacable opposition to abortion.

In the first few minutes of questioning today, Senator Thurmond asked Judge O'Connor for her views on abortion and an explanation of her four votes in the State Senate that her opponents had found most objectionable.

"I am opposed to abortion as a matter of birth control or otherwise," Judge O'Connor said. The subject of abortion, she continued, "is a valid one for legislative action, subject to any constitutional restraint or limitation."

Acknowledging that she had cast a preliminary vote in 1970 in favor of a bill to repeal Arizona's criminal abortion statute, Judge O'Connor said that "at that time I believed some change was appropriate" in a law that made it a criminal offense to assist a rape victim in obtaining a "D and C procedure" — a method of abortion in early pregnancy — within hours or days after the assault.

In 1973, Judge O'Connor said, she co-sponsored a bill to make birth control information more widely available. She said the bill did not provide for abortions and that she did not view it as an abortion measure.

In 1974, she voted against a resolution

calling for an anti-abortion amendment to the United States Constitution because, she said, the measure had not received "proper reflection or consideration." In the same year, Judge O'Connor said, she voted against an amendment to prohibit abortions in some state hospitals because the measure was a "nongermane rider" to another bill.

Judge O'Connor added that she had supported two bills that became law, one to restrict the use of state funds for abortions for poor women, and another to allow hospital employees not to assist in performing abortions.

If Senator Thurmond hoped to deflect the abortion issue by allowing Judge O'Connor to clarify her record within the first 10 minutes of questioning, he apparently succeeded, with the possible exception of two or three committee members.

One of them, Senator John P. East, Republican of North Carolina, tried repeatedly late in the day to get the nominee to give her opinion of Roe v. Wade, the 1973 Supreme Court decision that declared abortion to be a constitutionally protected right. But she refused to be pinned down, saying she could not pre-judge an issue that could well come before the Supreme Court again.

Judge O'Connor also deflected questions about other subjects that might come before the Court. Sometimes she answered in generalities that may or may not have contained hints of her own views. At other times, she replied with brief summaries of Supreme Court precedent on the matter.

Senator Charles McC. Mathias Jr., Republican of Maryland, asked Judge O'Connor whether she was "troubled" by the prospect of a "runaway" constitutional convention that might be called for one purpose but then have its agenda expanded.

"It does pose troubling questions for many people," she replied.



The New York Times / George James

Sandra Day O'Connor testifying before the Senate Judiciary Committee at hearings yesterday on her nomination to the Supreme Court. Behind her are her husband, John, and her sons, from left, Jay, Brian and Scott.

Text of Judge O'Connor's Statement to Panel

WASHINGTON, Sept. 9 (AP) — Following is the prepared text of Judge Sandra Day O'Connor's opening statement today as the Senate Judiciary Committee began confirmation hearings on her nomination to the United States Supreme Court:

Mr. Chairman and members of the committee:

I would like to begin my brief opening remarks by expressing my gratitude to the President for nominating me to be an Associate Justice of the United States Supreme Court, and my appreciation and thanks to the members of this committee and its distinguished chairman for your courtesy and for the privilege of meeting with you.

As the first woman to be nominated as a Supreme Court Justice, I am particularly honored, but I happily share the honor with millions of American women of yesterday and today whose abilities and conduct have given me this opportunity for service.

As a citizen, as a lawyer and as a judge I have, from afar, always regarded the Court with the reverence and the respect to which it is so clearly entitled because of the function it serves.

It is the institution which is charged with the final responsibility of insuring that basic constitutional principles...

De... ..

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It is the institution which is charged with the final responsibility of insuring that basic constitutional doctrines will be continually honored and enforced.

It is the body to which all Americans look for the ultimate protection of their rights.

It is to the United States Supreme Court that we all turn when we seek that which we want most from our Government: equal justice under the law.

If confirmed by the Senate, I will apply all my abilities to insure that our Government is preserved and that justice under our Constitution and the laws of this land will always be the foundation of that Government.

I want to make only one substantive statement to you at this time.

Function of Judiciary

My experience as a state court judge and as a state legislator has given me a greater appreciation of the important role the states play in our Federal system, and also a greater appreciation of the separate and distinct roles of the three branches of government at both the state and Federal levels.

Those experiences have strengthened my view that the proper role of the judiciary is one of interpreting and applying the law, not making it.

If confirmed, I face an awesome responsibility ahead. So, too, does this committee face a heavy responsibility with respect to my nomination.

I hope to be as helpful to you as possible in responding to your questions on my background, beliefs and views.

There is, however, a limitation on my responses which I am compelled to recognize.

I do not believe that, as a nominee, I can tell you how I might vote on a particular issue which may come before the Court, or endorse or criticize specific Supreme Court decisions presenting issues which may well come before the Court again.

To do so would mean I have prejudged the matter or have morally committed myself to a certain position. This would result in my inability to do that which would be my sworn duty, namely, to decide cases that come before the Court.

Future Court Issues

Finally, neither you nor I know today the precise way in which any issue will present itself in the future or what the facts or arguments may be at that time or how the statute being interpreted may read.

Until those crucial factors become known, I suggest none of us really know how we would resolve any issue.

At the very least, we would reserve judgment until that time.

On a personal note, if the chairman will permit it, I would now like to say something to you about my family and to introduce them to you.

