

No fair reading of the debates at the Constitutional Convention or the Federalist Papers does not recognize that this is a shared responsibility. The best way we carried that shared responsibility was if there is a recognition by the Executive that he or she—if at a time in the future we elect a woman—has the prime responsibility to nominate; but the final aspect of consenting is in the Senate.

The process works best when there is consultation. It works best when, as we have seen when the leader of the conservative movement in this country, Ronald Reagan, took the opportunity to select Sandra Day O'Connor, who received a unanimous vote in the Senate, a true conservative. But President Reagan was setting the path for that time, and for future times, about how to proceed.

That is the opportunity this President has at the present time. We hope he will be inspired by what President Reagan did in terms of the nominating process.

Just this past week, several of the members of the group of 14 spoke on the floor of the Senate. Just last week, Senator PRYOR gave a compelling explanation of the agreement. He said that he was puzzled because people are ignoring a section of the agreement that is as important as any other section, the part dealing with advice and consent. He spoke of the past days "of bipartisan cooperation between the executive and legislative branches of Government." He pointed out that he was a signatory to a unanimously supported letter from the Senate minority to the President calling for consensus and cooperation and calling for bipartisan consultation—the best path to a fair and reasoned confirmation process.

He did not demand that the President sit down with the 14 or pretend that they will supplant the Senate Judiciary Committee and its leaders. But he did urge the President to seek the counsel of Senators from both parties as he makes future nominations. "Their insight," Senator PRYOR said, "could help the President steer a smoother course when it comes to judicial nominations. . . . Just as the 14 Senators did their part to smooth the way for future judicial nominations, the White House [can] do their part by reaching out to the coequal branch of Government."

How can anyone argue with that wise prescription? How can anyone ignore it, since it comes from one of those who helped bring the Senate back from the brink of disaster? A President would have to be extraordinarily imprudent not to give it great weight.

Another of the signers on the agreement, Senator SALAZAR, wrote to the President last week with a clear message:

A wide ranging and good faith consultation between the executive and the Senate, as contemplated by the Founding Fathers, is the best way to smooth the path to rapid Senate consideration for all judicial nomina-

tions but will be especially important if a vacancy arises on our Supreme Court.

Another of the 14 signers, Senator NELSON of Nebraska, mentioned his own experience in selecting judges. In his letter to the President, he pointed out that even though as Governor he was not required to obtain the advice and consent of his legislature, nevertheless he consulted a great deal with them and found it "a very worthwhile and successful process."

He encouraged President Bush to reach out to both sides of the aisle "so we can move forward on future nominees in a positive and less contentious manner." Without this consultation, he said, there could be difficulties, especially regarding future Supreme Court nominations, that might provide the basis for blocking an up-or-down vote which otherwise might not exist.

Even the President has said—once—that he would consult with Senators on judicial nominations, and I urge him to do so. But as yet, there has been no meaningful consultation with the Senate. As the minority leader has made clear, off-the-cuff casual discussions about how nice it would be if a Senator were the choice is not meaningful consultation. To be meaningful, consultation should include information about who the President is really considering so we can give responsive and useful advice.

White House officials made time to meet last week with prominent outside allies on the right who are so sure the President will nominate a nonconsensus candidate that they have put an \$18 million war chest in place to defend their nominee. Their advice to the President was clear: They would consent to and support any rightwing judge he selects for the High Court. No wonder he likes to get their advice and consent.

The American people deserve a Senate that will be more than a rubberstamp for a Supreme Court nominee. A Senate that walks in lockstep with the White House is not doing its constitutional job. It is not doing the job the American people sent us here to do: to protect their rights and freedoms.

If the President abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people, then the American people will insist that we oppose that nominee, and we intend to do so.

Mr. President, I hope President Bush will follow Ronald Reagan's example and ignore the advice and arguments of those who prefer an ideological activist. He knew that the best thing for the country would be someone who we could all unite behind, and he chose such a person: Sandra Day O'Connor.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RETIREMENT OF JUSTICE SANDRA DAY O'CONNOR

Mr. BROWNBACK. Mr. President, I rise today to discuss the retirement of Justice Sandra Day O'Connor from the U.S. Supreme Court. First, I wish to applaud her public service that has been part of her entire life. She is a fantastic role model; she is a role model to two of my older of five children. My two older daughters have seen her as someone who moved into an area that had not been occupied by a woman before—the Supreme Court of the United States. One of my daughters got to meet with her at one time. It was quite an event in her life, being able to see a woman on the U.S. Supreme Court at a young age. And that has been replicated, of course, with Ruth Bader Ginsburg. Women have broken through. That will continue to be the case, and will continue to be an inspiration to people throughout the world in general, and my family in particular.

