

New Justice Is Low-Keyed, Relatively Uncontroversial O'Connor Takes Oath As Justice

By Fred Barbash
Washington Post Staff Writer

She's been called "extraordinary," "outstanding," "truly outstanding" and "the best thing since Girl Scout cookies." Speechmakers in the Senate called her appointment "historic," "truly historic," "a landmark" and "monumental."

It is just possible that sometimes Sandra D. O'Connor may not recognize the woman she reads about and sees on television so often these days. That is because her history and her testimony during her confirmation hearings suggest that she has arrived where she is by being relatively uncontroversial, by being low-keyed, by appreciating the fine detail rather than the cosmic sweep, by keeping out of trouble, rather than by making trouble.

Her achievements have been solid. But no one who knows them calls them brilliant or inspired. In that respect, she is no different than many other appointees to the U.S. Supreme Court.

And if she follows the example of many of them, it may be that she will not be heard from in any dramatic way for some time. She may burrow into the marble palace for months or years before making a mark. Then again, she could begin in a burst of glory. But that would not be her way.

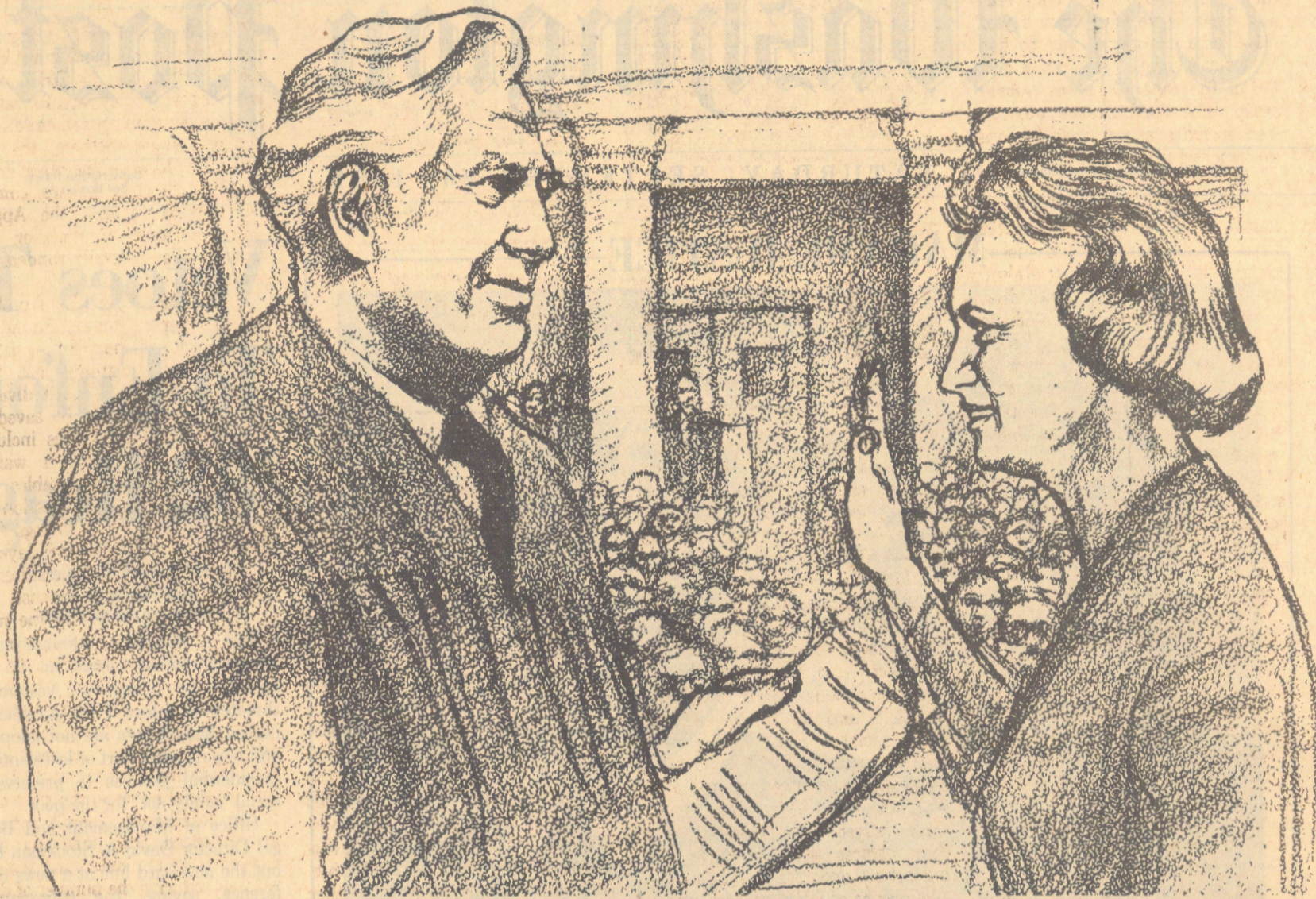
The court, the late Chief Justice Harlan Fiske Stone once said, is "nine quiet old boys." Make that eight quiet men and one probably very quiet woman.