By way of preamble, I would note that some of the media have reported, correctly, I might add, that I have performed some marriage ceremonies in my capacity as a judge.

I would like to read to you an extract from a part of the form of marriage ceremony I prepared. "Marriage is far more than an exchange of vows. It is the foundation of the family, mankind's basic unit of society, the hope of the world and the strength of our country. It is the relationship between ourselves and the generations to follow."

That statement represents not only advice I give to the couples who have stood before me, but my view of all families and the importance of families in our lives and in our country.

My nomination to the Supreme Court has brought my own very close family even closer together.

Finally, I want to thank you, Mr. Chairman and members of the committee, for allowing me this time.

I would now be happy to respond to your questions.

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High Court Nominee Tells Senate Panel That She Personally Opposes Abortion

By a WALL STREET JOURNAL Staff Reporter
WASHINGTON—Judge Sandra O'Connor began what seems certain to be a smooth sail toward Senate confirmation as the first woman Justice on the Supreme Court. She was nominated to replace Justice Potter Stewart, who retired.

In the first of three scheduled days of hearings before the Senate Judiciary Committee, Mrs. O'Connor maintained that she

personally opposes abortion and strongly respects the family.

The 51-year-old Arizona appeals court judge cautiously fielded questions about her judicial philosophy. She largely avoided controversy, often giving a rote recitation of her understanding of current law without expressing her views of the law.

Asked early on in the hearings about her stand on abortion, Judge O'Connor said she opposes it "as a matter of birth control or otherwise."

In her own opening statement, Judge O'Connor, who was nominated to replace retired Justice Potter Stewart, went out of her way to show her respect for the importance of families and family life. Reading a portion of a standard marriage ceremony she has used as a judge, she said:

"Marriage is far more than an exchange of vows. It is the foundation of the family, it's mankind's basic unit of society, it's the hope of the world and the strength of our country." She then introduced her husband, John, a Phoenix lawyer, and her three sons.

Her comments on abortion and on the family apparently were aimed at blunting criticism of her record on abortion by right-to-life groups that charge that she was in favor of abortion during four years as an Arizona state senator. A handful of anti-abortion demonstrators picketed outside the Senate office building during the hearing, and representatives of right-to-life groups are scheduled to testify today or tomorrow.

Right-to-life groups have voiced concern over four of Mrs. O'Connor's votes on abortion issues between 1970 and 1974, when she was a state legislator. Yesterday, she explained those votes, noting that in one instance her position might be different today. In that case she voted to report out of committee a bill repealing Arizona's abortion law.

She said she favored the repeal because the law made it a felony to perform an abortion even if the woman was the victim of a rape. She explained that she voted for repeal because it was the only means presented to change the law. Today, Mrs. O'Connor said, she wouldn't "have voted for a simple repealer," suggesting that she would prefer to keep some parts of the law.

Opposition based on her record on abortion seems unlikely to have a major effect on Mrs. O'Connor's confirmation, which the White House hopes will be completed before the Supreme Court opens its new term Oct. 5. A number of committee members, both Democrats and Republicans, predicted an easy confirmation.

The judge's role is as "one of interpreting and applying law," she emphasized. It isn't "the function of the judiciary to step in and change the law because times have changed or because cultural mores have changed," she said.

She acknowledged that she has had little experience with federal antitrust law, although she sponsored such legislation in Arizona that was patterned after federal law.

Guides Tightened By Bank Board For S&L 'Repos'

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WASHINGTON—The Federal Home Loan Bank Board tightened its consumer protection guidelines governing high-yielding new "retail repurchase agreements" issued by federally insured savings and loan associations.

The action generally brings the S&Ls under the same guidelines that apply to federally chartered banks.

The "repos" are becoming increasingly popular because they typically carry yields much higher than those allowed on passbook accounts or certificates of deposit. Repos are loans that savers make to an institution for as many as 90 days, and supposedly are backed by a share of the institution's portfolio of government or government-backed securities.

But the high yields carry some risk. The repos aren't technically deposits, so they aren't covered by federal deposit insurance. The savers' protection is their claim to the institution's securities.

In the past, S&Ls have been allowed to operate under looser rules than national banks. The bank board's guidelines allowed S&Ls to issue repos in amounts exceeding the actual market value of the securities. Also, the S&Ls weren't required to give savers a "perfected interest" in the securities, meaning that, if the S&L failed, the savers could find themselves among the failed institution's general creditors, waiting months or years to get back a fraction of their money.

Under pressure from Congress, the board's staff issued a revised memorandum to its S&L examiners tightening the rules.

The board's new guidelines call for S&Ls to grant savers a perfected interest in the underlying securities when selling repos. Thus, in the event of a failure and liquidation, the repo holders would have first call on the securities and would be ahead of general creditors.

The new guidelines also call for the repos to be fully covered by the current market value of the securities at the time of issuance.

Repo holders still could find themselves with less than full coverage, because the market value of the underlying securities could fall during the term of the agreement. The board's new guidelines do call for S&Ls

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Repo holders still could find themselves with less than full coverage, because the market value of the underlying securities could fall during the term of the agreement. The board's new guidelines do call for S&Ls to disclose in their advertising if they don't figure the market value of their securities daily and to ensure that repos are fully covered at all times.

