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## SENATE—Wednesday, July 8, 1981

The Senate met at 12 noon, and was called to order by the President pro tempore (Mr. THURMOND).

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Almighty God, Lord of all the Earth, may the celebration of our Nation's birth not have been perfunctory and easily forgotten. We were reminded of our roots: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights . . ." Teach us to take seriously our spiritual roots, for without a Creator-God there are no inalienable rights, and to refuse Thee is to forfeit our rights. Forgive us, O God, for wanting the benefits while we reject the Benefactor.

We were reminded that to preserve these rights governments are instituted with the consent of the governed. May we never forget that the Government of this Nation is "of the people, by the people and for the people" and that our Government exists to perpetuate their rights.

Give to the Senators and all associated with them in legislation a fresh commitment to the vision and the passion of those who founded this Nation and to the God who made it possible.

In Jesus' name. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

## NOMINATION OF JUDGE SANDRA DAY O'CONNOR TO BE A JUSTICE OF THE SUPREME COURT

Mr. BAKER. Mr. President, I would like to congratulate Judge Sandra Day O'Connor on her historic nomination to the Supreme Court of the United States. I commend the President for the courage of his decision to name a woman, and I pledge my full support for her confirmation by the Senate.

Judge O'Connor's career has been distinguished by intellectual excellence and professional resolve. Her stewardship on the bench of the Arizona Court of Appeals has been acclaimed as "meticulous and deliberate, hard-working and notably bright."

She was born on March 26, 1930, and grew up on a ranch in Arizona. In 1950, she graduated from Stanford University with a bachelor of arts degree, and received her law degree from the Stanford law school 2 years later. She graduated third in her law school class. Supreme

Court Justice William Rehnquist was first.

Judge O'Connor married John Jay O'Connor 3d, one of her law school classmates. Mr. O'Connor practices law at one of Arizona's top law firms. They have three sons.

After her graduation, Judge O'Connor spent 6 years in private practice in Arizona before becoming that State's assistant attorney general in 1965. In 1969, she was appointed to fill a slot in the Arizona Senate and subsequently won election for two full terms, culminating in her election as majority leader of that body. In 1974, Judge O'Connor ran for Superior Court Judge in Maricopa County and was appointed to Arizona's second-highest court, the court of appeals.

I applaud the characteristically forthright statements of the distinguished Senator from Arizona (Mr. GOLDWATER) for his support of Judge O'Connor and his astute refutations of unkindly comments about her nomination.

Pending the checks by the Federal Bureau of Investigation, I hope that the Senate will be able to act swiftly on her confirmation, and pave the way for what I believe will be a most successful Supreme Court career beginning in October.

Mr. STEVENS. Mr. President, I wish to add my voice in support of the President's action in nominating the first woman to ever be nominated to serve on our Supreme Court.

There is no question that Mrs. Sandra O'Connor is well qualified. Her service in the Arizona State Senate and her service as a member of the court of appeals of the Arizona court system has been very distinguished. Above all I commend the President for keeping a campaign commitment.

Many people look on campaign commitments made during the course of a Presidential campaign as rhetoric, designed to enlist support from this group or that group. I am most pleased that this President has seen fit to take this opportunity to carry out one of the commitments he made during the campaign. Not all the commitments he made can he carry out alone.

But this one, to nominate the first woman to the Supreme Court, was a decision he could make and he has made, and I think he should be commended for setting this example of being a President who is willing to keep campaign commitments. The fulfillment of this promise will benefit the entire Nation.

Mr. President, I ask unanimous consent that the articles appearing today in the Washington Star concerning the nominee for the Supreme Court, Sandra D. O'Connor, be printed in the RECORD. Those are the articles that commence on page 1, and one is entitled "Woman Justice Sparks Debate," and two separate articles on that, and the other is entitled

"A Brainy Perfectionist Who 'Loves to Work,'" with two separate articles on that.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WOMAN JUSTICE SPARKS DEBATE: O'CONNOR IS ATTACKED OVER ERA, ABORTION

(By Roberta Hornig and Allan Dodds Frank)

GOLDWATER VOWS FIGHT FOR NOMINEE

President Reagan's choice of Sandra D. O'Connor to fill a Supreme Court vacancy was given a cool reception by some conservatives in the Senate, but Barry Goldwater—who claims to be the chamber's most conservative member—vowed to battle any opposition to the nomination.

Liberals and moderates generally praised the selection of the judge from Goldwater's home state of Arizona yesterday.

Goldwater, in an interview, excoriated the right-to-life movement and Equal Rights Amendment opponents as "non-conservatives" who have been obstructing the work of Congress. He said they should have no say in the consideration of O'Connor's nomination.

The Arizona senator reserved his sharpest words for Moral Majority leader Jerry Falwell, who yesterday condemned Reagan's choice of O'Connor. "I think that every good Christian ought to kick Falwell right in the ass," Goldwater said.

At an earlier press conference, Goldwater said, "If it's going to take a fight, they're going to find old Goldy fighting like hell. . . . I don't like to get kicked around by people who call themselves conservatives on a non-conservative matter."

Predicting no problems in the Senate confirmation of O'Connor, Goldwater said, "Abortion is not a conservative issue. ERA is not a conservative issue."

Goldwater also accused single-issue groups of wasting the time of Congress.

"This abortion issue has gotten to be the biggest humbug issue in the United States. We have had over 40 votes on this matter without ever having a bill heard before a committee in this Congress. . . . The country is going to pot economically, militarily and every other way and we spend all our time talking about busing and abortions."

Calling O'Connor "the most conservative Republican I know," Goldwater said, "I don't buy this idea that a justice of the Supreme Court has to stand for this, that or the other thing."

In contrast, another leading Senate conservative Sen. Jesse Helms, said that he is "skeptical" of the nomination, adding that his viewpoint is shared by "at least five or six others."

Helms, R-N.C., was asked if he believed he and other conservatives could block the nomination. He acknowledged that he didn't know but added that he thinks some votes would be garnered "if the senators think the president has been misled."

And, he said, "I could see a filibuster" on the nomination.

Helms said he made his skepticism known to Reagan when the two talked yesterday morning—at the president's initiative—shortly before the nomination was made public.

"He put on a selling job," Helms said, adding that Reagan had stressed O'Connor's

position favoring capital punishment and law-and-order policies.

But Helms reported that he countered that "people I'm hearing from are people who have been down in the trenches for you since day one," referring to long-time Reagan supporters.

"I raised the question about her voting record with regard to abortion, ERA (the Equal Rights Amendment) and so forth," Helms said. He added that Reagan had tried to convince him that those O'Connor votes in the Arizona Legislature were merely procedural.

Helms also raised the specter of the president having been "misled" about O'Connor's background "either by his own people or the lady herself."

The North Carolina senator said Arizona Pro-Life groups were dispatching information to him purporting to show that O'Connor indeed had voted several times against abortion.

"I'm not going to assist the lady or prejudice the lady until we get that information," he said.

But, he added: "I'm skeptical because people who contacted me never misrepresented the facts on any other matter."

The O'Connor nomination also received a lukewarm response from Senate Judiciary Committee Chairman Strom Thurmond, R-S.C.

Thurmond, whose committee will shepherd the nomination through the Senate, was one of the few legislators in town refusing to speak to reporters or issuing a statement on the nomination yesterday.

Instead, a staff member on his committee reported that "the senator has said he's very pleased the president has made his choice and he will help the president in whatever way he can."

The staffer insisted that the statement was not meant to reveal "whether he's for or against" the nomination.

Helms, however, reported that he had met with Thurmond and said "He feels pretty much as I do."

Another cautious reaction came from another Republican member of the committee, Charles Grassley of Iowa. "I'm keeping an open mind. I would want to know what her basic philosophy is," said Grassley.

Despite the coolness of those conservatives, an aide to Howard Baker said the majority leader believes O'Connor will win Senate approval.

In a statement, Baker said he personally is "delighted with . . . (the president's) choice and I pledge my full support for her confirmation in the Senate."

A judiciary committee moderate, Sen. Alan Simpson, R-Wyo., said "I don't think there are enough horses to deny this nomination in any way."

O'Connor's appointment received positive, if hedged, comments from two of the most liberal Democrats in the Senate—Edward Kennedy of Massachusetts and Minority Whip Alan Cranston of California.

"Every American can take pride in the president's commitment to select such a woman for this critical office. I am heartened by the president's actions and I look forward to . . . the hearings," said Kennedy.

Cranston called O'Connor "a substantial leading scholar with training in the legislative branch" and added "It's great that a woman has been finally appointed to the Supreme Court. That's a major step."

Cranston predicted that Democrats as a group would endorse the nomination and that "the only opposition will come from Republicans.

Another key Senate Republican, who asked not to be identified, predicted that O'Connor's confirmation hearings "won't be a cakewalk" because of conservatives' opposition.

O'Connor, also drew praise from the other senator from Arizona, Democrat Dennis DeConcini, who said he has known and respected O'Connor since 1965. He called her "tough, competent and conservative, but not in a reactionary sense."

"She is respected," he said.

#### WOMAN JUSTICE SPARKS DEBATE: O'CONNOR IS ATTACKED OVER ERA, ABORTION

(By Lyle Denniston)

##### PRESIDENT'S CHOICE SETS A PRECEDENT

President Reagan has broken two centuries of national habit in choosing a woman—Sandra D. O'Connor of Arizona—for the Supreme Court.

In announcing yesterday that he had picked O'Connor, 51, a judge on the Arizona Court of Appeals, the president also stirred up a sizable but perhaps passing political storm over her views on women's rights.

Those views have not been spelled out fully in public, but some of the president's own political followers immediately denounced her as too liberal, particularly on abortion.

Conservative religious groups, anti-abortion leaders and New Right Republicans vowed to fight her nomination in the Senate.

It appears that Senate liberals and moderates, along with feminist organizations critical of Reagan since his election, would support her.

The nomination will be reviewed at hearings of the Senate Judiciary Committee, starting perhaps later this month. One committee aide said he doubted that final Senate action would come before September.

The president called for "swift bipartisan confirmation," but the prompt outbreak of controversy made it seem that it could be several weeks before O'Connor's name is put to a vote on the Senate floor.

The court is in summer recess and is not due to return to the bench until Oct. 5. The court now has only eight members—Justice Potter Stewart retired last Friday—but it could operate without O'Connor if there is a delay.

If confirmed O'Connor would become the 102nd justice to sit on the court and the first woman in its 191-year history.

On the bench, she would be seated next to another Arizonan, Justice William H. Rehnquist—the court's most conservative member.

O'Connor's decisions as a member of Arizona's mid-level appeals court suggest she is cautious in the use of judicial power, but the rulings do not offer a clear portrayal of her views on major social controversies.

The opposition that arose immediately to her was centered on claims that she is in favor of abortion and the proposed Equal Rights Amendment to the Constitution. Those claims were based on her record as a senator in the Arizona legislature.

Peter Gemma, executive director of the National Pro-Life Political Action Committee, an anti-abortion group, said: "She's not even ambivalent on the issue. She is a hard-core pro-abortion proponent."

He warned all 100 senators in a mailgram that his group will consider "a vote for O'Connor to be a vote for abortion."

The Rev. Jerry Falwell, head of the Moral Majority, said O'Connor "is opposed to attempts to curb the biological holocaust that has taken the lives of more than 10 million innocent babies" since the Supreme Court's 1973 decision recognizing a right to an abortion.

The president, however, said he was "completely satisfied on her right-to-life position."

Later, Deputy White House Press Secretary Larry Speakes said that O'Connor had told the president that "she is personally opposed to abortion and that it was especially abhorrent to her. She also feels that the subject of the regulation of abortion is a legitimate subject for the legislative area."

Reagan acted quickly to fill the vacancy created less than three weeks ago by the public announcement of Stewart's retirement. Some antiabortion leaders were claiming yesterday that the president acted hastily to head off their opposition.

The search for Stewart's replacement had been continuing privately since April, shortly after he told Vice President Bush and Attorney General William French Smith of his plan to retire.

On Monday evening, the president personally telephoned O'Connor at her home in Phoenix and offered her the nomination. She accepted.

The president personally disclosed his choice in the White House press room in late morning, calling O'Connor "truly a 'person for all seasons'" and implying that she fit his demand for "the most qualified woman I could possibly find."

He insisted that she had not been picked merely because she was a female. "That would not be fair to women, nor to future generations of all Americans whose lives are so deeply affected by the decisions of the court."

She was chosen, Reagan said, because she "meets the very high standards I demand of all court appointees."

Attorney General Smith told reporters that the choice of O'Connor was not "a single-issue determination" but rather was based on "her overall qualifications and background."

He said her views "fell generally within the president's overall philosophy."

In Phoenix, O'Connor issued a brief statement saying she was "extremely happy and honored" and vowing that, if confirmed, "I will do my best to serve the court and this nation in a manner that will bring credit to the president, to my family and to all people of this great nation."

#### A BRAINY PERFECTIONIST WHO "LOVES TO WORK"—SELECTION PROCESS STEEPED IN POLITICS

(By Lisa Myers)

On Monday afternoon, President Reagan had a few lingering questions about Arizona Judge Sandra D. O'Connor, his first choice for the Supreme Court. He tracked down O'Connor's longtime acquaintance and avid supporter, Sen. Barry Goldwater, who was vacationing in Newport Beach, Calif.

Reagan asked the Arizona Republican what he knew about O'Connor's position on abortion and the Equal Rights Amendment. Goldwater said he didn't know much about her thinking on abortion but that she favors the ERA.

"I heard she opposed me in 1976," Goldwater recalls the president saying.

"No," Goldwater replied, "she gave me hell for coming out for (President) Ford."

"Well," Reagan laughed, "that makes her real good."

A couple of hours later, Reagan called the 51-year-old O'Connor in Phoenix with the precedent-shattering invitation to become the first woman on the Supreme Court.

The 10-minute telephone call culminated a three-month selection process that was shrouded in secrecy and steeped in politics. Reagan's senior advisers, adamant that their boss not be upstaged, arranged for

candidates to be interviewed in a secret location. The official FBI background check wasn't ordered until yesterday, after Reagan strode into the White House press room to make the historic announcement.

"He deserved to have this moment," argues a senior White House official in defense of the extraordinary secrecy. "A lot of Democrats talk about equality for women, but this president had the guts to put one on the Supreme Court."

While suddenly eager to talk about "equality for women," Reagan's senior advisers also acknowledge that political factors played an important role in the selection process. The highly symbolic selection of a woman for the first Supreme Court vacancy, some admit, was hardly an act of political courage.

"Political brilliance would be a more accurate characterization," quips one Reaganite. "O'Connor is as close to perfect as anyone would have dreamed. She is well-qualified, a life-long Republican and basically conservative."

Reagan's political advisers expect the appointment to give Reagan considerable mileage among politically moderate men as well as women who might be troubled by the president's opposition to the ERA and by the dearth of women in senior administration positions.

The appointment also would tend to muffle charges of the more ardent feminist groups and many Democrats that Reagan is against equality for women. "How can they make that stick when he was the first one to appoint a woman to the court," chuckles a senior White House official. "It certainly weakens the Democrats."

Some officials also believe that appointing a jurist whom senior adviser Michael K. Deaver went out of his way to describe as "moderate" increases the likelihood that the president will get additional Supreme Court vacancies to fill.

"The current members of the court were watching very closely, particularly those five who are over 70 and might be thinking of retirement," says an official. "O'Connor is likely to set very well with them. We know she is quite acceptable to (Chief Justice Warren) Burger and (Justice William) Rehnquist."

The White House did not seem particularly distressed over the fierce opposition of anti-abortion groups and the wrath of Sen. Jesse Helms, R-N.C., who stormed down to see Reagan yesterday in a fury over the appointment.

"I don't see any lasting breach," says one political adviser, who believes that right-wing opposition will redound to Reagan's benefit elsewhere on the political spectrum.

Nevertheless, Reagan called Rev. Jerry Falwell, head of the Moral Majority, to assure the Lynchburg, Va., Baptist that O'Connor opposes abortion, according to a Moral Majority spokesman. Falwell earlier denounced the appointment.

