Justice Sandra Day O'Connor's Remarks at the Batten School, University of Virginia

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Introduction by Dean Harry Harding

Sandra Day O'Connor, of course, is best known as a justice of the United States Supreme Court. In fact, the first woman justice on the court. But in fact, she has done far more than that. And if you ask her, she may tell you which or for many jobs she actually thought was more fun than being a justice of the Supreme Court.

She has, and in this way, actually epitomizes what we want our students to think of here in the Batten School. She has served in all three sectors of our economy. She started her own private law firm. She is still today chancellor of the College of William & Mary in the nonprofit sector. And of course, she has been a dedicated public servant. She has served at all levels of government, except for the city. She has served at the county level, the state level, and the national level. And she has served in all branches of government.

She was an attorney, either a county attorney or a district attorney at the San Mateo County in California, just north of Palo Alto, and then in Arizona. She has served in the state senate, serving in fact as a majority leader of the state senate in Arizona, as well as serving on both the state and the federal benches. And in all of these things, she has been a woman pioneer. She was the first in so many areas to serve as a woman.

And it wasn't easy then. The only personal light that I can shed on Justice O'Connor's career was the time that she spent at the Stanford School of Law. And I say this only indirectly. But after the law school moved into much more elaborate and modern, although some would say not particularly attractive facilities on the Stanford campus, we in the political science department got the hand-me-down. We got the old law school on the outer quad.

As Justice O'Connor will tell you at the time that she was there, which was about the time that the building was renovated for that purpose, there were women students of law. Indeed the donor, she told us over lunch, had insisted upon that. And so there were, shall we say, restroom facilities for both men and women students in the basement. But as we discovered when we moved into the offices for faculty on the fourth floor, there was only one restroom. And without going into detail, as you can imagine how easy it was to tell that the restroom was designed for men.

So in other words, those who literally designed the Stanford School of Law in the 1950s anticipated that women would study to be lawyers. They never anticipated that women

would become professors of the law. And Sandra Day O'Connor has had to deal with that prejudice and those obstacles over time.

Introduction by Jim Todd

Now to give you a more personal introduction to our guest of honor, I turn to a mutual friend, both of ours, Jim Todd, himself a lawyer, but also a PhD in politics here at from the University of Virginia, has taught at both Tulane, where he was an absolutely inspiring professor for one of my best friends, Ian Bremer of Eurasia Group, which is how I first learned about Jim. And through Ian's introduction, we met each other, and also worked closely with Sandra Day O'Connor when he taught at the University of Arizona.

Jim:

Thank you, Harry. I want to repeat what I just said at the lunch. We're very much indebted to Harry for scheduling this event at this particular time. For those of us who weren't invited to the Royal Wedding.

I also want to mention that two of my committee are here. I gave my defense in 1993 for my PhD. Professor O'Brien, who was very instrumental, is back there and worked with me all the way through from the politics department. And Professor Ernest Bootsmead, who took over the job at the last minute, the night before I think my defense is here in the front row, and I'm so honored to have them both here.

I've known Justice O'Connor for a good many years now. It's one of the side benefits, the main side benefit I got from teaching at the University of Arizona. She would come down to our law school, and she's always been very generous with her time. It's unusual for her, I think, not to be speaking at a law school when she visits a campus or the grounds of a university.

Today she is speaking to the new school here, the new school of leadership, and what could be more appropriate, given the leadership role that she has played since she started her career, as Dean Harding mentioned to you.

I'm not going to speak very long. I'm not going to tell—put her at ease immediately and say I'm not going to tell personal stories or how challenging it is to drive with her when you're not quite sure what the directions are.

I am going to mention that we gave up the idea of royalty in this country when we overthrew the British rule, and yet we have sort of an unofficial royalty in this country. Much of it having to do with how much money one has, which one achieves increasingly,

it seems, by simply being adept at a particular sport or being lucky in a particular way you look and the way you look under a camera. These people who we think of sometimes as royalty are usually not deserving of it when we find out what they're really like.

Luckily we have a few others in our history who have participated in our government and have distinguished themselves to the point where we venerate them—in some rare cases, even honor and feel extreme fondness and affection for. Justice Sandra Day O'Connor is in that latter category, I think one of the most important women in the history of this country.