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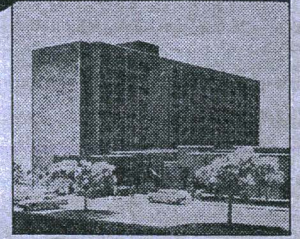
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(END OF DAY'S TESTIMONY)

BY ELIZABETH OLSON

WASHINGTON (UPI) -- SANDRA DAY O'CONNOR, TESTIFYING AT HER SUPREME COURT CONFIRMATION HEARINGS, SAID WEDNESDAY SHE WOULD NOT HAVE AN ABORTION BUT WOULD NOT CONDEMN OTHER WOMEN WHO DO.

IT APPEARED AFTER THE FIRST OF THREE DAYS OF HEARINGS THAT MRS. O'CONNOR WOULD WIN QUICK APPROVAL FROM THE SENATE JUDICIARY COMMITTEE AND THE FULL SENATE AND TAKE HER SEAT AS THE FIRST WOMAN MEMBER OF THE COURT WHEN IT OPENS ITS FALL TERM OCT. 5.

WHILE ANTI-ABORTION-DEMONSTRATORS PICKETED OUTSIDE THE SENATE OFFICE BUILDING, THE ARIZONA APPEALS COURT JUDGE DEFTLY PARRIED QUESTIONS OF A DOZEN SENATORS AT THE FIRST FULL DAY OF THE THREE-DAY HEARINGS.

DRESSED IN A BUSINESS-LIKE LAVENDER SUIT AND PRINT TIE BLOUSE, MRS. O'CONNOR, 51, BEGAN HER TESTIMONY IN A SOMEWHAT SHAKY VOICE THAT LATER IT BECAME SMOOTH AND FIRM. SHE SMILED OCCASIONALLY AT PRAISE FROM ARIZONA'S SENATORS.

ALTHOUGH MOST COMMITTEE MEMBERS JOINED IN THE PRAISE OF HER NOMINATION -- THE FIRST BY PRESIDENT REAGAN TO THE HIGH COURT -- THEY PRESSED HER ON A RANGE OF TOPICS, PARTICULARLY HER VOTES ON ABORTION WHILE SERVING AS A REPUBLICAN STATE SENATOR IN ARIZONA IN THE EARLY 1970S.

"I HAVE INDICATED FOR A LONG TIME MY ABHORRENCE OF ABORTION. IT'S A PRACTICE IN WHICH I WOULD NOT HAVE ENGAGED," SHE TOLD SEN. DENNIS DECONCINI, D-ARIZ.

BUT, SHE SAID, "I'M NOT TRYING TO CRITICIZE OTHERS IN THAT PROCESS. THERE ARE OTHERS WHO HAVE VERY DIFFERENT FEELINGS. I RECOGNIZE THAT AND I'M SENSITIVE."

DESPITE REPEATED QUESTIONS ON THE ABORTION ISSUE, COMMITTEE MEMBERS WERE UNABLE TO PIN MRS. O'CONNOR DOWN ON HOW SHE WOULD VOTE IF IT CAME BEFORE HER AT THE HIGH COURT. SHE DECLINED TO DETAIL HER VIEWS ON THIS AND OTHER SPECIFIC ISSUES SINCE, SHE SAID, THEY "MAY WELL COME BEFORE THE COURT AGAIN."

BUT MRS. O'CONNOR SPELLED OUT HER VIEWS ON PUBLIC FUNDING OF ABORTIONS WHEN SHE TOLD SEN. ROBERT DOLE, R-KAN., THAT HER SPONSORSHIP IN THE LEGISLATURE OF A BILL LIMITING MEDICAID FUNDS FOR ABORTIONS REFLECTED "IN GENERAL SUBSTANCE" HER VIEWS ON THE ISSUE.

COMMITTEE CHAIRMAN STROM THURMOND, R-S.C., OPENED THE QUESTIONING BY ASKING HER WHY SHE VOTED FOR A 1970 BILL TO REPEAL ARIZONA STATUTES CARRYING CRIMINAL PENALTIES FOR ASSISTING IN PERFORMING ABORTIONS.

NOTING THE SUBJECT OF ABORTION HAD NOT BEEN GIVEN MUCH CONSIDERATION AT THE TIME, SHE SAID SHE BELIEVED THE LAWS SHOULD HAVE BEEN CHANGED AND WOULD HAVE SUPPORTED A "LESS SWEEPING BILL."

BUT SHE CONCEDED SHE WOULD NOT HAVE VOTED AGAIN FOR A "SIMPLE REPEALER" OF ABORTION RESTRICTIONS.

MRS. O'CONNOR MORE EASILY EXPLAINED VOTES VIEWED AS PRO-ABORTION, NOTING SHE OPPOSED A 1974 PROPOSAL URGING THAT CONGRESS APPROVE A CONSTITUTIONAL AMENDMENT BANNING ABORTIONS BECAUSE SHE THOUGHT THE SUBJECT NEEDED MORE STUDY.

SHE SAID THAT AS ARIZONA SENATE MAJORITY LEADER, SHE OPPOSED ANOTHER ANTI-ABORTION BILL BECAUSE, IN HER VIEW, IT HAD BEEN INAPPROPRIATELY ATTACHED AS A RIDER TO A BILL ON AN UNRELATED SUBJECT.

