

Don't Call Her Madame Justice

In the few months since her appointment, Supreme Court Justice Sandra Day O'Connor has made quite an impression on the public and the press. Here's what Washington insiders have to say about the most powerful woman in the land.



By Karen Feld

Washington eagerly awaited the first Monday in October. Last year, in anticipation of having a woman named to the Supreme Court, the brethren dropped the formality of "Mr. Justice." Sandra Day O'Connor, who wants to be called either "Your Honor," or "Justice

O'Connor," has been described as "extraordinary" and "impressive" by those who know her. "She's not just a lady, but an extraordinary one," says Deputy White House press secretary Pete Roussel, who was assigned to her during the confirmation process.

But now, nearly four months later, the nature and extent of the contribution of the first woman Associate Justice to the Supreme

Court is very speculative. It is unclear whether she is a moderate or a conservative. But one thing is certain — she is not just a token woman.

"She's an extremely bright lady with a diverse background, very well-trained in the law, a precise, hard-working, thorough, no-nonsense person," says Joan Dempsey Klein, Presiding Justice, California Court of Appeals, Los Angeles, and the first president of the National Association of Women Judges. The two became friends in 1980 when Judge Klein assisted O'Connor in organizing a statewide women lawyers association in Arizona. They had an opportunity to chat in November at the annual convention of the women judges association in Detroit. "I find her to be a warm and very sincere, well-adjusted person. She has a sense of the importance of the role that she has, but she also has a sense of who she is and where she came from." For example, when asked by reporters why she was attending the women judges convention, O'Connor replied, "I was a trial judge. I'm a member of this group. I'm here because I want to be here."

She is very supportive of women professionals. Possibly she hasn't forgotten the discrimination she experienced as a young law school graduate. Although ranking near the top of her class, she was only offered a job as a legal secretary, and was denied the position of attorney at law firms to which she applied for employment. "Keep your enthusiasm, support and affection to help other women to reach goals you want to achieve," she told a group of women lawyers in Washington recently. She pointed out that five women have applied for her former post in Arizona.

DO IT YOURSELF

"She is not in any way fragile or prim," says one friend. Indeed, in 1958, she and her husband, John, a corporate attorney, built their adobe home by hand in Paradise Valley in Phoenix. When they moved to Washington before her confirmation hearings last summer, they rented an apartment in the fashionable Watergate complex. In mid-November, after husband John announced he was joining Miller-Chevalier, a highly regarded Washington law firm specializing in Federal tax matters, they purchased a four-bedroom condominium (listed for \$375,000) in

Washington's exclusive Kalorama area. They personally moved their belongings in a rented U-haul — something rarely done in image-conscious D.C. — especially if you happen to be the most powerful woman in the land.

During her confirmation hearings, her brother-in-law, former Arizona legislator, Scott Alexander, stayed in her Watergate apartment while pursuing his own business meetings. One mid-level bureaucrat remarked to Alexander, "I wasn't going to see you, but your secretary was so persistent." His "secretary" turned out to be sister-in-law Sandra, who answered the phone when the man returned Alexander's call.

"She is persistent," agrees Powell Moore, White House Congressional liaison, who worked closely with her during the confirmation hearings. "But she's a pleasure to work with because she understands politics." And she is a politician, having served as majority leader in the Arizona State Senate.

WHAT WILL SHE DO?

If Justice O'Connor follows the example of her colleagues, it is possible that we will not hear from her in any dramatic way for some time. During the course of her first term on the Supreme Court, she can be expected to write the average 10 or 11 major opinions. She wrote her first on December 1. Joined by all the other justices, she rejected efforts to force a change in the government's system for awarding offshore oil leases.

The court doesn't really gear up and begin issuing decisions until this month. Although she has disqualified herself from an unusually high number of cases thus far (probably because of conflicts with her husband's Phoenix law firm), she does actively question in arguments. She's alert, aware of what's going on, and well-prepared before she comes to the bench.

WHAT THE LAWYERS SAY

"She's been asking some of the best questions of the term. She goes right to the heart of things," says one attorney who argued a case before her last autumn. "I've been very impressed with her in some cases that involve Federal laws, in which I would not have expected her to have much experience in the state court," says another. "You get the feeling that she's concerned about these things and her concerns are directed appropriately. I've noticed

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that she really seems to be concerned with the equities of the situation."

Steven Brill, editor of the *American Lawyer*, describes her as "one tough cookie," afraid of neither lawyers nor decisions. She has been known to overturn verdicts or declare mistrials based on lawyer incompetence. "Her harsh treatment of incompetent or unprepared lawyers suggests that her deference to the law and to the sanctity of the process is her overriding ideology," says Brill.

Although she has been well-prepared, and her performance to date has been solid, she has taken only a few actions so far that give some indication of where she stands on issues.