Justice Sandra Day O'Connor was raised in southeastern Arizona on her family's ranch. Her humble beginnings contributed to her appreciation for common sense and limited government, which she carried forward on the Court. She received her undergraduate degree from Stanford University; one of the great schools of our country. At Stanford, she successfully pursued a degree in economics and graduated third in her class at Stanford Law School. It was during law school that she met her husband John.

As a young female attorney, Justice Sandra Day O'Connor faced great adversity in finding employment. It does not seem possible that someone graduating third in their class from Stanford Law School would face this problem. But those were different times, and she was a woman and was looking for employment in the private sector.

She persevered, accepted a position as deputy county attorney for San Mateo County in California, where she served with distinction.

In 1958, Justice Sandra Day O'Connor began a small private practice in her native Arizona.

In 1965, after returning to work following a brief hiatus to care for her children, Justice O'Connor accepted a position as an assistant attorney general for the State of Arizona.

In 1968, she was appointed to the Arizona State Senate by the Governor to fill a vacancy. During O'Connor's tenure in the State Senate, she demonstrated wisdom and excellence to become the majority leader.

O'Connor was elected judge of Maricopa County Superior court in 1975 and served until 1979 when she was appointed to the Arizona Court of Appeals.

In 1981, President Ronald Reagan fulfilled his promise to nominate the first

woman to the Nation's top Court. Justice Sandra Day O'Connor was confirmed unanimously by the Senate.

It is hard to think of a Supreme Court nominee getting a unanimous confirmation in this body today, but it happened in 1981.

Justice O'Connor's life is a testament to perseverance, integrity, and appreciation of constitutional government. She served as a role model to a generation of women in the legal profession. I commend her for her 24 years of dedicated service to the U.S. Supreme Court.

In her letter to the President announcing her retirement, I was impressed by Justice O'Connor's reference to the "integrity of the Court and its role under our constitutional structure." I think it is important to remember that in our system of government, the courts have but limited jurisdiction: they should neither write nor execute the laws, but simply "say what the law is," in the famous phrase of former Chief Justice Marshall. As Alexander Hamilton explained, this limitation on judicial power is what would make the Federal judiciary the "least dangerous branch." They were not meant to resolve divisive social issues, short-circuit the political process, or invent rights which had no basis in the text of the Constitution.

Unfortunately, the courts in recent years have not kept themselves within the circumscribed role envisioned by the Framers. Hamilton himself likely would be shocked at the broad sweep of the exercise of judicial power in America: Federal courts today are redefining the meaning of marriage, removing the role of faith in the public square, running prisons and schools by decree, enhancing Federal power at the expense of the States and, just last week, radically expanding the power of government to take private property from one individual and hand it over to another in the name of public use; by 5-to-4 decisions—5 for, 4 against. The expanded role assumed by the Federal courts generally in recent years makes it all the more important that the upcoming nominee exhibit the proper respect for the restrained role of the Federal courts in American Government, staying within the text of the Constitution.

Given the President's repeated statements during his campaign that he would pick Justices who would faithfully interpret the text of the Constitution and the resonance his position had with the American people, I am confident that he will nominate a well-qualified individual who will refrain from making law from the bench.

I will conclude by simply saying, in the confirmation process, I hope this body can take a position where we hold fair hearings, where the nominee is not maligned by outside groups seeking to cast aspersions that are clearly not there, or trying to paint an individual where the factual setting is not there; that it will be a process of 51 votes and not 60 votes, that there will not be a

filibuster for this Supreme Court nominee position. It should not be an extraordinary circumstance. The position is to be filled by a majority vote of this body, not by a supermajority vote of this body.

I hope we could move forward with a confirmation process through the Judiciary Committee, on which I and the Presiding Officer serve on, in a timely and reasonable fashion; that we could bring the nomination in front of this body, have a robust debate on it, and then vote. The person either goes on the Supreme Court or they do not go on the Supreme Court—by 51 votes. That is what it should be. I think that is clearly the case of what was anticipated by the Framers in the overall process.

I see my colleague from Texas is here, who is to speak on the floor. I do want to end by again commending Sandra Day O'Connor's lifetime of service, the inspirational role that she has played for many people in this country—to people in my family. I thank her and say Godspeed to her and her family, and I am sure she will continue to serve this Nation.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise today to talk on two issues. First, I think everyone is talking about Sandra Day O'Connor and the great contribution she has made to our country. I am pleased to say she is a friend of mine. I have gotten to know her because we have many of the same parts of our background. Sandra Day O'Connor was born in El Paso, TX, and she actually graduated from high school in El Paso, TX. She grew up on a ranch in Arizona, and it was, of course, a remote place, so her parents sent her to high school in Texas to try to make sure she received a first-rate education.