I've said for a long time that my favorite day at the university was the day I marched down that lovely lawn to get my PhD. Professor Abraham put the hood over me that day. Well, I think this day may eclipse it—to introduce to you this historic woman in this historic room designed by our great founder Thomas Jefferson. It's my great pleasure to present Justice Sandra O'Connor.

[**Justice O'Connor begins her remarks**]

Thank you very much, Jim.

Now Jim Todd and I like to go looking for birds and trying to identify them. He's much better at it than I am so I like to be in his company. I don't know if any of you have gotten hooked on that yet but if you start you will get hooked with it and so we even went out for a little while this morning. We didn't find too many but we heard a few chirping and we saw one or two that were pretty much fun and it's a good thing to do in Virginia. It's a good spot to look.

I think Arizona may be a little better. I hate to say that but I'm in that case I think it is and I love being in this space. Isn't this the most beautiful room? It's just unimaginably lovely and here we are with this gorgeous thing designed by Thomas Jefferson, light coming in from all around. It's just really a privilege to be in it and to be here and this is one of the great universities of America.

Virginia is so lucky because you have some marvelous universities in Virginia and that gives people who grow up here and live here a chance to get a college degree without going into debt for the next five generations of the family. But this is a great spot to be and I'm glad to be here.

I'm gonna make very informal remarks today and when I'm finished there'll be time for a few questions which I may or may not answer but we'll go from there.

I grew up on a cattle ranch on the Arizona-New Mexico border between Lord'sburg, New Mexico and Duncan, Arizona along the Hila River. The land south of the Hila was acquired by the United States when the railroads came along. Once we got steam engines invented it was possible for transcontinental railroads to be built in the United States. The Southern Pacific Company wanted to build a line from New Orleans to Los Angeles and do it in the southern part of the United States.

Now you can't picture the map sitting here today but today it stops with the Hila River which is substantially north of where the border was then. And so the United States, in order to benefit the Santa Fe Railroad Company and its designs, wanted to get land from Mexico and they sent a diplomat from the State Department named Jim Gadsam down to Mexico to negotiate to try to get some land.

He was down there for almost two years and he came back and he had a real deal for the U.S. Mexico would turn over to us all of Sonora, Mexico and all of Baja California and everything in between for a price of ten million dollars. Our president was Franklin Pierce. He said nope that's way too much money. We're not gonna do that.

Now I mean that is a drop in the bucket. We hear that today and we can't believe it—you'd pay ten million dollars for a parking lot down here. I mean that was just amazing. But he said no and he sent Gadsam back to Mexico. He said all we want is that strip for the railroad and so he was down there almost another year and he came back with that little strip of land that was the Gadsam Purchase for five million bucks.

Now we could have had a lot more. Arizona would have had a seaport. I mean I'm very upset about this. But anyway, that was the deal we made and got that little strip of land and that's when my grandfather H.C. Day came from where he'd been in Wichita, Kansas and decided that he wanted to go live in Pasadena, California. But along the way he wanted to establish a ranch in what was in the Gadsam Purchase area. So he did and he went down to Mexico and bought a herd of cattle that had the Lazy B brand on them.

Now, in case you're not ranchers, a brand is said to be lazy if it's lying down. And this was a capital B lying down on the left tip, so it was Lazy B. And the ranch became known as the Lazy B Ranch, and we kept the brand for the succeeding generations and set up a ranching operation in what was part of the Gadsam Purchase area.

When I was there as a child, we were 35 miles from town, and there wasn't anything in town anyway. When you got there, a few groceries and a gas station and one thing and another—truck stop kind of operation. We would go to town about once a week and the post office was there so you could get and send mail and pay bills for things that the

ranch had to buy and get in some supplies and then head back home. A trip to town was kind of a significant event in our lives when we went in.

I have a favorite Western author—it's Wallace Stegner—and he described the West. He grew up in the West and he wrote:

"There is something about living in big empty space where people are few and distant under a great sky that's alternately serene and furious, exposed to sun from four in the morning till nine at night and to a wind that never seems to rest—there's something about exposure to that big country that not only tells an individual how small he is but steadily tells him who he is."

And I always liked that Stegner quote. Interestingly enough, I went not to UVA but to Stanford when it was time to go to college. And I was able to take a creative writing class from Wallace Stegner. He was there at the time and teaching. And that was an interesting experience because he'd make us write something every week and then we'd have to circulate it to the other class members and get their comments.