The search for a nominee began informally in late March after Attorney General William French Smith met privately with retiring justice Potter Stewart. Without disclosing Stewart's plans to retire, Smith ordered a handful of his top aides to begin reading legal opinions and scholarly journals in search of candidates.

Before Smith could inform the president, the March 30 assassination attempt took place. Not until April 21—12 days after Reagan left the hospital—did he learn of the impending vacancy, which was to remain secret until Stewart's announcement on June 18.

Although the White House publicly insisted that Reagan was looking for the "best

qualified candidate" regardless of sex, senior advisers say he made his "strong preference" for a woman clear from the outset. In fact, when Reagan first asked Smith and senior White House aides to compile a list, he admonished: "Remember that I've got a commitment to appoint a woman," Deaver recalls.

The Justice Department looked at more than 50 names in May, but the number had been winnowed to between 20 and 25 when Smith met alone with Reagan in early June to discuss potential candidates. O'Connor was on that list as being on a separate White House list of equal size compiled by counsel Fred Fielding and submitted to Justice on June 18.

Not long after Stewart's public announcement, Smith and his aides began interviewing a number of candidates at a still undisclosed location that was chosen to avoid being spotted by reporters. Senior White House advisers Edwin Meese II, James A. Baker III, Deaver, Smith and Fielding interviewed O'Connor at the secret location on June 30. The following day, O'Connor was interviewed by Reagan at the White House.

Senior White House advisers disagree as to whether there was ever a "short list." But one well-placed source said that by the beginning of last week, the serious contenders had been narrowed to O'Connor; J. Clifford Wallace, a California U.S. Court of Appeals judge; and Cornelia Kennedy, a member of the U.S. Court of Appeals for the sixth circuit of Michigan.

But only O'Connor was interviewed by Reagan and his closest White House advisers. And, according to Deaver, it was O'Connor's impressive performance during the one-hour White House session that cinched her nomination.

O'Connor underwent extensive checks, in part because Reagan had been burned by a California judicial appointment Donald R. Wright, who then-Gov. Reagan appointed as chief of the California Supreme Court, turned out to vote with court liberals on a number of key issues, to Reagan's irritation and dismay.

On the basis of their scrutiny of O'Connor's record, White House officials maintain that opposition to her nomination by anti-abortionists is ill-founded.

After letters and telegrams against O'Connor began pouring in on Friday, the White House checked out the specific allegations against her. On Monday, O'Connor was interviewed again by telephone by a Justice Department official and by senior members of Reagan's staff.

Fielding said he double-checked the record with O'Connor again Tuesday morning, shortly before the formal announcement.

Throughout the process, the White House was inundated by letters, telegrams and other devices promoting some serious as well as not-so-serious candidates.

A week and a half ago, Fielding said, a stack of cables and letters suddenly poured in promoting Phyllis Schlafly, leader of anti-ERA forces, for the court. "She was never on anyone's list," assured another White House official.

**A BRAINY PERFECTIONIST WHO "LOVES TO WORK"—NOMINEE BELIEVES IN FAMILY, EQUAL RIGHTS**

(By Allan Dodds Frank and Lyle Denniston)

Raised on the large and lonely reaches of the Lazy B ranch, but sent off to the city now and then to learn about the world, Sandra Day O'Connor is now a somewhat austere, cautious perfectionist of the law.

The judge chosen to be the first woman to sit on the U.S. Supreme Court has a public image of a brainy judicial technician and a

private reputation as a working rancher and an easy-to-meet friend.

A rapidly rising and successful politician who was destined—by the choice of others—for higher office in state government, she chose herself to move to the judiciary, to a court with limited powers, and to remain there—until yesterday.

Her opinions on the Arizona Court of Appeals, a mid-level court, display a somewhat heavy judicial tone, infrequently crisp and seldom lyrical. They contain no hint of eagerness to expand the law beyond the precedents.

They deal with the grist of state law issues: crime from serious to petty, injured workers' claims, divorce, medical malpractice, rent disputes, auto accidents, credit controversies.

On crime, she ordinarily votes to uphold convictions, but her rejections of convicts' appeals contain no law-and-order rhetoric. The results seldom move ahead of what the Supreme Court has said.

She has had no occasion as a judge to deal with the big controversy that already surrounds her nomination: abortion. She has a record on that in the Arizona state senate, not in court. She has also taken no judicial position on such heated issues as school desegregation or prayers in public schools.

On women's rights in general, she has had only limited judicial opportunity to express herself. She did write an opinion last year that cut both ways on an issue that is basic to feminists and traditionalists alike; a divorced wife's right to share equally the property that belonged to the couple while married.

The ruling declared that if a workmen's compensation award is paid during marriage, it should be split at the time of divorce. If it is paid after divorce, it belongs only to the spouse who was hurt.

O'Connor possesses an unusually quick mind and sometimes vents her wit from the bench, where she is said by observers to grasp arguments more quickly than the lawyers are able to make them.

University of Michigan law professor Sallyanne Payton said O'Connor "has that knack that you frequently find in very, very good professional politicians whom you trust, which is showing a serious intensity and sincerity of interest in conversations, particularly in private conversations. There is a quality of insight and of acumen that sometimes manifests itself in wit." John Koibe, the political editor of *The Phoenix Gazette* who has watched O'Connor for years, says, "her image is that of a moderate. She is very thoughtful. She is extremely bright and has a razor-sharp mind that makes her come off as somewhat abrupt. She suffers fools not too gladly."

The Arizona Bar Association ratings of Arizona judges listed O'Connor near the top, with a combined excellent-good rating of 81 percent in 1980 for her written opinions. Attorneys taking part in the association survey gave her high marks in nearly every category, with her lowest score of 53 per cent coming in the category of "courteousness to litigants and lawyers."

O'Connor first became a judge on the state Superior Court in January, 1975; she moved to the Court of Appeals in 1979. She has received high marks all three times the Arizona Bar Association has rated the courts.

Judge O'Connor's six years in the state Senate are expected to be the main target of opposition to her nomination.

Her record on abortion there includes votes against a request that Congress overrule the Supreme Court's 1973 decision by adopting a constitutional amendment, and against a proposed ban on free abortions at the state university hospital.

While being interviewed this week during the final judicial screening process, she told a Justice Department official that she voted against the abortion-funding bill because that was a "rider" to a football stadium bond-issue proposal, and the state constitution bars unrelated legislative "riders."

In 1970, before the Supreme Court ruling, a Senate committee on which she served approved a bill to repeal the state's law making abortion a crime. She told the Justice Department she does not remember how she voted on that.

She voted for a "freedom of conscience" bill to permit medical personnel to refuse to perform abortions in violation of their personal beliefs; that measure became law.

She sponsored a bill, which was not enacted, to permit state agencies to take part in birth control activities.

In conversations this week with the Justice Department, she said she had not been "a leader or outspoken advocate on behalf of either pro-life or abortion-rights organizations."

As a senator, she supported a bill to rewrite state laws to assure equal legal rights for women, and she once supported ratification of ERA by Arizona—something that has never occurred. She also has supported a voter referendum on ERA, which was not adopted.

While serving on the board of trustees of Stanford University, O'Connor had a role in another issue affecting the rights of the sexes. Sororities had been barred from the campus and, fellow trustee Sharon Percy Rockefeller said, O'Connor agreed with her that Stanford had been a better place without sororities. Even so, O'Connor ultimately voted to allow their return because fraternities were allowed, and she wanted to give female students equal opportunity.

Her friends also say that she personally has a strongly "pro-family" philosophy. They cite a homily she gave at the wedding of two people whom she had introduced, in which she said that "marriage is the single most important event in the lives of two people in love. . . . Marriage is the foundation of the family, mankind's basic unit of society, the hope of the world, and the strength of our country."

In the state senate, she has been identified with a number of "good government" issues—sponsoring bills to make it more difficult to commit persons to mental institutions, to use gasoline tax funds to pay for bike paths, to broaden the state's open meetings law, to codify state anti-trust law into a uniform code, to adopt a no-fault divorce law, to restrict child labor, and to oppose residency requirements for welfare.

In addition, she sponsored a bill to provide for merit selection of judges, a practice that has now become law in Arizona, where judges once stood for election.

On the Supreme Court, she will join an old friend, William H. Rehnquist. Both were academic leaders in the 1952 class at the Stanford University Law School and were editors of the Stanford Law Review.

The O'Connors and the Rehnquists remained friendly while practicing law in Phoenix and frequently visited each other. The Rehnquists once took Sandra O'Connor's mother, then in her 60s, on a pack trip through the Gila wilderness in southeastern Arizona.

Judge O'Connor is acquainted with, and close to, most of the state's political leaders, Republican Sen. Barry Goldwater has been one of her strongest boosters. He said yesterday that he has consulted her from time to time for advice about constitutional issues.

She got to know Sen. Dennis DeConcini, D-Ariz., in the mid-1960s when she worked

as an assistant attorney general and DeConcini was an aide to the governor.

She has spent 20 years in Republican politics as a member of her precinct committee, legislative district chairman, Republican senate majority leader, and co-chair in 1972 of the state campaign to re-elect President Nixon.

Her husband, John J., is a partner in one of Phoenix's largest firms. In an interview, he described her as one who "loves to work and works hard and well."

He and his wife and their three sons enjoy skiing, tennis, golf and hiking. They often relax by retreating to a cabin in the Arizona mountains near Prescott.

Judge O'Connor's personal style grew out of her childhood on the Day family's ranch with 2,000 cattle, the Lazy B, which runs along the Gila River drainage straddling the southern portion of the Arizona-New Mexico border.

When O'Connor was born, "she arrived in El Paso," her mother, Ada Mae Day, told The Star. Mrs. Day explained that the 253-square-mile ranch was so far from any hospital that she visited her mother in El Paso for several months while bearing each child in order to use hospital facilities in Texas.

Mrs. Day said that Sandra attended elementary school and high school in El Paso before departing at 17 for Stanford University, where she received honors for completing her undergraduate degree in economics in three years and for law school work.

"Sandra was a very good student," Mrs. Day said. "She did well in every subject." The vast distance from the ranch to any metropolitan center also meant it was difficult for Harry and Ada Mae Day to take their three children to church.

"We have a good moral life," Mrs. Day said. "We raised our three children that way."

Alan Day, Judge O'Connor's brother and now the Lazy B manager, told The Star yesterday that he and his two sisters frequently were sent by their parents to visit family friends in El Paso, Los Angeles, Phoenix and other cities for a month or more to gain exposure of life away from the ranch.

Day said that the children attended whatever church the family friends visited. He said there was no particular denominational focus, but that more often than not the churches were Episcopal.

"We always had friends from all walks of life."

Mr. O'Connor declined to comment about his family's religious practices. He is Catholic, however, and the three O'Connor boys attended a Catholic prep school in Phoenix before going to college.

With her brother, sister and parents, the judge owns the 101-year-old Lazy B, a vast agglomeration of federal and state land leases in the high desert built around waterholes. She handles the legal work for the ranch, her sister Ann helps with the book-keeping and Alan is the head cowboy and manager.

Her family came to Arizona from Kansas and Vermont, and obtained land around waterholes from homesteaders and from Apache Indians. The ranch covers an area more than four times the 61 square miles of land area in the District of Columbia, and was once roamed by Geronimo and Cochise.

Alan Day said that O'Connor visits the ranch "three or four times a year. She likes to come over when we're rounding up and ride with us for a day."

Mr. O'Connor said that he and his wife do not ride horses for recreation frequently. He explained that "when you're on a ranch,

you ride a horse to do something, not for fun."

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

## THE UNITED STATES SENATE

THE SENATE AND THE WAR OF 1812  
(1809-1816)

Mr. ROBERT C. BYRD. Mr. President, I continue with my series of statements on the United States Senate. The statement today concerns the years 1809-1816.

Mr. President, let me describe a scene almost too terrible to contemplate: enemy soldiers landing on American shores; a pitched battle ending with the defeat of United States armed forces; enemy troops on the streets of Washington, D.C.; the Capitol, the White House, and other government buildings ablaze. Such a great national tragedy may seem inconceivable, and, yet that is precisely what did happen here in the summer of 1814 when British troops broke through the American lines at the battle of Bladensburg, marched down Maryland Avenue and burned much of this city. How this calamity occurred, and the role of the United States Senate in the war of 1812, will be the subjects of my remarks today, as part of my continuing series of addresses on the history of the United States Senate.

In my last address, I discussed the Senate during the era of Thomas Jefferson, concluding with the election of his successor, James Madison. On January 23, 1808, Madison was chosen as his party's presidential candidate by a Republican congressional caucus. According to the diary of John Quincy Adams, who was then a Senator from Massachusetts, it was Vermont Senator Stephen Bradley who called the caucus together. Bradley claimed to have received authority to call such a conclave by the Republican caucus four years earlier, and so he sent circulars announcing the meeting to all Republican members of the House and Senate. In fact, because party lines were so indistinct in those days, he sent notices to all but five members of the Senate and twenty-two members of the House, excluding them only on the grounds that they "have never been in the habit of acting with us." Madison won by a vote of 83 to 6, indicating his strong popularity with congressional Republicans. However, this margin is somewhat deceiving, since some sixty supporters of James Monroe of Virginia and George Clinton of New York boycotted the caucus. One who boldly attended the caucus and paid the price for it was Senator John Quincy Adams, son of former President John Adams whom Jefferson had defeated for the presidency in 1800. The younger Adams' conversion to republicanism cost him his Senate seat that year when the Massachusetts legislature, outraged over Jefferson's Embargo, elected James Lloyd over Adams.

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therefore, have a clear understanding of what classified information is, and what to do with it when we get it. It is not too difficult to attain acceptable security, but we have to know what we are doing. Some pilots in the past, for example, have been able to read the tech orders and the manuals, grab a checklist, and get by for a flight or two in a new aircraft without formal instruction in it—provided they had the basic precepts of flying in the first place to build on. In our day-to-day security partnership with the executive branch and our colleagues in the House, we must understand and apply basic security practices.

What are they?

First. Know what classified information is. Recognize it.

Second. Know what right to access and need to know is. Who should have it?

Third. Know what to do with classified information after we have access.

Security is undoubtedly one of the most misunderstood or least understood terms we have in Government. Subject to individual interpretation, we can have a hodgepodge of security conditions, or no security conditions, if you will, depending on where we sit, and how we are affected by the circumstance.

Under our laws and resolutions, and under Executive orders we respect and follow, we have the policy and the procedures to protect national security information. That information, based on its importance, and sensitivity, is classified and identified as either top secret, secret, or confidential.

Top secret is that information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

Secret, under like disclosure, could be expected to cause serious damage to the national security, and confidential, identifiable damage.

These are the definitions of the broad classifications that are contained in Executive Order 12065, national security information. The security (or protection) of information falling within one of these categories is of vital importance. Whether we see documents or material bearing a confidential, secret or top secret marking, whether we hear it in closed briefing, or an individual tells us the information, we must respect and abide by the procedures designed and established to keep the information from unauthorized disclosure.

What is unauthorized disclosure?

Anyone receiving classified information who does not have the right to the information, or who has no need for the information is an unauthorized recipient. The information has been compromised, there has been an unauthorized disclosure. Normally, the "right" to classified information is determined through national agency name checks and full field (or background) investigations.

We in the Senate determine the "need" for the information based on function and responsibility. By virtue of our election to office, our right and need for classified national security information is established. We can and do request

classified information from the executive branch in many forms—documents, briefings, visits to classified sites and installations. Because we are so "cleared," if you will, we have a real responsibility to protect the classified information to which we have access. This responsibility is especially significant when one of us is quoted, or cited as the source of the information. Whether we like it or not, any information attributed to one of us, becomes national in scope and importance. We cannot take our security responsibility in any but a most serious manner; neither can we say "I don't want to know about it, it's classified," and function responsibly. We need to know the essential guidelines so that we can maintain the security condition, by protecting our secrets.