She appeared uncomfortable at the beginning. When she first came to town, she seemed visibly stunned, even a bit shaken, by all the attention she was getting. "I've never seen so many reporters, cameras, all in one place," she would say, smiling nervously through her teeth as she trekked from office to office paying courtesy calls on senators and refusing to answer even the most innocuous questions asked by the mob of reporters trailing her.

During the confirmation hearings, she said then, she would have much more to say.

Then came the confirmation hearings. But there, her favorite response to potentially controversial questions seemed to be that "it wouldn't be appropriate" to give her views.

To some extent, her reticence was



Chief Justice Warren E. Burger swears in Associate Justice Sandra D. O'Connor, the first woman to sit on the Supreme Court.

Drawing by Peggy Gage for The Washington Post

traditional, designed in part to avoid prejudicing her future on the court and in part to avoid a controversy that might upset her confirmation. But it is also possible that this is her way.

One of her family's best friends, Arizona businessman Donald Myers, described her this way: "She is somebody who has run a middle-track down the road of reasonableness."

"She's not a colorful character," said Charles E. Ares, a University of Arizona law professor who has watched her career. "She's conventional. She exhibits all the traditional conservative traditions of lawyers: conservative in dress, conservative in demeanor and conservative in what she expects from the law."

She is, also, of course, the first

woman justice on the Supreme Court. But her record, sponsoring bills eliminating gender distinctions in Arizona law, shunning champion-ship of the Equal Rights Amendment, suggests that she believes in incremental progress, not great leaps forward.

She was disappointed, she said, not angry or bitter, when she couldn't find a job in a major law firm though she had ranked near the top of her graduating class at Stanford University Law School in 1952.

She is conservative on many social issues: abortion, school busing, the rights of criminal defendants, she indicated at her confirmation hearings, and she is clearly critical of the judicial "activism" of the Warren era at the Supreme Court.

But with equal conviction, O'Connor said she believes in leaving precedents alone for that is what brings order to the legal system.

All this will not stifle the fuss over her appointment. Attention will inevitably focus on the first question at the first oral argument by the first woman justice, the first vote by the first woman, the first opinion, the first dissent and the first mistake.

The court, up to now, has been a great male fortress, where the most prominent female was the statue "The Contemplation of Justice" at the main entrance.

The court's most famous previous encounter with a woman lawyer came in 1873, when the justices ruled 8 to 1 that the state of Illinois could exclude a woman from the practice of law because she was a woman.

"The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life," wrote concurring Justice Joseph P. Bradley.

Many women lawyers have tired of the hype surrounding the appointment. But few dispute its significance. "It's subtle," said Georgetown law professor Wendy Webster Williams. "It's important to have people whose life experience brings something to the court. It has been im-

portant to have someone who has grown up black in this country. Justice [Thurgood] Marshall has made a clear contribution.

"The same is true of women. It is important that she has had children, that she has interrupted her career to raise them, that she has faced exclusion because of it. It is an enriching perspective for the court."

The role model business "isn't a hype either," she said.

"I felt this kind of weird joy when the appointment was announced," said Williams, "and so did every other woman lawyer I know, even though some of them thought she'd be a disaster."

O'Connor's appointment comes at a time when young women are literally flooding the legal profession. When O'Connor graduated from law school, for example, fewer than 2.5 percent of the nation's lawyers were women. As of 1980, 7.5 percent were women, according to a recent American Bar Foundation study.

