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THE WHITE HOUSE  
WASHINGTON

7/13

BAKE:

FYI.

Ron

JAB

I assume this is for your lead.  
I assume  
meet with Helme group if so  
please return and I'll keep in  
file for you -  
7/13  
MOT

SANDRA D. O'CONNOR

Q: What is her schedule in Washington?

A: She will arrive in Washington on Monday evening. She has no appointments on the Hill scheduled until Tuesday.

Q: Where will she be staying?

A: She is staying with close family friends.

Q: Does she have any plans to meet with anyone other than White House officials and-Senators?

A: No.

Q: Has she been invited to meet with any Right-to-Life or ERA groups?

A: No.

Q: When will she meet with the President?

A: Probably Tuesday or Wednesday.

Q: What is her schedule for Tuesday?

A: We are still working on the final details.  
FOR INFORMATION ONLY: Tentatively, she will meet with the Attorney General and Justice officials in the morning. In the afternoon she will go to the Hill to meet with Senators Goldwater, DeConcini, Baker, Thurmond, Biden and Byrd.

Q: Is she scheduled to meet with Senator Helms and conservative Senators on Wednesday as has been indicated?

A: Her initial priority will be meeting with all Senators who are members of the Judiciary Committee.

Q: When do you anticipate hearings starting?

A: As you know, this is basically a five-step process. Nomination, FBI check, then the nomination is sent to the Hill, after which there is a 7-day courtesy period for Committee preparation, then hearings and confirmation. We hope hearings will begin as soon as possible.

#### STARR MEMORANDUM

Q: Why did the President decide on Judge O'Connor's nomination before he received Ken Starr's memo?

A: That memo was not intended to be a decisional memo, but rather was for informational purposes. The President made his decision based on the Justice Department's checks on her record--both judicial and legislative, and his personal interview with her on July 1st. Her choice was the result of efficient and orderly process.

#### VOTING RECORD

Q: How did the President understand she had voted on abortion?

A: Mrs. O'Connor is personally opposed to abortion and finds it abhorrent. The President is completely satisfied with her stand on abortion and feels it is consistent with the Republican platform which called for the appointment of judges who respect traditional family values and the sanctity of human life.



Q: If the President had thought she was pro-choice, would he have picked her?

A: The President is completely satisfied with Mrs. O'Connor's position on abortion. In addition, since this was the appointment of a person to a politically independent institution charged with making judgments about the meaning of our most fundamental law, he was interested in the whole shape of her legal thought--not just a single issue. Also, she looks upon the judicial function as one that is to interpret the law and not make it, and that is completely consistent with the President's view.

Q: How many opinions have been written by Judge O'Connor?

A: Approximately 124.

#### ISSUES

(FOR INFORMATION ONLY)

#### ERA

Q: Her position on ERA?

A: In 1974, she supported a conservative alternative to ERA--an advisory resolution referring the issue to the voters. It dies in committee.

#### ABORTION

Q: What about the 3 abortion bills she voted for that are of most concern to the Right-to-Life groups?

A: In 1973, SB 1190 was assigned to the Public Health and Welfare Committee. This was a family planning bill which would have provided family planning information to minors. There was no vote by O'Connor on this bill because she wasn't on the Committee.

In 1974, she voted against SB 1245, as amended in the House. The bill was designed to permit the University of Arizona to issue bonds for expanded sports facilities. The House amendment included a rider prohibiting abortions at the University of Arizona hospital. Thus, she voted against the bill because of the non-germane amendment which she believed violated the state constitution.

In 1974, HCM 2002 was reported out of the Judiciary Committee on which O'Connor served with a "do pass" recommendation. This was a resolution calling on Congress to amend the Constitution to outlaw abortions. The resolution was held in the Republican caucus and did not go to the floor for a vote.

#### DEATH PENALTY

Q: Her position on the death penalty?

A: In 1973, she worked for, supported and voted for the death penalty bill which was passed and became law.

#### BUSING

Q: Her position on busing?

A: In 1973, she voted for SCM 1002, a memorial resolution urging Congress to take action to prohibit busing. In 1972, she voted for SCM 1001, urging a constitutional amendment to prohibit busing.

#### FIREARMS

Q: Her position on federal firearms legislation?

A: In 1973, she voted for SCM 1002, which also urged Congress to oppose federal firearms legislation.

#### HANDGUNS

Q: Her position on handgun legislation?

A: In 1974, she voted for SCM 1001, urging Congress to oppose

handgun legislation.

PRAYER IN SCHOOL

Q: Her position on prayer in schools?

A: In 1972, she voted for HCR 2009, urging Congress to amend the Constitution to permit voluntary prayer in schools.

LAW SCHOOL--CLASS STANDING

Q: There is some confusion as to her exact standing in her law school class. Can it be verified that she did rank 3rd as has been reported?

A: There were no actual rankings made of the class. That particular ranking was given in a news story. The fact is she ranked in the top ten percent of the Stanford Law School class of 1952. She was elected to the Order of the Coif, which confirms such ranking. Beyond that, no specific rankings were made and Justice Rehnquist himself does not claim first place listing in the biography he filed with the Supreme Court.

THE WHITE HOUSE  
WASHINGTON

7/14

Baker:

FYI.

Tom

COPY OF PRESS RELEASE ISSUED 7/13/81  
BY MEMBERS OF ARIZONA STATE LEGISLATURE  
ON THE NOMINATION OF SANDRA D. O'CONNOR TO THE U.S. SUPREME COURT

TODAY TWENTY-SIX REPUBLICAN AND DEMOCRAT MEMBERS OF THE HOUSE OF REPRESENTATIVES SIGNED LETTERS TO SENATORS STROM THURMOND, HOWARD BAKER, ORRIN HATCH AND JESSE HELMS WHICH GIVE THE FOLLOWING STATEMENT:

"The undersigned members of the Arizona House of Representatives have consistently supported the Right To Life Constitutional Amendment to the U.S. Constitution.

We wholeheartedly endorse the Honorable Sandra D. O'Connor for the nomination to the U.S. Supreme Court. Because of her integrity, morality and knowledge we believe Sandra D. O'Connor will be an asset to the U.S. Supreme Court."

WE BRING THIS TO THE ATTENTION OF THE MEDIA AND THE NATION AS WE FEEL THERE HAVE BEEN A LOT OF UNFOUNDED RUMORS AND INNEUNDOES IN REGARD TO THIS NOMINATION.

Pete Corpstein  
State Representative



July 8, 1981

COPY

The Honorable Strom Thurmond  
Chairman, U.S. Judiciary Committee  
Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Thurmond:

The undersigned members of the Arizona House of Representatives have consistently supported the Right To Life Constitutional Convention Amendment to the U.S. Constitution.

We wholeheartedly endorse the Honorable Sandra D. O'Connor for the nomination to the U.S. Supreme Court. Because of her integrity, morality and knowledge, we believe Sandra D. O'Connor will be an asset to the U.S. Supreme Court.

Sincerely,

(S)

## POLICY CHANGE ON LOANS CALLED ILLEGAL

The chairman of the congressional Joint Economic Committee Tuesday accused the Administration of "immoral and illegal" action in deciding to reverse a U.S. policy of opposing loans by international development banks to four S. American military regimes. "The Administration has played fast and loose with the law," Rep. Reuss told Myer Rashish. Reuss contended the decision to support loans for Argentina, Chile, Uruguay and Paraguay violated a 1977 law barring U.S. backing for such loans to countries engaged in systematic violations of human rights.

(John M. Goshko, Washington Post, 7/15, A14)

## WILDLIFE GROUP URGES PRESIDENT TO DISMISS WATT

No!  
T  
Secretary Watt's six-month running battle with environmentalists took another turn for the worse Tuesday when the National Wildlife Federation called on President Reagan to fire him. The organization's leaders accused him of working to undermine basic environmental protection laws and contended that conversations with key WH aides indicated Presidential support for Watt was "waning." The NWF attack on Watt is significant because the group is one of the most conservative of the environmental organizations and one Watt had counted most supportive of him. A poll of its membership, which produced overwhelming opposition to Watt's policies, indicated they voted by more than 2-to-1 for Reagan last November. Watt's reaction reportedly was amusement. He said the paid officials of the NWF had opposed Reagan's election and his confirmation.

(James Naughtie, Washington Post, 7/15, A1)

## THE JUDGE GETS RAVE REVIEWS ON THE HILL

Supreme Court nominee Sandra D. O'Connor went politicking on Capitol Hill Tuesday expressing her opposition to abortion and winning a prediction from the leadership she will be confirmed without difficulty. The Moral Majority also backed away from its earlier opposition, acknowledging confirmation is inevitable. "We should have shut up and not said anything," said spokesman Cal Thomas. "We are working very hard to fall in line behind the President."

(Fred Barbash, Washington Post, 7/15, A1)

## THIRD OF NATION'S S&amp;Ls IN DANGER, BANK BOARD CHIEF SAYS

In the grimmest assessment to date of the troubled savings and loan industry by a government official, Federal Home Loan Bank Board Chairman Richard Pratt acknowledged Tuesday one-third of the nation's 4,700 S&Ls are "not viable under today's conditions" of high, volatile interest rates. In Capitol Hill testimony, Pratt confirmed reluctantly that he gave these figures to a closed housing policy meeting last week. The figures he cited then and confirmed Tuesday point to deeper industry trouble than federal financial regulators have hitherto acknowledged. If nothing happens to help the industry and interest rates continue at the near-record levels of the last eight months, Pratt predicted to the commission one savings institution every day will be reduced to a zero net worth, the point at which all financial reserves set aside to cover losses are used up.

(Nancy L. Ross, Washington Post, 7/15, A1)



THE WHITE HOUSE

WASHINGTON

July 14, 1981

TO: Jim Baker  
Ed Meese  
Mike Deaver  
Fred Fielding

FROM: Max Friedersdorf *M.G.*

SUBJECT: Supreme Court Nominee

The Attorney General, Powell Moore and myself accompanied Judge O'Connor on her initial series of courtesy calls today to Capitol Hill.