Cutting across the classifications I have defined for you are some special categories of information, brought about by different laws, Executive orders and directives. "Restricted Data" is atomic information—it can be top secret, secret or confidential. Various intelligence compartmented information categories such as covert action, signals intelligence, human intelligence are limited as to access, but that information too, can be top secret, secret or confidential. If you will check Senate Resolution 400, you will find how you go about getting access to the intelligence information we have, which you might need to know about. One of our staff can bring it to you, or you can go down to G-308 Dirksen building and read it there.

I want to state right here that we have diligently followed the storage, control and access procedures established by the Director of Central Intelligence—because this is his responsibility under the law. Without the complete confidence of the intelligence community in our ability to handle the very sensitive intelligence information we are given, proper oversight would not be possible. We have that confidence. Access to classified information for curiosity's sake, and a leak to the press (or anyone not having authorized access, for whatever personal purpose) are not acceptable. If we cannot handle classified information as we should, can we expect anyone else to do it properly?

Now about our day-to-day personal security functions. As I have said, and it bears repeating, each of us has a personal responsibility to protect information that is classified for whatever reason, be it political, defense, atomic, intelligence, or other. Whether you get it in a formal document, a conversation, briefing or a phone call, just because you have a safe in your office does not mean you should store it there—safes are easily entered by an expert, and must be further secured, such as proximity alarms, heat and motion detectors, guards and the like. Intelligence information by agreement with the intelligence agencies, can be stored in our Intelligence Committee staff offices, where there is a guard 24 hours a day, 7 days a week.

Other types of classified material can be stored with the security office here in the building. It might be wise to not accept documents, but rather read them,

and return them with the courier who brought them to you. In any case you are the responsible person for your office. You cannot depend on your telephone at all. Most of your calls are easily picked up, especially from microwave transmissions. Just do not discuss or try to talk around classified information by paraphrasing, on your phone. Our Capitol Police have specialists in technical surveys. For one time conferences, you can contact the Sergeant at Arms for help and advice if you need it.

Instruct your staff people in these matters. You and your staff should not indicate anything one way or another to a reporter when classified information is involved. The only acceptable answer to an investigative reporter—and there are some good ones in this town—is "No Comment." Any other answer could well verify or provide just the validation the reporter needs to piece together his story. Why be embarrassed or subject to criticism and perhaps an investigation? "No Comment" on classified matters. We know that there are masses of classified information, some of it over graded, but we can take no chances.

The FBI does not cover our buildings and offices, unless they are called, but the KGB sure as hell does. Be wary of the visitor/stranger obtaining information and developing contacts with you and your staff. I can tell you that every time anything is printed for the public by the Intelligence Committee, Russian Embassy people are around the door to G-308 with their requests for copies. Believe me, they are interested in what we do.

In closing, let me stress one of the most serious traps into which we can fall concerning the protection of classified information. The situation all too frequently presents itself and any of us can be the potential innocent victim. The situation involves the media making public what we know to be classified information. That unauthorized disclosure absolutely does not remove the classified nature of the facts. Too often people do not understand this, and feel at liberty to discuss the matter merely because it has been published. It is absolutely essential we adhere to the "No Comment" posture in this circumstance. Any other words on the matter will merely exacerbate the situation.

Let us not bring criticism to ourselves and the Senate, and fall into a trap, and look ridiculous by not being aware of our part in the protection of our Nation's secrets.

#### THE NOMINATION OF SANDRA O'CONNOR TO BE A JUSTICE OF THE SUPREME COURT

Mr. GOLDWATER. Mr. President, a lot of foolish clap trap has been written and spoken about President Reagan's Supreme Court nominee, Sandra O'Connor, by people who do not know what they are talking about.

I am very disturbed that the source of this uninformed criticism stems from people who have been my friends and with whom I have long shared common political positions.

Strangely enough, these people ques-



tion Judge O'Connor's commitment to traditional conservative values.

Well, I ask these critics, who are associated with moral causes, to show the same Christian decency and fairness toward Judge O'Connor that they expect of others. Instead of jumping to conclusions about her views, on the basis of years-old positions that were taken in a different context and setting, why cannot these people wait until the nomination hearings and let Mrs. O'Connor discuss her views personally?

For example, she is being attacked for a vote cast in the Arizona State Legislature 7 years ago involving a bond issue. She appears to have voted against adding a rider, proposing a ban on free abortions, to a football stadium bond issue. But as I understand her interpretation of that vote, her decision had nothing to do with the merits of abortion, pro or con. As a lawyer, she read the Arizona State Constitution as forbidding unrelated legislative riders. She was merely carrying out her duty under the State constitution.

So when people ask me if she has changed or will change her position on abortion, I must reply by asking how they know what her position was. The way they interpret her stand may not at all be her own view of the matter.

And I would point out that Mrs. O'Connor was in the State legislature only for 6 years, from 1969 to 1974. She came to the bench as a State supreme court judge in January of 1975. The big Supreme Court case of Roe against Wade was just handed down in 1973, a year before she left the Senate in 1974.

In other words, she has not been in a legislator's position for 7 years. She was not called upon to take a position on the very controversial and complex and emotional issue of abortion in all these years when the issue was steadily gaining national attention.

Why, the very subject of Right of Life meant something very different even among antiabortion groups in 1974. The first Right of Life constitutional amendment was not introduced until 1973, with only nine sponsors in the Senate. There were different versions in the House. One version simply called for restoring primary jurisdiction to the State governments in this area.

It was not until later that antiabortion organizations settled on a clear-cut, national prohibition of abortion as the single acceptable approach. It was even later that proliferators generally agreed not to make any exceptions, even in case of rape or incest. It is impossible and unfair for anyone to test another person's current views by a position they took 7 years ago, especially when the subject is one in which the views of the strongest believers themselves gradually evolved.

Mr. President, the Deputy White House Press Secretary reports that Sandra O'Connor told President Reagan what her present thinking is on the matter of abortion. She reportedly announced that she is personally opposed to abortion and that it was especially abhorrent to her. She added her feeling that the subject of regulation of abortion is a legitimate subject for the legislative area.

Now, this should satisfy anyone. It is a balanced statement that is sympathetic to the right of the unborn to exist and to the power of Congress to address the subject. The Right to Life groups are totally off-base and mistaken in opposing Judge O'Connor's nomination. They can only do harm to their own credibility and should back off.

Mr. President, I have personally known Sandra O'Connor for over 20 years. I know for a fact of her strong devotion to family life. Mrs. O'Connor epitomizes the American ideal of a mother and wife and community-spirited person. She is happily married and has three sons.

Sandra O'Connor served on the Governor's Committee on Marriage and Family in 1965 and was the recipient of the prestigious National Conference of Christians and Jews Humanitarian Award in 1974.

She personally stands as the living embodiment of the decent religious woman that Moral Majority and Right to Life groups are always proclaiming, and it is shocking to me that these groups would turn against such a fine person, who deserves and has earned their respect and support.

I have heard Mrs. O'Connor's strong profamily views. I was present at the wedding of my nephew last year when she made a beautiful speech about "marriage being the foundation of the family, the basic unit of society, the hope of the world and the strength of our country." Now, what quarrel can Moral Majority take with this creed?

Mr. President, I will have more, much more, to say on Sandra O'Connor's nomination in coming days. I can easily prove to my colleagues that she is a brilliant, fair minded judge, who will make a great contribution to the Supreme Court, particularly, I think, in the area of judicial restraint.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The majority leader is recognized.

#### ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I am not prepared at this moment to make a unanimous-consent request to change the time for the vote on cloture tomorrow, but Senators should be on notice that we are trying to clear on both sides of the aisle a revision of the order entered on yesterday to provide for the cloture vote at 12:30 p.m. instead of 1 p.m. Senators should be on notice that that request will be made shortly.

Mr. President, I am now advised that it has been cleared on both sides.

#### ORDER FOR VOTE ON CLOTURE MOTION TO OCCUR AT 12:30 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow, prior to the cloture vote, the mandatory quorum call contained in the provisions of rule XXII be waived and that the vote on cloture against the bill occur tomorrow at 12:30 p.m. instead of 1 p.m.

Mr. WEICKER. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator reserves the right to object.

The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, my comment to the distinguished majority leader is that I have some questions which I wish to get resolved as to my ability to present second-degree amendments.

I am a little bit concerned as to how this timing is going to interfere with that, since it is my understanding those amendments can only be presented 1 hour prior to the vote.

If the vote is at 12:30 p.m.—is that what the Senator said?

Mr. BAKER. Yes.

I can say to the distinguished Senator from Connecticut that what I have planned to do is to change the convening hour to 11 a.m. tomorrow which would protect him on that basis. I am not sure that is cleared on the minority side.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the convening of the Senate tomorrow after it completes its business today be changed until 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it certainly will be possible for the Senator from Connecticut to file the amendments he has in order.

Mr. President, do I understand that an order has been entered, first, for the Senate to convene at 11 a.m. tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. And that the provision for the mandatory quorum call under rule XXII has been dispensed with?

The PRESIDING OFFICER. That has not been agreed to.

If there is no objection, that will be agreed to.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. And, Mr. President, that the time for the vote on cloture has been changed from 1 p.m. until 12:30 p.m.?

The PRESIDING OFFICER. Without objection, that is agreed to also.

Without objection, it is so ordered.

Mr. BAKER. I thank the Chair once more.

#### ORDER OF PROCEDURE

Mr. BAKER. Mr. President, is there also an order that the time for morning business will extend until 12:30 p.m. and the Senate will automatically recess at 12:30 p.m. until the hour of 2 p.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

#### APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President,



leader, with the exception of William H. Draper III.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

#### DEPARTMENT OF THE INTERIOR

The legislative clerk read the nomination of Richard Mulberry, of Texas, to be Inspector General.

Mr. McCLURE. Mr. President, on June 18 the Committee on Energy and Natural Resources, by a vote of 20 to 0, reported the nomination of Richard Mulberry, of Dallas, Tex., to be Inspector General of the Department of the Interior. Mr. Mulberry's nomination hearing was held on June 16. He has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement. In order to assume the position of Inspector General, Mr. Mulberry has had to make personal financial sacrifices involving the divestiture of his interests in Enserch Corp., Texaco, U.S. Gypsum, Diamond Shamrock, Occidental Petroleum, American Electric Power, and McDermott, Inc., and of his wife's interest in Houston Oil & Minerals. Secretary of the Interior Watt granted him a waiver from divestiture of his stock holdings in American Telephone & Telegraph, since they would not in the normal course of events create a real or apparent conflict of interest.

As Inspector General, Mr. Mulberry will be the focal point for the independent review of the integrity of the Interior Department's operations. The Inspector General has the central authority for the quality, coverage, and coordination of the auditing and investigative services of the Department, as well as the means for keeping the Secretary and Congress informed about any problems relating to the administration of programs.

Mr. Mulberry has for the past 25 years been a certified public accountant in the State of Texas. He is also a member of the American Institute of Certified Public Accountants and has been subject to the ethics codes of both organizations. In his new role as Inspector General he has assured the committee that he will continue to adhere to these high standards.

His professional experience and interests have been primarily in auditing and investigations and during the past dozen years he has been part of management in a large, growing firm. He has worked in the quality control peer review program which was implemented in the American Institute of Certified Public Accountants. He has stated on the record that he intends to work diligently to improve and accelerate the Department of the Interior's program in order to surface, eliminate and prevent fiscal waste, mismanagement and fraud wherever it exists.

Mr. President, I would like to reiterate my support for Mr. Mulberry's confirmation. On behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval

of the Presidential nomination of Richard Mulberry to be Inspector General of the U.S. Department of the Interior.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

#### COUNCIL OF ECONOMIC ADVISERS

The legislative clerk read the nomination of Jerry L. Jordan, of New Mexico, to be a member of the Council of Economic Advisers.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

#### DEPARTMENT OF STATE

The legislative clerk read the nomination of Paul Heron Robinson, Jr., of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

#### COMMUNITY SERVICES ADMINISTRATION

The legislative clerk read the nomination of K. William O'Connor, of Virginia, to be Inspector General.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider en bloc the votes by which the nominees were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF PROCEDURE

Mr. BAKER. Mr. President, might I inquire of the minority leader, while we have a break and before he begins his special order, if we might be in a position to get a time agreement on the so-called noise bill, S. 1204, Calendar Order No. 138.

Mr. ROBERT C. BYRD. Mr. President, may I say that the matter is being discussed on this side of the aisle. I am not in a position at this point to give the distinguished Senator a definite response.

Mr. BAKER. I thank the minority leader. I will withhold making that request, then, until later in the day.

#### ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the expiration of time allocated to the distinguished minority leader under the special order has expired, that there be a period for the transaction of routine morning business not to extend beyond 30 minutes in length in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the floor.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is now to be recognized for 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Arizona (Mr. GOLDWATER) without prejudicing my order.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I thank my friend from West Virginia. I will not be long.

#### SANDRA O'CONNOR'S COURT DECISIONS

Mr. GOLDWATER. Mr. President, I would like to say a few words today about Judge Sandra O'Connor's exceptionally high professional qualifications to be a Justice of the Supreme Court.

My office staff and I have looked into all 29 published opinions written by Sandra O'Connor as an Appeals Court Judge. It is quite clear from reading her decisions that she is unusually thorough, reasoned, detailed, and logical in her decision making. She takes careful account of all sides of an issue and always makes a painstaking analysis of the case.

I am especially pleased to see that she is careful to follow judicial precedents. She is, in my opinion, a strict constructionist both of case law and statutory interpretation. Also, her decisions show a strong defense of private property rights.

Throughout all her opinions, Judge O'Connor is fair. In a high number of cases, she ruled with little people fighting against big institutions, such as cases involving small citizens defending themselves against large corporations or governmental agencies.

So little has been written directly about her legal abilities, with all the fuss over single-issue religious matters, that I will briefly discuss some of the judicial opinions written by Judge O'Connor that reveal an understanding of what ordinary citizens face in the real world.

In other words, I would emphasize that she is not only a brilliant technician with a quick mind, but a jurist who is able to blend strict respect for the law with human qualities. Justice and fair judgment are what we see in her decisions.

To begin, I will call attention to the case of Fernandez against United Acceptance Corp. Here Judge O'Connor

made a finding that a citizen's freedom of privacy had been invaded by the undue harassment of a creditor in attempting to collect a debt.

Next, in Lowman against City of Mesa, she held that the city was liable for personal injuries as result of failure to remove a stalled, unattended car from its streets or to warn motorists after 18 hours. She crisply wrote:

The city has a duty to keep its streets reasonably safe for travel.

In State against Miguel, she ordered that a conviction be reversed because a full 12 member jury was not selected.

Then, in Blair against Stump, Mrs. O'Connor decided that a statute requiring an indigent tenant to post an appeal bond, double the amount of annual rent, violated the equal protection clause of the 14th amendment. In finding the bond invalid, she wrote:

It prevents non-frivolous appeals by those who are unable to post the bond, while allowing other meritless appeals by those who can afford the bond.

In the case of Sende Vista Water Company against City of Phoenix, she held that the city cannot invade private property rights held by a water company within a new development without just compensation.

In Thompson against Arizona Department of Economic Security, she ordered the unemployment insurance appeals board to reconsider the denial of payments to a worker who had voluntarily quit employment. She said the worker's claim that wages were always paid late had not been considered and, if true, would have given good cause for her departure.

In Ott against Samaritan Health Service, she reversed the trial court judgment in favor of a hospital in a medical malpractice suit. The patient was badly injured when left unattended by his nurse to return to his room in his wheelchair.

In Magma Copper Co. against Arizona Department of Economic Security, she found that a worker was not disqualified for unemployment compensation on the ground of absenteeism even though he had been incarcerated. His arrest lasted less than 24 hours and the worker had given notice to his employer that he would not be reporting to work.

Mr. President, I will have more to say later about other decisions by Judge O'Connor, decisions that are entirely compatible with the administration's philosophy and the Burger Court's philosophy of judicial restraint.

#### VOLUNTEER ARMY: LONG ENOUGH

Mr. GOLDWATER. Mr. President, while politics pretty much places a blanket on the subject of the draft, nevertheless it is there, it is going to stay there until the Congress has the courage to face up to it.