My classmates were mostly World War II veterans. I was there in 1946–47. It was in 1947 that I took the class from Stegner. My classmates had had life and death experiences in the military that they were able to write about, and my recollections were of the Lazy B Ranch and I didn't think they measured up. So the class was a struggle for me in that sense, but I certainly grew in my appreciation of Wallace Stegner and his writing and his ability to describe things. And if you haven't read him yet—do it. You will like it.

Now I remember as a child driving around the Lazy B Ranch with my father hour after hour. He wanted the company when he went out. Now some of the cowboys would go out all day every day on horseback, and I did that a few times but I didn't do it every day. I had my nose in a book about half the time. And I'd be reading my book and my father would come in and say, "Now Sandra, I'm headed off to Three Males—you better come with me."

"Oh, I don't want to do that. I'm reading this right now."

"Well, if you don't go, I had something I was gonna show you that's quite unusual out there."

"Well, what is it?"

"Well, you'll have to go and find out."

So I'd close my book and give up and go with my father and we'd go off on this junket. And he would find some funny thing to show me or some unusual thing as a payment for going. But we'd be bumping along over very poor little dirt roads on rocky terrain and we'd go to check on a windmill. We had to have water for the cattle and water in that part of the country is very deep—five, six hundred feet underground.

And you don't have electric power, so you have to put up a windmill to get the power to pump the water out of the ground. And then you have to maintain the windmill—and anything mechanical goes wrong—so you have to keep them oiled, serviced, and all that stuff.

Anyway, we'd do that. We'd check on the water and we'd check on the water distribution tank and we'd check to see if the salt blocks were out there. Cattle need salt, interestingly enough, and they would eat the native grass, but then when they went to get water, they also wanted to have a salt lick. So we had to check on that and we had to, along the way, make sure the gates were closed in the appropriate places and that the cattle were all right—that there wasn't one down with some injury or something that needed attention.

And we would constantly watch the skies hoping for rain. That was our life's blood—rain—in the part of Arizona where we were. There's very little rainfall a year—maybe 12 inches—that's not much. And every drop counted. And the rain was what produced the grass and the vegetation that our cattle had to eat. And like all areas in that part of the Southwest in the United States, rain was the essential element. It was the treasured event. We prayed for it, we hoped for it, anticipated, savored, treasured, celebrated, and enjoyed every single drop that fell.

And in the summer, when the big cumulus clouds would start to form—they'd start about noontime on the days when there was a little moisture in the air moving in from the Gulf of Mexico—and we would watch those clouds. When they produced rain, it was often in the late afternoon, and the clouds would grow very dark, almost black, and then there'd be a strong wind all of a sudden blowing dust and a little bit of everything lying around on the surface.

And then suddenly, everything would go absolutely still. The earth would be silent, waiting for this momentous event. And then there would be a crack of lightning touching something on earth with all the electric fury of the universe, and seconds later, the incredible sound of that lightning—the thunder—would reverberate and roll through the clouds overhead.

And then, wonder of wonders, the first few big wet drops of rain would fall, making muddy places on the pickup window. And then all of a sudden, it would come down very

heavily and strong—the rain—and we just have to close ourselves up inside the pickup. And we couldn't even see anything outside because the rain would be coming down in torrents. And we were so excited. We were so happy. And it was this incredible gift from above—rain. It was our salvation for the ranch.

And after a few minutes—never long enough—it would slow down, and again we could start to distinguish our surroundings. But there'd be more lightning and thunder, but it would move off. The rain would move and go in a different area and we'd watch the eye of the storm as it moved. And then we would see with amazement the changes in our world around us.

The dry, arid, dusty dirt around us was wet and muddy, and little rivulets of water running around every slope and gully, and the plants sparkling with some drops of water. And the greasewood bushes—we had lots of greasewood bushes—they're normally gray-green and dull, but when they're wet, they release this incredible smell, perfume produced by the rain.

And we'd hear the birds—they'd be chirping frantically because of the rain that had fallen. And the little rabbits would come out of their burrows and look around. Everything would be stirring and excited by the rain. And no one was more excited about it than my father because we were saved. Once again, we were saved from that ever-present threat of drought, of starving cattle, of anxious predators.

With the rain, we'd survive a little bit longer. And as proof of that, we would see with amazement off in the distance a rainbow form in the sky. And the sun would be shining through it and all the colors would be so vivid, the arch of it going high in the sky and the ends touching down where you could see on the ground where the end of the rainbow was—it was right over the next hill where the silkweeds were.