The first visit was with Senator Strom Thurmond (R-S.C.), Chairman of the Senate Judiciary Committee. This was the only visit of real substance, other than the Bob Byrd/Biden meeting.

Thurmond raised the issues of abortion, E.R.A., pornography, capital punishment, crime in general, and the drug problem.

Thurmond advised Judge O'Connor repeatedly not to let herself be "pinned down" on how she would rule as a Justice.

Thurmond seemed to be satisfied on the E.R.A. issue and indicated he himself had supported the measure in the early 70's.

With regard to pornography, Mrs. O'Connor told Senator Thurmond that she had supported legislation banning pornography sales 4,000 feet from a school, rather than a mile, because there was judicial precedent for 4,000 feet which she believed would be likely to stand up in Court.

O'Connor described herself to Senator Thurmond as "a conservative judge from a conservative state."

Thurmond raised the question of O'Connor being "alright as long as Reagan is in," implying she would vote liberal afterwards. Thurmond said this was a question he had received.

O'Connor responded that her record as both a legislator and judge will reflect her strong convictions and commitment on the issues.

Questioned by Thurmond about the death penalty, Judge O'Connor indicated she had authored the death penalty statute in Arizona, and has imposed the death penalty.

With regard to crime, Judge O'Connor cited her past record on combating crime in both her professional responsibilities and as a private citizen. "I am concerned about crime and my record in the area of criminal law will reflect that I have been tough in this area; and the lawyers of Phoenix will confirm."

We also discussed timing of the nomination with Senator Thurmond and he advised unless there was time before the recess for both hearings and confirmation, he would recommend the hearings be held up until September. Senator Baker concurs in this recommendation.

Thurmond also questioned Mrs. O'Connor about being a strict constructionalist and advised her job on the Court would be to interpret the law and not make law.

Judge O'Connor then called on Senators Goldwater and DeConcini who escorted her to the office of the Majority Leader, Howard Baker.

Judge O'Connor also visited Senator Ted Stevens, the Senate Majority Whip, in his Capitol Office.

Senator Baker then escorted Judge O'Connor to the office of the Senate Minority Leader, Robert Byrd (D-W.Va.), where she met with Byrd and Senator Joseph Biden (D-Del.), ranking minority member of the Senate Judiciary Committee.

Senator Byrd stated: "From all I have heard and read about you, I intend to support and vote for your confirmation."

Senator Biden commented: "We are investigating you thoroughly with the purpose of accomodating and expediting your confirmation. I do not know of anyone on the Democratic side (of the Judiciary Committee) who is opposed. I am enthusiastically supporting you, and there will be no litmus test problems as far as the Democrats are concerned. We will focus on your judicial record and temperament."

Senator Byrd was extremely cordial and asked Judge O'Connor to remain until Mrs. Byrd arrived, and a photo taken.

We then met in the Speaker's office with Speaker O'Neill, Jim Wright, Tom Foley and Jim Jones. There was no substance here; photos and handshakes only.

The final visit was with Rep. Bob Michel, Eldon Rudd, John Rhodes, Trent Lott, and surprisingly, Henry Hyde, who posed no questions and stayed out of the photographs.

Judge O'Connor was greeted by large crowds of well-wishers at each stop.



THE WHITE HOUSE

WASHINGTON

July 8, 1981

MEMORANDUM FOR THE PRESIDENT

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

SUBJECT: Supreme Court

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

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

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

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

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

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

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

*7/8*  
|| *Told Helms we'd do unless some elements in Senate opposed & then would do one on one. Helms would like to walk her over to the meeting next Wed.*

*I was scheduled to appear next Wed. Had like M.F. + JAB to go w/ her.*



Q. What is your view as a private citizen on the wisdom and need for a constitutional amendment to permit state legislation in the abortion area (to the extent not permitted by Roe v. Wade)?

A. Senator, that is a peculiarly difficult issue for me to address. As a sitting judge, and as the President's nominee for the Court, I do not think it is appropriate or seemly for me to comment on a proposed constitutional amendment that is now under discussion. Judges should not be in the business of advising Congress as to how it can or should carry out its duties in drafting and recommending constitutional amendments. Judges interpret the Constitution. They should not be offering armchair opinions outside the judicial process as to whether constitutional amendments are either needed or wise. But there is another reason as well in this particular situation. The proposed amendments you are referring to would, if adopted, have the effect of overruling one or more prior Supreme Court decisions. I think it is particularly inappropriate to comment on a specific Supreme Court case or to indicate how I would have voted on it then or how I would vote on it now. If I were to comment on the proposed amendments now under review, I would be doing exactly that. These issues may come before the Court again, and I cannot and should not prejudge them.

- Q. What about the bill introduced by Senator East and reported to the full Judiciary Committee providing that life begins at conception?
- A. I hope you will understand, Senator, that the limitations of this process prevent me, as a sitting judge and as the President's nominee to the Supreme Court, from commenting on a particular piece of proposed legislation now under consideration by the Congress. It could well be that this legislation could eventually come before the courts for review, and I should say nothing to indicate that I am prejudging that case.
- Q. I certainly understand that, Judge, but all I want to know -- and I think the people of this country are entitled to know -- is when in your own opinion -- as a private citizen -- does life begin?
- A. Again, Senator, to comment on this particular issue would necessarily mean that I would be commenting on a legal issue that is now being addressed by the Congress -- namely what is the definition of a "person" within the Fourteenth Amendment? That very issue would come before the courts if the legislation is enacted and subsequently challenged. To formulate and set forth my own ideas on the subject would, in the minds of many people, be in effect a prejudging of the issues that could very well come before me as a judge.

Q. But how is that any different than any other piece of legislation? You've already told us that you are against gun control, yet those statutes may come before you for review.

A. Well, Senator, I have tried to describe my record as a State Senator with respect to certain specific areas, including gun control, but I have carefully avoided addressing any specific statute or bill now under review by the Congress in any area. In any event, this particular bill is unique, because, as I have said, to formulate a position and to announce it on that bill would reasonably be viewed as announcing my view as a judge on the legal meaning of the term, "person." That I simply am not able to do in good conscience.

(I will say again that I should and will make every effort to set aside my own personal predelictions or views when interpreting the Constitution or statutes. But I don't think any members of the Senate would want to put me in a position of having to comment or take a position on a particular Supreme Court case, as opposed to expressing my personal views on a specific subject matter.)



Judge O'Connor's basic position with respect to abortion is as follows:

She finds abortion abhorrent and morally repugnant. She considers it and always has considered it to be an inappropriate method of dealing with an unwanted pregnancy. She also believes that the area of abortion is an appropriate one for state regulation. She cannot, however, properly opine on the correctness of Roe v. Wade, on the wisdom or need for a constitutional amendment with respect to abortion, or on the proposed legislation defining when life begins.

She did cast certain votes as a State Senator on the subject. She will be prepared to describe those votes and her reasons with respect to each vote at the appropriate time in the confirmation process. Her votes are in no manner inconsistent with her personal views as set forth above.

She must refrain, as a sitting judge and a nominee, from making any pronouncements as to the legality or constitutionality of any proposed measure that Congress might consider or as to the wisdom or need for a constitutional amendment. To do so would call into question her independence as a judge.



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."



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

July 7, 1981

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM:

KENNETH W. STARR *KWS*  
COUNSELOR TO THE ATTORNEY GENERAL

On Monday, July 6, 1981, I spoke by phone on two occasions with Judge O'Connor. She provided the following information with respect to her public record on family-related issues:

- As a trial and appellate judge, she has not had occasion to rule on any issue relating to abortion.
- Contrary to media reports, she has never attended or spoken at a women's rights conference on abortion.
- She was involved in the following legislative initiatives as a State Senator in Arizona:
  - In 1973, she requested the preparation of a bill, which was subsequently enacted, which gave the right to hospitals, physicians and medical personnel not to participate in abortions if the institution or individual chose not to do so. The measure, Senate Bill 1133, was passed in 1973.
  - In 1973, she was a co-sponsor (along with 10 other Senators) of a bill that would permit state agencies to participate in "family planning" activities and to disseminate information with



respect to family planning. The bill made no express mention of abortion and was not viewed by then Senator O'Connor as an abortion measure. The bill died in Committee. She recalls no controversy with respect to the bill and is unaware of any hearings on the proposed measure.

--- In 1974, Senate Bill 1245 was passed by the Senate. Supported by Senator O'Connor, the bill as passed would have permitted the University of Arizona to issue bonds to expand existing sports facilities. In the House, an amendment was added providing that no abortions could be performed at any educational facility under the jurisdiction of the Arizona Board of Regents. Upon the measure's return from the House, Senator O'Connor voted against the bill as amended, on the ground that the Arizona Constitution forbade enactment of legislation treating unrelated subject matters. In her view, the anti-abortion rider was unrelated to the primary purpose of the bill, namely empowering the University to issue bonds to expand sports facilities. Her reasons for so voting are nowhere stated on the record.

--- In 1970, House Bill 20 was considered by the Senate Committee on which Senator O'Connor then served. As passed by the House, the bill would have repealed



Arizona's then extant criminal prohibitions against abortion. The Committee majority voted in favor of this pre-Roe v. Wade measure; a minority on the Committee voted against it.

There is no record of how Senator O'Connor voted, and she indicated that she has no recollection of how she voted. (One Senator voting against the measure did have his vote recorded.)

Judge O'Connor further indicated, in response to my questions, that she had never been a leader or outspoken advocate on behalf of either pro-life or abortion-rights organizations. She knows well the Arizona leader of the right-to-life movement, a prominent female physician in Phoenix, and has never had any disputes or controversies with her.