I was one of the first Members of this body who spoke out against the draft in favor of a voluntary military. Now the fact of the matter is, I have had to

change my position because the volunteer approach is not working, although I can remember when I first went on duty many, many years ago, we had volunteer forces and it did work.

With the partial failure in Korea and the complete failure in Vietnam caused by the decision of our Presidents not to allow the military leaders to run the show, we have had a hard time getting personnel.

Maxwell Taylor, a man who has probably done as much as any one man toward establishing the defense of our country and fighting for it, has written a very good article entitled "Volunteer Army: Long Enough." I ask unanimous consent that it appear at this point in my remarks in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### VOLUNTEER ARMY: LONG ENOUGH

(By Maxwell D. Taylor)

Except for Lawrence Korb's position as assistant secretary of defense, I would not be inclined to respond to moot points in his June 9 op-ed article [All-Volunteer Army: It Deserves a Fair Chance]. But since he speaks for the department on a very important issue and states that both President Reagan and Secretary of Defense Caspar Weinberger share his "philosophical disposition against the governmental intrusion into private lives that conscription would involve," I feel obliged to reply.

His basic theme is that, despite an eight-year record of unsatisfactory performance accumulated by three administrations, the all-volunteer force (AVF) is entitled to a "fair chance" to overcome past defects and demonstrate its right to extended life. To effect this turnaround, the administration proposes three remedies—more pay, better training and renewed popular respect for the military profession.

I find such a program wholly inadequate to solve the problem at issue—how to provide adequate trained manpower to permit the armed forces to carry out their functions in peace and to ensure their readiness for sustained combat overseas at the outbreak of war. The volunteer system has failed to produce manpower reaching these standards, and the administration's program would do little to remedy the defects primarily responsible for the failure.

These basic defects are twofold: (1) the low or marginal quality of many recruits and the fact that a disproportionate number of the recruits are poor, uneducated or black, and (2) the failure of volunteering to produce sufficient acceptable recruits to meet the needs of the reserve forces of the regular establishment. Of the remedies proposed to correct these defects, only the pay raise has direct applicability, because the other two—improved training and restored prestige for the uniform—should be goals at all times, whether the men are volunteers or conscripts.

While a pay increase such as the 5.3 percent being considered is certainly due our enlisted men in any event, such an increase or any other likely to pass Congress will be too small to promise a substantial improvement in numbers, quality or ethnic balance of volunteers. We must bear in mind that during the decade ahead our recruiters will work against several adverse factors. In the first place, the armed forces will need more people than at present because of the force expansion resulting from the Reagan rearmament program. Also, demographic forecasts

warn of a marked decrease in males of military age while administration economists predict better economic times, both conditions unfavorable to recruiting. Hence, I am very pessimistic as to the effectiveness of any program depending essentially upon a pay increase to solve the manpower problem.

My other reason for opposing a retention of the AVF is the urgency of our need for truly ready conventional forces in the turbulent times ahead. We have too many vital interests far from home in need of protection to tolerate forces unable to carry out their primary tasks—to deter war or to wage it successfully if deterrence fails.

Korb is quite correct in saying that the AVF is "essentially a peacetime force," but not when he assumes that "in time of large-scale war conscription would be resumed and we should not have to rely on volunteers to fight the war." We could not get rid of the volunteer system so easily and painlessly.

We are paying a considerable price today for the AVF because of its limited contribution to the deterrent function in time of peace. There is little that is impressive about a military force with the visible manpower deficiencies that plague ours. Both friends and enemies abroad are aware of them and comment freely about their significance. NATO officers note the decline in professionalism of our Army units in joint maneuvers and exercises. The absence of a draft raises uncertainties about our ability to reinforce the alliance in time and gives political leaders occasion to question our reliability in a crisis.

The price we pay for the AVF would rise sharply upon the outbreak of hostilities. Contrary to Korb's assumption that in war we would not have to depend on volunteers, for several months after an outbreak of hostilities we would have only units of the AVF to man the defenses of Western Europe and Northeast Asia and to carry out overseas missions assigned to the Ready Deployment Force. If attacked by a formidable enemy, they would have to fight with no assurance of prompt reinforcement from the United States either in units or in loss replacements. In such a case, their plight would resemble that of the small British Army, rushed to France at the outbreak of World War I and destroyed there in a gallant effort to stem the German invasion. The British also did not believe in conscription.

Why is this wartime dependence on the AVF inevitable? It results from the very considerable time lag that is bound to occur between a decision to resume the draft and the emergence of the first conscript from training camp. Its length will depend on the time required for the passage of conscription legislation, for the Selective Service system to begin to function and for the armed forces to carry out the essential training. Without counting the time taken by Congress, which cannot be predicted, the delay in getting the first trained conscript is estimated at around four months—a long time for the AVF to hold the fort unassisted.

To sum up, a further retention of the volunteer system to give it another chance would also mean further retention of mediocrity in military personnel and combat unreadiness in a large part of our forces. We cannot afford this indulgence any longer in this unstable world. We must return promptly to some form of conscription, modified in the light of Vietnam and postwar experience, which will produce armed forces with a blend of volunteers and conscripts, backed by adequate trained reserves to permit sustained combat. It would be a force roughly representative of all social classes, including a fair share of the best of our youth.

Eight years of AVF is more than enough.

## SENATE—Monday, July 13, 1981

(Legislative day of Wednesday, July 8, 1981)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Holy, holy, holy, Lord God Almighty, which was, and is, and is to come. Thou art worthy, O Lord, to receive glory and honor and power: For Thou hast created all things, and for Thy pleasure they were and are created.

We give thanks to Thee, O Lord God Almighty, for the weekend recess. We thank Thee for time with our families and friends. We thank Thee for rest and relaxation. We thank Thee for the opportunity to visit with some of the people, to hear their concerns, their cares, and their desires.

Now we thank Thee for the prospect of continuing the work to which we have been called as public servants. We thank Thee for those who labor with us in the Senate, in the cloakrooms, in our offices, and on the Hill. Help us never to take for granted their faithful service and to be responsive to their needs. Help us, dear God, to love and serve one another.

In the name of Him who was the servant of servants. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the acting majority leader is recognized.

Mr. McCLURE. Mr. President, I yield 2 minutes to the Senator from Arizona (Mr. GOLDWATER).

The PRESIDING OFFICER. The Senator from Arizona.

## SANDRA O'CONNOR—THE CONSERVATIVE

Mr. GOLDWATER. Mr. President, having now reviewed all published legal opinions and articles written by Sandra O'Connor during her service as an Arizona appeals judge, I am delighted to find four prominent conservative themes that stand out in her papers.

It is clear that Sandra O'Connor is and will be a strict constructionist; tough on criminals; a strong defender of private property rights; and respectful of State sovereignty.

Now, Mr. President, Judge O'Connor's attachment to these four major principles means far more to me than whatever position she may have taken on any single issue. Her consistently correct stand in these four broad areas of basic conservative philosophy mark her as ex-

actly the type of Supreme Court Justice that Ronald Reagan and the millions of Americans who voted for him want on the Court.

## STRICT CONSTRUCTIONIST

Mr. President, on at least nine occasions Judge O'Connor was required to make decisions turning on the interpretation of State statutes. Often she had to construe a law as a threshold issue before reaching the final holding of the case. Thus, she had ample opportunity, if she was so inclined, of expanding statutes or putting her own imprint on the law by applying it to situations never contemplated by the drafters.

In every case she deferred to the plain legislative intent. Never once can Sandra O'Connor be charged with rewriting a State law.

It is clear she is one Supreme Court Justice who will know the difference between the Court and the Congress. As a conservative, I have no fear that Sandra O'Connor will use the Court as a superlegislature.

## TOUGH ON CRIMINALS

Mr. President, there are numerous instances when Judge O'Connor was assigned criminal cases as a trial judge. There are also seven opinions she wrote for the appeals court which involved review of criminal cases.

It is accurate to say that she was tough, but fair, in each of these cases. She is clearly concerned about protecting society from violent crimes.

In fact, on March 14, 1977, Judge O'Connor told the Republican Forum at Sun City, Ariz., that she was disturbed at the rising crime rate. She warned that the emphasis on civil liberties has made it difficult to convict people of crimes they "obviously" have committed. She called upon the legislature to enact uniform, certain penalties for repeat offenders and for more serious crimes.

Judge O'Connor's no-nonsense stand toward criminal offenders and her fairness both can be seen in the decision she wrote in State of Arizona against Blevins on January 2 of this year.

The case involved a defendant who was charged with hitting and running, leaving the scene after his vehicle had struck the operator of a motorcycle. Only circumstantial evidence was offered by the prosecution. Judge O'Connor held that this evidence alone was sufficient to sustain a conviction of manslaughter.

She wrote:

The prosecution is no longer required, in a case based wholly upon circumstantial evidence, to negate every conceivable hypothesis of innocence.

Now, this succinct statement proves she is a conservative. She definitely will be a welcome addition to the High Court by all who are concerned that the rights of society are being trampled on by liberal activists who put narrow technical

points ahead of the community's ability to protect itself.

Yet Judge O'Connor is not harsh. She is not blind to justice. In the case I just discussed she ruled that the trial judge had failed to instruct the jury properly on the issue of the defendant's actual knowledge that anyone had been injured. While the conviction for manslaughter was upheld, the conviction of leaving the scene of the crime was reversed.

Also, in the case of State against Miguel in May 1980, Judge O'Connor reversed the conviction of a defendant because he was not given the benefit of a full 12-member jury. Only an 8-member jury had been impaneled. So while she is strongly on the side of society against obviously guilty criminals, she insists that express constitutional guarantees, such as trial by jury, be given full application.

## PRIVATE PROPERTY RIGHTS

In her public speech of March 14, 1977, at Sun City, Judge O'Connor indicated her firm commitment to a free enterprise economy. It is wrong, she said:

To believe that Government should provide solutions for every demand.

She added:

Such demands of special interest groups place strains on our economy and tax burdens on our citizens.

This statement is as relevant today as when spoken. It might well have been taken from the Reagan administration economic recovery briefing book in 1981.

Judge O'Connor has not had much opportunity to rule on economic matters in court decisions, but I do know she upheld private property rights in *Sende Vista Water Co. against city of Phoenix* last August.

In this case there was a strong reason to rule in favor of the city against a small private business. The city had a clear interest in supplying water service to a large new development, which included a small parcel of 360 acres where a private company already held a certificate of convenience to supply water. The most efficient way to provide service was for the city to supply the entire area. But the city did not condemn the holding and pay just compensation. Judge O'Connor held that private property rights had been infringed and ruled in favor of the private company.

## STATE SOVEREIGNTY

We can see a clear sign of Sandra O'Connor's deep respect of State sovereignty in a recent law review article she wrote for William and Mary Law School. Here she spells out her belief that the Federal Government should not usurp functions that can be completely and fairly handled by State bodies.

Speaking of the overlapping jurisdiction of Federal and State courts, she presents a persuasive argument that

State jurists are just as qualified—and are perceived by most practicing attorneys as being so qualified—to interpret U.S. constitutional issues. Instead of removing almost every case out of State courts and starting over again when a Federal constitutional question is raised by one of the parties, she urges that Federal courts should show judicial restraint or abstention and allow the case to proceed through the State tribunals.

She reminds us:

State judges in assuming office take an oath to support the Federal as well as the State constitution. State judges do in fact rise to the occasion when given the responsibility and opportunity to do so.

Mr. President, I know that many of my colleagues will wish to examine Mrs. O'Connor's writings more closely so I have prepared a short bibliography grouped by subjects. I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

**LIST BY SUBJECT OF PUBLISHED APPEALS COURT OPINIONS BY JUDGE SANDRA O'CONNOR**  
**CRIMINAL LAW**

1. State v. Ferrari, 541 P.2d 921, October 23, 1975.
2. State v. Miguel, 611 P.2d 125, May 8, 1980.
3. State v. Brooks, 618 P.2d 624, September 9, 1980.
4. State v. Blevins, 623 P.2d 853, January 27, 1981.
5. State v. Morgan, 625 P.2d 951, February 10, 1981.
6. State v. Schoonover, 626 P.2d 141, January 29, 1981.
7. State v. Gessner, 626 P.2d 1119, March 26, 1981.

**TORTS**

1. Fernandez v. United Acceptance Corporation, 610 P.2d 461, January 24, 1980.

**WORKERS' COMPENSATION**

1. Town of El Mirage v. Industrial Commission of Arizona, 621 P.2d 286, October 16, 1980.
2. Nolden v. Industrial Commission of Arizona, 622 P.2d 60, November 13, 1980.\*
3. Ryan v. Industrial Commission of Arizona, 623 P.2d 37, January 20, 1981.\*
4. Parkway Manufacturing v. Industrial Commission of Arizona, 626 P.2d 612, February 12, 1981.
5. Owens v. Industrial Commission of Arizona, No. 1 CA-IC 2424, March 19, 1981; (slip decision).

**UNEMPLOYMENT INSURANCE**

1. Thompson v. Arizona Department of Economic Security, 619 P.2d 1070, November 13, 1980.
2. Magma Copper Company v. Arizona Department of Economic Security, 626 P.2d 935, January 20, 1981.
3. Gardiner v. Arizona Department of Economic Security, no. 1 CA-UB 041, undated; (slip decision).

**SUNSHINE LAW**

1. Cooper v. Arizona Western College, etc., 610 P.2d 465, March 4, 1980.\*

**TAXING POWER**

1. J. C. Penney Company v. Arizona Department of Revenue, 610 P.2d 471, April 10, 1980.\*

**MUNICIPAL LIABILITY**

1. Lowman v. City of Mesa, 611 P.2d 943, March 27, 1980.
2. 29, 1980.\*

\*Indicates statutory construction.

**CONDEMNATION POWER**

1. Sande Vista Water Company v. City of Phoenix, 617 P.2d 1158, August 7, 1980.

**DIVORCE**

1. Andrews v. Andrews, 612 P.2d 511, May MECHANICS' LIENS
1. O'Malley Lumber Company v. Riley, 613 P.2d 629, May 15, 1980.\*

**CONTRACTS**

1. Helena Chemical Company v. Coury Brothers Ranches, Incorporated, 616 P.2d 908, June 5, 1980.

**INNKEEPER LIABILITY**

1. Terry v. Lincscott Hotel Corporation, 617 P.2d 56, July 24, 1980.\*

**MEDICAL MALPRACTICE**

1. Lewis v. Swenson, 617 P.2d, 69, June 3, 1980.\*
2. Ott v. Samaritan Health Service, 622 P.2d 44, October 9, 1980.

**LANDLORD-TENANT**

1. Blair v. Stump, 617 P.2d 791, September 16, 1980.\*
2. Roosen v. Schaffer, 621 P.2d 33, August 13, 1980.
3. Cote v. A. J. Bayless Markets, Incorporated, 626 P.2d 602, January 15, 1981.

**LAW REVIEW ARTICLE**

"Trends in the Relationship Between the Federal and State Courts From the Perspective of a State Court Judge," 22 William and Mary Law Review 801 (1981).

**VITIATION OF SPECIAL ORDER FOR SENATOR THURMOND**

Mr. McClure. Mr. President, I ask unanimous consent that the special order for Senator THURMOND be vitiated. The PRESIDENT pro tempore. Without objection, it is so ordered.

**ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS**

Mr. McClure. Mr. President, I ask unanimous consent that, following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to extend beyond 1 p.m. and that Senators be permitted to speak therein for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

**THE JOURNAL**

Mr. McClure. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

**RECOGNITION OF THE MINORITY LEADER**

The PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I have no request for time. I have no need for it myself. I, therefore, yield my time back.

Mr. McClure. Mr. President, I yield my time back.

**ROUTINE MORNING BUSINESS**

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business.

Mr. McClure. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Symms). Without objection, it is so ordered.

**DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982**

Mr. WEICKER. Mr. President, prior to the cloture vote that will take place a little later, I should like to have printed in the RECORD at this time an editorial which appeared in this morning's Hartford Courant entitled "The Robes of Congress."

**THE ROBES OF CONGRESS**

If the Supreme Court alone has the power to interpret the Constitution, can the Congress remove from judicial scrutiny specific constitutional questions, namely busing, school prayer and abortion?

