



PRESS RELEASE

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Presidential Libraries Conference in Hyde Park
Debates the Separation of Presidential and Judicial Powers
Justice Sandra Day O'Connor Keynotes

Hyde Park, NY – Speaking to the complex relationship between the Executive and the Judicial branches of government, former Supreme Court Justice, the **Honorable Sandra Day O'Connor** called this “a remarkable time to be considering the issue of separation of powers and what it means in time of stress or war.” O'Connor delivered the keynote address at the two-day Presidential Libraries Conference held at the Franklin D. Roosevelt Presidential Library and Museum in Hyde Park, NY.

Presented by the nation's twelve Presidential Libraries (from Hoover to Clinton) and their foundations, the conference assembled a unique blend of brainpower and knowledgeable insiders. They enthusiastically and occasionally heatedly debated the presidential politics that in turn have helped shape Supreme Court appointments and decisions from the 1930s to the present day.

Prominent participants included **Allen Weinstein**, Archivist of the United States and **Sharon Fawcett**, Assistant Archivist for Presidential Libraries. National Public Radio Legal Affairs Correspondent **Nina Totenberg** who moderated many of the conference sessions, called the Presidential Libraries “part of our national DNA.” Justice O'Connor said “I adore presidential libraries. I've visited a lot of them and its so much fun to go.”

Anna Eleanor Roosevelt, FDR's granddaughter and co-chair of the Franklin and Eleanor Roosevelt Institute, said that "It couldn't be a more poignant moment for us to gather to consider the relationship of leadership and the judiciary, specifically the Supreme Court. We've been reading these last several days about events in Pakistan which shock and dismay us, as well they should. But we can't even enter into that discussion with dignity if we first don't look at ourselves."

Former President **George H.W. Bush**, addressing the conference by video, stated that the separate branches of government are a "...subject that bears importantly on the lives of ordinary Americans, yet so few of our fellow citizens understand the many ways in which these two great branches of government have mutually shaped our lives and our history."

Deliberating on the influence of the Supreme Court on Civil Rights, **Alan Brinkley**, Provost of Columbia University, commented that "The Supreme Court is in some respects the most respected of all of our governmental institutions.... Yet at the same time, as we know from our own recent history, the court is also always the center of controversy."

Scholars and Judges, Archivists and Ambassadors Debate Complex Relationship

In her keynote speech, Justice O'Connor commented on an influential childhood encounter with Eleanor Roosevelt, saying "I will never forget that day, she made such a wonderful impression. I've met very few people in my life—a few like Nelson Mandela, Eleanor Roosevelt—who immediately on meeting them you know they're special. And she was." Justice O'Connor gave examples of four classic confrontations between the Presidency and the Supreme Court beginning with Thomas Jefferson and Chief Justice John Marshall which led to the landmark *Marbury vs. Madison* decision with its impact on judicial powers. O'Connor spoke of the President Lincoln's battle with Chief Justice Roger Taney when Lincoln suspended the right of *habeas corpus* during the Civil War, of FDR's court expansion plan from which she said the Court emerged "larger in influence, if not in numbers, and much more keenly aware of its sometimes tenuous, but

always interesting, relationship with the Presidency.” She also referred to Harry Truman’s 1952 seizure of the Youngstown steel mills when he expected the Supreme Court to back him but it did not. O’Connor ended on an optimistic note. “As we face the trials we do today-and we have some major ones with separation of powers issues–I think we can find hope in the dignity with which the presidents and the judiciary have emerged from even the rockiest episodes of the past.”

C. Boyden Gray, currently U.S. Ambassador to the European Union brought a broad perspective having clerked for Chief Justice Earl Warren and served as White House Counsel to President George H.W. Bush.” Gray, along with former White House Counsels **John Dean** (to President Nixon) and **Beth Nolan** (to President Clinton), represented the perspective of the Executive Branch. Comparing Presidential powers during World War II and the present “War on Terror,” **Anthony Lewis**, former *New York Times* columnist, felt that the “assertions of unilateral executive power have a unique danger that we ought to care about.” Totenberg and Nolan said the comparison turned on an unspoken factor. In World War II the war was perceived to have an end in view. Said Nolan, “the far reaching effects today make it different from any other (period).”

Regarding the system of checks and balances, St. John’s University Law Professor **John Q. Barrett**, who helped assemble the conference, felt that many members of Congress today do not recognize their role in the separation of powers. Quizzed by Totenberg on how the government can avoid allowing perceived threats to lead to “things we’re going to be ashamed of,” Barrett said “I think the short answer is...we won’t know until later. When the executive branch fails I think is when it stops looking at its watch. When it says, ‘we are on a course, this is our course forever, the stakes are always the same.’ The stakes change.” Former Maryland Senator **Paul Sarbanes**, who attended the conference as a member of the board of the Franklin and Eleanor Roosevelt Institute, was plucked from the audience by Totenberg. Sarbanes said that the process of checks and balances falls down in the authorizing of the use of military force. “There have been no declarations of war since World War II. Will we ever have one again?”

The conference, attended by more than 400 people each day had an audience filled with judges, including the **Honorable Judith S. Kaye**, Chief Judge of the State of New York who greeted the conference, numerous attorneys including FDR's grandson, **Christopher Roosevelt** and legal professors. Other panelists included: **Jonathan Alter** (*Newsweek*) Provost **Alan Brinkley** (Columbia University), Professor **Douglas Brinkley** (Rice University), Professor **Michael C. Dorf** (Columbia University School of Law), Professor **Norman Dorsen** (former president ACLU and NYU School of Law), Professor **Heather Gerken** (Yale Law School), Hon. **Shirley Mount Hufstedler**, (former Judge of the U.S. Court of Appeals, and Secretary of Education), Professor **Laura Kalman** (University of California, Santa Barbara), Professor **William E. Leuchtenburg** (University of North Carolina, George Washington University Law School), Hon. **Michael W. McConnell** (Circuit Judge of the U.S. Court of Appeals), Professor **David A. Nichols** (Southwestern College), Professor **G. Edward White** (University of Virginia School of Law), and **Juan Williams** (Senior Correspondent, National Public Radio). **Ambassador William vanden Heuvel**, Chair Emeritus of the Franklin and Eleanor Roosevelt Institute, delivered the closing remarks.

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