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

July 3, 1981

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

Dear President Reagan:

This is a follow-up to my letter of yesterday with more documentation of the strong pro-abortion position of Sandra O'Connor, the jurist mentioned as a possible U.S. Supreme Court nominee.


- 1970-- Arizona Senate, a bill to legalize abortion.  
Bill passed the Senate Judiciary Committee. Senator Sandra O'Connor, a member of the committee, voted pro-abortion.  
Bill defeated in Senate Republican Caucus with Senator Sandra O'Connor, a member of the caucus, voting pro-abortion.
- 1973-- Sen. Sandra O'Connor was prime sponsor of S-1190, a family planning bill, which would have provided family planning information to minors without parental knowledge or consent.  
Included under "family planning" were "contraceptives and surgical procedures" (abortion).
- 1974-- a memorialization resolution calling upon Congress to pass a Human Life Amendment had passed the Arizona House by a wide margin.  
Sen. Sandra O'Connor voted against the resolution in the Senate Judiciary Committee.  
Sen. Sandra O'Connor voted against it again in the Senate Majority (Republican) Caucus, and thus helped to kill the bill.
- 1977-- As reported, Sandra O'Connor was a keynote speaker at the pro-abortion International Women's Year state meeting in Arizona.

As noted in my previous letter to you, this nominee is totally unacceptable to the right-to-life movement. Her nomination would be seen as a complete repudiation of your pro-life position, and also of the Republican Platform. It would produce a firestorm reaction across the nation.

We fully assume and hope that such will not occur, now that these facts have been brought to your attention.

May I, in closing, request once again that I, or another top member of our central right-to-life organization, be allowed some (top secret) review of names before they get to a final stage of consideration. Such an almost-catastrophe as this could easily have been prevented if this opportunity had been provided.

Sincerely,

  
John C. Willke, M.D.  
President

JCW:dj



Personally opposed to abortion.

THE WHITE HOUSE  
WASHINGTON

Find the concept personally abhorrent. The

ABORTION

subj. of reg. of abortion is a  
legitimate subj. for leg. action  
(incl. Const. amend).

1970 - HB 20 repealed Ariz. Crim. Stat.  
on Abortion.

PROB  
LIKE  
BILL  
P.R.  
SIGNED  
INTO  
LAW

Do not know how or if I voted  
on that.

Was a member of Judiciary Comm.

She is alleged to have voted pro-  
abortion in Comm & in Repub Caucus.

PRO LIFE

1973 (a) S.B. 1333

Permitted Hosp. Employee  
was to perf. abortions. <sup>She</sup> Voted for it -  
prepared it & introduced it.

a pro life vote - a leading  
proponent of the vote

(b) Was co-sponsor of SB 1190 -  
a family planning bill - primary purpose

THE WHITE HOUSE  
WASHINGTON

was to provide contraceptive  
info. Lang. is somewhat loose.  
It never got out of Committee - never  
was described as a pro-abortion  
measure.

---

1974 <sup>Concomit #</sup> Memorial 2002

Memorialization resol. calling  
upon Cong. to pass a Human Life  
Amend.

She can't remember how she  
voted. Alleged she voted ag't.  
No record of how she voted. No minutes

---

1975 SB 1245 - Bill to auth U of Ariz  
to expand its stadium. House tacked on  
an amend. prohibiting abortion at army  
Univ. hosp. She voted ag't because of  
Condit. provision on non-  
germane amends.

THE WHITE HOUSE  
WASHINGTON

1977 - No recollection of  
IWCY speech in Ariz.  
Very possibly could've been a  
speaker.

---


In 1975  
Jan. Once she went on bench she  
took no position on either of those  
subj. (ERB or Abortion)



THE WHITE HOUSE

WASHINGTON

July 7, 1981

MEMORANDUM TO: JAMES A. BAKER, III  
FROM: ELIZABETH H. DOLE   
SUBJECT: SUPREME COURT NOMINATION  
CONFIDENTIAL CALL-OUTS

The following organizations will be contacted in solicitation of support for the President's Supreme Court nominee:

Business

Business Roundtable  
U.S. Chamber  
NAM  
NFIB  
BGRC

Ethnic Group

Nat'l Itlian American Foundation  
Order Sons of Italy in America  
UNICO (Intal. Fraternal Org)  
Polish American Congress  
AHEPA (Greek Fraternal Org.)  
Ukrainia Congress Comm. of America

Women's Organizations

Gen. Fed. of Women's Clubs  
Business & Professional Women  
National Women's Political Caucus  
Congresswomen's Caucus  
Rural American Women  
Association of American Univ. Women  
Nat'l Association of Women Judges  
NY Women in Banking

Consumers

National Consumers League  
Consumer Federation of America

Disabled

U. S. Council for the Int'l Year of the Disabled Persons

Aging

American Assoc. of Retired Persons  
National Council on Aging

Health

American Academy of Ophthalmology  
American Medical Assoc.  
American Federation of Hospitals

Jewish Organizations

American Jewish Congress  
American Jewish Committee  
Bnai Brith  
Anti-Defamation League  
National Jewish Community Relations Council  
Hadassah

Labor

MEBA  
Teamsters  
AFL-CIO Building and Trades Dept.  
Plumbers  
AFL-CIO

Agriculture

American Farm Bureau Federation  
Nat'l Council of Farmer Coops  
W.I.F.E.  
American Soybean Assn.  
Nat'l Assn of Wheat Growers  
Corn Growers Assoc.

Blacks & Youth

American Assoc. of MESBICS  
Coalition for Social & Economic Change  
National Business League  
70001  
National Assoc. of Black Manufacturers  
Health Occupation Student Assoc.  
Future Farmers of America

Opinion Leaders\*

R. Emmett Tyrrell  
George F. Will  
John O'Sullivan  
Irving Kristol

Conservative Leaders\*

Paul Weyrich - CSFC  
Terry Dolan - NCPAC  
Howard Phillips - TCC  
Rep. Mickey Edwards - ACU  
Phyllis Schlafly - Eagle Forum  
Jerry Falwell - Moral Majority  
Peter Gemond - Nat. Pro-Life PAC  
Cooper Hold - VFW  
Mylio Kraijo - Am. Legion  
Richard Viguerie - Cong. Digest  
Tom Winter - Human Events  
Ed Feulner - Heritage Foundation  
Reed Larson - Nat'l Right to Work

\* Areas of concern for opposition



A/C  
602  
9556653  
Home  
SDD'C.

THE WHITE HOUSE

WASHINGTON

July 6, 1981

JAMES A. BAKER III

FRED F. FIELDING

Supreme Court Nomination -- Game Plan

MEMORANDUM FOR:

FROM:

SUBJECT:

The announcement should be made as soon as possible.

- Avoids risk of further leaks, which deprive President of "announcement" momentum.
- Initial leakage has probably surfaced all potential problems (pro-lifers, etc.).
- Permits us to commence FBI immediately = earlier possible date for confirmation hearing (optimum would be before recess).
- Downside; if confirmation held over, opponents can muster forces; however, if name leaks out, this will occur in any event.

President should personally make the announcement.

- Historic event.
- Most important appointee of Administration.

Announcement plan.

- President in briefing room.
- Brief statement.
- No questions.
- Appointee should not be present - too difficult to get to Washington unnoticed.
- White House press aide should be present with appointee.

Prior notification.

- Appointee should be called by President - advised of selection (if not already done).
- Appointee should be called by staff - advised of announcement time; arrival of press aide; requested to complete all requisite forms (if not already done).

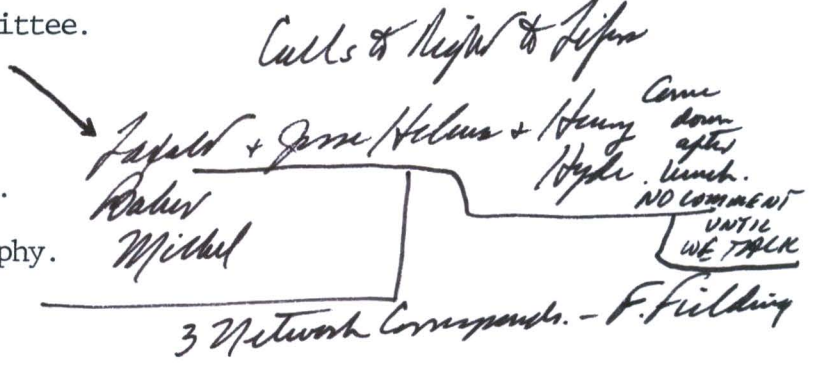
Prior notification: 30 minutes before announcement.

- Chief Justice.
- ABA President or Chairman of Standing Committee on Federal Judiciary.
- Chairman, Senate Judiciary Committee.
- ~~Potter Stewart~~ (A.G.)

1. Pres. read statement.
2. A.G. take questions.

Materials to be prepared.

- Brief Presidential announcement.
- Press Office release and biography.



Pre-announcement press plan.

- Meeting with White House and Justice participants and press spokesmen to insure consistent responses (for a change).

Rationale for not seeking prior evaluation of ABA:

- No legal requirement; practice has varied with Administrations.
- Need to end speculation.
- Administration has carefully reviewed candidate's qualifications and is satisfied.
- We have invited ABA to provide its advisory views to Senate Judiciary Committee; we would expect this will be done in this instance as in the past; we encourage the views of all interested groups.

Too expensive

Don't hear from her because she has personal opinion to abortion

No expressions of position on issues because of Senate confirmation.

No comments w/ respect to substantive matters prior to confirmation.

Personally opposed to abortion.

Has ind. views as to how this should be handled - doesn't favor Constit. amend.