Dozens of constitutional scholars, six former attorneys general and now a dozen senators, have taken unusually united action to prevent such radical restructuring of the federal system.

Still, congressional conservatives press on with approximately 25 bills to limit the jurisdiction of the federal courts, simply because they disagree with the Supreme Court's interpretation of the Constitution on school prayer (against), abortion (permissible) and busing to achieve racial balance (sometimes necessary).

The Supreme Court, since the first chief justice, John Marshall's day, has been the ultimate arbiter of the Constitution and whether federal and state law comport with constitutional guarantees. To charge that judges have become too "zealous, partisan and prejudiced," as did one proponent of the legislation, or that the courts have usurped congressional authority, is to disregard 178 years of American history. It is to disregard a separation of powers delicately balanced by the nation's founders.

The court already has ruled that First Amendment protections against the establishment of religion prohibit prayers in public schools. Fourteenth Amendment guarantees of equal protection permit, and sometimes require, school busing. A variety of constitutional privacy rights mandate legalized abortion. These are constitutional questions which should not be removed from the court's purview because a few vocal members of Congress are unhappy with the results.

But these legislators know that it takes a two-thirds majority of the House and Senate to amend the Constitution (a legitimate congressional exercise) but only a simple majority to enact ordinary legislation. Hence, this expedient effort to limit jurisdiction by statute.

The congressmen are on firmer ground when they try to limit the lower federal courts, since only the Supreme Court is constitutionally established. What Congress creates (the lower courts), Congress presumably can take away. Their constitutional selectivity however, is questionable.

used by everyone, just as free speech is intended to be used by everyone." The administration position, Nader charged, "is like saying that people are using the First Amendment too much, and the wrong people at that."

Like the FOIA, the Foreign Corrupt Practices Act has come under attack on the grounds that it is costing too much, far more than expected, although in this instance American business is footing the bill. Brock said the antibribery act has gained "the reputation of being one of our nation's most serious export disincentives." And the costs of keeping books "in reasonable detail," a new accounting standard that the law imposed on all publicly held companies, have been "highly inflationary," Brock protested.

The chief Senate sponsor of the administration-backed drive to dilute the law, Sen. John H. Chafee (R-R.I.), contends that the rule imposing criminal penalties on corporate executives with "reason to know" of bribes being paid by overseas agents is simply too stiff. Chafee would also change the law so that companies would have to keep detailed accounts only of expenses that have a "material" effect on their business.

For big companies, General Accounting Office experts testified, that could mean even multi-million-dollar items would escape accounting. A former chief accountant for the Securities and Exchange Commission told *The Wall Street Journal* that even Exxon's payments of more than \$50 million to Italian political parties and Cabinet members in the 1960s and early 1970s would not have been "material."

The 1977 law was enacted following Senate and SEC investigations which turned up more than \$300 million in questionable or illegal payments by more than 400 corporations to foreign officials, politicians and political parties. More than 117 of the companies ranked in the top Fortune 500 industries. In a number of instances, recalls Sen. William Proxmire (D-Wis.), the main proponent of the 1977 law, "bribes were paid . . . by American companies to beat other American companies out in the competition."

The Chafee bill is also designed to preclude prosecutions of overseas bribery cases under other laws, such as the fraud and conspiracy indictment pending against McDonnell Douglas Corp. in connection with \$1.6 million in secret commissions on the sale of DC10 jetliners to Pakistan. That case most recently made headlines when it turned out that Associate Attorney General Rudolph W. Giuliani had met privately with a McDonnell Douglas lawyer to discuss company complaints about the case, without informing the Justice Department lawyers who were prosecuting it.

Giuliani said he didn't even know McDonnell Douglas was under indictment until after the meeting had started.

Meanwhile, Congress is being asked to gut the bribery law itself on the grounds that it is "fundamentally unfair" to American business and that it has proved too onerous and costly. Under the circumstances, it is difficult to envision much of a follow-through to the 35 investigations the Justice Department says it is currently conducting under the law.

"Basically, it's an abandonment of law enforcement," Nader charges. "It's much more pronounced than under Nixon or Ford. These guys are very systematic. They're out to change the system, not just violate it."

There are, to be sure, strong voices contending that there was an "overreaction" in some of the legislative response to Watergate. The last Watergate special prosecutor, Charles Ruff, now U.S. attorney here, is especially keen on what he regards as the defects of the special prosecutor sections of the Ethics in Government Act.

"The Watergate burden is the extraordinary presumption of irregularity in government," Ruff feels. The provisions for a special prosecutor in cases involving high government officials, he adds, were "horribly drafted" and need to be changed considerably, both in terms of the alleged crimes to be covered and the number of government officials to be covered.

Cox and colleagues such as Common Cause president Fred Wertheimer readily agree that no law is perfect, least of all the Ethics in Government Act or the 1974 campaign financing laws that included creation of a Federal Elections Commission.

But, Wertheimer adds, "you have to remember where we came from. It was no accident that we ended up with corporate slush funds and 21 prosecutions of various corporations by the Watergate special prosecutor for campaign law violations. The Justice Department had always taken a bipartisan view toward campaign financing laws. They never enforced it."

Cox adds that "if the attorney general's statements on the special prosecutor act, for instance, were to the effect that 'I think fine-tuning is needed, but I understand the need for an institution such as that,' I would say I'd certainly be willing to listen. But that isn't the message I get . . . Men and women being human, unless there are built-in protections such as the Ethics in Government Act, unless there are restraints on campaign spending, unless there is constant emphasis by high officials on the importance of openness, honesty and accountability, then the number of individuals who succumb to the temptations is bound to increase."

Attorney General Smith said through a spokesman that he considers charges that the administration is inviting future scandal as pure "nonsense."

"There were clearly some overreactions to Watergate and related events and we intend to rectify them," Justice Department spokesman Tom DeCair added on the attorney general's behalf. "These were well intended changes, but some of them simply went too far."

Archibald Cox still sees in the drive a "blindness to ethical concerns" that "may recreate the old dangers. Take the Foreign Corrupt Practices Act. If the habit of selling your products and services with payments to foreign officials returns, how long is it going to be before it becomes a habit to pay off officials here?"

" . . . The temptations of power are always great and the stakes in government and government decisions are higher than ever."

#### PARAGUAYAN PERSECUTION ALLEGED

Mr. PROXMIRE. Mr. President, the specter of genocide was not buried with the victims of the holocaust. It continued to haunt and horrify us in Uganda and Cambodia, and further charges of genocide continue to be brought forth. I must regretfully bring your attention to yet another allegation of a violation of human rights.

On June 19, Survival International (USA) submitted a formal complaint to the United Nations on behalf of the Toba-Maskoy Indians of Paraguay. Among other signatories of the complaint are the Human Rights Council of the National Council of Churches and Survival International in London. Their plea is urgent. These concerned groups charge the Paraguayan Government with persecution of the Toba-Maskoy

Indians which the church in Paraguay has termed "tantamount to genocide." Such allegations deserve serious consideration by the United Nations to determine their validity.

Survival International charges that:

700 Toba-Maskoy Indians have recently been forcibly evicted from their ancestral homeland and taken, in military vehicles to a site described . . . as desolate and without any water.

They further allege that—

Since January, the situation of the Indians has become critical, according to Paraguay's Inter-Church Committee . . . They reported that the Indians were being held against their will. The site is being administered by military forces. They also reported that children are suffering from hunger and dehydration. Three children are said to have died and there is a severe lack of medical supplies.

Their continued survival is judged to be unlikely.

These allegations will now be considered by the United Nations. If they are found to be true—and that remains to be proven—these persecutions deserve to be strongly condemned by the world community. If we are to have an effective voice in condemning human rights violations of any magnitude, we must demonstrate that our concern is not taken or insincere. We must demonstrate a continuing commitment to condemn and punish man's inhumanity to man.

What better way to announce our concern to the world than to adopt the treaty which defends the most basic human right—the Genocide Convention. The nightmare of the crime of genocide must be eradicated step by step. I urge my colleagues to take the first step and accede to the Genocide Convention.

Mr. President, I yield back the remainder of the time yielded to me by the leader.

#### ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EAST). Without objection, it is so ordered.

#### JUDGE O'CONNOR IS A SUPERB CHOICE

Mr. MOYNIHAN. Mr. President, I have received a telegram from Dr. Dan Fore, chairman of the New York Chapter of the Moral Majority that is striking in its conciseness. It reads "Protest Against O'Connors nomination."

Mr. President, Dr. Fore refers of course to the nomination of Judge Sandra Day O'Connor to be an Associate Justice of the U.S. Supreme Court. And while he does not elucidate his reasons for opposing Judge O'Connor, one would

surmise from press reports that the radical right single issue groups have concluded that in some way this mother of three is not profamily.

My purpose here today is not to debate the matters raised by the moral majority or their like. Rather I wish to address myself to another conclusion that one must reach from examining her background: Judge O'Connor is a superb choice. Over and over again those who know her describe her work with the words "meticulous" "hardworking" "intelligent" and "fair." And what better background. After graduating from high school at the age of 16 Judge O'Connor entered Stanford University. Five years later she graduated with undergraduate and law degrees magna cum laude having served as a member of the Stanford Law Review. She then went on to distinguish herself in the law and in public service becoming the first woman to serve as the majority leader of a State legislature, then as trial court judge and finally as an appeals court judge. As to Judge O'Connor's abilities on the bench, Harvard law professor Lawrence Tribe has said, "She's entirely competent, a nominee of potentially great distinction."

For my part, I plan to vote to confirm Judge O'Connor assuming that her nomination is reported out of the Judiciary Committee.

Finally, Mr. President, I wish to congratulate President Reagan for sending us this nomination not simply because Judge O'Connor will be a fine Associate Justice but equally because she is a woman. The President said that he would appoint a woman who meets "very high standards" and he has so done. I regret that no President made such an appointment before now but I am proud that one has done so during my time in the Senate and I will be honored to cast my vote in favor of her confirmation.

Mr. President, I ask unanimous consent that a telegram from Dr. Dan Fore to me be printed in the RECORD.

There being no object on the telegram was ordered to be printed in the RECORD, as follows:

Senator MOYNIHAN,  
U.S. Senate,  
Washington, D.C.:

Protest against O'Connor's nomination.  
Dr. DAN FORE,  
Chairman, Moral Majority, N.Y.S.

#### SENATE CONFIRMS NOMINATION OF SARAH EVANS BARKER AS U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF INDIANA

Mr. PERCY. Mr. President, in my 14 years in the Senate, I have experienced many times the special pleasure of seeing one of my former staff members rise to a senior position in the executive branch or in the business world. I have always looked upon my staff as part of my family and I enjoy celebrating their successes in life as I do those of my direct family members.

One such special moment of celebration occurred yesterday when the Senate confirmed the nomination of Sarah Evans Barker to be U.S. attorney for the southern district of Indiana.

Sarah was my staff legal counsel from 1970 to 1973 and worked closely with me in my capacity as a member of the Senate Permanent Subcommittee on Investigations. She also assisted in my responsibilities on the Senate Appropriations Committee, and played a key role in my reelection campaign in 1972, as a member of my campaign staff in Illinois. Following her marriage after the election to Kenneth R. Barker of Indianapolis, she returned to her home State and was appointed assistant U.S. attorney for the southern district of Indiana. She subsequently entered private practice in Indianapolis where she continued until her nomination by the President to the office for which she has just been confirmed.

Mr. President, Senators know that we often require of our staffs that they be combination miracle workers and diplomats, practitioners of wisdom, discretion and the high art of politics, and experts on every conceivable subject with little more than 5 minutes' notice. We expected no less than this from Sarah and got much, much more.

In her 2 years on the Senate staff, she earned the respect and admiration of other staff and Senators alike. She was skilled in every aspect of the legislative process, equally well prepared for the deliberative moments of a committee markup as for the throes of a parliamentary battle in the Senate Chamber. I cannot think of any experience that could have prepared her better for the responsibility she is about to undertake as U.S. attorney.

She was, and is, a friend to me and my family, and to all those who served with her on my staff. We all are immensely proud of her and wish her well in her new and important position.

#### "COMMUNIQUE" EXAMINES THE WORLD BANK

Mr. PERCY. Mr. President, as we all know, Robert McNamara, on July 1, ended his 13-year tenure as president of the World Bank. On June 23, "Communique," the outstanding foreign affairs program produced by Jeff Rosenberg for National Public Radio, devoted its broadcast to a discussion of the history and development of the World Bank.

In an interview for the broadcast, Mr. McNamara spoke of the accomplishments of the World Bank, and told why he believes the bank deserves strong American support. He argued that we Americans should help in promoting development in the Third World not just for humanitarian reasons, but also because such development is clearly in our economic, political, and strategic interests.

I agree completely with Mr. McNamara on this point. The Senate has already passed legislation authorizing United States contributions to the new capital increase for the World Bank and the Sixth Replenishment of the International Development Association, or IDA. It is extremely important both for the future of our relations with developing countries, and to maintain the credi-

bility of the United States with our industrial country allies which have already committed themselves to their contributions to the Bank, that we in the Congress promptly authorize and appropriate the funds required to meet our share of contributions to the Bank.

Mr. President, I believe that the National Public Radio broadcast on the World Bank should be widely available to the American public, and, therefore, I ask unanimous consent that it be entered in full in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### COMMUNIQUE

ANNOUNCER. From National Public Radio, this is Communique.

PRESIDENT JIMMY CARTER. Under Bob McNamara's outstanding leadership, the bank has become the focus of world cooperation to improve the human condition.

ROBERT McNAMARA. These past 13 years have been the most stimulating of my life. And despite the frustrations at times, I wouldn't have traded them for anything.

ANNOUNCER. Robert S. McNamara, President and guiding force behind the World Bank. On this edition of Communique, an interview with Mr. McNamara and an examination of his role in the effort to help the world's poorest nations. Our host is NPR's Sanford Ungar.

SANFORD UNGAR. On July 1st an event will take place that will not stir a great deal of attention in the United States but will be regarded as a turning point in much of what is called the Third World, the poorer developing countries. Robert McNamara will step down as President of the World Bank, a job he's held for the last 13 years.

When he took the position in 1968, McNamara seemed an unlikely choice. Former President of the Ford Motor Company, former Secretary of Defense under Presidents Kennedy and Johnson, a man whose name was associated, at home and abroad, with the American war effort in Vietnam.

But over the years, Robert McNamara converted himself and the World Bank into ardent promoters of the cause of economic development, advocates of the poorest people on earth.

In his last address to an annual meeting of the World Bank in September 1980, McNamara looked back with pride and considerable emotion at the achievements of the past 13 years.

McNAMARA. Due to your support and to that of the governments you represent, the World Bank over the past 10 years has become by far the world's largest and most influential development institution. That is important. But what's far more important is what has transpired throughout the developing world in the millions of individual lives that this institution has touched.

What these countless millions of people want, what they need is what each of us wants and needs, the well-being of those we love, a better future for our children, an end to injustice, and a beginning of hope.

We do not see their faces. We do not know their names. We can't count their number. But they are there, and their lives have been touched by us. And ours by them.

UNGAR. For a perspective on the history of the World Bank and the McNamara years there, we turn to Robert Ayres of the Overseas Development Council, author of a recent article about the bank in Foreign Policy magazine and of a forthcoming book tracing the bank's successes and failures. I asked Ayres how the World Bank had changed over the years.



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## AMENDMENT NO. 506

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. RUDMAN, and Mr. PELL) submitted an amendment intended to be proposed by them to the joint resolution, House Joint Resolution 266, supra.

## TAX CREDIT FOR CERTAIN HOME HEATING

Mr. KENNEDY. During this week's consideration of the tax legislation we plan to offer an amendment which will establish a home heating tax credit. A similar amendment passed the Senate in 1977 with only 27 dissenting votes.

The credit of up to \$300 will be available to offset major increases in heating bills that occur in the future. The credit will only be granted to the extent inflation increases heating costs.

