

Justice Sandra Day O'Connor: The Framers' "First Woman"

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Sandra Day O'Connor's appointment to the Supreme Court was a historic stride in American women's slow but determined march towards full equality. At our nation's birth, Abigail Adams urged her husband and other members of the Continental Congress to "Remember the Ladies" in their new government.¹ "We know better than to repeal our Masculine systems," John Adams replied only half jokingly.² More than two centuries would pass before a woman donned Supreme Court robes to help interpret the United States Constitution.

Justice O'Connor's 1981 confirmation struck a chord with women and men around the world. Letters flooded the new Chambers, offering congratulations and rejoicing in this affirmation of women's ability to lead. Citizens wrote movingly about how the appointment of a woman to the Supreme Court had inspired them and their daughters to set higher goals.

During that first Term, as in all those succeeding it, Justice O'Connor assumed two vital roles. In the first, she symbolized the new role of women in public life. She had married and raised three sons, but she had also practiced law, prosecuted crimes, led the majority in her state senate, spearheaded civic reform movements, and served with distinction as a state judge. On the Supreme Court of the United States, she demonstrated daily that

women could reach the highest levels of their professions and public life.

But role models have day jobs as well; O'Connor's second professional role was the demanding one of Supreme Court Justice. From the first Term, she showed her strength on the Bench. Lawyers quickly learned to prepare for her questions, which were likely to penetrate the weakest corners of their arguments. O'Connor authored key decisions, as well as noteworthy concurrences and dissents, from her very first year.

The O'Connor Chambers, like others at the Court, acquired its own culture. George Catlin's paintings of the American West adorned the office walls. The Justice gained a nickname, "SO'C," from participating in the cert pool. A first-year outing to the Smithsonian's Museum of African Art set the pace

for annual Chambers' expeditions. And an early morning exercise class attracted women from throughout the building, spawning a memorable t-shirt: "Women Work Out at the Supreme Court."

Through it all, the press and public watched to see how a "woman Justice" would differ from the men she joined. But O'Connor's voice was more centrist, pragmatic, and Arizonan than distinctively female. She displayed keen attention to the facts of each case, deciding disputes in the careful fashion of all thoughtful jurists. She respected state lawmaking, jury deliberations, and the discretion of lower-court judges.

Justice O'Connor also gave special voice to the intentions of the Constitution's Framers. Like them, she grew up in a half-wild, half-tamed land. Like them, she had to fight for equal treatment. And like them, she experienced dizzying change in her lifetime. John Adams evolved from British subject to President of a new nation; Sandra Day O'Connor advanced from offers of secretarial work to Supreme Court Justice.

O'Connor's judicial opinions reflect the Framers' respect for individual liberty. She shares their commitment to personal freedom and government restraint. At the same time, her jurisprudence reflects the Framers' recognition that individual liberty sometimes requires restraining the majority's will. As O'Connor explained in the last opinion she authored before announcing her retirement, "[W]e do not count heads before enforcing the First Amendment."³ To do so would contradict "the Founders' plan of preserving religious liberty . . . in a pluralistic society."⁴

O'Connor's own appointment to the Court symbolizes both our pluralistic society and the resilience of the Framers' constitutional design. John Adams and his colleagues surely did not intend an Arizona cowgirl to sit on the Supreme Court. But they created a Constitution strong enough to embrace territorial, cultural, and civic growth. The Framers were men of the Enlightenment who believed in progress.

They knew that their new nation would expand and that its citizens would outgrow eighteenth-century prejudices. Some day, slavery would end; some day, women would join men as the nation's leaders. The Framers crafted a Constitution that would propel the rule of law into that future.

Sandra Day O'Connor helped direct that movement, first by taking her seat on the Court and then through a quarter century of judicial decisions. Building on the Framers' efforts, she also worked to communicate constitutional principles to others. O'Connor added a third shift to her official duties, sharing insights about the rule of law with emerging democracies worldwide. In "retirement," she will continue to promote knowledge of the judicial role both at home and abroad.

During her first Term on the Court, Justice O'Connor authored an opinion declaring unconstitutional an educational scheme that reflected the "mechanical application of traditional, often inaccurate, assumptions about the proper roles of men and women."⁵ For those "mechanical . . . assumptions" O'Connor substituted "reasoned analysis."⁶ Women can do the work of men, and the rule of law has room for us all.

Justice O'Connor's own life and work elegantly embody the force of "reasoned analysis" in place of "mechanical assumptions." The Constitution's Framers would have loved Sandra Day O'Connor—and Abigail Adams would be proud.

ENDNOTES

¹Letter from Abigail Adams to John Adams, 31 March – 5 April 1776, Adams Family Papers: An Electronic Archive, Massachusetts Historical Society, <http://www.masshist.org/digitaladams/aea/> (last visited May 29, 2006).

²Letter from John Adams to Abigail Adams, 14 April 1776, *id.*

³*McCreary County v. ACLU*, 125 S. Ct. 2722, 2746 (2005) (O'Connor, J., concurring).

⁴*Id.* at 2747.

⁵*Mississippi University for Women v. Hogan*, 458 U.S. 718, 726 (1982).

⁶*Id.*