ERA - not an activist, but has not opposed an amendment



THE WHITE HOUSE

WASHINGTON

July 6, 1981

MEMORANDUM TO: Jim Baker  
Ed Meese  
Mike Deaver  
Fred Fielding  
Pen James

FROM: Max Friedersdorf *M.F.*

SUBJECT: Supreme Court/Connor and Kennedy/Senator Nickles/Rep. Hyde

Senator Don Nickles (R-Okla.) and Rep. Henry Hyde (R-Ill.) called this morning to protest the possible appointment of the Connor woman from Arizona to the Supreme Court.

Hyde also objected to the Kennedy woman's appointment.

Arguments made against Connor:

- 1) Unacceptable to pro-lifers; six times voted for unlimited abortion; favors E.R.A., and is a Mary Crisp clone.
- 2) Her appointment would cause a firestorm among Reagan supporters; a betrayal of the platform; resentment would be profound, and *No!!* she was anti-Reagan.

Hyde also charged that Kennedy has issued an opinion in the Akron Ordinance case that is hostile to pro-lifers.

Senator Nickles said that if Connor is nominated, he and other pro-family Republican Senators will not support the choice.

Hyde suggested the name of Howard T. Markey, Chief Judge of the U. S. Court of Customs and Patents Appeals, for consideration.

He also said there is a woman Federal Judge serving in the St. Petersburg, Florida, area (he had no name) who has a good reputation and would be acceptable to conservatives.



SECRETARY

CBS  
W.H. Sawyer

Dr. Beqin has given  
~~the~~ U.S. - 2 weeks to  
get <sup>Syrian</sup> minutes out  
of ~~the~~ Bekha Valley.

THE WHITE HOUSE  
WASHINGTON

DATE

7-6-81

TO:

*Jim Baker*

FROM: MAX FRIEDERSDORF

For your information \_\_\_\_\_ ✓

See me \_\_\_\_\_

Call me \_\_\_\_\_

Please handle \_\_\_\_\_

Please follow-up \_\_\_\_\_

For your comments:

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

July 6, 1981

TO: MAX L. FRIEDERSDORF  
FROM: KENNETH M. DUBERSTEIN

K.D.

For your information

According to John Mack, Majority Leader Jim Wright's key floor assistant, the Democratic leadership "is going to win the tax vote. We will have enough of the Texas oil boys stay with us on this one. Have you ever known Rostenkowski to get into a fight he won't win?"





BOB DOLE  
UNITED STATES SENATE

July 6, 1981

Dear Mr. President:

According to press reports, you will soon fill the vacancy of retiring Justice Potter Stewart. As usual in such cases, there are a number of names "reportedly" being reviewed.

I want to personally -- and objectively -- recommend Elizabeth for consideration. I have outlined some of the reasons in a letter delivered today to Attorney General William French Smith. A copy of that letter is enclosed.

Thank you for your thoughtful attention to this matter.

Respectfully,

A handwritten signature in black ink that reads "Bob Dole". The signature is written in a cursive style with a long, sweeping tail that extends downwards and to the right.

BOB DOLE  
United States Senate

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



BOB DOLE  
UNITED STATES SENATE

July 6, 1981

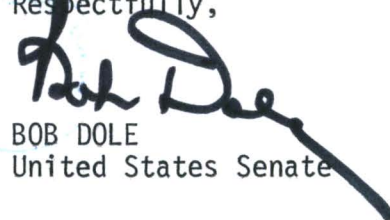
Dear Mr. President:

According to press reports, you will soon fill the vacancy of retiring Justice Potter Stewart. As usual in such cases, there are a number of names "reportedly" being reviewed.

I want to personally -- and objectively -- recommend Elizabeth for consideration. I have outlined some of the reasons in a letter delivered today to Attorney General William French Smith. A copy of that letter is enclosed.

Thank you for your thoughtful attention to this matter.

Respectfully,

A handwritten signature in black ink that reads "Bob Dole". The signature is written in a cursive style and is positioned over a circular blue ink stamp. The stamp contains the text "BOB DOLE" and "United States Senate" in a circular arrangement.

BOB DOLE  
United States Senate

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

## United States Senate

WASHINGTON, D.C. 20510

July 6, 1981

The Honorable William French Smith  
Attorney General of the United States  
U. S. Department of Justice  
Washington, D. C. 20530

Dear General Smith:

First, let me add my voice in urging President Reagan to select a qualified woman to replace retiring Justice Potter Stewart. Secondly, assuming this could happen, I recommend Elizabeth Dole.

I have, for obvious reasons, been reluctant to recommend Elizabeth, but there are important areas which should be carefully reviewed by those who will be making recommendations to the President:

1. She is a known quantity, having worked in the Reagan campaign, on the Transition Team, and now as Assistant to the President for Public Liaison. It would seem the President would want to appoint someone he knows personally and in whom he has personal confidence.
2. Acceptability. If a woman is selected, there will be considerable focus by the press and public on her acceptability by various groups. Whether it be business, labor, agriculture, civil rights, women or any other group, I believe there would be across-the-board support for her nomination. Elizabeth has gained the support and confidence of these groups and many others through her work at the Federal Trade Commission, the 1976 Presidential campaign, her active role in politics in 1979 and 1980, and through her present White House responsibilities.

In addition to public acceptability, obviously the nominee must be acceptable to the Judiciary Committee in the Senate. I have not made an effort to solicit political support, but believe her nomination would be widely acclaimed by Republicans and Democrats in the Senate. She was recommended by the Chairman of the Judiciary Committee, Senator Thurmond. If nominated, she should have the unqualified support of her fellow North Carolinians, Senator East and Senator Helms. She has been recommended by Senator Nancy Kassebaum, Senator Baker, Senator Baucus and others. At this moment I know of no one on the Judiciary Committee or in the Senate who could not support her nomination.



The Honorable William French Smith

July 6, 1981

3. Experience. A Harvard graduate, with 5 1/2 years as a Member of the Federal Trade Commission. This quasi-judicial experience should meet the objectives and standards sought.

Finally, her views on major issues are, for the most part, consistent with those of the President, and she is of an age that, barring unforeseen circumstances, she could serve on the Court for twenty or twenty-five years.

Notwithstanding admitted bias and prejudice, I trust my recommendation will be carefully considered.

Sincerely yours,



BOB DOLE  
United States Senate

BD:jc

cc: The President



BORK, ROBERT HERON, b. March 1, 1927; J.D. U. Chigo. 1953; asso., firm Wilkie, Owen, Farr, Gallagher & Walton, N.Y.C. 1954-55; also partner firm Kirkland, Ellis, Hodson, Chaffetz & Masters, Chigo. 1955-62; Solicitor General, U.S. Department of Justice, Washington, 1973-77; acting Attorney General, U.S. 1973-74; Alexander M. Bickel prof. public law, Yale, 1979-\_\_; served with USMCR 1945-46, 50-52.

CLARK, WILLIAM PATRICK, b. October 23, 1931; ed. Stanford U. 1949-51, Loyola U. Law School, Los Angeles, 1955; sr. partner firm Clark, Cole & Fairfield 1958-66; chief of staff, Gov. Ronald Reagan, justice Ct. of Appeals, Los Angeles, 1971-73, Supreme Ct. Calif., San Francisco, 1973-81; U.S. Army, 1951-53; Roman Catholic.

KEARSE, AMALYA LYLE, b. June 11, 1937; B.A. Wellesley Coll. 1959; J.D. cum laude U. Mich, 1962; firm Hughes, Hubbard & Reed, N.Y.C. 1962-79, partner 1969-79; Judge U.S. Ct. of Appeals, 2d Circuit, 1979-\_\_; mem. bd. dirs. NAACP Legal Def. and Endl. Fund, 1977-79; mem. Pres.'s Com. on Selection of Fed. Jud. Officers, 1977-78; mem. Lawyers Comm. for Civil Rights Under Law.

KENNEDY, CORNELIA GROEFSEMA, b. August 4, 1923; B.A. U. Mich. 1945, J.D. 1947; law clk. Justice Harold M. Stephens, U.S. Ct. of Appeals, Washington, 1947-48; partner, Markle & Markle, Detroit 1952-66; judge 3d judicial circuit of Mich. 1967-70; Chief Judge U.S. Dist. Ct., Eastern Dist. Mich, Detroit, 1970-\_\_; Phi Beta Kappa.

KLEIN, JOAN DEMPSEY; b. August 18, 1924; Judge, Superior Court of California Los Angeles County, appointed by Gov. Edmund G. Brown, Sr., 1963; Elected 1974, Presiding Judge 1974; Stepdaughters (3); Educated at California State University at San Diego (formerly San Diego State College) A.B. 1947 and University of California at Los Angeles, LL.B. 1955; Deputy Attorney General 1955-63; Member California Council on Criminal Justice 1970-74; Conference of California Judges (Vice Chairperson, Committee on Economy and Efficiency); California Women Lawyers (President 1975); Delegate to National Advisory Commission on Criminal Justice Standards and Goals 1973; received Municipal Court Judge of the Year Award from the California Trial Lawyers Association 1973; Professional Achievement Award from UCLA Alumni Association 1975; Alumna of the Year by UCLA Law Schol 1963; Woman of the Year by Los Angeles Times 1975.



KURLAND, PHILIP B.; b. October 22, 1921; B.A. U. Pa., 1942; LL.B. Harvard, 1944, LL.D. U. Notre Dame, 1977; law sec. to Judge Jerome N. Frank, 1944-45; clk to Supreme Ct. Justice Felix Frankfurter, 1945-46; atty. Dept. Justice, 1946-47; mem. firm Kurland & Wolfson, N.Y.C. 1947-50; asst. prof. law Northwestern U. Law Schl., 1950-53; mem. faculty U. Chigo. 1953-\_\_ ; prof. law 1956-\_\_ ; counsel firm Rothschild, Barry & Myers, Chigo., 1972-\_\_ ; chief cons, subcom. on separation of powers U.S. Senate Judiciary Com., 1967-77; Author or editor: Jurisdiction of Supreme Court of U.S. 1950; Mr. Justice 1964; Religion and the Law 1962; Frankfurter: Or Law and Life, 1965; The Supreme Court and the Constitution, 1965; The Great Charter, 1965; Moore's Manual, 1964-70; Felix Frankfurter on the Supreme Court, 1970; Politics, the Constitution and the Warren Court, 1970; Mr. Justice Frankfurter and the Constitution, 1971; Landmark Briefs and Arguments of the Supreme Court of the United States, 110 vols., 1975-79; Watergate and the Constitution, 1978; Editor: Supreme Court Rev., 1960-\_\_.