"You know what the old-timers say," my father would tell me.

"Well, what? What did they say?"

"They say there's a pot of gold over there at the end of the rainbow."

"Really? Well, that's what they say? Well, do you believe them?"

"Well, of course. Why not?"

"Have you ever seen it yourself?"

"No."

"Well, let's go. Come on Daddy, let's go over and get that pot. It's right over there."

And he'd say, "Okay," and he'd start up the pickup truck and we'd chance over—no road at all—over the rocks and the rivulets and the whole, trying to reach the rainbow that was right over there.

And the nervous thing happened—as we got closer, it moved. We'd hang on tight and I'd say, "Well, we're gonna have to go a little further," and off we'd go further. "Let's keep going. We've got to find the pot of gold."

And after a while, my father would say, "Well, you know, this is getting harder than it looked like it was gonna be. I think maybe we better turn back and go home. Your mother is gonna be worried about us and the rain may be enough that it's gonna run water in the canyon and we won't be able to cross and get home."

"Oh darn it, we were so close."

"Well maybe next time. Promise—we'll go next time."

And that's the way it was. And there was this little girl who chased the rainbows and tried to find a pot of gold. And she grew up to be a big girl and sometimes she still chases a few rainbows of a different kind. A good idea with a successful pot of gold at the end of the rainbow. But the fact is—it's the chase that's worth it. The search. The chase.

That's what I learned. And that's what it's all about, I think. That's the fun of life—is chasing our rainbows. And it doesn't always turn out, but the search for it is always a good thing.

When I got out of school—grade school, high school—I went to Stanford. I didn't come back to Virginia. I went west. And Stanford was a darn good place to go. Unlike University of Virginia, it took women from the start. But they're doing better here now. It's all right.

And I enjoyed Stanford so much. I made friends there as a freshman and they're my friends today. A number of us still get together. We went back this year to our 60th anniversary—if you can stand it—and it was okay. But I don't think I plan to go to too many more reunions. It's all right.

But anyway, I got out of law school in 1952. Now there were not many women in Stanford Law School when I was there. There were about four in all, and I think only one other one practiced

law for a while. The one went on the staff of the Chief Justice of the California Supreme Court and stayed there for a good many years, and that was about it.

I applied—Stanford Law School had a bulletin board up in the law school—and they had on it notices from all the major law firms in California. I don't know how many were up there, but maybe 20-plus notices asking Stanford's law graduates to call them, talk to them about a job.

Well, I very much wanted a job. I called every one of those numbers. Not one of those firms would give me an interview. I was female. They didn't have females. They didn't want to talk to me.

Now that was a problem because I had met my husband-to-be, John O'Connor, and we planned to get married. And he was a year behind me, and we both liked to eat. And one of us had to work—and that was me. So I really did need a job and I just was—I didn't know what to do.

I went to an undergraduate mom and friend of mine at Stanford, and her father was a partner in one of California's biggest law firms with a notice on the bulletin board. And I asked her to talk to her father and see if he could get me an interview. Well, she did, and he did. I got an interview and went to Los Angeles to talk to the partner—very distinguished-looking man, all well-dressed in his office, looked at my résumé—

"Oh Miss Day, you have a fine résumé here, Miss Day. But Miss Day—this firm has never hired a woman lawyer. I don't see the day when we will. Our clients would not stand for it."

Well, I looked a little disappointed, to say the least. And he could see the look on my face and he said, "Well Miss Day, how well do you type?" And I said, "So-so." And he said, "If you can type well enough, I might be able to get you on here as a legal secretary."

Well, I said, "You know, I really don't want to do that. I think I can still probably find a job somewhere as a lawyer. So thanks, but no thanks." And I left the law firm. I didn't pursue through friends trying to get other interviews in law firms.

But I heard that the district attorney, county attorney in San Mateo County, California had once had a woman lawyer on his staff. And I thought—if he had one, he could have another. And I wrote and made an appointment to see him. And you know how elected officials are—they're glad-handers, you know, "Oh sure, I'd be glad to see you, talk to you."

And in California, the county attorney is still elected in that state for that office. So I went to see him. He was an Italian-American and a very nice fellow, and he was glad to meet me.

"Miss Day, you have a fine résumé here, Miss Day. But Miss Day, I did have a woman lawyer here and she did a good job and I'd be pleased to have another—and you'd do well too, I'm sure. But I get my money from the county supervisors. I'm not funded to hire another deputy. I just don't have the money to do it," he said.