"I AM OPPOSED TO IT (ABORTION) AS A MATTER OF BIRTH CONTROL OR OTHERWISE," SHE SAID. "THE SUBJECT OF ABORTION IS A VALID ONE IN MY VIEW FOR LEGISLATIVE ACTION SUBJECT TO ANY CONSTITUTIONAL RESTRAINTS OR LIMITATIONS."

THURMOND, AN ABORTION FOE, TOLD REPORTERS AFTER THE HEARING THAT HE THOUGHT MRS. O'CONNOR WAS CORRECT IN REFUSING TO SAY HOW SHE WOULD RULE ON SPECIFIC ABORTION ISSUES BECAUSE DOING SO WOULD DISQUALIFY HER IF SUCH A CASE CAME BEFORE THE COURT.

MOST OF THE OPPOSITION TO MRS. O'CONNOR'S NOMINATION HAS COME FROM CONSERVATIVES WHO OPPOSE HER RECORD ON ABORTION AND OTHER SOCIAL ISSUES AND HER SUPPORT FOR THE EQUAL RIGHTS AMENDMENT.

SEN. EDWARD KENNEDY, D-MASS., SAID SHE SHOULD NOT HAVE TO PASS THE LITMUS TEST OF ANY SINGLE GROUP.

"THE DISTURBING TACTICS OF DIVISION, DISTORTION AND DISCRIMINATION PRACTICED BY THE NEW RIGHT HAVE NO PLACE IN THESE HEARINGS AND NO PLACE IN OUR NATION'S DEMOCRACY," KENNEDY SAID.

IN RESPONSE TO QUESTIONS BY SEN. JOSEPH BIDEN, D-DEL. ABOUT THE HIGH COURT'S LANDMARK 1954 DECISION ON DESEGREGATION, MRS. O'CONNOR REPLIED: "I DO NOT BELIEVE IT IS THE FUNCTION OF THE JUDICIARY TO STEP IN AND CHANGE THE LAW BECAUSE TIMES HAVE CHANGED."

AS AN INDIRECT REFERENCE TO HER CONCERN WITH FAMILY ISSUES, SHE INTRODUCED HER HUSBAND JOHN AND THREE SONS TO THE COMMITTEE AND READ FROM A MARRIAGE VOW SHE USED AS AN ARIZONA JUDGE, SAYING IT REPRESENTED HER VIEW OF "THE IMPORTANCE OF FAMILIES IN OUR LIVES AND IN OUR COUNTRY."

"I HAPPILY SHARE THE HONOR WITH MILLIONS OF WOMEN," SHE SAID OF HER NOMINATION AS THE FIRST WOMAN ON THE NATION'S HIGHEST COURT AFTER 102 MALE JUSTICES.

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7AM-O'CONNOR; BJT; 1ST LD; A227;430

7Eds: UPDATES WITH AFTERNOON TESTIMONY AND THURMOND PREDICTION OF UNTROUBLED CONFIRMATION

7BY MIKE SHANAHAN

7ASSOCIATED PRESS WRITER

WASHINGTON (AP) - SANDRA DAY O'CONNOR; APPARENTLY COASTING TOWARD EASY CONFIRMATION AS THE FIRST WOMAN ON THE SUPREME COURT; SAID WEDNESDAY SHE PERSONALLY BELIEVES ABORTION IS ABHORRENT; BUT WOULD NOT LET THOSE VIEWS SHADE HER OPINIONS AS A MEMBER OF THE COURT.

"IT IS A PRACTICE I WOULD NOT HAVE ENGAGED IN;" MRS. O'CONNOR TOLD MEMBERS OF THE SENATE JUDICIARY COMMITTEE CONSIDERING HER NOMINATION.

DESCRIBING HER OWN "ABHORRENCE" TO ABORTION; THE 51-YEAR-OLD ARIZONA APPEALS COURT JUDGE SAID HER FEELINGS ABOUT THE SUBJECT ARE A PRODUCT OF HER "SENSE OF FAMILY VALUES; MY SENSE OF HOW I LEAD MY OWN LIFE."

NONETHELESS; SHE INSISTED THAT "PERSONAL VIEWS AND PHILOSOPHIES" WOULD NOT BE ALLOWED; "AS MUCH AS THAT IS POSSIBLE;" TO AFFECT HER JUDGMENT ON THE FACTS OR CONSTITUTIONALITY OF CASES BEFORE THE COURT.

AFTER NEARLY SIX HOURS OF TESTIMONY BY MRS. O'CONNOR; SEN. STROM THURMOND; R-S.C.; THE COMMITTEE CHAIRMAN; PREDICTED UNTROUBLED CONFIRMATION BY THE PANEL AND THE FULL SENATE. HE SAID A VOTE IN THE COMMITTEE COULD COME AS EARLY AS TUESDAY; WITH A SENATE VOTE THE NEXT DAY.

"I THINK SHE HANDLED HERSELF QUITE WELL;" HE SAID. "I DON'T SEE A PROBLEM IN HER CONFIRMATION."

THURMOND AND SEVERAL OTHER COMMITTEE MEMBERS ASKED QUESTIONS ABOUT ABORTION; THE ONE ISSUE AROUND WHICH OPPOSITION TO HER NOMINATION HAS DEVELOPED.