LAXALT, PAUL; b. August 2, 1922; B.S., LL.B. Denver U., 1949; Ddist. Atty. Ormsby County, 1951-54; Lt. Gov. Nev., 1963-66, Gov. Nev., 1966-70, sr. partner Laxalt, Berry & Allison, Carson City, 1970-74; U.S. Senator 1975-\_\_.

MULLIGAN, WILLIAM HUGHES; b. March 5, 1918; A.B. cum laude, Fordham U. 1939, LLB cum laude, 1942, LL.D. 1975; asso. then partner firm Manning, Hollinger & Shea, N.Y.C. 1948-54; prof. law Fordham U. Law Schl. 1946-71, asst. dean prof. law 1954-56, dean, Fordham U. Law Sch. 1956-71; judge U.S. Ct. Appeals, 2d Circuit 1971-\_\_ ; Fordham Law Alumni medal, 1971; served with U.S. Army, as spl. agt. CIC, 1942-46; Roman Catholic.

OAKS, DALLIN HARRIS; b. August 12, 1932; B.A., high honors, Brigham Young U. 1954; J.D. cum laude U. Chigo., 1957; law clk. to Supreme Ct. Chief Justice Earl Warren, 1957-58; with firm Kirkland, Ellis, Hodson, Chaffetz & Masters, Chigo., 1958-61; mem. faculty U. Chigo. Law Sch., 1961-71; asso. dean and acting dean, 1962, prof., 1964-71; Pres. Brigham Young U., Provo, Utah, 1971-\_\_ ; also prof. law J. Reuben Clark Law Sch. 1974-\_\_ ; mem. adv. com. Nat. Inst. Law Enforcement and Criminal Justice, 1974-76; mem., chrnm pro-tem, bd. dirs. Pub. Broadcasting Service, 1977-\_\_ ; Order Coif., member, Ch. of Jesus Christ of Latter-day Saints. Author (with W. Lehman) A Criminal Justice System and the Indigent, 1968; the Criminal Justice Act in the Federal District Courts, 1969; Editor: The Wall Between Church and State, 1963.



O'CONNOR, SANDRA DAY; b. March 26, 1930; judge, Superior Court of Arizona Marcicopa County, elected at general election, Nov. 1974; B.A., magna cum laude, Stanford, 1950, LL.B. 1952; Board of Editors Stanford Law Review; Member Order of the Coif; asst. atty. gen., Ariz. 1965-69; Ariz. State Senator 1969-75; trustee, Stanford U., 1976-; Member, Advisory Board, Salvation Army; dir., 1st Nat. Bank, Ariz.

PYE, AUGUST KENNETH: b. August 21, 1931; B.A. U. Buffalo 1951; J.D. Georgetown U. 1953, LL.M. 1955, LL.D. 1978; prof. law Georgetown U. Law Center 1955-56, asso. dean, 1961-66; prof. law Duke, 1966-; dean Duke Law Sch. 1968-70, 73-76, chancellor, 1970-71, 76-, univ. counsel, 1971-73. Mem. Assn. Am. Law Schs. (pres. 1976-77); served with U.S. Army, 1953-55; Phi Beta Kappa.

ROGERS, WILLIAM PIERCE; b. June 23, 1913; A.B. Colgate U., 1934; LL.B. Cornell, 1937; Mem. editorial bd. Cornell Law Quar., 1935-37; asst. dist. atty, N.Y. county, 1938-42, 46-47; counsel, U.S. Senate War Investigating Com. 1947, chief counsel, 1947-48; dep. atty gen., U.S. 1953-58, atty. gen. 1958-61; U.S. Sec. State, 1969-73; now sr. partner firm Rogers & Wells, N.Y.C.; mem. Pres. Commn Law Enforcement and Administrn., 1965-67. Served to lt. cmdr., USN 1942-46; mem. Order of Coif.

SHARP, SUSIE MARSHALL; b. July 7, 1907; U. North Carolina (formerly North Carolina College for Women) 1924-26, LL.B. 1929; in legal practice at Reidsville 1928-49, First woman in North Carolina to serve as City Attorney (Reidsville, 1939-49); Chief Justice, North Carolina Supreme Court (Appointed Associate Justice by Governor Terry Sanford March 14, 1962. Elected Chief Justice at general election Nov. 5, 1974; Board of Editors North Carolina Law Review; mem. Order of the Coif; Special Award for Outstanding Legal Achievement from N.Y. Women's Bar Assn. 1976 and Distinguished Alumnus Award from U. North Carolina at Chapel Hill 1977; Democrat.

SNEED, JOSEPH TYREE; b. July 21, 1920; B.B.A. Southwestern U, 1941, LL.D. 1968; LL.B. U. Tex., Austin, 1947; S.J.D., Harvard, 1958; instr. bus. law U. Tex., Austin, 1947, asst. prof. law 1947-51, asso. prof. 1951-54, prof. 1954-57; asst. dean, 1949-50; prof. law Cornell U. Law Sch. 1957-62; Stanford Law Sch. 1962-71; dean, prof. law Duke Law Sch. 1971-73; dep. atty. gen., Dept. Justice, Washington, 1973; judge U.S. 9th Circuit Ct. Appeals, San Francisco, 1973-; mem. Calif. Law Revision Commn., 1970, adv. com. Nat. Inst. Law Enforcement and Criminal Justice, 1974-75; mem. Order of the Coif; Served with USAAF 1942-46.



WALLACE, J. CLIFFORD; b. December 11, 1928; B.A. San Diego State U. 1952 with honors; LL.B. U. Calif at Berkeley 1955 with honors; with firm Gray, Cary, Ames & Frye, San Diego 1955-70; U.S. judge for So. Dist. Calif, 1970-72; U.S. judge 9th Circuit, Calif, 1972-\_\_; Served with USN 1946-49; Mormon.

WEBSTER, WILLIAM HEDGCOCK; b. March 6, 1924; A.B. Amherst Coll. 1947; LL.D. 1975; J.D. Washington U. 1949; LL.D. 1978; with firm Armstrong, Teasdale, Kramer and Vaughan, St. Louis, 1949-50, 52-59, partner 56-59, 61-70; U.S. atty. Eastern Dist. Mo., 1960-61; judge, U.S. Dist. Ct., Eastern dist. Mo. 1971-73; U.S. Ct. of Appeals, 8th Circuit, 1973-78; dir., FBI, 1978-\_\_; Mem. adv. com. on criminal rules, 1971-78; Served as Lt. (JG) USNR 1943-46, lt. (SG) 1951-52; mem. Order of the Coif.

WILKEY, MALCOLM RICHARD; b. December 6, 1918; A.B. Harvard 1940, LL.B. 1948; partner firm Butler, Binion, Rice & Cook, Houston 1948-54, 61-63; U.S. atty. So. Dist. Tex, 1954-58; asst. atty gen, U.S. 1958-61; sec., asso. gen. counsel Kennecott Copper Corp. 1963-67; gen. counsel, sec. 1967-70; judge U.S. Ct. Appeals, D.C. Circuit, 1970-\_\_; Delegate, Republican Nat. Convention 1960; served from 2d lt. to lt. col. U.S. Army, 1941-45; Phi Beta Kappa.

WINTER, RALPH KARL, JR.; b. July 30, 1935; ed. Yale, B.A. 1957, LL.B. Yale 1960; Orifessor, research assoc. and lect., 1962-64; Asst. prof. to assoc. prof. 1964-68; Prof. law, Yale, 1968-\_\_; special consult. to subcomm. on separation of powers, U.S. Senate Judiciary Comm., 1968-\_\_; Sr. fellow, Brookings, 1968-\_\_; research in law of evidence, economics of labor law, public employee unionism; Author: Collective Bargaining and Competition, Application of Antitrust Standards to Union Activities, Improving Economic Status of Negroes through Laws, Against Discrimination: A Reply to Professor Sovern.

HONORABLE CORNELIA KENNEDY

E.D. Mich. 6th Cir.  
Court of Appeals



CORNELIA B. KENNEDY

Judge Kennedy, 58, received undergraduate and law degrees from the University of Michigan (A.B. 1945; J.D. 1947). She served on the Law Review at Michigan and following graduation was a law clerk to Judge Harold Stephens of the United States Court of Appeals for the District of Columbia Circuit. From 1948-1967, she was in private law practice in Detroit and from 1967-1970 served as state court judge on the Wayne County Circuit Court. In 1970 she was appointed by President Nixon to be United States District Judge for the Eastern District of Michigan. In September, of 1979, Judge Kennedy was confirmed as United States Circuit Judge for the Sixth Circuit. She has been rated "Well-Qualified" by the ABA Standing Committee.

As a United States District Judge, Judge Kennedy published more than 80 full opinions and was reversed relatively few times by the Sixth Circuit. In approximately 14 months on the Sixth Circuit, she has published 43 full opinions. Her written product is extremely conscientious and thorough, albeit at times emphasizing relatively tangential considerations and arguments. Her opinions are clear and reflect what may be characterized as very good analytical ability. Moreover, the quality of her work has improved discernibly over the years.

One of Judge Kennedy's foremost qualities is a consistent approach to recurring issues which evinces a generally conservative judicial philosophy. She has demonstrated a reluctance to interfere with decisions reached by legislatures, state courts, administrative agencies, and even private associations, absent a persuasive showing of error or irregularity. Her most controversial decision -- and one which raised great opposition to her appointment to the Sixth Circuit from individuals such as Drew Days -- reflects this conservative viewpoint.