"Come with me. I'll walk you around the office."

So he was in the beautiful old courthouse in San Mateo County with a stained-glass dome like this—only all stained glass. And he walked me around the offices and they were all occupied.

"As you can see, I don't have an empty office to put another deputy. I'm so sorry, but that's the way it is."

So I went back to the Lazy B Ranch and I wrote him a long letter. I told him all the things that I thought I could do for him if he'd take me on. And I said, "I know you don't have any money, but I'm willing to work for you for nothing until such time in the future as you will have some money and could pay me something—doesn't matter what."

"And I know you don't have an empty office—you showed me around—but I met your secretary. She's very nice. And there's room in her office to put a second desk if she would be willing."

That was my first job as a lawyer—no pay. And I put my desk in with the secretary. But you know what? I loved my work. I was in the public sector. I wasn't doing criminal work. I was doing civil work for the county commissioners and boards and agencies. And I absolutely enjoyed it so much. I got great questions to research and answer and got to write the answers, and I was just so pleased.

And my classmates—the men all had good jobs in good firms, getting paid, had desks, had offices—but they were taking depositions and doing research. And I was having much more fun. So I really started my life out in basically public service, and I liked it.

So I was busy working away, and about four months later—I can't remember now exactly how long it took, but roughly four months or so—the district attorney was made the county judge. And he was thrilled, and we were all so proud of him for becoming the judge. We cheered. My supervisor became the county attorney, and that opened up money, an office—everything. So it all worked out.

And I think of that story today because young people today are getting out of law school or out of a university and the jobs aren't always available. Today, there's a shortage of opportunity for young people. So my experience was, you may have to make a compromise of some kind to get that foot in the door. But it's okay—because it will lead to something. And it certainly did for me.

I spent most of my life—not all of it—but most of it in the public sector. And it was the result, I think, of that early first experience that I had. And today, women make up at least 50 percent—and in many cases a higher percentage—of classes in law school today. And in universities, the number of women in universities is a little bit higher than that of men in the universities today.

So circumstances have changed—and are changing—and I think we all have to be much aware of that and see how we're going to handle that and what we're going to do in the future with that situation.

I've been very lucky, I think, to have had legal training. It served me well—not everybody—but for me, it was a good thing. And it was so interesting to go to law school because all of a sudden I learned why we do certain things—that it's a legal requirement, that it's the result of some law passed by a state or by Congress, or that it's based on some principle of law that I didn't know existed. It opened so many doors of knowledge to me that I found it a very interesting area of study.

I have looked back on my experiences in the legal profession and really value them all—none more than my first job. And the most fun I had in a legal job was as an assistant attorney general in Arizona. I don't know why, but there were very few of us, and we were doing all legal work for the state of Arizona—not the criminal, but the civil questions—and I liked my colleagues.

We didn't number more than 10. Now that office has probably 500 employees in it in Arizona, so it wouldn't be as much fun as it was then. But it was great, and I've had some wonderful experiences through the years.

Now it seems to me that the thing that keeps us going as a nation is very much firmly rooted in what we call the rule of law—whatever that is. We have legal principles in this country—legal principles that can be and are enforced through the courts of this country, and principles that are based originally on the common law in Great Britain. That was our start too.

We adopted that when we fought in the Revolution and gained our independence. We looked back to Great Britain for the foundations for our legal system. And that was a good system, basically. And we still have that—the rule of law. And I think it served us well.

We live in a very changing world today. I look around at what's going on. I look at the Middle East and see just things that I never thought I would see—and possibly major changes in governance in a number of countries in the Middle East. And they have—many of them—are Islamic, inhabited by Islamic people who follow two systems of law really.

Most of them have some form of Sharia law, which is legal principles governing personal relations based on the Quran. And they also are experienced—certainly Egypt is—in the application of legal principles that are like our own that govern business and relationships of that nature. So they kind of have two systems of law in operation in the Middle East.

And I don't know where that's going to lead us, but we're seeing very fascinating times in our world and in the Middle East. And we're all going to be watching what happens.

I think what I'd like to do is stop talking for a few minutes and let you think about what you want to ask me about. And maybe I'll answer you—maybe I won't—but let's see what you ask. Anybody? And don't be shy—I don't bite.