We are offering this amendment because the increase in home heating costs are a serious burden on many families. In just the last 2 years, the costs of heating bills have increased from \$600 to \$1,200. While families are attempting to cut their costs by increasing the efficiency of their energy use, they need this tax credit to avoid significant declines in their standard of living.

This credit is also necessary to avoid a significant tax increase. Changes in U.S. pricing policies will increase a family's energy costs by \$638 this year. Half of the increase in total energy bills, or about \$319, is increased taxes paid to the Federal Government as the windfall profit tax.

Although this tax is normally thought of as a tax on the oil companies, it is in fact only collected by the oil companies. It is actually paid by energy consumers. Thus, this tax credit is necessary to offset a significant increase in the tax burden of citizens that was caused by the decision to decontrol with a windfall profit tax.

Mr. President, I ask unanimous consent that a factsheet on the amendment be printed in the RECORD.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

## FACTSHEET ON KENNEDY-RUDMAN-PELL AMENDMENT

## PURPOSE

Tax credit: Provide tax credit for residential heating costs.

Effective date of tax: Taxable years 1981-1984.

Maximum credit: \$300.00.

Eligibility: All households (both renters and owners) with incomes up to \$30,000; above that level the credit is reduced until it is phased out at \$35,000.

Credit is also reduced dollar for dollar for any amount received in the form of grant assistance from any government source by the taxpayer for residential heating costs.

## Formula

The sum of:

(1) Annual amount paid by household, individual, or family for residential heating from any source—oil, wood, gas, coal.

Multibled by:

(2) CPI increase from previous year (12.4 in 1980, current projected CPI: 8.4 in 1981).

## Example of formula

Example of the formula is based on average price and consumption of No. 2 home heating oil in Rhode Island as of January, 1981.

Average price is \$1.26/gallon.

Average consumption is 1,200/year.

Amount paid times CPI: \$1,512. times 0.124 equals \$187.48 (maximum credit: \$300.00).

Revenue loss to U.S. Treasury: \$1 billion to \$1.3 billion estimate from Joint Committee on Taxation.●

## AMENDMENT NO. 507

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to joint resolution House Joint Resolution 266, supra.

## AMENDMENT NO. 508

(Ordered to be printed.)

Mr. DOLE proposed an amendment to the joint resolution House Joint Resolution 266, supra.

## AMENDMENT NO. 509

(Ordered to be printed.)

Mr. DOLE (for himself, Mr. NICKLES, Mr. BOREN, and Mr. WALLOP) proposed an amendment to the joint resolution House Joint Resolution 266, supra.

## AMENDMENT NO. 510

(Ordered to be printed.)

Mr. DOMENICI (for himself, Mr. SCHMITT, Mr. TOWER, and Mr. NICKLES) proposed an amendment to amendment No. 508 to the joint resolution, House Joint Resolution 266, supra.

## ADDITIONAL STATEMENTS

## THE RIGHT TO EMIGRATE

Mr. KASTEN. Mr. President, as many of my colleagues know, Congressman MICHAEL BARNES of Maryland is the chairman of the Congressional Call to Conscience Vigil, 1981. I commend his efforts, and those of more than 100 Members of the House of Representatives, to speak out for Soviet Jews, Christians, and others who have been denied the right to emigrate; who have been harassed and imprisoned for their beliefs; who have been denied the right to join their families in other countries.

I call the attention of this body to the plight of Mr. Vladimir Tsukerman who has requested permission to join his wife and son in Israel. Soviet authorities have ignored this request and imprisoned Mr. Tsukerman on charges of organizing public disorder.

Mr. President, the Helsinki accords of 1975 guarantee the citizens of signatory nations the right to emigrate. The Soviet Union is a signatory of these accords, yet its record on allowing free emigration is dismal. I hope the efforts of this body will have some positive effect on protection of basic human rights in the Soviet Union and on Soviet compliance with both the spirit and letter of the Helsinki accords.●

## SURVEY SHOWS BROAD PUBLIC SUPPORT FOR TRADING COMPANY LEGISLATION

Mr. HEINZ. Mr. President, in January 1981 Union Carbide commissioned a study of public opinions concerning trade issues and the Government's role in trade policies. The survey was recently made

public and I would like to share some of the results with my colleagues.

The majority of those polled supported new and existing Government incentives that would directly stimulate increased exports. Fifty-nine percent endorsed an increase in the low-interest loans provided through the Export-Import Bank to firms selling abroad and 54 percent supported tax incentives for exporting firms to allow them to compete with other nations. Seven out of ten Americans favored the creation of trading companies for smaller firms in order to boost foreign sales. They also favored permitting U.S. corporations to work together on foreign sales, even if they would not be permitted to do so in the United States.

On the issue of our Nation's present trade deficit, 75 percent of the Americans polled felt that this was a serious problem. Most Americans also expressed the view that our domestic and trade problems are very closely linked together and, therefore, the gap in our trade balance will not be closed merely by restricting imports. Eighty percent of those polled also favored reciprocity, agreeing that if we wish to sell our products abroad, we must allow other countries to sell their products here.

In the area of foreign oil, U.S. dependence on imported oil was cited as a major reason for our trade and domestic economic problems. More than 90 percent of those polled considered U.S. reliance on unstable areas of imported oil to be a serious problem. However, there was substantially less agreement on the necessity for U.S. oil import dependence or on effective ways to reduce it.

In regard to U.S. competitiveness, over 50 percent felt that American products were not competitive with foreign products in terms of price and quality. A smaller percentage also felt that American companies were not managed better than foreign companies. Almost 60 percent of those polled agreed that foreign firms receive more governmental support in attempting to market their products overseas than their U.S. counterparts and that there should be stricter enforcement of U.S. laws against dumping and subsidized imports.

These survey results are clear indicators of the need to take immediate action to promote U.S. exports in order to increase U.S. competitiveness. The emerging consensus is that our domestic economic problems are closely linked with our trade difficulties and that these problems can be resolved in part by aggressive U.S. Government policies to encourage U.S. companies to export competitively in the world market. We must continue our efforts to improve domestic export performance and to continue the reduction of our trade deficit.●

## OVERWHELMING SUPPORT BY ARIZONA PRO-LIFE LEGISLATORS FOR SANDRA O'CONNOR

Mr. GOLDWATER. Mr. President, single-issue religious groups have leaped before they looked in opposing the nomination of Sandra O'Connor to the Supreme Court. I have previously warned

that the fundamental error of her critics is in attempting to use a specific issue, on which some people feel passionately, to dominate every sphere of public activity. As James Madison, the Father of the Constitution, explained at length in his famous Federalist Paper No. 10, the concentration of power in factions is alien to the intent of the framers and destructive of a free government.

Beyond violating this basic concept, the self-proclaimed morality groups attacking Mrs. O'Connor's confirmation are just plain wrong about her positions. They have mistakenly distorted or lied about her past actions.

There is proof of what I say. Just today I have received the mail from Arizona and in it was a copy of an endorsement of Sandra O'Connor signed by 26 members of the Arizona House of Representatives, all of whom have consistently voted for memorials urging ratification of the right-to-life amendment.

This bipartisan group hailed the integrity and morality of Sandra O'Connor and deplored the opposition to her nomination as being founded on a "lot of unfounded rumors and innuendo."

At the press conference held on July 13, State Representative Pete Corpstein, who sent me a copy of the letter of endorsement, said of Sandra O'Connor: "I don't know anyone who has more Christian integrity."

Representative Corpstein added in his note to me that this endorsement proves "there is overwhelming support by the Arizona right-to-lifers for Sandra's nomination."

One of the signers of the endorsement, Representative Donna Carlson West, is a leader both of Arizona's pro-life and anti-ERA forces. She, too, publicly criticized opposition to Mrs. O'Connor as being unfounded and untrue. Representative West announced she has carefully examined the votes cast by Judge O'Connor, "when she served in the State Senate, and has not seen anything that tells me Sandra shouldn't be the Justice."

Mr. President, I believe these statements by Arizonans, who have worked with and know Sandra O'Connor, will satisfy my colleagues that the foes of her nomination are misrepresenting her views. So that Senators may judge for themselves, I ask that the pertinent news reports shall appear in the Record.

The material follows:

ARIZONA HOUSE OF REPRESENTATIVES,  
July 13, 1981.

NOMINATION OF SANDRA O'CONNOR FOR THE  
UNITED STATES SUPREME COURT

Today 26 Republican and Democrat members of the House of Representatives have signed letters to Senators Strom Thurmond, Howard Baker, Orrin G. 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 Convention Amendment to the United States Constitution.

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

We are bringing this to the attention of the media and to the nation as we feel there

have been a lot of unfounded rumors and innuendo in regard to this nomination.

We enthusiastically support her nomination.

PETE CORPSTEIN,  
State Representative.

ARIZONA HOUSE OF REPRESENTATIVES,  
Phoenix, Ariz., July 10, 1981.

Hon. STROM THURMOND,  
Chairman, U.S. Senate Judiciary Committee,  
Russell Senate Office Building,  
Washington, D.C.

DEAR SENATOR THURMOND: The undersigned members of the Arizona House of Representatives have consistently supported the Rights to Life Constitutional Convention Amendment to the United States Constitution.

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

Sincerely,

Pete Corpstein, Donna Carlson West, Frank Kelley, Speaker; Burton S. Barr, Majority Leader; Art Hamilton, Minority Leader; Jim Cooper, Bart Baker, Jane Dee Hull, Jim Meredith, Joseph J. Lane, Paul Messenger, Pete Dunn, Tony West, E. C. "Polly" Rosenbaum, Lillian Jordan, Carl J. Kunasek, Donald Kenney, James B. Ratliff, Doug Todd, Rhonda Thomas, Pat Wright, Debbie McCune, Edward G. Guerrero, D. Lee Jones, Daniel Peaches, Morris Court-right.

[From the Phoenix Gazette, July 14, 1981]  
TWENTY-SIX SUPPORT O'CONNOR NOMINATION

Twenty-six Arizona House members who are strong foes of abortion have endorsed Appeals Court Judge Sandra O'Connor in her nomination to the U.S. Supreme Court.

In a letter to four members of the U.S. Senate, where the nomination will be considered later this summer, the bipartisan group disputed the "unfounded rumors and innuendo" circulating about Mrs. O'Connor, and said they "enthusiastically support" her appointment.

"Because of her integrity, morality and knowledge, we believe Sandra D. O'Connor will be an asset to the Supreme Court," the group wrote.

All 26 were among the 31 who voted last January for the House resolution calling for a constitutional convention to draft a right-to-life amendment to the U.S. Constitution. It passed the House without a vote to spare, and later died 9-0 in a Senate committee.

The Arizona judge and former legislative leader has come under attack from right-to-life groups which insisted she had a "consistent" pro-abortion voting record in 1970-74, when she was in the Senate.

"I just wish half the people in the Moral Majority had the moral integrity of Sandra O'Connor," said Rep. Peter Corpstein, R-Paradise Valley, who circulated the letter. "I don't know anyone who has more Christian integrity."

Corpstein said only two of those voting for the convention resolution last winter—Flagstaff Republicans Sam McConnell and John Wettaw—refused to sign the letters. Two others were out of town and unable to sign, while Corpstein conceded he hadn't asked Scottsdale Republican Jim Skelly, the House's most ardent abortion opponent.

[From the Phoenix Gazette, July 13, 1981]  
REPRESENTATIVE WEST CLAIMS JUDGE O'CONNOR'S LEGISLATIVE VOTES ARE MISINTERPRETED

(By John Kolhe)

Rep. Donna Carlson West, R-Mesa, a leader of Arizona's pro-life and anti-ERA forces, has mounted a strong defense of Judge San-

dra O'Connor against the attacks of right-wing groups.

In a letter Friday to Senate Majority Leader Howard Baker, R-Tenn., the five-term lawmaker said she was "deeply distressed" at the anti-abortion and anti-ERA opposition to Mrs. O'Connor's Supreme Court nomination, and insisted there was nothing on her record "that warrants the many unfounded, untrue charges that are being raised."

Mrs. West explained several of the votes cast by Mrs. O'Connor as a state senator from 1970-74 were being misinterpreted by her rightist foes.

She told the Phoenix Gazette her conclusions were based on a recent conversation with Judge O'Connor, in which she sought to clear up the jurist's positions on several issues.

While the judge backed a resolution aimed at ratifying the Equal Rights Amendment, she conceded, so did two other conservative Republicans—Trudy Camping and Bess Stinson, both of Phoenix—who later became ardent foes.

"Since 1975, Sandra has been on the bench and has not spoken out for or against the ERA," Mrs. West wrote Baker.

Judge O'Connor's legislative opposition to various anti-abortion proposals was often for other reasons, Mrs. West added. She voted against one measure to ban abortions at Tucson's University Hospital because it was not germane to the original bill, and opposed a pro-life memorial to Congress because of her "general opposition to constitutional conventions."

Mrs. West, past chairman of the American Legislative Exchange Council (ALEC), a national organization of conservative state lawmakers, said rumors that Mrs. O'Connor favored gun control or opposed religion and capital punishment are "views which she has never held."

Although Kathleen Teague, ALEC's executive director, appeared at a press conference of right-wing groups Thursday to join in the attack, Mrs. West said she did so without authority from the group's executive board.

"This is really starting to disturb me," said Mrs. West. "What they're doing now is questioning President Reagan's judgment. I just haven't seen anything that tells me Sandra shouldn't be the justice." ●

## VOTING RIGHTS ACT

● Mr. HART. Mr. President, this morning's New York Times carried an excellent column by Tom Wicker which effectively makes the case for full extension of the Voting Rights Act. Quite simply—and quite sufficiently—the act works. It is needed and it is working in 1981 as the only real guarantee to minority groups that their voting power will not be diluted by subtle but powerful means.

As Mr. Wicker points out, it is becoming clear even to the doubters, that only the full extension of the Voting Rights Act will safeguard what the President recently described in Denver as: "the most sacred right of free men and women." The options which have been suggested, particularly nationwide preclearance, would seriously weaken the act and impair its crucial safeguards. Mr. Wicker's editorial provides an especially good four-point analysis of why nationwide preclearance has no intrinsic validity and should not seriously be considered. I commend the article to my colleagues and urge them to support efforts to extend the full force of the act for 10 more years.

beatable combination. As a result, our sales are up 25 percent in the worst market in my memory. For 1982 we'll have a complete new intermediate line of fuel-efficient, front-wheel drive cars—two-doors, four-doors, station wagons, and even convertibles. And over the next five years we'll introduce at least two new models each year. All front-wheel drive. And all very fuel-efficient.

I'm not trying to make it sound like we're out of the woods. Chrysler is not, and the U.S. automobile industry is not. But with the help of a lot of our fellow Americans, we've blazed our own trail this far, and we're not about to hire a Japanese trail guide for the rest of the trip. Chrysler Corporation is an American company that's solving its problems the American way.

This country can learn a lot from Chrysler's experience. Chrysler Corporation has survived the most hellish test of fire in American business history. But it's bordering on insanity to think that every American company that finds itself in trouble should have to go through what Chrysler went through in order to survive.

There is a lesson to be drawn from the so-called "Chrysler crisis." American industry can carry only so much in the way of a regulatory burden before it begins to sink under the weight. The fact is, we're looking back on a decade of almost total fixation on social and environmental goals—a fixation that all too often overlooked our critical need for the capital that's required to remain competitive in world markets. I'm not here to knock environmental goals. Many of them were very important goals and still are. But as one former White House advisor put it, "We have underinvested in the economic machine that previous generations labored to put together."

As a result of our overreaction to the "friends of the earth," by the end of the 1970's, one-tenth of all corporate investment was going directly to meet government requirements. And capital investment in productivity improvements dropped to about 10 percent of the GNP, compared to 15 percent in Germany and 20 percent in Japan.

We have to reverse that trend. America's future productivity lies in rebuilding this country's great industrial base.

The current buzz word for it is "reindustrialization."

Basically, all reindustrialization means is that we have to stop diverting money to taxation and regulation, and put it back where it can create jobs for American workers: in capital investments in modern plants and equipment.

I have told everyone who will listen what I think is required to solve the problems. And I'm going to tell you today.