In United States v. School District of Ferndale, 460 F. Supp. 352 (E.D. Mich. 1979), Judge Kennedy, after an earlier refusal was reversed by the Sixth Circuit, reached the merits of a less than clearcut school desegregation case brought by the Civil Rights Division. In a thorough analysis which the Sixth Circuit reversed, Judge Kennedy refused to find de jure segregation warranting the requested busing remedy. Judge Kennedy held that unlawful intent to segregate was not established merely by the drawing of school boundaries "in a fashion which placed the students in the school nearest their home." Rather, she continued:

"to have denied the residents of this area an elementary school conveniently located within one-half mile of their home, while providing white residents in other portions of the district with schools within such a half-mile, which School District did, would have been discriminatory."



Judge Kennedy has exercised similar conservative restraint in other decisions. She has refused to hear federal antitrust claims by plaintiffs with directly related state actions pending. Moreover, she normally defers to lower court or agency-factual determinations. While having published relatively few criminal procedure decisions, she has adhered closely to the current Supreme Court view that, absent compelling circumstances, habeas corpus review of state court convictions should be denied in cases in which defendants waived or fairly litigated procedural objections in state courts.

Judge Kennedy consistently refuses to apply too expansively procedural due process "notice" requirements under the Fifth Amendment, for example, in cases involving class action settlements or benefit terminations or employee sanctions. She has, in turn, also sought to impose a reasonable degree of finality in statutory claims cases -- for example, under the Age Discrimination Employment Act -- through application of statutes of limitation and related procedural rules.

Finally, Judge Kennedy has had experience in reviewing claims lodged under 42 U.S.C. § 1983 and has been criticized by some liberals as having taken an unduly narrow view of the rights and remedies conferred under that statute.

Judge Kennedy is, in short, a highly respected judge who appears consistently to apply to her opinions a conservative judicial philosophy. Her work is generally well reasoned, if not always outstanding in conciseness or insight. On balance, she should be considered a very strong candidate.

CORNELIA C. KENNEDY

Born:	August 4, 1923	Detroit, Michigan
Legal Residence:	Michigan	
Marital Status:	Married	Charles Stuart Kennedy 1 child
Education:	1947 - 1947 1945 1947	University of Michigan A.B. degree J.D. degree
Bar:	1947	Michigan
Experience:	1947 - 1948	Law Clerk to Chief Judge Harold M. Stephens, D.C. Court of Appeals
	1948 - 1952	Practiced law with her father, Elmer H. Groefsema
	1953	Practiced law with her sister, Margaret C. Schaeffer
	1953 - 1966	Markle & Markle partner
	1966 - 1970	Judge, Third Judicial Circuit of the State of Michigan
	1970 - 1977	U.S. District Judge Eastern District of Michigan
	1977 - 1979	Chief Judge, U.S. District Court, Eastern District of Michigan
	1979 - Present	U.S. Circuit Judge, 6th Circuit Court of Appeals



<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
S	<u>Kroger Co. v. NLRB (6th Circuit 1980)</u>	Labor Law: Secondary boycotts	For Petitioner. In view of inseparable relationship between general grocery store operations and the use of paper bags, consumer picketing in shopping center constituted an illegal secondary boycott of neutral grocery store.	1. Reversed District Court findings. 2. Extremely logical opinion.
T	<u>U.S. v. Sizemore (6th Cir. 1980)</u>	Sufficiency of evidence to support criminal conviction.	Conviction of one co-defendant for making explosive device was reversed due to minimal circumstantial evidence attributable directly to him.	1. Conviction of one co-defendant affirmed; conviction of the other co-defendant reversed. 2. Thorough, but unremarkable opinion.
U	<u>Parish v. Califano (6th Cir. 1981)</u>	Eligibility for social security child disability benefits.	For claimant-appellant. Multiple sclerosis victim's ability to work after the cutoff date for child disability benefits does not rebut evidence that disability occurred prior to cutoff date.	1. Reversed administrative denial of benefits. 2. Opinion is fair and supported by HHS regulations which provide that multiple sclerosis should be viewed as an "episodic" disease.
V	<u>Laskey v. International (U.A.W.) (6th Cir. 1981)</u>	Settlement of class action	For defendant-appellees. Disappointed class members cannot challenge settlement in Rule 23(b)(2) class action absent evidence of improper notice or inadequate representation.	1. Affirmed District Court findings. 2. Opinion emphasizes the importance of settlements and encourages reasonable finality in litigation.

OPINIONS OF JUDGE CORNELIA KENNEDY (Eastern District of Michigan, Sixth Circuit Court of Appeals)

<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
A.	<u>U.S. v. School District of Fernadale</u> (E.D. Mich. 1978)	School desegregation case of major proportions.	For school district. Construction of new school in white section of district did not constitute unlawful discrimination in view of natural demographics of area and absence of proof of discriminatory purpose or intent.	1. Lengthy opinion rejected pure "effects" analysis and placed weight on legitimate interests of residents to have students attend school nearest their home. 2. Opinion was highly controversial and reversed by Sixth Circuit, but was reasonable in requiring evidence of purpose or intent, not merely the discriminatory effects of a school board decision.
C	<u>Huron Valley Hospital v. City of Pontiac</u> (E.D. Mich. 1979)	Antitrust law; Ripeness	For defendant. 1. Pending state antitrust action by plaintiff on same fact issues precluded federal court hearing of antitrust claims. 2. State-created hospitals are exempt from antitrust laws under "state action" doctrine.	Opinion displays deference to state court proceeding. In an effort to impose finality on the proceedings, Judge Kennedy offers a gratuitous advisory opinion on the antitrust issues.
D	<u>Schroeder v. Dayton Hudson Corp.</u> (E.D. Mich. 1979)	Retroactive application of state age discrimination statute.	For plaintiff. Plaintiff's failure to file age discrimination claim within limitation period of old statute was cured by the court's retroactive application of longer statute of limitations under subsequent state civil rights act.	Concise, albeit overly conclusory opinion on retroactivity of civil rights statute.
E	<u>Dietz v. American Dental Association</u> (E.D. Mich. 1979)	Review of Dental Association admission standards	For defendant association. Decision of dental association to "grandfather" certain practicing dentists into the association while rejecting other applicants based upon an oral examination was not arbitrary or capricious.	Opinion accords great deference to the determinations of self-regulating educational and professional organizations.



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F	<u>Marshall v. American Motors Corp.</u> (E.D. Mich. 1979)	Age Discrimination in Employment Act	1. Summary judgment for defendant on claims involving discriminatory acts occurring outside the statute of limitations. 2. Summary judgment denied to defendant on other claims because factual issue of employer's "good faith" existed.	Relatively well-reasoned opinion. Reasonable use of statute of limitations to limit scope of complex action.
G	<u>Transmatic Inc. v. Gulton Industries</u> (1977)	Patent validity	Summary judgment for plaintiff. Subsequent utility patent on a light fixture embodying a lens already covered by prior design patent is invalid due to double patenting.	Opinion is thorough, but analysis of patent claims is not very clear.
H	<u>U.S. v. Weingarden</u> (E.D. Mich. 1979)	Social Security Fraud	Social Security Act provision prohibiting or bribes in connection with the furnishing of services paid for by federal funds was sufficiently clear to provide notice of illegality to defendants.	Motion to dismiss indictment denied. Thorough opinion.
I	<u>In re Upjohn Co. Antibiotic Liability Litigation</u> (E.D. Mich. 1979)	Grounds for protective order in discovery	In complex product liability litigation, protective order against dissemination of federal court discovery material to related state court plaintiffs would not be granted, but court would monitor each dissemination of information to ensure relevance to related state claims.	Judge Kennedy vacated order granted by another district judge prior to multi-district consolidation. Decision appears fair and principled in view of earlier broad protective order which was arguably a prior restraint in violation of the First Amendment.
J	<u>Schultz v. Newsweek</u> (E.D. Mich. 1979)	Libel and Slander	For defendants. Under Michigan law, qualified privilege exists for published material addressing an issue of "public interest." Plaintiff did not offer any evidence of malice on the part of <u>Newsweek</u> , thus creating no genuine fact issue for a jury.	Summary judgment for defendants. Opinion not clearly organized, but makes appropriate use of summary judgment device to prevent unduly long trials.



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K	<u>Parets v. Eaton Corp (E.D. Mich. 1978)</u>	Choice of Law	1. Plaintiff's claim of improper firing from South American job by Ohio corporation was properly governed by Ohio law 2. Plaintiff's claim of breach of contract to provide employment in Michigan was governed by Michigan law.	1. Defendant's motion to dismiss plaintiff's claims granted in part, denied in part. 2. Opinion reaches a correct result, but analysis is not entirely clear and addresses peripheral issues.
L	<u>Gottfried v. Mayco Plastics, Inc. (E.D. Mich. 1979)</u>	Standards for order to bargain under National Labor Relations Act.	For plaintiff (NLRB). Statutory public interest in promoting collective bargaining warranted interim injunction and bargaining order against employer who allegedly engaged in unfair labor practices.	1. Interim injunction granted to NLRB. 2. Opinion presents a thoughtful analysis.
Mc	<u>Yeretsky v. Blum (E.D. Mich. 1979)</u>	State workmen's compensation claim	For defendant. State workmen's compensation act is exclusive remedy for work-related physical or mental injury which bars plaintiff's claim for emotional distress in common-law civil rights action.	Plaintiff's claim dismissed. Opinion is extremely sensible in preventing unnecessary duplication of worker's remedies, but analysis is not clearly articulated.
Mc 1	<u>CIRCUIT COURT OPINIONS:</u>			
	<u>Brewer v. American National Insurance Co. (6th Cir. 1980)</u>	Libel and slander	For plaintiff-appellant. Libelous statement made by employee to employer which led to termination of company agent must be submitted to a jury on issues of qualified employee privilege and enterprise liability under Kentucky law.	1. Reversed District Court findings. 2. Relatively thorough review of Kentucky law.
M	<u>Hockenbury v. Sowders (6th Cir. 1980)</u>	<u>Habeas Corpus</u>	Federal <u>Habeas</u> review of state conviction denied: 1. Because defendant did not object to alleged error in timely fashion at trial; 2. Due to comity (deference to the state court's application of its own waiver of objection and "fundamental error" rules).	1. Denied habeas relief. 2. Extreme deference shown to the state criminal trial process.