"MY OWN VIEW IN THE AREA OF ABORTION IS THAT I AM OPPOSED TO IT AS A MATTER OF BIRTH CONTROL OR OTHERWISE;" SHE SAID. "THE SUBJECT OF ABORTION IS A VALID ONE IN MY VIEW FOR LEGISLATIVE ACTION SUBJECT TO CONSTITUTIONAL RESTRAINTS OR LIMITATION."

MRS. O'CONNOR WAS REPEATEDLY PRESSED BY SEN. JOHN EAST; R-N.C.; ONE OF THE MOST CONSERVATIVE MEMBERS OF THE 18-MEMBER JUDICIARY PANEL AND A LEADING ABORTION FOE; TO SPELL OUT HER CONSTITUTIONAL VIEW OF THE 1973 HIGH COURT DECISION LEGALIZING MOST ABORTIONS.

SHE FIRMLY REBUFFED HIS EFFORTS; DECLARING IN A STEADY VOICE; "I FEEL IT IS IMPROPER FOR ME TO ENDORSE OR CRITICIZE THAT DECISION WHICH SEEMS LIKELY TO COME BACK BEFORE THE COURT."

SIMILARLY; MRS. O'CONNOR DECLINED TO GIVE HER SPECIFIC VIEWS ON A NUMBER OF TOUCHY SUBJECTS LIKELY TO BE HEARD BY THE COURT.

NONETHELESS; MRS. O'CONNOR PORTRAYED HERSELF GENERALLY AS A JUDICIAL CONSERVATIVE LIKELY TO LEAVE MANY UNRESOLVED ISSUES FROM ABORTION TO CRIMINAL LAW ENFORCEMENT UP TO THE STATES TO SOLVE.

MRS. O'CONNOR DREW PRAISE FROM MOST MEMBERS OF BOTH PARTIES AT THE OPENING OF THREE DAYS OF CONFIRMATION HEARINGS BEFORE THE 18-MEMBER COMMITTEE.

7: YOU ARE; 5TH GRAF

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ARM-O'CONNOR; BJT; 600

JUSTICE NOMINEE OPPOSES ABORTION; BUT NOT NECESSARILY FROM BENCH

LASERPHOTO WXG

BY MIKE SHANAHAN

ASSOCIATED PRESS WRITER

WASHINGTON (AP) - SANDRA DAY O'CONNOR SAID WEDNESDAY SHE PERSONALLY OPPOSES ABORTION; BUT WOULD NOT LET THOSE VIEWS SHADE HER OPINIONS AS A SUPREME COURT JUSTICE.

"PERSONAL VIEWS AND PHILOSOPHIES" SHOULD NOT BE ALLOWED TO AFFECT A JUSTICE'S JUDGMENTS - "AS MUCH AS THAT IS POSSIBLE" - ON THE FACTS OR CONSTITUTIONALITY OF CASES BEFORE THE COURT; SHE TOLD THE SENATE JUDICIARY COMMITTEE.

"MY OWN VIEW IN THE AREA OF ABORTION IS THAT I AM OPPOSED TO IT AS A MATTER OF BIRTH CONTROL OR OTHERWISE;" SHE SAID. "THE SUBJECT OF ABORTION IS A VALID ONE IN MY VIEW FOR LEGISLATIVE ACTION SUBJECT TO CONSTITUTIONAL RESTRAINTS OR LIMITATION."

MRS. O'CONNOR; THE FIRST WOMAN NOMINATED TO THE SUPREME COURT; DREW PRAISE FROM MOST MEMBERS OF BOTH PARTIES AT THE OPENING OF THREE DAYS OF CONFIRMATION HEARINGS BEFORE THE 10-MEMBER COMMITTEE.

"YOU ARE AMONG FRIENDS;" SAID SEN. BOB DOLE; R-KAN.; ONE OF 10 COMMITTEE MEMBERS TO EITHER DECLARE OR IMPLY IN ADVANCE OF MRS. O'CONNOR'S TESTIMONY THAT THEY WOULD VOTE FOR HER CONFIRMATION.

WHILE HER CONFIRMATION BY BOTH THE COMMITTEE AND THE FULL SENATE APPEARS A FOREGONE CONCLUSION; MRS. O'CONNOR FACES SOME TENACIOUS QUESTIONING - ESPECIALLY ON ABORTION AND THE ROLE OF FEDERAL JUDICIARY - FROM CONSERVATIVE MEMBERS OF THE PANEL.

"OUR QUESTIONING MUST BE TOUGH AND DIRECT;" SAID SEN. CHARLES GRASSLEY; R-IOWA; ASSERTING THAT HE WOULD LIKE TO SEE SUPREME COURT NOMINEES "COMMITTED TO OPPOSE THE PERMISSIVENESS WHICH HAS FOSTERED DISRESPECT FOR SOCIETY'S LAWS."

SEN. JEREMIAH DENTON; R-ALA.; WHO HAS WAGED A CAMPAIGN OF RESTORING AMERICAN FAMILY LIFE BY URGING AN END TO LEGALIZED ABORTIONS AND DISCOURAGING PREGNANCY AMONG TEEN-AGERS; TOLD MRS. O'CONNOR HE QUESTIONS WHETHER PRESIDENT REAGAN KNEW OF HER TRUE VIEWS AND RECORD ON ABORTION BEFORE NOMINATING HER TO THE COURT.

IF REAGAN DID NOT KNOW ABOUT THOSE MATTERS; DENTON SAID; "CERTAIN QUESTIONS WITH RESPECT TO YOUR CREDIBILITY ARE APPARENT."

