

Mr. McCAIN. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. McCAIN. Mr. President, today we have learned that one of our Nation's finest jurists will step down from our highest court. Despite her departure from the Supreme Court, Justice Sandra Day O'Connor will leave a lasting mark on American jurisprudence characterized by fairness, balance, and integrity.

Justice O'Connor's career and service to our Nation have been truly remarkable. This country will miss her presence on the Supreme Court dearly.

Some have said that no other individual in our Nation's history has come to the Supreme Court under greater expectations. Not only did Justice O'Connor meet these expectations, she far exceeded them. When President Reagan nominated and the Senate unanimously confirmed Justice O'Connor in 1981, she became the first woman to sit on the Supreme Court and, over time, she grew to be one of the crucial swing votes on the court—her decisions driven both by her conservative sensibilities and also by her practical nature.

Justice O'Connor grew up on the Lazy-B Cattle Ranch in southeastern Arizona. She learned to drive at age 7 and could fire rifles and ride horses by the time she turned 8. Perhaps it was her Arizona roots that fueled both her pragmatism and her desire to succeed.

Mr. President, after high school, Justice O'Connor attended Stanford University where she majored in economics and graduated with high honors. A legal dispute over her family's ranch, however, inspired her interest in law and her decision to enroll at Stanford Law School. Justice O'Connor completed law school in only two years, but she still managed to serve on the Stanford Law Review and receive highest honors. O'Connor graduated third out of a class of 102. First in the class was fellow Arizonan William H. Rehnquist. I suggest that maybe we should turn to Arizona once again for a Supreme Court nominee, considering the track records of Justices O'Connor and Rehnquist.

In law school, Justice O'Connor also met her future husband, John Jay O'Connor, a fine man and husband.

Mr. President, Justice O'Connor faced a difficult job market after leaving Stanford. No law firm in California wanted to hire her and only one offered her a position as a legal secretary. Later, in Arizona, she again found it difficult to obtain a position with any law firm, so she started her own firm. It is truly remarkable to realize just how far Justice O'Connor has risen during her life despite the adversity she has faced.

After she gave birth to her second son, Justice O'Connor withdrew from

her professional life to care for her children. Nevertheless, she became involved in many volunteer activities during this time. She also began an involvement with the Arizona Republican Party. After five years as a full-time mother, Justice O'Connor returned to work as an assistant State Attorney General in Arizona. Arizona Governor Jack Williams later appointed her to occupy a vacant seat in the Arizona Senate. O'Connor successfully defended her Senate position for two more terms and eventually became the majority leader. By rising to the position of majority leader, Justice O'Connor achieved another first for American women.

In 1974, Justice O'Connor ran and won a judgeship on the Maricopa County Superior Court, which resulted in her service in all three branches of Arizona government. A year later, she was nominated to serve on to the Arizona Court of Appeals. Almost two years after that, President Reagan nominated her to the Supreme Court to replace the retiring Justice Potter Stewart. The Senate rightly confirmed O'Connor's nomination unanimously and the Court soon abandoned its use of "Mr. Justice" as the form of address. Justice O'Connor herself described the significance of her nomination in the following way. She said, "A woman had never held a position at that level of our government. And it was a signal that it was all right that women could be in such positions. That they could do well in such positions."

Mr. President, Justice O'Connor brought to her position on the Supreme Court her remarkable life history characterized by independence, perseverance, and achievement. Early in her tenure on the Court, observers identified her as part of the Court's conservative faction. The public often associated her with Justice Rehnquist because of their shared roots and values. Over time, though, Justice O'Connor combined her conservative sensibilities with a desire to find pragmatic solutions based on sound legal interpretation. She approached each case thoughtfully.

It will be difficult to fill the void that Justice O'Connor's resignation has created, nor can anyone assume a similar place in American history. There can be only one first, and Sandra Day O'Connor was it.

Mr. President, very rarely do I presume to speak on behalf of all of the citizens of my State of Arizona. But I know, with confidence, that I do so now when from the bottom of our hearts we thank Justice O'Connor for her magnificent service to her State and to her Nation. She and her magnificent husband John will be in our thoughts and prayers as they enter the struggle ahead. We are confident that with her traditional courage, she will face this new challenge and emerge victorious. We thank her for her service. We thank her for her family. We are, most of all, confident that Americans

and Arizonans will remember her with great pride.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

#### BEST WISHES TO JUSTICE O'CONNOR

Mr. KENNEDY. Mr. President, I join my friend and colleague, the Senator from Arizona, Mr. McCAIN, in extending my best wishes to Justice O'Connor and thank her for her long and dedicated service to the Nation. She was a cheerful and thoughtful and highly respected member of the Court, a wise judge who served the Nation and the Constitution well.

Justice O'Connor was a mainstream conservative and was confirmed unanimously by the Senate. I hope the President will select someone who meets the high standards that she set and can bring the Nation together, as she did.

Our Senate debates in recent weeks have included extensive discussions on the need for consultation by the President with the Senate on potential Supreme Court nominations. But such consultation was not mentioned by the majority leader in his address on judges earlier this week, and the omission is glaring, since consultation is the heart of the "advice" requirement in the constitutional requirement that the President appoint judges with the "advice and consent" of the Senate.

Under the Constitution and the Senate rules, every Senator's hands are on the oars of this vessel. If a substantial number of us are rowing in the opposite direction from the majority leader, we will not make much progress. But if there is a consensus as to where we want to go, we can get there directly and quickly.

The 14 Senators who reached the landmark bipartisan compromise in the nuclear option debate made a pledge to one another and a plea to the President that the advice function must not be given short shrift, and that serious consultation with the Senate in the nomination process is the key to a successful confirmation process.

Separate and independent assessments of nominations by each Senator are precisely what the Framers wanted us to do. They wanted Senators to be a check on the Executive's proposed judicial selections as a safety net for the Nation if the President overreaches by making excessively partisan or ideological nominations.

Mr. President, all one has to do is read the debates of the Constitutional Convention. Our Founding Fathers considered where to locate the authority and the power for the naming of the judges on four different occasions. On three occasions, they gave it unanimously to the Senate—to nominate and to approve. And only in the last 8 days of the Constitutional Convention did they change that to make it a balance between the Executive and the Senate of the United States.

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