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N	<u>Clutter v. Johns-Manville Sales Corp.</u> (6th Cir. 1981)	When claim for exposure to toxic chemical accrues.	For plaintiff-appellant. In applying the statute of limitations, asbestosis claim accrues not at the time of harmful exposure to asbestos, but rather when the disease is "manifested."	1. Reversed District Court dismissal. 2. Thorough review of Ohio law. Opinion addresses an excessive number of arguably tangential considerations.
O	<u>Moore v. Califano</u> (Sixth Cir. 1980)	Federal Coal Mine Safety Act	For defendant-respondent. Administrative denial of black lung benefits was based upon substantial evidence. 1977 Reform Act's new evidentiary rules should not be applied retroactively to require a rehearing in this case.	1. Affirmed HEW administrative denial of benefits. 2. Well-reasoned, limited review of administrative determination.
P	<u>Bills v. Henderson</u> (6th Cir. 1980)	State Prisoners' Civil Rights Action (42 U.S.C. §1983)	For plaintiff-appellees (in part). State regulations which only permit prisoner transfer to punitive segregation upon a showing of good cause entitle prisoner to some procedural due process prior to such transfer.	1. District Court affirmed in part, reversed in part. 2. Extremely thorough and well-written opinion. While prisoners were granted some procedural protections, no formal hearing was required, and prisoners' damage claims were denied.
Q	<u>Carothers v. Rice</u> (6th Cir. 1980)	Federal Securities Fraud Claim	For defendant-appellees. Under controlling choice of law principles, Rule 10 (b)-5 action was barred by application of Kentucky state securities law statute of limitations.	1. Affirmed District Court findings. 2. General reasoning is very sound. Opinion addresses numerous peripheral issues.
R	<u>Transco Security v. Freeman</u> (6th Cir. 1981)	Due process: Suspension of federal contractors.	For plaintiff-appellants. Notice to contractors of suspension from GSA eligibility due to "billing irregularities" was unconstitutionally vague in denying contractors a reasonable opportunity to respond.	1. Reversed District Court findings. 2. Thorough analysis of the law. Court identifies a liberty interest of federal contractors which may be damaged by unsupported official allegations of fraud. Therefore, some opportunity to answer the charges is required



HONORABLE MARY STALLINGS COLEMAN

Michigan Supreme Court



MARY STALLINGS COLEMAN

Chief Justice Mary Stallings Coleman of the Michigan Supreme Court is a graduate of the University of Maryland, (B.A. 1935) and George Washington University (J.D. 1939). Justice Coleman was a solo practitioner in Washington, D.C. for ten years immediately following law school. Justice Coleman's career includes eleven years as a partner in a Battle Creek, Michigan firm. She first came to the bench, in 1961, as a judge of the probate and juvenile court, where she served for twelve years until her election, in 1973, as a Justice of the Michigan Supreme Court. Justice Coleman was elected Chief Justice in 1979, the first woman to hold this office.

Chief Justice Coleman has been quite active in the field of criminal justice and juvenile justice reform. She has served on several Michigan Governor's commissions on criminal justice issues. Justice Coleman's interest in criminal justice is reflected in her judicial scholarship. In her eight years on the Supreme Court she has written twenty-eight opinions for the court and 108 dissenting opinions. Of her opinions written for the court, the majority involve criminal justice matters.

Justice Coleman's judicial philosophy, can best be assessed by looking at her opinions in criminal appeals. In general, she rarely supports a decision which will result in the reversal of a conviction. In the few instances in which she reversed a decision which affirmed a conviction, she based her opinion on a clear holding of the United States Supreme Court. On this basis, she can be considered a conservative in criminal cases.

Justice Coleman's writings reflect a concern for the practical effect of her decisions. Some might criticize her scholarship as result-oriented and lacking in consistency. A few examples are illustrative. In People v. Plantefaber, 410 Mich. 594 (1981), she dissented from the majority opinion reversing a conviction on the ground that a warrantless search for marijuana conducted in the luggage of a suspect preparing to depart from an airport was not unreasonable. In the course of her dissent she noted "[t]he word reasonable is sometimes overlooked in consideration of the prohibition against unreasonable searches and seizures." In another case, People v. Eady, 409 Mich. 356 (1980) she dissented from a decision of the majority reversing a conviction for second degree sexual assault. She agreed that the testimony relied upon for conviction was hearsay, but concluded that the objection had



not been properly preserved. She then observed that "admittedly this strategy entailed good legal footwork but, I would not agree that we should permit form to prevail over substance." Justice Coleman's dissent in another case is also illustrative in that she objected to the majority decision to reverse a conviction for carrying a concealed weapon and grant a new trial. The decision was based on the prejudicial effect of a prosecutor's argument that a jury could consider the defendant's poverty and unemployment as evidence of guilt of the offense. Justice Coleman noted that the "evidence showed that defendant was clearly guilty of the crime charged and the arguments while clearly irrelevant to defendant's guilt, did not result in a miscarriage of justice."

In contrast to the cases above, Justice Coleman, writing for the majority, affirmed the decision of the Court of Appeals to reverse the conviction of a policeman for obstructing justice by failing to arrest a narcotics dealer in response to a bribe. Justice Coleman concluded that one of the elements of the crime was missing. She further concluded that the prosecutor could not avoid proof of the elements of substantive crimes by pleading conspiracy.

Justice Coleman writes simply with clear logical progression. Her writing cannot be distinguished by style, except insofar as she is usually quite direct in her conclusions and analysis. She does not rely on extensive footnotes or citations.

Justice Coleman has spoken publicly on the Equal Rights Amendment. In March of last year, she proposed that the state, rather than the federal constitution be amended to give women equal rights.

While we have no information concerning her energy and industriousness, there is nothing in the record to reflect adversely on these qualities. Her age does not appear in any of the available biographies. However, based on the date of her undergraduate degree (1935), she should be over sixty-five.



BIOGRAPHICAL INFORMATION OF

MARY STALLINGS COLEMAN

CHIEF JUSTICE  
MICHIGAN SUPREME COURT

Born Forney, Texas; B.A., University of Maryland, 1935, LL.D.; J.D., George Washington University, 1939; H.H.D. (hon.), Nazareth College; LL.D. (hon.), Alma College, Olivet College, Eastern Michigan University, Western Michigan University, Adrian College, Detroit College Law, University of Maryland. Admitted to D.C. bar, 1940, Michigan bar, 1950; individual practice law, Washington, 1940-50; partner in firm of Wunsch & Coleman, Battle Creek, Michigan, 1950-61; judge Probate and Juvenile Courts, Calhoun County, Marshall, Michigan, 1961-73; justice Michigan Supreme Court, Lansing, Michigan, 1973-79, chief justice, 1979- present. Member Michigan Governor's Commission on Crime, 1964-68, Michigan Governor's Commission on Delinquency, 1968-70; Michigan Governor's Commission on Youth, 1964-70, Governor's Commission on Law Enforcement and Criminal Justice, 1968-72, Member of National Commission on International Women's Year, Washington, 1975-76; trustee Albion College, 1973 - present, Fellow American Bar Foundation; member American Bar Association, American Judicature Society, National, Michigan women lawyers associations, Calhoun County Bar Association, AAUW, P.E.O., Business and Professional Women (Distinguished Woman), Phi Alpha Delta, Beta Sigma Phi, Alpha Delta Kappa, Recipient Service to State award for Michigan. Probate and Juvenile Court Judges Association, 1972, Outstanding Michigan Alumna award, 1975, International Wyman award, 1975, Alpha Omicron Pi; Distinguished Alumna award, University of Maryland, 1974, Profl. Achievement award, George Washington University, 1973, Distinguished Professional of Year, Michigan Association of Professions, 1976, Distinguished Citizen award Michigan State University, 1977, medal of honor DAR, 1978.

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	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
A	<u>People v. Davis,</u> 408 Mich. 255 (1980)	Crimes/Conspiracy	"Wharton's" rule requires that conviction for conspiracy may not be obtained based upon participation by the same two defendants charged with the substantive offense. Here, the policeman's failure to arrest a narcotics dealer, in possession of narcotics, was motivated by the officer's desire to secure a reward may be an obstruction of justice. However, here element of corrupt purpose is absent, therefore, prosecutor may not avoid proof of elements of substantive crimes by pleading conspiracy.	<u>Vote:</u> 2, plus 2 separate concurrences, 2 dissenting. Affirming Court of Appeals' reversal of defendant's conviction.
B	<u>Derwinski v. Eureka Tire Co.,</u> 407 Mich. 469 (1979)	Workers Comp./Apportionment of compensation among employers.	The statutory definition of "disability" includes degenerative disc disease due to the nature of the work for several employers. Therefore, the award may be apportioned among employers as provided by statute.	<u>Vote:</u> 5-2 Aff'd Ct. Appeals' decision reversing Workers Comp. Appeals Bd. denial of apportionment.
C	<u>Wayne County Prosecutor v. Recorders Ct. Judge,</u> 406 Mich. 374 (1979)	Crim./Con. Law Felony Firearm Statute	The Michigan Felony-firearm Statute does not violate the Fifth Amendment Double Jeopardy Prohibition.	<u>Vote:</u> 4-3 Reversed decision of Ct. of Appeals which reversed defendant's conviction for second degree murder and possession of firearm during commission of felony.