First, we need to get rid of the wasteful and unnecessary regulations that are crippling America's basic industries. Keep the good ones, and throw out the bad ones. Get rid of the air bag. Belts are better. Get rid of the 5-mile an hour bumper. It has nothing to do with safety. Put some sense back into the tailpipe standards. The cars are already 95 percent clean. A return to reason on all regulations would save Chrysler alone more than \$500 million in expenditures by 1985.

Second, we need a monetary policy that assures a steady supply of money at a rate the country can afford. You can't have a supply side economic policy and a demand side monetary policy at the same time. It just won't work. We need a stable monetary policy (instead of jerking interest rates from 10 to 20 percent like a yo-yo) both to encourage business investment and to give our customers the confidence and the means to buy our products.

Third, we need to give business the tax incentives it needs to make capital investments. If we really are serious about reindus-

trialization, we have to help American companies get on their feet. We need to provide incentives which will benefit the marginal companies, the smaller companies, the companies that are just starting out—all the companies that are traditionally hit hardest by negative events in the economy.

Fourth, we need to establish some mechanism to help companies—such as Chrysler—before their problems reach the crisis point. We at Chrysler didn't want to apply for government loan guarantees. But we had no choice. There was no other course open to us—unless you count bankruptcy. Some choice!

What Chrysler needed then, and what U.S. industry needs today, is some kind of systematic organization to provide temporary assistance to companies that have a short-term capital problem without having to go through hysterical headlines on the nightly news. Not every company should receive help. Assistance would be reserved for those companies that could show they had a good chance of recovering fully and becoming viable again; companies like Chrysler. It is a serious need, and I believe it should be addressed quickly.

And fifth, as tough as it is to say, we need a careful reexamination of our labor practices and policies in this country. Let's face it. Our labor costs are out of line with the rest of the world. And it's our own fault. In years past, we kept giving away a larger piece of an expanding pie. But now the pie is shrinking, and we have to change our ways.

The Japanese don't have automatic cost of living increases tied to the Consumer Price Index. But we do. They don't have company-paid medical benefits that cost the consumer \$300 a car. But we do. The Japanese don't pay their workers to stay home. But we do. That's a good way to get unproductive in a hurry.

And without denying anybody the basic protection of decent wages and health benefits, we have to face the fact that the Japanese are mopping the floor with us on compensation packages.

Sixth, we need a new management attitude in this country. We need the flexibility to put a labor leader on the board, the foresight to develop new techniques of cooperation in the work place, and the wisdom to avoid the temptation of preaching doctrinaire free enterprise, when we know Adam Smith went out of style decades ago.

Our worldwide competition learned that lesson a long time ago. They know how to work together to meet a national goal. It's time we learned to do that here.

During the last two years I've listened to a thousand stern lectures on the virtues of free enterprise from some of my conservative business friends and from the Nation's editorial writers. They were angry because we didn't have the good grace to walk away and let Chrysler die. There was just one problem with that line of thinking: a half million American jobs were at stake. And the so-called "little people" who held those jobs helped us wage the fight for survival.

Because we didn't quit, those half million people are still working.

Because we didn't quit, we have paid out \$4.3 billion in wages and fringe benefits since the Loan Guarantee Act was passed.

Because we didn't quit, our employees have paid over \$800 million in federal, state, and social security taxes during that same period.

Chrysler Corporation has paid direct corporate taxes to local, state, and federal governments of \$316 million since the Guarantee was passed.

We have bought goods and services worth \$7.3 billion from over 17,000 U.S. suppliers.

And we have made capital investments in new plants and modern equipment worth \$650 million since the Bill was passed.

With that economic contribution in mind, you tell me whether or not this nation has been better served because of what we did here in Washington in the winter of 1979.

The progress Chrysler Corporation has made over the past two years is living proof of how much Americans can accomplish if they work together.

Two years ago, nobody outside of Chrysler believed that cooperative effort would ever work. But it did. We're going to continue our rebuilding efforts. We're going to continue to develop new and better manufacturing systems. We're going to continue to invest in new technology. We're going to become more productive and efficient every year. And we're going to bring out new and better products every year.

We haven't lost faith in America, in American workers, or in America's ability to compete with anybody in the world.

We don't believe we have to become a service industry for the foreign workers of the world. We want to help lead the nation back to a sense of pride in our own ability.

More is at stake than the survival of Chrysler Corporation and the other basic industries of this nation. Through our collective actions, we can shape and direct the course of America's industrial progress.

No one could ask for a greater opportunity. ●

#### CONSERVATIVES SHOULD BE ENCOURAGED BY O'CONNOR NOMINATION

● Mr. GOLDWATER. Mr. President, I have stated repeatedly that certain single issue factions have unfairly and wrongly criticized Judge Sandra O'Connor's nomination.

Thoughtful media columnist and writers around the country have begun making their own investigations of Mrs. O'Connor's record and invariably, they reach the same conclusion I do—Judge O'Connor is a bright, efficient jurist with strong conservative convictions on the broad economic and social issues that are of enduring interest to the Nation.

One recent item that particularly stands out was written for the Seattle Journal-American by Don Feder, who himself is an attorney as well as a free lance columnist.

I recommend Mr. Feder's calm and reasoned article to my colleagues and ask that it may appear in the Record.

The article follows:

(From the Seattle Journal-American,  
July 14, 1981)

THE LINE IN SUPPORT OF O'CONNOR SHOULD FORM ON THE RIGHT

(By Don Feder)

While I expected Reagan's first Supreme Court appointment to be controversial, I hardly thought conservatives would lead the opposition. Yet from the moment Sandra Day O'Connor stepped into the limelight, the guns of the New Right have been trained on her.

A coalition of 21 conservative groups has called on the president to withdraw his nomination and, barring that, has promised to fight confirmation in the Senate. The coalition includes anti-abortion groups, the Moral Majority, the Conservative Caucus and the Committee for the Survival of a Free Congress.

Opposition to O'Connor seems to be focused on two issues. As a member of the Arizona Legislature, she cast several pro-

abortion votes. She was also a sponsor of the Equal Rights Amendment in her home state. On these two issues alone, the New Right has determined that O'Connor is utterly without redeeming judicial value.

That right-to-life groups are opposing O'Connor's nomination is understandable. After all, their *raison d'être* is to slug it out in the political arena on this single issue. Everything else is irrelevant to them.

That's fair enough. If O'Connor was a right-to-lifer who opposed the ERA, the feminist banshees would be walling their heads off. What puzzles me, though, is why certain broad-based conservative groups have zeroed in on her position on these two issues, to the exclusion of what appears to be, in general, an excellent conservative record—not to mention the right judicial temperament.

Jerry Falwell doesn't like O'Connor's position on abortion. Well, neither do I. But ultimately this issue will be settled by the people and their elected representatives, not the Supreme Court. O'Connor, in keeping with her philosophy of judicial restraint, has stated that the legality of abortion is best determined by the legislative branch.

O'Connor's position on the ERA leaves room for doubt. Her early support for the amendment seems to have cooled. Even assuming she's *gung ho* for the Equal Rights Amendment, is that a valid reason to oppose her? Though I've given it the Bronx cheer on more than one occasion, many reasonable people support the ERA. In my hierarchy of burning political questions, the ERA ranks somewhere between fluoridation and vivisection.

If conservatives are less than enthusiastic about her position on the aforementioned, they should find much to cheer on other issues. While in the Arizona Legislature, O'Connor voted for a resolution opposing forced busing to achieve racial integration. She voted in favor of a bill to restore the death penalty in Arizona. On the gun issue, she voted for a resolution memorializing Congress not to enact further gun control. She also supported legislation making it easier for residents of Arizona to obtain a license to carry a handgun.

Hardly sounds like a member of the radical chic, does she? Barry Goldwater, who's known the lady for over 20 years, is her most ardent supporter in the Senate.

Of far more importance than O'Connor's position on social issues is her economic philosophy. According to Goldwater's office, her court decisions show a strong regard for property rights. As majority leader of the state Senate, she spearheaded the drive for a tax and spending limitation amendment. Lewis K. Uhler, president of the National Tax Limitation Committee, speaks of her "commitment to the theory that government is getting out of hand." In a 1977 speech, O'Connor made her position quite clear, stating, it is wrong to believe that government should provide solutions for every demand. Such demands place strains on our economy and tax burdens on our citizens."

Conservatives should pay particular attention to O'Connor's judicial philosophy. Will she seek to expand the rights of criminals, or protect the rest of us from their depredations? Will she interpret the Constitution as it was written, or use it as a launching pad for flights of fancy?

I am pleased to report that O'Connor is a strict constructionist, with a genuine concern for balancing the procedural rights of the accused with the rights of victims. In her appellate opinions, she generally turned down defendants' claims that their rights had been violated. She has spoken critically of judges who acquit vicious criminals on narrow technical grounds. She's expressed frustration because, "the desire to expand citizens' civil rights has made it difficult to convict people of crimes they obviously have

committed." These aren't the beatings of a hemophilic liberal, prone to coddling criminals.

The American people should take a long hard look at Sandra O'Connor's record. If her appointment is confirmed, she could easily serve on the Supreme Court for the next two decades.

My investigation has given me much cause for encouragement. I think she'll make an excellent justice, one constitutionalists can be proud of.●

#### THE CARNIVALE BAG COMPANY: AN EDA SUCCESS STORY

● Mr. D'AMATO. Mr. President, in 1978 Carnivale Bag Co., located in the Bedford-Stuyvesant area of New York City at 543 Park Avenue, was on the verge of leaving Brooklyn for New Jersey, or even farther out. Competition from Japanese and other foreign companies threatened the survival of the company. Adverse conditions in Brooklyn only made matters worse. Yet, thanks to assistance from the Economic Development Administration, on May 16, 1980, a group of Japanese luggage industry officials visited the Carnivale Bag Co. to observe a successful American leather goods firm at work. How did this come about?

Three years ago Carnivale Bag Co. was fighting a losing battle with overseas competition from Korea and Taiwan. The company produced handbags, but those items could be produced much cheaper overseas. The company then applied to the Economic Development Administration for a \$1 million loan which was granted. With this loan, Carnivale Bag Co., a 34-year-old, family-owned business, moved to its present location from Manhattan, modernized its equipment and shifted from its retail-oriented product, handbags, to manufacturing goods like calculator cases, cosmetic kits and the like for top business corporations.

The loan, which the company is repaying at 13.5 percent interest has enabled Carnivale Bag to pay more than \$600,000 in payroll taxes to the Federal Government and has saved taxpayers \$2.5 million in welfare payments to employees formerly out of work. "Most of our employees were former welfare recipients and all came from the immediate area, such as Williamsburg, Bushwick and Bedford-Stuyvesant," says Howard Greenstein, the company's vice president. The number of employees at the 60,000-square-foot plant grew from 100 in 1978 to 375 presently with a \$2.5 million payroll.

According to Greenstein, Price Waterhouse, the third largest accounting firm in the Nation, was so impressed with the company's 5-percent-a-year growth rate that it recommended to EDA that it make a second \$950,000 working capital loan to Carnivale Bag Co. in order to allow it to expand its production facilities. Price Waterhouse predicted that Carnivale Bag Co. would, with a second loan, be able to increase the number of employees to 700 by 1982.

Thus, what the Japanese luggage officials did not know when they visited the Carnivale Bag Co. was that they were observing, not only a successful American leather goods firm at work, but one

that pulled itself up by its own bootstraps, with a little help from the Economic Development Administration.●

#### GIRL SCOUT COMMEMORATIVE STAMP

● Mr. MURKOWSKI. Mr. President, I am pleased to be added as a cosponsor of S. 1448, a bill to provide for the issuance of a postage stamp to commemorate the 70th anniversary of the founding of the Girl Scouts in the United States of America. I feel it is appropriate to recognize the contribution the Girl Scouts have made to local communities throughout our Nation.

In my own State of Alaska, nearly 7,000 girls organized in three different Girl Scout councils are involved in a variety of productive activities all over the State. I speak from experience when I praise the work of the Girl Scouts—my wife and two of my daughters have all been involved with Scouting.

Girl Scouting in Alaska, like Scouting across the Nation, is a strong, active movement which prepares girls for conscientious citizenship. Millions of Americans have reaped the benefits that Scouting provides—currently, there are over 3 million participants in Girl Scouting.

As such, it is the largest voluntary organization for girls in the world. I believe that the issuance of a commemorative stamp is appropriate and fitting recognition of the opportunities for community service which Scouting provides, and I am proud to lend my full support to this measure.●

#### PHILIP GEYELIN ON THE CONDUCT OF FOREIGN POLICY

● Mr. PELL. Mr. President, I would like to call to my colleagues' attention an excellent article by Philip Geyelin which appeared recently in the *Boston Globe*. Mr. Geyelin points out some of the problems in the Reagan administration's handling of foreign affairs and the deleterious effects these problems are having on our foreign policy.

In particular, Mr. Geyelin notes that the Reagan administration's handling of foreign affairs has been marked by a sense of lack of discipline and extreme defensiveness, of incoherence and small-mindedness, all around. This has been evidenced, according to Mr. Geyelin, in the criticism by White House aides of Secretary of State Alexander Haig. It was also demonstrated in the administration's complaints that former Secretary of State Cyrus Vance, in a recent appearance on "Meet the Press," provided grist for Soviet propaganda mills when he questioned the administration's sincerity on arms control and the way it handled the new arms-sales-to-China policy.

Mr. Geyelin points out that all the leaks and charges and countercharges are counterproductive to an effective American foreign policy. He adds that representatives of other nations are confused; they cannot tell who has the last word. I had hoped that one of the benefits of a change in administrations would be

UNITED STATES



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(PAGES 20533 TO 21843)

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LEGISLATIVE SESSION

Mr. BAKER. Madam President, I now ask that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR WEDNESDAY

##### ORDER FOR THE SENATE TO RECESS UNTIL 9 A.M.

Mr. BAKER. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### ORDER FOR THE RECOGNITION OF SENATORS RIEGLE AND COHEN

Mr. BAKER. Madam President, I ask unanimous consent that after the two leaders are recognized under the standing order that the Senators from Michigan (Mr. RIEGLE), and Maine (Mr. COHEN) each be recognized in that order for not to exceed 15 minutes on special orders.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I ask unanimous consent that after the recognition of the two leaders under the standing order and the two Senators just granted special orders there be a brief period for the transaction of routine morning business to extend not past the hour of 10 a.m. in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LEGISLATIVE PROGRAM FOR THE NEXT SEVERAL DAYS

Mr. BAKER. As some point, Madam President, I would expect this week, perhaps tomorrow, to return to the consideration of the farm bill.

After the farm bill is concluded, it is the hope of the leadership that we may proceed to the consideration of the Department of Interior appropriation bill this week.

Following on after that, Madam President, I would hope that the O'Connor nomination to be an Associate Justice of the Supreme Court of the United States would be available so that we may pro-

ceed to the consideration of that matter in executive session on Monday next.

After the disposition of the O'Connor nomination, it is the hope of the leadership that we will be in position to proceed to the consideration of the Foreign Assistance Act.

Madam President, that is a brief vignette of the legislative schedule as I see it for the next few days.

Other matters may intervene of urgent importance. Other matters, of course, will be dealt with by unanimous consent if they are available or on short-time limitations if they are required for other measures that are not very controversial.

#### INQUIRY REGARDING TIME-LIMITATION AGREEMENT ON O'CONNOR NOMINATION

Mr. BAKER. Madam President, might I inquire of the distinguished minority leader if he is in a position to agree to a unanimous-consent request in respect to a limitation of time for debate on the nomination of Sandra Day O'Connor on Monday, September 21?

Mr. ROBERT C. BYRD. Madam President, the matter is being cleared on this side of the aisle. I do not at the moment anticipate any problem, but I am not in a position at this moment to give to the distinguished majority leader an answer in the affirmative.

Mr. BAKER. I thank the minority leader. I appreciate the response and I will confer with the minority leader on tomorrow.

I have no further matters to present to the Senate, and I ask the minority leader if there is any further business he wishes to transact this evening.

Mr. ROBERT C. BYRD. Madam President, I thank the distinguished majority leader. I have none.