MRS. O'CONNOR TOLD THE COMMITTEE SHE BELIEVES HER PUBLIC CAREER AS AN ARIZONA ASSISTANT ATTORNEY GENERAL; LEGISLATOR AND STATE APPEALS COURT JUDGE QUALIFIED HER TO TAKE THE SUPREME COURT SEAT LEFT VACANT BY THE RETIREMENT OF POTTER STEWART.

IN BOTH A BRIEF OPENING STATEMENT AND IN ANSWER TO QUESTIONS FROM THE COMMITTEE CHAIRMAN; SEN. STROM THURMOND; R-S.C.; MRS. O'CONNOR REPEATEDLY DECLARED HER BELIEF IN LIMITED ROLE FOR GOVERNMENT IN GENERAL; AND IN PARTICULAR; SHARP RESTRAINTS ON POWERS OF FEDERAL JUDGES.

"IN CARRYING OUT THE JUDICIAL FUNCTION; I BELIEVE IN THE EXERCISE OF JUDICIAL RESTRAINT;" SHE SAID. "I DO NOT BELIEVE IT IS THE FUNCTION OF THE JUDICIARY TO STEP IN AND CHANGE THE LAW BECAUSE THE TIMES OR SOCIAL MORES HAVE CHANGED."

Mrs. O'Connor said most cases before the Supreme Court should be decided on more narrow issues than constitutional questions.

ANTI-ABORTION ORGANIZATION HAVE FOCUSED ON VOTES Mrs. O'Connor cast as a member of the Arizona Senate; AND THURMOND'S OPENING SERIES OF QUESTIONS COVERED HER VOTING RECORD ON THAT SUBJECT.

WHY DID SHE OPPOSE PUTTING THE ARIZONA LEGISLATURE ON RECORD AS RECOMMENDING THAT CONGRESS APPROVE A CONSTITUTIONAL AMENDMENT REVERSING THE 1973 SUPREME COURT DECISION THAT GENERALLY ALLOWS ABORTIONS IN THE FIRST THREE MONTHS OF PREGNANCY?

"I WAS NOT SURE AT THAT TIME THAT WE HAD GIVEN THE PROPER AMOUNT OF REFLECTION OR CONSIDERATION TO WHAT ACTION; IF ANY; WAS APPROPRIATE BY WAY OF A CONSTITUTIONAL AMENDMENT;" SHE SAID. "AMENDMENTS TO THE CONSTITUTION ARE VERY SERIOUS MATTERS AND SHOULD BE UNDERTAKEN ONLY AFTER A GREAT DEAL OF STUDY AND THOUGHT."

WHY DID SHE VOTE IN 1970 TO SET ASIDE LEGISLATION THAT WOULD MAKE ABORTION A FELONY IN ARIZONA?

SHE BELIEVED AT THE TIME THAT THE BILL WAS TOO "SWEEPING;" Mrs. O'Connor replied; ADDING THAT SHE WOULD HAVE SUPPORTED A LESS STRINGENT ANTI-ABORTION MEASURE.

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CONSTITUTIONAL MEMBERS TO BEHOLD REFUSE TO SIGN IN ADVANCE TO THE
... AND ALL WOULD BEHOLD... AND SHE SAID SHE WOULD BE ONE OF THE
... MEMBERS BEFORE THE 17-MEMBER COMMITTEE
... MEMBERS OF BOTH HOUSES AT THE HEARING ON THE BILL
... THE BILL NOW HUNG IN THE AIR... SHE SAID SHE
... COMMITTEE MEMBERS OF CONGRESS...

PROBLEM IS A BIT OF ONE IN AN ATTEMPT TO IDENTIFY THE BELIEFS OF
... VALLEY OF BISHOP... SHE SAID... SUBJECT OF
... THE CASE OF ABORTION IS LAW... SHE SAID SHE
... COMMITTEE...

BY CONSTITUTIONAL OF CHAIR BEFORE THE COMMITTEE SHE SAID SHE WOULD
... MEMBERS... SHE SAID SHE WOULD BE ONE OF THE
... MEMBERS AND... SHE SAID SHE WOULD BE ONE OF THE
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AM-CONNOR SKED 9-9

SANDRA O'CONNOR SAYS SHE IS AGAINST ABORTION

BY ELIZABETH OLSON

WASHINGTON (UPI) -- SANDRA DAY O'CONNOR, TESTIFYING AT THE OPENING OF HER CONFIRMATION HEARINGS, WENT ON RECORD AGAINST ABORTION WEDNESDAY BUT WOULD NOT SAY HOW SHE WOULD VOTE ON THE ISSUE IF APPROVED AS THE FIRST WOMAN ON THE SUPREME COURT.

WHILE ANTI-ABORTION DEMONSTRATORS PICKETED OUTSIDE THE SENATE OFFICE BUILDING, MOST SENATE JUDICIARY COMMITTEE MEMBERS PRAISED MRS. O'CONNOR'S APPOINTMENT DURING OPENING STATEMENTS AT THE THREE DAY HEARINGS.

"MY OWN VIEW IN THE AREA OF ABORTION IS THAT I AM OPPOSED TO IT AS A MATTER OF BIRTH CONTROL OR OTHERWISE," THE ARIZONA APPEALS COURT JUDGE SAID. "THE SUBJECT OF ABORTION IS A VALID ONE IN MY VIEW FOR LEGISLATIVE ACTION SUBJECT TO ANY CONSTITUTIONAL RESTRAINTS OR LIMITATIONS."