Women now constitute one third of the young lawyers, those 26 and under, which suggests that if the increase continues, well over half the nation's lawyers could be women by the year 2000.

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Sandra D. O'Connor became an associate justice of the Supreme Court yesterday, the first woman in U.S. history to bear that title.

Chief Justice Warren E. Burger administered the constitutional oath of office at 2:16 p.m. before about 400 dignitaries and friends of the O'Connor family who packed the mammoth Supreme Court chamber.

"Justice O'Connor, welcome," Burger said simply. Then, after being helped into her black judge's robe, O'Connor took the chair assigned to her by seniority, the one on the end of the bench to Burger's extreme left.

Sitting next to her was her Stanford law school classmate, Justice William H. Rehnquist.

From the raised bench, where no woman has sat in the 191-year history of the Supreme Court, she smiled down on President Reagan just below her.

O'Connor is the 102nd justice and the first appointment to the court by Reagan. At 51, O'Connor is the youngest member of the court, which has five justices over 70.

Her first public appearance at the court came at noon yesterday. She and Burger, his snow-white hair glistening in the sun, descended the front steps to pose for pictures. Burger clutched her arm and commented to reporters that "You've never seen me with a better-looking justice."

O'Connor's husband, three sons and mother and father joined them on the court plaza for the pictures. She shouted to a friend to take pictures of the photographers for her scrapbook.

She then went inside to take her first oath of the day, the "judicial oath," which calls upon her to "do equal right to the poor and to the rich," in the privacy of Burger's chambers.

Shortly after 2 p.m., Supreme Court chief clerk Alexander Stevas escorted her into the silent but jammed Supreme Court chamber, where she sat alone in a chair used by Chief Justice John Marshall in the 19th century.

Attorney General William French Smith presented her to the eight other justices. Placing her left hand on a Bible and raising her right hand, she took the constitutional oath, swearing that she will "well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

YUMA DAILY SUN
YUMA, ARIZ.
SEP 25 1981
MAR JON



AP Laserphoto

Sandra O'Connor, Chief Justice Burger pictured prior to swearing-in ceremonies

O'Connor sworn in today

WASHINGTON (AP) — Sandra Day O'Connor raised her right hand and swore the oath of office today as the 102nd American — and the first woman — to sit on the Supreme Court.

Justice O'Connor, an Arizona appeals court judge before she was picked to become an associate justice of the nation's highest court, promised to uphold the Constitution and "faithfully discharge the duties of my office."

Asked by Chief Justice Warren E. Burger if she were ready to take her oath, Mrs. O'Connor replied in a steady voice: "I am."

With her right hand aloft and her left hand on a Bible, Mrs. O'Connor completed the oath flawlessly.

Burger was the first to call her "Justice O'Connor" as he welcomed her to the court.

Two hours before her

swearing-in, Mrs. O'Connor posed for photographers and television camera crews in the brilliant sunlight of the court's massive front plaza.

She was accompanied by Burger, who asked photographers, "You've never seen me with a better looking justice, have you?"

She was dressed in the robe she wore as a state judge. "I'll buy a new one eventually," she said. "They do get old, you know. The arms get all worn out."

The chief justice suggested that Congress might be willing to appropriate funds for a new robe.

Mrs. O'Connor, her arm held by Burger, posed with her parents, Harry and Ada Mae Day; her husband, John; and their three sons.

Mrs. O'Connor appeared relaxed, and laughed heartily as a close

family friend, former Phoenix Mayor John Driggs, turned the tables on reporters and photographers and began taking photos of them at work.