I think we see from her record in college and law school that she did, indeed, receive fine preparation. She was one of the brightest students to come out of Stanford Law School, graduating right at the top of her class along with her classmate, William Rehnquist.

Sandra Day O'Connor is a person who has overcome obstacles, and she has done it in the most graceful way, in a way that is a role model for girls in our country, for women in our country, because she has always kept a positive attitude. When she couldn't get a job out of Stanford Law School, graduating right at the top of her class, she cajoled an offer from the county attorney in the county where Stanford was located, and was able to win that first job. Then, of course, she excelled from that time forward.

She has excelled in everything she has done. She became the leader of her party in the State Senate in Arizona. She was plucked from the State court of appeals to become a member of the U.S. Supreme Court.

When you think about it, to be thrust into this national limelight as the first

woman to become a Supreme Court Justice in our country, in 1981, this was a glaring spotlight for a young woman from Arizona who was on the court of appeals at the State level. Yet President Reagan saw something in her that was quite special. He saw that she had the leadership abilities and the basic grounding and the intellect to take this job. He really took somewhat of a chance because she wasn't the well-known commodity that Supreme Court Justices usually are. But he knew the time was right to appoint a woman to the U.S. Supreme Court and he found the woman who was the right one for the job. She earned her place in history.

As she announces today that she is taking her retirement, I think all of us who know her and have admired her for so many years do want to wish her well. We believe she deserves this wonderful opportunity to have some time for herself.

Sandra Day O'Connor also was named to the National Cowgirl Hall of Fame. That is another connection that we have. This is a wonderful museum in Fort Worth, TX, that honors the cowgirls of our country who have made a difference, the cowgirls who have shown that ranching life and that independent spirit can be the basis for success that is really unmatched. Sandra Day O'Connor is in the Cowgirl Hall of Fame and she is a real cowgirl. She did grow up on a ranch. She talks about her childhood where they didn't even have running water in her home. Growing up like that made her hardy and able to overcome obstacles.

She has made quite an impression on the Court as well. Sandra Day O'Connor has been one of those people on the Court who is a strict constructionist and who is an intellectual who is sometimes considered a swing vote, but you always know that her conservative philosophy is one that is very careful not to make laws from the bench but allows lawmakers to make the laws of our country.

I think her opinion as the dissenting opinion in the most recent case on eminent domain shows that basic conservative philosophical underpinning, saying it would be outrageous to expand public purpose in eminent domain to include private projects, even if they are private projects that are going to enhance the tax base of the city. That is not what the Constitution intended in its preservation of private property rights.

I think Sandra Day O'Connor has made an impact on the Court and an impact on our country.

I want to end my talk about Sandra Day O'Connor reading from an interview I did with her when I was interviewing for my book "American Heroines," interviewing the women of today who are breaking barriers, the women of today who are the first at something that is important. Sandra Day O'Connor, of course, the first woman on our United States Supreme Court, was one of those I interviewed.

I asked her what was her most important trait for success. And she said something I think is especially important to note today, on the day she announces her retirement. She said:

I am blessed with having a lot of energy. I think I inherited it from my mother. But to be a working mother requires an enormous amount of energy to do your job and to manage to take care of your family and to go nonstop all the time with never any personal downtime. I can't remember a time in my life when I had time for myself.

I think on the day that she is announcing her retirement, to have that time for herself, makes us understand that this is a woman who deserves, finally, to have her time for her family.

She said:

Another attribute that perhaps has been helpful is a curiosity about things, how things work. I think a love of learning and finding out about things is useful. And, third, probably, is liking people. Enjoying talking to them, whoever they are with whatever lifestyle or standard of living. I have always enjoyed talking to people. I think I got that, maybe, from my grandmother, in Texas.

So that is just one excerpt from an interview with an extraordinary woman, a woman who made her mark in the history of the United States and who will always be remembered, as we wish her well in her retirement, as one of the leaders of our time, the leaders of the last century who, indeed, did break an important barrier.

VETERANS HEALTH CARE

Mrs. HUTCHISON. Mr. President, I want to talk about the Veterans' Administration issue that we dealt with this week in the Senate. I want to bring us up to date, where we are, to try to fix some of the problems that Secretary Jim Nicholson has brought to our attention. We were hoping that the Veterans' Administration would not have financial difficulties this year. But I have to say that Jim Nicholson stepped right up to the plate when he saw that, in fact, we would have a shortfall this year, and we would need to borrow from capital funds and maintenance funds in order to make ends meet by the end of this fiscal year, September 30. He came straight to Congress. He didn't try to hide it. He didn't go and try to Band-Aid the Veterans' Administration. He came absolutely public, to the Congress, and said: We have a problem. Even though he did not anticipate it, even as late as a month ago.