She joined her Stanford Law School classmate (and the Court's most conservative judge), Justice William H. Rehnquist, in his dissent about federal courts overseeing state courts. Her record on the Arizona Court of Appeals shows that she has been a strong believer in the value of the state court system.

SURPRISING ACTIONS

Her chief critics are members of the New Right. John Lofton, editor of *Conservative Digest*, criticized this first action. "This provided an early opportunity to practice what she has preached regarding the wisdom of allowing state courts to rule first on the constitutionality of state statutes. Justice O'Connor declined to do so. One swallow does not a summer make, but those who attempted to sell Mrs. O'Connor as a judicial conservative must certainly be gulping over this decision."

There has been some speculation that she may prove to be a Rehnquist clone. When Judge Klein mentioned that to her in November, she responded: "I think people are going to be very surprised by my performance on the court."

"I personally don't see her as anybody's clone. She is a very independent lady," says Judge Klein. Although her appointment has been thought of as a quiet, conservative way for the court to break the sex barrier, she may surprise people.

In her first public vote on an issue which was seriously contested among the justices, she sided with Justice William Brennan, rather than with Justice William Rehnquist, who wrote the ruling barring property taxpayers from suing local officials for damages in federal courts under civil rights laws.

OTHER DECISIONS TO NOTE

• She has not joined Justices Marshall and Brennan in their opposition to the death penalty.

• She joined the majority in striking down an obscenity law in the state of Washington. The law provides for the closing of adult theaters and adult bookstores without any kind of significant judicial review.

• She joined her male colleagues in refusing to intervene in a lawsuit where a public school system in Illinois refused to allow a girl to try out for a boys' basketball team.

"She is very cognizant of the importance of her role to women," says Judge Klein. She disqualified herself, however, on the first case that presented a women's issue where her vote might have been significant.

The case concerned what military personnel could do with their pensions. A serviceman was divorced, remarried and changed the beneficiaries of his pension from his first wife and three kids to the new wife. The court took the position that the man could do that. Justice O'Connor disqualified herself because her husband had done some work for one of the insurance companies involved.

"If her sensitivity to women as a group is any indication, I think she will be a force for good in some realistic evaluation of women's problems by the court," says Judge Klein. "(Her presence will cause) some raising of consciousness among her brethren as to women's positions."

NOT SOCIALLY INVISIBLE

Not only has Justice O'Connor kept pace with the workload of her new job, but she also makes time for her family. She has three sons: Scott, 23, who graduated from Stanford last year; Brian, 21, a student at Colorado College; and Jay, 19, a sophomore at Stanford. The O'Connors have become an integral part of the Washington social scene.

At a small dinner hosted by Arizona Sen. Barry Goldwater, Justice O'Connor asked society stockbroker Bill Cook, "Do any of the Justices have any fun?" While the other justices have remained invisible socially, that is not the nature of the youngest sister of the brethren. She was the center of attention at the White House state dinner for King Hussein and Queen Noor of Jordan.

Mrs. Strom Thurmond, wife of the Senate Judiciary Chairman, hosted a tea for 600 women in honor of Justice O'Connor on the final day of the Senate confirmation hearings. On this occasion and on many since, the junior justice has found herself graciously shaking hands and making small talk in receiving lines. "She can work a crowd beautifully in such a natural, unassuming way that you instantly like her," says Jean Cooper,

Administrative Judge, HUD Board of Contract Appeals.

SPORTING JUDGE

Justice O'Connor and the women on her staff pooled funds to organize an aerobic exercise class that meets each morning in the Court gymnasium. She is a strong athlete — one of the Supreme Court's best tennis players and golfers. Her Washington tennis partners include Sen. Paul Laxalt of Nevada, Vice President George Bush and a Court police officer.

Husband John laughs as he talks about reporters who call their 19-year-old son Jay to ask

"recreational questions" about her tennis and golf game, and then throw in, "What does she say about abortion?"

"The American people deserve freedom from the O'Connors for a while," says John O'Connor. But the public naturally wants to know everything about her.

COURT STAR

Reporters loved the story about her winning a trip for two to Morocco at the Wolf Trap Ball in

September. "It's nice to be in Washington. I didn't know you were trying to get rid of me so soon," she remarked when the doorprize was announced.

Although she has tried to maintain an unassuming daily routine, she has made a splash at the Court, where public attendance has increased by 30 per cent since her arrival. Two copies of the Declaration of Independence autographed by her brought \$240 at a charity auction. Little did she know that the money was destined for the Sigma Delta Chi legal defense fund, which helps support court actions favorable to journalists.

In Washington, the O'Connor hoopla continues. "It's taken 190 years for a woman to be named to the Court," says Rep. Peggy Heckler (R-Mass), dean of congressional women and co-founder of the Congresswomen's Caucus, who insists it was she who first suggested to then-candidate Reagan that he appoint a woman to the High Court. "This is a good beginning. It's inspirational. She's an ideal choice." ■