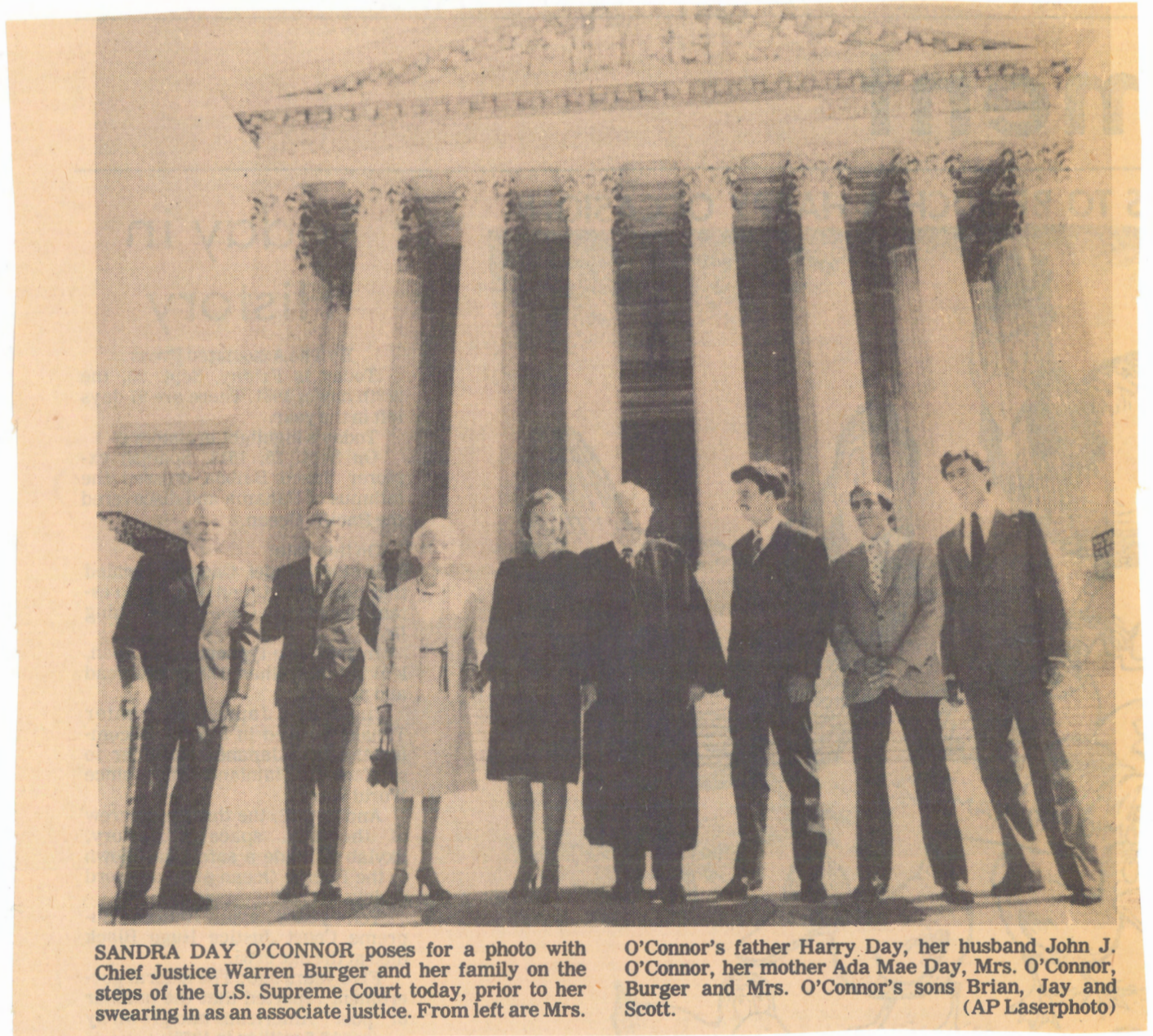
President Reagan, who broke a 191-year, all-male tradition when he appointed Mrs. O'Connor to the lifetime job, was among some 500 guests invited to watch as Burger administered her oath of office.

Also invited was retired Justice Potter Stewart, the man Mrs. O'Connor was picked to succeed.

Following a court tradition, Mrs. O'Connor had to take two oaths, one during a private meeting of the justices and the other in the marble and mahogany courtroom.

The first is a constitutional oath in which Mrs. O'Connor must state: "I do solemnly swear that I will

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SANDRA DAY O'CONNOR poses for a photo with Chief Justice Warren Burger and her family on the steps of the U.S. Supreme Court today, prior to her swearing in as an associate justice. From left are Mrs.

O'Connor's father Harry Day, her husband John J. O'Connor, her mother Ada Mae Day, Mrs. O'Connor, Burger and Mrs. O'Connor's sons Brian, Jay and Scott. (AP Laserphoto)