Q&A Session Begins

Audience Member: I have a more lighthearted question for you. I'm just wondering if you could share, you know, a personal story or something on your favorite fellow justice to work with from the Court.

Justice O'Connor: Oh my. Well, I don't know. I haven't made it a practice to talk about personalities or stories from within the court. But it is a small group—it's nine people—and we served together for almost 10 or 11 years without a single change on the court. Can you believe that? It was amazing. That's very rare. And we got to know each other pretty darn well.

And it's an impressive group of people. You don't get on the Supreme Court without having a few credits to your experience. They've all done something that is deserving of recognition and they're all highly intelligent people. But personalities differ, as you know, from person to person. And so some of them were more interested in talking about things in between writing something up and others didn't want to talk about anything in connection with it. So you just kind of tempered what it was.

Lewis Powell was from Virginia—do you all remember his name? He went on the court before I did, and he was the nicest man. He was just a lovely human being. I liked him so much. And he was happy to talk about anything. You know, if you went in Lewis Powell's office and sat down, you'd have the most pleasant conversation you ever had. And it never failed.

He was the one who came to me one day and he said, "Now Sandra, I want to ask you to consider doing something." And I said, "Well now, what's that?" And he said, "Well, you know for a long time I was on the board of Colonial Williamsburg. I served as president of that. That's where our nation started. And I'd like for you to say that you would go serve on that board."

And I said, "Well Lewis, I just am so busy trying to do the job of being a justice. I told myself I was giving up all outside activity. I wasn't going to do another thing. And it seemed to me that until I really got my feet on the ground, I shouldn't do that."

"Now Sandra, if I can do it, you can do it."

Well anyway, he persisted with his Southern ways and I finally agreed to serve on the board of Colonial Williamsburg. That was the first outside activity that I took on when I went to the court. And I enjoyed it very much. I really did. It's right down the road—Williamsburg, you know—and it just turned out to be so fun. It was just a little history lesson that we got every time we went to a meeting. And it was so fun, and I enjoyed very much that. And Lewis Powell got me into it.

Now I had a law school classmate who was a very good friend serving with me on the U.S. Supreme Court. Did you know that? Bill Rehnquist. He became our Chief Justice. He and I used to sit next to each other in a classroom too. He was so smart. He was wonderful in law school.

I would sit in law school and I would try to write down everything the professor said. I was frantically writing everything. And at the end of the hour, I'd have pages of notes and I'd have to go back over them and distill what it was he was after. Bill Rehnquist would sit there—he'd have a single piece of paper—and by the end of the hour he'd have a perfect outline of what he thought the professor had in mind. And I'll bet it was just right. He was amazing.

He was very smart. And he had a very good record in law school. We both were on the law review and both classmates, and we did well. And I enjoyed his company in law school. And I liked to do several things that we pursued with mutual friends while we were in law school.

We liked to play bridge—card games. So we had a few card games. We liked to go to movies, and we went to a few movies. And we liked to play charades. How many of you play charades these days? Hold up a hand if you do. There are a few hands—we had, okay—we had so much fun in law school playing charades. We'd get grouped together and do charades. That was a blast. So we had a lot of fun in those days in law school, and I hope that students in other disciplines here at University of Virginia enjoy the same kinds of camaraderie and fun that we did. That was amazing.

So I enjoyed talking to Bill Rehnquist. Except he was all business. He made a great Chief Justice, and I'll tell you why. What he valued was efficiency. He wanted us to work hard as justices. He didn't want to have to wait for an opinion to circulate. He wanted you to go back and write it, get it out. That was what he wanted. He didn't want any delays. And he appreciated efficiency.

So I thought that was a good thing, because justices can be kind of slow acting. You know, it's easier to think about something than to sit down and write it. So I thought he did a wonderful job as Chief. And when we had a case at the Court, and it was—you get the arguments in written form called briefs, and they aren't brief at all. They're long written arguments. And you have an oral argument at the Court by the lawyers. So we have both those things.

And you thought a lot about the issues that are raised and what you ought to do as a justice—how should you resolve it? And then you get together after the briefs and the oral argument in a conference together around a table—all nine of us—no staff present. No staff. And we start the discussion with the Chief Justice speaking first. Then it goes around the table—most senior associate down to the end.