But, in fact, models that have been used for 20 years in the Veterans' Administration have had to change because we do have veterans now coming out of the war in Iraq and Afghanistan. There are more injuries and fewer deaths in this kind of conflict, and I think we are proud there are fewer deaths and we are proud these soldiers who are injured are going to be taken care of.

The Senate voted unanimously this week to amend the appropriations bill

that was on the floor with an emergency supplemental of \$1.5 billion. This was the initial estimate Secretary Nicholson gave to the Committee on Veterans' Affairs about what they would need to get through the 2005 fiscal year and take them into 2006 with their preliminary estimates.

Last night, the House of Representatives passed a bill for \$975 billion as an emergency supplemental, just taking care of the year 2005. That now is resting in the Senate.

I have talked to Secretary Nicholson today. I talked to Josh Bolton at the Office of Management and Budget today. I have asked them to come back to the Senate the week of July 11, and tell what they project their needs to be for 2006. As chairman of the Veterans Affairs Appropriations Committee, along with my colleague Senator FEINSTEIN, who is the ranking member, we want to have all of the information before we mark up our 2006 budget for the Veterans' Administration which will occur July 21. I asked Secretary Nicholson and the Office of Management and Budget director to determine what is going to be needed in 2006, and if they can give us that number and assure the money will be transferred into the budget for 2006, then the Senate would pass the House bill and send it to the President so that 2005 would be taken care of. We did not want to pass that bill until we know the 2006 number is finite so we can assure we will take care of the 2006 deficit in projections. We must try to do this in July to get our appropriations bills going.

We are going to come back July 11 or 12. Hopefully, we will have numbers next week that will allow us either to pass the House bill that will take care of 2005, knowing exactly what we will need to take care of 2006, or send the \$1.5 billion that has already passed the Senate over to the House to take care of 2005 and take us into 2006 with a cushion if the Veterans' Administration says they cannot make good estimates for the rest of 2006 at this time. That is where we stand.

Here is the point I make: The Veterans' Administration, the President of the United States, the Office of Management and Budget Director—the Office of Management and Budget being responsible for being the steward of the President's budget—the Democrats on the Committee on Veterans' Affairs, the Republicans on the Committee on Veterans' Affairs, all working together along with the House of Representatives, are going to do what is right for veterans. We will not make this a partisan issue. We will not make it some test between any function of Government. We are going to do what is right for the veterans who have served our country, who are protecting freedom for our children. The money will be there. There will not be one iota of service not given to a veteran today or next week or next year. That is our commitment to them. It is part of the war on terrorism.

Democrats and Republicans are going to work together. The President is going to assure we do. The Veterans' Administration and the Office of Management and Budget are going to do the right thing. And Secretary Nicholson has already done the right thing by coming forward in a public way, being criticized by some for having made these mistakes, but saying, I am not going to let this pass for one more day. We are going to do the right thing.

Everyone is working together. We will do the right thing by the veterans. We will have a supplemental appropriation. We will get a bill to the President in very short order to make sure not one stone is left unturned to give our veterans the best care possible for the great service they have performed for our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

JUSTICE SANDRA DAY O'CONNOR

Mr. BOND. Mr. President, I rise briefly to say thank you, congratulations, and best wishes to an outstanding person, a truly remarkable jurist. That is, of course, Sandra Day O'Connor, who announced her retirement today.

A lot of people can say many good things about her service on the Court, her interpretation of the Constitution. We have heard many discussions about the wise judgment she has made.

I reflect a little bit as a personal acquaintance. Going back over 30 years when I visited my parents in Arizona, I had the opportunity to get to know John and Sandra Day O'Connor. We played a lot of tennis together. Incidentally, they are both very good tennis players. John has a great, somewhat wacky sense of humor. Sandra Day O'Connor is a truly wonderful, remarkable, warm human being.

She wouldn't tell the stories publicly, but there are a number of stories her friends know about the extra measure of kindness she showed to people in need, people who are very ill, people who were suffering. She went out of her way quietly and demonstrated a human kindness and compassion that was significant.

As has already been outlined, she had a great record, great educational record, a record of great service. When I met her, she was majority leader of the Arizona State Senate. I was Governor of Missouri. We were recruiting people to run for Governor of Arizona. I thought Sandra Day O'Connor would make a great Governor of Arizona. I made it my cause to recruit her on behalf of the Republican Governors Association to run for Governor. Then one day she told me, I have decided I am going to take a seat on the bench. I am going to become a judge. In one of those famous comments that lives with you forever, I said: Sandra Day O'Connor, it is a dead-end job being a judge in Phoenix, AZ.

I was dead flat wrong. When I welcomed her to Missouri to address the