BUT, IN HER PREPARED OPENING STATEMENT, THE 51-YEAR-OLD JURIST SAID: "I DO NOT BELIEVE THAT, AS A NOMINEE, I CAN TELL HOW I MIGHT VOTE ON A PARTICULAR ISSUE WHICH MAY COME BEFORE THE COURT, OR ENDORSE OR CRITICIZE SPECIFIC SUPREME COURT DECISIONS PRESENTING ISSUES WHICH MAY WELL COME BEFORE THE COURT AGAIN."

MOST OF THE OPPOSITION TO HER NOMINATION HAS COME FROM CONSERVATIVES WHO OPPOSE HER RECORD ON ABORTION AND OTHER SOCIAL ISSUES AND HER SUPPORT FOR THE EQUAL RIGHTS AMENDMENT.

BUT IT APPEARED SHE WOULD WIN QUICK APPROVAL FROM THE COMMITTEE AND THE SENATE AND JOIN THE COURT WHEN IT OPENS ITS FALL TERM OCT. 5.

MEMBERS OF THE PANEL WASTED NO TIME IN QUIZZING HER ABOUT VOTES ON ABORTION WHILE SERVING IN THE ARIZONA STATE SENATE IN THE EARLY 1970'S.

SEN. STROM THURMOND, R-S.C., COMMITTEE CHAIRMAN, OPENED THE QUESTIONING BY ASKING MRS. O'CONNOR ABOUT WHY SHE VOTED FOR A 1970 BILL TO REPEAL ARIZONA STATUTES CARRYING CRIMINAL PENALTIES FOR ASSISTING IN PERFORMING ABORTIONS.

NOTING THE SUBJECT OF ABORTION HAD NOT BEEN GIVEN MUCH CONSIDERATION AT THE TIME, SHE SAID SHE BELIEVED THE LAWS SHOULD HAVE BEEN CHANGED AND WOULD HAVE SUPPORTED A "LESS SWEEPING BILL."

BUT, IN A SIGNIFICANT CONCESSION, SHE ADMITTED SHE WOULD NOT HAVE VOTED AGAIN FOR A "SIMPLE REPEALER" OF ABORTION RESTRICTIONS.

SHE MORE EASILY EXPLAINED OTHER SO-CALLED PRO-ABORTION VOTES, NOTING THAT SHE OPPOSED A 1974 PROPOSAL URGING CONGRESSIONAL APPROVAL A CONSTITUTIONAL AMENDMENT BANNING ABORTIONS BECAUSE SHE THOUGHT THE SUBJECT NEEDED MORE STUDY.

SHE ALSO SAID SHE OPPOSED ANOTHER ANTI-ABORTION BILL AS THE ARIZONA SENATE MAJORITY LEADER BECAUSE, IN HER VIEW, IT HAD BEEN INAPPROPRIATELY ATTACHED AS A RIDER TO A BILL ON AN UNRELATED

THE POINTED OUT THAT SHE VOTED FOR A BILL TO LIMIT FUNDING FOR ABORTION FOR THE MEDICALLY NEEDY.

DRESSED IN A BUSINESS-LIKE LAVENDER SUIT AND PRINT TIE BLOUSE, MRS. O'CONNOR DEFTLY PARRIED THE SENATORS' QUESTIONS. ALTHOUGH INITIALLY SHAKY, HER VOICE SOON BECAME SMOOTH AND SHE SMILED OCCASIONALLY WHEN SENATORS FROM HER HOME STATE PRAISED HER.

"I HAPPILY SHARE THE HONOR WITH MILLIONS OF WOMEN," SHE SAID OF HER NOMINATION AS THE FIRST WOMAN ON THE NATION'S HIGHEST COURT AFTER 102 MALE JUSTICES.

THE COMMITTEE WILL HOLD TWO MORE DAYS OF HEARINGS, INCLUDING GIVING THE OPPOSITION A CHANCE TO TESTIFY AGAINST HER.

SEN. JEREMIAH DENTON, R-ALA., WARNED HER IN HIS OPENING STATEMENT THAT HIS VOTE HINGED ON HOW CLOSE HER POSITIONS WERE TO HIS CONSERVATIVE PHILOSOPHY.

DENTON, A NEW RIGHT CONSERVATIVE, SAID, "IT IS MY EARNEST HOPE THAT YOUR RESPONSES WILL BE NEITHER BROAD NOR BLAND, AS A LACK OF KNOWLEDGE OR LACK OF SPECIFICITY IN ANSWERS COULD EASILY BE PERCEIVED AS A LACK OF QUALIFICATION OR OF CANDOR."

BUT SEN. EDWARD KENNEDY, D-MASS., SAID SHE SHOULD NOT HAVE TO PASS A LITMUS TEST OF ANY SINGLE GROUP.

"THE DISTURBING TACTICS OF DIVISION, DISTORTION AND DISCRIMINATION PRACTICED BY THE NEW RIGHT HAVE NO PLACE IN THESE HEARINGS, AND NO PLACE IN OUR NATION'S DEMOCRACY," KENNEDY SAID.