My most dramatic moment on the Court was my first day that I sat at that table—no staff, just the nine justices. I was the junior justice—the newest justice. The case we discussed went around that table and it came to me: four to four. You like that? It takes five to decide it. So my vote was the deciding vote. That happened to me many times. So being a junior justice ended up being quite a responsibility—an unanticipated one, in a way.

But Bill Rehnquist was great. He would speak first when he was not Chief Justice—when I went on the Court. He became Chief Justice later. But when he was Chief, he would speak first and tell you what he wanted to do. And then when it came to you, if you disagreed, that was okay. I mean, you gave your reasons and disagreed.

He would then make the writing assignment if he was on the majority in the case. And he did not hold grudges against justices who disagreed. And I thought that was great. His predecessor was a little more concerned about being sure how you voted. And if he thought

you weren't leaning his way, he'd invite you to come over for tea—have a cup of tea and talk about the thing.

But Bill Rehnquist didn't. He'd go around the table and he'd vote, and if you disagreed, it was okay. And I thought that was a pretty good way to be Chief Justice. And he did a fine job. As you know, he died in office. But now—well, I'm not—that's enough. Okay. Let's have another question.

Audience Member: You've written that you and Lewis Powell were the first justices to dance together. I want to know—who led?

Justice O'Connor: Well, he did of course. Are you a dancer? I haven't danced with you! Okay. But you're said the guy's supposed to lead.

Now Lewis Powell was a marvelous dancer. And he and his wife really enjoyed dancing. And I married a fellow I met at Stanford Law School who was a terrific dancer—thank goodness. And we had fun. We were married 57 years, I think it was. And he could dance to anything, really. And that was so much fun.

We used to go to a few dances with the Powells too, and it was nice. Washington, D.C. had plenty of dances, so that made it special. Well anyway, let's see if there's another question—because I'm going to quit before too long. Like in about three minutes.

Audience Member: I just want to say thanks so much for coming. And I was wondering—a sort of more legally oriented question. I recently read that the Roberts Court docket has been shrinking rather substantially. I was wondering if you could comment on why, you know, what's happening, and whether you think it's a positive or negative trend.

Justice O'Connor: Well, we all wish we knew why. It's because the Court hasn't granted as many cases. But they're granting by the same standards that we applied when I went on the Court.

When I first went on the Court—God—we were taking over 200 cases a term. And that was a huge caseload. God, you just never dug out from under it. It was huge.

And we don't know why there are fewer. We get more applications than ever. But the predominant number are in criminal cases, and the Court doesn't take a whole lot of criminal cases. It takes about a third—and still does. But the numbers of filings in the criminal area have increased, and the Court is not keeping up with those numbers. They tend to be very repetitive applications and very few of them worthy of grant.

So nobody knows exactly why. I think the Court is applying the same standards—an issue that is of national effect, is something that needs to be resolved by the Supreme Court, and on which lower courts are in conflict. So that until the Supreme Court rules on that issue of federal law, it's a little uncertain. And that's the kind of case the Court takes—and it still is.

And I don't read anything in the tea leaves. Because I'm glad it's fewer cases. When I went to the Court it was so many that Warren Burger, who was then Chief Justice, went to Congress and asked them to create another intermediate court because we had too many. And Congress declined to do it. And thank goodness. We certainly don't need it now.

So I don't know. But I don't read anything special in those tea leaves.

Audience Member: I didn't have anybody from this side—okay, all right—you're it.

Audience Member: Well, thank you again for coming. I was wondering—you're a part of the, I'm currently—if I get the name incorrect—National Union for Civil Discourse that was recently created…

Justice O'Connor: Yeah, I think I said I worked on something by that name, but we haven't had any meetings, so I can't tell you anything about it.

Audience Member: I was wondering about your involvement.

Justice O'Connor: Well, I don't know. We have to get together first! It sounded like a good idea because I think part of the problem we have today—certainly in Arizona—the discourse among public figures and in the legislature and so forth is not even courteous. It's loud and raucous—raucous—and often insulting. I think the same thing is true at the national level.

And I don't like that. I do not think that's the way to get issues resolved. I think you have to treat people who are trying to resolve an issue—you have to treat each other with respect and decency and try to talk it out. I mean, that's what you have to do. And approach it in a decent way.

And we're not all doing that in this country today. And I think it's very disturbing. This new commission—or whatever it calls itself—seems to be dedicated to talking about that. And I am all for it. So if we do anything worthwhile, I hope you'll read about it.

[End of Transcript]