<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
D <u>Boyce v. Royal Oak Board of Education</u> , 407 Mich. 312 (1979)	Rights of probationary public school teachers.	Probationary school teachers may be discharged due to an economic RIF, when statutory procedures have been completed. The legislature did not give probationary teachers rights, by implication, which were unavailable to tenured teachers.	<u>Vote:</u> 7-0 (plurality) - <u>Aff'd.</u> decision of Ct. of Appeals.
E <u>People v. Hampton</u> , 407 Mich. 354 (1979)	Crim. Procedure/New Trial	Trial judge did not abuse his discretion in granting a new trial on second degree murder charges where trial court found that evidence supporting key factual issue lacked sufficient clarity.	<u>Vote:</u> 7-0 (plurality)
F <u>Local 1518 v. St. Clair Sheriff</u> , 407 Mich. 1 (1979)	Pub. Sector Labor Relations	The statutory provision of Public Employment Relations Act concerning compulsory arbitration was not intended to apply to individual grievances.	<u>Vote:</u> 5-2 <u>Rev'd.</u> Court of Appeals
G <u>White v. City of Ann Arbor</u> (Consolidated two cases) 406 Mich. 554 (1979)	State Constit./Construction of Cable T.V. Statutes.	1. Provision of State Constitution which requires approval of non-revocable public utility franchise by 3/5 of voters does not apply to cable T.V. (not a public utility within meaning of Constitution)  2. Cable T.V. is a public utility under state statute permitting access easements.	<u>Vote:</u> 7-0 (2 concurring opinions)



<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
H <u>People v. Green,</u> 405 Mich. 273 (1979)	Constitutional Law/ Crim. Procedure.	Prosecutor violated Code of Professional Responsibility when he questioned defendant without notifying his attorney (7-0). The violation does not, however, require application of exclusionary rule. (4-3) Therefore, conviction is affirmed.	<u>Vote:</u> (See holding)
I <u>People v. Brooks,</u> 405 Mich. 225 (1979)	Criminal Law	A warrantless arrest for the misdemeanor of misrepresenting a vehicle I.D. is valid. The statute does not require that police must witness act of altering I.D.	<u>Vote:</u> 4-3 Rev'd. Ct. of Appeals. Defendant's conviction is reinstated.
J <u>People v. Pearson,</u> 404 Mich. 698 (1979) (Consolidated four cases)	Criminal Law/Evidence	Prosecution's failure to exercise diligence to produce <u>res gestae</u> witnesses requires reversal of the convictions in two of these cases.	<u>Vote:</u> 4-1 Convictions in two cases aff'd. Rev'd. in two cases.
K <u>Grigg v. Mich. National Bank,</u> 405 Mich. 148 (1979)	Civ. Pro./Class Action	Requirements for proceeding as a class action have been met in action on behalf of customers of bank and credit card holders for violation of federal banking law.	<u>Vote:</u> 5-1
L <u>Smith v. E.R. Squibb &amp; Sons,</u> 405 Mich. (1979)	Torts	<ol style="list-style-type: none"> <li>1. Trial Court's refusal to instruct on theory of negligence and breach of implied warranty is not reversible error when manufacturer failed to provide adequate warnings.</li> <li>2. Trial Court properly excluded evidence that defendant subsequently changed warnings.</li> </ol>	<u>Vote:</u> 4-3

	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
M	<u>Projectionist Union v. MERC, 403 Mich. (1978)</u>	Labor Law	The decision of the Employment Relations Commission is upheld. The finding that the employer's action in performing unionized jobs was motivated by economic necessity rather than by anti-union bias is supported by "competent, material, and substantial evidence.	<u>Vote:</u> 5-2
N	<u>People v. Jones, 408 Mich. 527 (1978)</u>	Crim./Resentencing	Due process requires that upon retrial, a judge may not impose a more severe sentence on a defendant convicted of rape and armed robbery unless there is objective information concerning identifiable conduct by defendant which occurred <u>after</u> the original sentence.	<u>Vote:</u> 5-2 Reversed, Tr.Ct. & Ct. of Appeals. Applied U.S. Sup. Ct. holding in 1969 case.
O	<u>Blue Cross v. Insurance Commissioner, 403 Mich. 399 (1978)</u>	Administrative Law	Upheld Insurance Commissioner's statutory authority to approve rates charged to subscribers and hospitals. However, commissioner is limited to statutory standard of ascertaining "fair and reasonable" rates and thus may not invade Dr/patient relation on matters of physician's discretion in practicing medicine.	<u>Vote:</u> 4-1-2 Rev'd. in part, aff'd. in part.
P	<u>Amato v. Oxford Schools, 402 Mich. 521 (1978)</u>	Administrative Law	A probationary teacher may be granted a third year of probation without giving written notice of unsatisfactory work before termination at the end of the third year. The statutory purpose is to permit further review of probationer's performance without giving a right of continued employment.	<u>Vote:</u> 5-2



	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
Q	<u>Sweeney v. Sweeney</u> , 402 Mich. 234 (1978)	Torts/Conflicts	Michigan public policy which permits child to sue parent for acts of negligence applies to Michigan residents suing in Michigan for negligence occurring in Ohio. Applied <u>lex loci delicti</u> (no real elaboration).	<u>Vote:</u> Unanimous
R	<u>Dressler v. G.R. Die Casting</u> , 402 Mich. 243 (1978)	Workers Compensation	Finding below that worker's injury is a pre-existing traumatic injury rather than an occupational disease is supported by competent evidence and thus worker is not precluded from recovery by failure to disclose condition. Coleman would remand to determine if employer relied on misrepresentation by concealment of pre-existing injury.	<u>Vote:</u> 4-3
S	<u>McQueen v. Great Markwestern Packing Company</u> , 402 Mich. 321 (1978)	Workers Compensation	<p>1. Worker's claim against bankrupt employer, although valid, is not entitled to priority under the statute. Moreover, statute, although remedial, does not expressly provide for retroactive application. Therefore, act doesn't apply to bankrupt employer.</p> <p>2. A self-insured employer's reinsurance contract controls the reinsurer's obligation to pay the employer's accrued liability to the worker.</p>	<u>Vote:</u> Unanimous

	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
T	<u>(In re Vary Estate)</u> <u>Department of</u> <u>Treasury v. Ivy,</u> 401 Mich. 340 (1977)	Social Security	The cash from social security benefits accumulated in the bank account of the decedent may be reached to satisfy the claim of the state hospital for charges arising out of care rendered in a state hospital.	<u>Vote:</u> 5-1 Case of First impression in Michigan.
U	<u>People v. Kyllonen,</u> 402 Mich. 135 (1978)	Criminal Law/ Larceny	Statutory definition of larceny is exclusive of conduct which would establish "buying or receiving stolen property", thus, a thief may not be convicted of both offenses for conduct arising out of same transaction.	<u>Vote:</u> Unanimous
W	<u>Ford v. Tax Commission,</u> 400 Mich. 499 (1977)	Tax/Constitutional Law	A state statute which provides for election by the taxpayer owning inventory in more than one assessment district is constitutional so long as each taxpayer has the same right of election and is taxed the same after election.	<u>Vote:</u> 5-2 Aff'd. Court of Appeals.
Z	<u>People v. Morgan,</u> 400 Mich. 527 (1977)	Constitutional Law/ Criminal Procedure	Defendant's absence from the <u>voir dire</u> is harmless error when defendant had opportunity to comment on format for questioning, and where defense attorneys participated in the in chambers <u>voir dire</u> on pretrial publicity issues.	<u>Vote:</u> 4, 2 concur, 1 dissent Court of Appeals Rev'd. Convictions reinstated.
1	<u>Huhtala v. Travelers Insurance Company,</u> 401 Mich. 118 (1977)	Torts/Contract Insurance	Plaintiff's action against insurer of owner of auto which caused injury is an action for promissory estoppel governed by six-year contract statute of limitations rather than applicable three year tort statute.	<u>Vote:</u> 5, 2 concur. Reversed Court of Appeals (Coleman favored reversal, but thought plaintiff must prove promissory estoppel at trial not simply establish element by pleading).



<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
2 <u>Avis v. Romulus,</u> 400 Mich. 337 (1977)	Tax/Municipalities	The provision of statute which restricts tax exemptions for operators of concessions at airports located in counties of 1,000,000 plus population violates Constitution. The act bears no reasonable relation to the purpose of the taxation exemption.	<u>Vote:</u> 6-1
3 <u>Featherly Construction Company v. Property Development Group, Inc.,</u> 400 Mich. 198 (1977)	Statutory Construction/Availability of C/A.	Upheld statute which deprives unlicensed residential builders of the enforcement of all causes of actions in state courts.	<u>Vote:</u> Unanimous The wisdom of prohibiting legal action as a penalty for failing to obtain a license is a matter for legislative rather than judicial consideration.
4 <u>Crews v. General Motors Corporation,</u> 400 Mich. 208 (1977)	Torts/Product Liability	An experienced auto mechanic has not substantiated the "failure to warn" theory of liability when he testified that he knew of danger of his action which led to his injury.  Plaintiff has the burden of proof of defect.	<u>Vote:</u> 3-3 Affirmed decision of the Court of Appeals affirming trial court's direction of verdict for defendant.
5 <u>People v. McIntosh,</u> 400 Mich. 1 (1977)	Criminal Law/Jury Instructions	1. Trial Judge must instruct the jury on both defense and prosecution theory of case where there is evidence supporting both.  2. Negligent homicide and manslaughter with a motor vehicle are statutorily linked. Thus, failure to instruct on negligent homicide is reversible error.	<u>Vote:</u> 5 plus 2 concur-Reverse. Reversed in part, affirmed in part.