IN RESPONSE TO QUESTIONS BY SEN. JOSEPH BIDEN, D-DEL. ABOUT THE HIGH COURT'S LANDMARK 1954 DECISION ON DESEGREGATION, MRS. O'CONNOR REPLIED: "I DO NOT BELIEVE IT IS THE FUNCTION OF THE JUDICIARY TO STEP IN AND CHANGE THE LAW BECAUSE TIMES HAVE CHANGED."

ALSO, SHE DID NOT DISAVOW MOVES IN CONGRESS TO STRIP THE HIGH COURT OF ITS JURISDICTION OVER CERTAIN CONTROVERSIAL SOCIAL ISSUES.

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TESTIFYING TO HER SUPPORT FOR THE BILL TO LIMIT FUNDING FOR ABORTION FOR THE MEDICALLY NEEDY, SHE SAID SHE VOTED FOR IT IN 1980. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1981. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1982. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1983. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1984. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1985. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1986. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1987. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1988. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1989. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1990. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1991. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1992. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1993. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1994. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1995. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1996. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1997. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1998. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 1999. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2000. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2001. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2002. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2003. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2004. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2005. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2006. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2007. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2008. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2009. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2010. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2011. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2012. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2013. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2014. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2015. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2016. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2017. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2018. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2019. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2020. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2021. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2022. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2023. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2024. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2025. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2026. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2027. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2028. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2029. SHE SAID SHE WAS NOT ASKED TO VOTE ON THE BILL IN 2030.

MRS. O'CONNOR AND 20 SENATORS AND FRIENDS ATE IN THE GRACIOUS SURROUNDINGS OF THE RECENTLY RESTORED CHAMBER. JOINING HER FOR LUNCH WAS ONE CURRENT SUPREME COURT JUSTICE, FORMER LAW SCHOOL CLASSMATE WILLIAM REHNQUIST, AND HIS WIFE. THE CAPITOL CURATOR'S OFFICE SAID THE MEAL WAS THE FIRST EVER SERVED IN THE SEMICIRCULAR SHAPED ROOM, WHERE THE SUPREME COURT SAT FROM 1810-1860.

THE PARTY LUNCHEONED AT A LONG RECTANGULAR TABLE IN THE WELL OF THE CHAMBER, WHERE ATTORNEYS ONCE ARGUED THEIR CASES BEFORE THE HIGH BENCH.

ALONGSIDE THE LUNCHEON PARTY WAS THE IMPOSING DARK WOOD BENCH, WHERE JUSTICES ONCE PRESIDED. FROM THE REAR OF THE ROOM, MARBLE BUSTS OF THE FIRST FIVE CHIEF JUSTICES GAZED DOWN FROM PEDESTALS.

AFTER BEING USED FOR MANY YEARS AS A SENATE COMMITTEE ROOM AND A LAW LIBRARY, THE CHAMBER WAS RESTORED BEGINNING IN 1975 TO THE WAY IT LOOKED WHEN THE SUPREME COURT USED IT MORE THAN A CENTURY AGO -- COMPLETE WITH A GOOSE QUILL PEN AT THE BENCH WHERE THE CHIEF JUSTICE ONCE SAT.

A POPULAR TOURIST ATTRACTION SINCE IT OPENED IN THE CAPITOL FOR THE BICENTENNIAL, THE CURRENT COURT USED THE CHAMBER ON INAUGURATION DAY LAST JANUARY, WHEN THE JUSTICES MET BRIEFLY BEFORE RONALD REAGAN TOOK THE OATH OF OFFICE.

SEVERAL MEMBERS OF THE SENATE JUDICIARY COMMITTEE ALSO ATTENDED THE GATHERING, AS DID ATTORNEY GENERAL WILLIAM FRENCH SMITH.

EARLIER, WHILE MRS. O'CONNOR FACED A COMMITTEE THAT SEEMED TO AGREE HER SPOT ON THE HIGH COURT IS ASSURED, ANTI-ABORTION PROTESTERS DENOUNCED HER FROM THE SIDEWALK OUTSIDE THE HEARING ROOM.

DRESSED IN A LAVENDER SUIT, TIE BLOUSE AND BROWN PUMPS, SHE ENTERED THE JAMMED COMMITTEE ROOM ACCOMPANIED BY THURMOND, WHO HEADS THE PANEL THAT IS EXPECTED TO CONFIRM HER NOMINATION AS THE FIRST WOMEN EVER TO SIT ON THE COURT.

APPROACHING THE WITNESS TABLE, SHE WAS GREETED BY MORE THAN A DOZEN PHOTOGRAPHERS. WHILE THEY TOOK HER PICTURE, HER HUSBAND STOOD SILENTLY BY, DRESSED A CONSERVATIVE GRAY SUIT AND CLUB TIE.

DURING THE HEARING, SOME 75 PEOPLE MARCHED OUTSIDE THE DIRKSEN SENATE OFFICE BUILDING IN THE SUNSHINE, CHANTING ANTI-O'CONNOR SLOGANS.

MRS. O'CONNOR HAS NEVER RULED ON ABORTION AS A SUPERIOR COURT OR APPEALS COURT JUDGE IN ARIZONA. BUT ANTI-ABORTION GROUPS HAVE QUESTIONED FOUR VOTES SHE CAST WHILE SERVING IN THE ARIZONA STATE LEGISLATURE IN THE EARLY 1970'S.

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