#### PROGRAM

Mr. BAKER. Madam President, tomorrow the Senate will convene at 9 o'clock. After the recognition of the two leaders under the standing order, there will be two special orders in favor of the Senator from Michigan (Mr. RIEGLE) and the Senator from Maine (Mr. COHEN). After the recognition of the two Senators under special orders, there will be a brief period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. during which Senators may speak for not more than 2 minutes each.

At 10 o'clock, after the orders previously entered, the Senate will resume consideration of the farm bill. It is my hope, Madam President, that we can complete consideration of the farm bill on tomorrow.

At the hour of 2 o'clock, under the order previously entered, a vote will occur pursuant to the provisions of rule XXII, on the cloture motion filed to end debate on the Johnston amendment to the De-

partment of Justice authorization bill. An order has been entered heretofore that if cloture is not invoked on tomorrow the bill will be returned to the calendar automatically.

Madam President, after the disposition of the vote on the Johnston amendment, the cloture motion vote, I hope to have a further announcement in respect to a mutually satisfactory arrangement in dealing with further consideration of the Department of Justice authorization bill.

#### RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Madam President, I now move, in accordance with the order previously entered, that the Senate stand in recess until 9 a.m. tomorrow.

The motion was agreed to; and at 6:36 p.m. the Senate recessed until Wednesday, September 16, 1981, at 9 a.m.

#### NOMINATIONS

Executive nominations received by the Senate September 15, 1981:

##### INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the 25th session of the General Conference of the International Atomic Energy Agency:

Representative:

W. Kenneth Davis, of California.

Alternate Representatives:

Richard T. Kennedy, of the District of Columbia.

Roger Kirk, of the District of Columbia.

Thomas M. Roberts, of Tennessee.

##### DEPARTMENT OF STATE

John Augustus Bohn, Jr., of California, for the rank of Ambassador, while serving as U.S. Director of the Asian Development Bank.

##### CORPORATION FOR PUBLIC BROADCASTING

Sonia Landau, of New York, to be a Member of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1986, vice Melba Fatillo Beals.

R. Kenneth Towery, of Texas, to be a Member of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1986, vice Reuben W. Askansa.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate September 15, 1981:

##### NATIONAL LABOR RELATIONS BOARD

Robert P. Hunter, of Virginia, to be a Member of the National Labor Relations Board for the term of 5 years expiring August 27, 1985, vice John C. Truesdale.

##### COMMUNITY SERVICES ADMINISTRATION

Clarence Eugene Hodges, of Indiana, to be an Assistant Director of the Community Services Administration, vice Michael T. Blouin, resigned.

Lawrence Y. Goldberg, of Rhode Island, to be an Assistant Director of the Community Services Administration, vice Robert Stern Lsndmann, resigned.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Senator from North Carolina to lay on the table the amendment of the Senator from Indiana (Mr. QUAYLE). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BUMPERS (when his name was called). Present.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG) and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from California (Mr. CRANSTON), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 61, nays 33, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—61

Abdnor	Garn	McClure
Andrews	Goldwater	Melcher
Baker	Grassley	Mitchell
Baucus	Hart	Murkowski
Bentsen	Hatch	Nunn
Boren	Hawkins	Presler
Boschwitz	Hayakawa	Pryor
Burdick	Heflin	Randolph
Byrd, Robert C.	Helms	Riegle
Cannon	Hollings	Sasser
Chiles	Huddleston	Schmitt
Cochran	Inouye	Simpson
Cohen	Jackson	Stevens
DeConcini	Jepsen	Symms
Dixon	Johnston	Thurmond
Dodd	Kassebaum	Tower
Doyle	Laxalt	Wallop
Durenberger	Leahy	Warner
East	Levin	Zorinsky
Exon	Long	
Ford	Matsunaga	

NAYS—33

Biden	Helms	Percy
Byrd,	Humphrey	Proxmire
Harry F., Jr.	Kasten	Quayle
Chafee	Kennedy	Roth
D'Amato	Lugar	Rudman
Danforth	Mathias	Sarbanes
Denton	Mattingly	Specter
Domenici	Metzenbaum	Tsongas
Eagleton	Moyihan	Weicker
Glenn	Nickles	Williams
Gorton	Packwood	
Hatfield	Pell	

ANSWERED "PRESENT"—1

Bumpers

NOT VOTING—5

Armstrong	Cranston	Stennis
Bradley	Stafford	

So the motion to lay on the table Mr. QUAYLE's amendment (UP No. 362) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, if we could have order in the Senate, I wish to make an assessment of the situation and to try to outline the course of the activities of the Senate for the remainder of the day and this evening.

The PRESIDING OFFICER. The Senate will be in order.

The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, I understand that there are a number of amendments yet to be dealt with on this bill. Notwithstanding we have spent a lot of time on it so far, and I believe we have made some good progress on some very controversial issues, there are other issues that must be dealt with and some of them are very controversial.

Mr. President, this bill has to be passed. It is not like some bills that can be dealt with in a continuing resolution very easily or may not be dealt with at all. This bill has to be dealt with and, as I announced on yesterday, it is the intention of the leadership to ask the Senate to remain in session late today. Thursday is the regular late day if there is to be a late day. Indeed, I expect this late day to be very late. I hope we can finish this bill tonight.

I will not now propound the unanimous-consent request but I shall describe a request I will put a little later in the afternoon, perhaps in the next 30 minutes or so.

At some point, when it is appropriate to do so, I shall ask the Senate to agree that we have final passage of this measure no later than 12 midnight tonight and that amendments to this bill be under a time limitation of 30 minutes equally divided.

Mr. President, I also hope that we can accommodate every reasonable amendment that Members wish to propose, but I expect that it will be very difficult to fit them all in if everyone offers them, so I hope that Senators will be frugal in their offerings and that the managers on both sides will consider carefully those amendments if they can accept or modify them to the position where they are acceptable.

I shall not now make that request, but a little later this afternoon I shall ask unanimous consent that we establish a time of no later than midnight tonight for final passage of this measure.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. BAKER. I yield.

Mr. BUMPERS. Is it the majority leader's intention to be in session tomorrow if we finish the bill by midnight tonight?

Mr. BAKER. Mr. President, I think if we finish by midnight tonight, which would mean it would be 12:30 or 1 a.m. when we finally conclude the activities of the Senate, we will not be in session tomorrow except perhaps to lay down the Department of the Interior appropriations bill and have opening statements. I would not expect tomorrow then to be necessarily a very busy day but perhaps a very short day.

Mr. President, that is the request I wish to put. I have discussed it now with a number of Senators, especially the distinguished minority leader, and after Members have an opportunity to think about that I shall propose that or some variation of that request.

Mr. FORD. Mr. President, will the majority leader yield for a question?

Mr. BAKER. I yield.

Mr. FORD. Mr. President, as the majority leader knows, it put some of us in quite a tight position. I am not sure that I can speak for my other colleagues,

but where we had three rather controversial amendments so far, there will be others, and where they have had unlimited time to discuss and debate those amendments, then the majority leader is requiring those of us, who have a problem as others have had problems, if one wishes to use that, who are just as sincere and dedicated in protecting some of ours as the others have to agree to a time limit, and I would be very, very reluctant to give the majority leader a unanimous-consent agreement 30 minutes from now or an hour from now or at midnight tonight, very frankly, because I have a dedication to one particular amendment and I intend to do the best job I can with it along with my other colleagues.

So I think the majority leader is asking those of us who have not had an opportunity yet, to agree to a time limit, and apparently the one I am primarily interested in along with some others will not be considered until the end because it is not even in the farm bill. Therefore, we put ourselves somewhat in jeopardy. I just wish to advise the majority leader of at least this Senator's feeling at the moment.

Mr. BAKER. Mr. President, I thank the Senator from Kentucky.

I have no desire to limit the scope of his opportunity to debate, but the fact remains that we have to try to finish this bill.

I think the Senator from Kentucky knows I am on the same side of the issue that he is on, and I intend to help him any way I can, but notwithstanding that I very much hope that we will give serious consideration to the possibility of a unanimous-consent request that will establish a time certain for the passage of this measure no later than, say, midnight tonight.

Mr. President, I thank all Senators, and I now yield the floor.

Mr. RANDOLPH. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. RANDOLPH. I thank the majority leader for the opportunity to follow through with a question which responds to the language that if we finish tonight that Friday would not be a very busy day. Does that include rollcalls?

Mr. BAKER. Mr. President, I cannot say with certainty. I think if we get this agreement that it is unlikely we would have rollcalls on Friday.

By the way, the distinguished chairman of the Appropriations Committee just indicated to me he would not be ready on Friday to proceed to the Interior appropriation bill, so that still further reduces the likelihood there will be any significant business to be transacted on Friday if we can finish this bill tonight.

Mr. RANDOLPH. I thank the Chair.

AUTHORIZATION FOR COMMITTEE ON THE JUDICIARY TO FILE REPORT ON NOMINATION OF JUDGE O'CONNOR UNTIL MIDNIGHT TONIGHT

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary may have until mid-



night tonight to file the report on the nomination of Sandra Day O'Connor to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

#### AGRICULTURE AND FOOD ACT OF 1981

The Senate continued with the consideration of S. 884.

The PRESIDING OFFICER. The Senator from Maine.

#### UP AMENDMENT NO. 363

(Purpose: To direct the Secretary of Agriculture to use the authority provided in section 1203 to implement a special standby export subsidy program for potatoes)

Mr. COHEN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. COHEN) proposes an unprinted amendment numbered 363.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 241, between lines 13 and 14, insert the following:

"(e) The Congress finds that Canadian domestic production subsidies and European Economic Community subsidies are causing substantial displacement in the export sales of fresh and processed potatoes produced in the United States. The Secretary of Agriculture, therefore, is directed to exercise the authority provided in the foregoing provisions of this section to implement immediately a special standby export subsidy program for the purpose of neutralizing the effects of such subsidies programs instituted by Canada and the European Economic Community countries."

Mr. COHEN. Mr. President, I ask unanimous consent that Senator MITCHELL be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate is not in order. The Senate will be in order.

The Senator from Maine.

Mr. COHEN. Mr. President, I ask unanimous consent that Bob Umphrey of my staff be granted floor privileges during the consideration of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, the principal objective of this amendment is to remedy an inequitable situation which severely inhibits the ability of domestic potato producers to penetrate foreign markets with U.S. exports. Specifically, my amendment directs the Secretary of Agriculture to implement a program of export subsidies for domestically produced potatoes to offset the generous Government subsidies provided to Canadian and European Common Market producers.

While export markets exist in Latin America, Europe, the Middle East, and North Africa, an extensive array of for-

eign subsidies and programs prevent U.S. producers from competing in these markets. Many Canadian programs—both Federal and provincial—aggressively and directly assist Canadian producers in crop production and, indirectly, in export development. In addition, other Federal Canadian programs have been instrumental in developing eastern Canadian port facilities, with an improved transportation network, and modern cargo handling facilities. These projects have enabled the Canadian potato producers to successfully compete in foreign markets for potato seed and tablestock, as well as processed products. I ask unanimous consent that a draft list of Canadian programs, prepared by the State of Maine, be printed in the RECORD, along with a report from our agricultural attaché.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### PROGRAMS FOR POTATO GROWERS IN N.B., P.E.I., AND THE STATE OF MAINE

##### INTRODUCTION

The intent of this report is to provide a summary of assistance programs available to potato growers as requested by the Marketing and Trade Committee appointed by the Main Commissioner and the Ministers of Agriculture from P.E.I. and N.B.

The programs are divided into two sections: Section I deals with programs of financial assistance. Section II covers the various programs of a technical support nature.

#### SECTION I—LOANS AND SUBSIDIES

##### NEW BRUNSWICK

N.B. Crop Insurance Program.  
Farm Adjustment Act.  
Interest Subsidies.  
Agricultural Limestone Assistance.  
Farm Development Program.  
Farm Machinery Loans Act.  
Family Farm Improvement Program.

##### PRINCE EDWARD ISLAND

New Farmer Program.  
Family Farm Development Program.  
Agricultural Limestone Incentive Policy.  
P.E.I. Crop Insurance Program.  
Potato Disinfection Service.  
Cill Burial Program.  
Seed Incentive Program.  
P.E.I. Lending Authority.  
Property Tax Credit.  
Land Development Corporation.

##### MAINE

Agricultural Conservation Program.  
Livestock Feed Diversion Program.  
Farmers Home Administration Loans.  
Agricultural Stabilization and Conservation Service Loans.  
Tax Subsidies.

##### AGRICULTURE CANADA

Fruit and Vegetable Storage Construction.  
Advance Payments for Crops.  
Agricultural Stabilization Act.  
Title: New Brunswick crop insurance program (potatoes).  
Source: Federal-Provincial.

Description: The Crop Insurance Program is designed to stabilize the income of farmers by insurance against crop loss due to natural hazards over which they have no control.

Potato crops may be insured at either 70% or 80% of the established yield (usually a six year average). The premium rate on potato coverage is 9% of which the Federal Government pays 50%. The N.B. Department of Agriculture administers the program.

Eligibility: In order to qualify for coverage, growers must:

1. Plant certified or better seed.
2. Insure all potato acreage.
3. Complete planting by June 15th.
4. Complete harvest by October 15th for Netted Gems or October 10th for other varieties.
5. Follow recommended and acceptable cultural and crop protection practices.

Budget: N/A.

Utilization: In 1980, 10,532 acres of potatoes or approximately 20% of the total provincial potato acreage was insured. From 119 accounts, total coverage amounted to 46,111,395. Preliminary figures for 1981 indicate a slight increase in these numbers. Total indemnities for 1980 amounted to \$575,000, slightly in excess of the total premiums paid.

Comments: Special coverage is available to seed potato growers with slightly higher coverage and premium rates.

Title: Farm Adjustment Act.

Source: Provincial.

Description: The Farm Adjustment Board provides loans and leases land to full and part-time farmers at low interest and rental rates, to assist farmers in establishing and maintaining economic farm units.

The Board may grant loans on the following terms and conditions:

- (a) The Board must be satisfied that farmers have the necessary abilities to establish themselves economically;
- (b) The amount and term of the loan will be determined by the Board; and
- (c) Interest shall be 5% per annum on loans approved prior to January 24, 1980 and the Provincial Lending Rate in effect on loans approved after January 24, 1980.

Eligibility: The Board may grant loans to full and part-time farmers if:

- (a) The Board is satisfied that a loan will effectively establish the farmer on an economic farm unit; and
- (b) The Board is satisfied that the applicant has the necessary ability, skill and knowledge to operate his holding in accordance with a mutually agreed management plan.

Budget: \$11,000,000 in loans and advances budgeted for 1981-82.

Utilization: During the fiscal year 1980-81, the Board disbursed \$12.8 million. Of this amount, \$12.3 was in the form of secured loans and \$0.5 million was expended for the acquisition of land to be leased to farm operators.

Title: Interest subsidies.

Source: Provincial.

Description: The Government of New Brunswick, through the Farm Adjustment Board, contributes towards interest payments on loans obtained by New Brunswick farmers from the Farm Credit Corporation, the Veterans Land Act and to new applicants of F.A.B. loans.

Budget:

F.C.C. Interest Subsidy	-----	\$1,307,100
V.L.A. Interest Subsidy	-----	15,000
F.A.B. Interest Subsidy	-----	991,400

Utilization: In 1980-81, \$1.2 million was contributed toward F.C.C. interest payments and \$10,842 went towards V.L.A. subsidies.

Title: Agricultural limestone assistance.

Source: Provincial.

Description: The objective of the Agricultural Limestone Program is to encourage the establishment of sound liming practices by providing a free soil analysis service and a contribution towards the cost of limestone transportation from the plant to the farm. Assistance rate schedules are established based on mode of transportation and distance hauled.

Eligibility: The program is available to all farmers engaged in commercial crop production. To qualify for assistance, purchasers are required to submit a soil sample for analysis.

Budget: \$430,000 has been budgeted for 1981-82.

Utilization: In 1980-81, \$346,000 was paid on approximately 49,000 tons of lime.