

A DISTINGUISHED PATH IN PUBLIC SERVICE

THE HONORABLE SANDRA DAY O'CONNOR*

Chief Judge Kaye and I have shared similar life experiences—she is my kind of woman. As she said when accepting an award that bears my name, the beginnings of our paths “in some ways [were] drastically different.”¹ She aptly described my childhood as a cowgirl on my parents’ ranch: “mending fences, riding with cowboys, shooting [my] own .22-calibre rifle.”² Hers was different; she grew up “at the foot of the Catskill Mountains, working in [her] parents’ clothing store.”³ As she was quick to point out, “[n]o one there mended fences of any sort. There wasn’t a cowboy in sight, and use of a rifle could land you some serious time in the Sullivan County Jail.”⁴

However, in significant respects, we have led similar lives. Chief Judge Kaye attended New York University School of Law less than ten years after I studied at Stanford Law School, a time when not too many women studied law—she was one of ten women in a class of three hundred students. We both faced gender discrimination when first we sought legal work. “A decade after Justice O’Connor graduated from law school,” she has written, “the big firms still had no welcome mat out for women.”⁵ Nonetheless, after “career path[s] [with] twists, turns and detours, with marriage and children along the way,” we both found rewarding careers in public service as judges.⁶ About two years after I became the first woman to serve the Supreme Court, she became the first woman appointed to New York State’s highest court. We served our respective courts for twenty-five years.

I thus applaud her career familiar and the row she has hoed. Having traveled a similar path, I deeply appreciate her efforts and successes. “[A] wise old woman” wrote that “[a] person cannot help bringing something of one’s own background and experience to every-

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¹ Hon. Judith S. Kaye, *Presentation of the Seventh Annual Sandra Day O’Connor Medal of Honor*, 30 SETON HALL L. REV. 752, 752 (2000).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Judith S. Kaye, *Acceptance of “Most Influential Woman in the Law” Award*, 9 CARDOZO WOMEN’S L.J. 673, 675 (2003).

⁶ *Id.*

thing we do, and that includes judges.”⁷ Perhaps it is our similar backgrounds and experiences, then, that make Chief Judge Kaye my kind of judge. By all accounts, she approached her cases with great diligence and an open mind. “[D]ifficult to pigeonhole,” hers was the pursuit of justice, not agenda.⁸ Her approach was principled yet practical, firm yet fair. She has great respect for the sovereignty of her State, and from the bench she protected its role in shaping the lives of its citizens and its ability to guard their rights. She often disagreed with her colleagues, but she never lost their friendship or respect. Indeed, despite her long judicial career, “detractors from Judge Kaye are hard to find.”⁹

Outside the courtroom, in her remarkably prolific writings and frequent speeches, Chief Judge Kaye confronts as educator, scholar and advocate many of the most important issues facing our country. For example, she has vigorously defended judicial independence, widely and effectively spreading the lesson that “a cornerstone of [our] peaceful, orderly society is respect for law and respect for the dignity of the judicial process.”¹⁰ She has recognized the urgency of this lesson, observing that “today we face a public that is cynical about law and government, often downright hostile to the legal profession.”¹¹ Discouraged not at all by this cynicism or hostility, Chief Judge Kaye has labored “to persuade the public that the rule of law is a concept we should honor and protect and that a zealous and independent bar and judiciary are its best guardians.”¹²

Through her writings and speeches, she has done much to this end. By her example, she has done much more. In short, she has embodied the qualities of a judge that reflect the highest value of that office to our democratic society.

Eulogizing the late Justice Brennan, Chief Judge Kaye described “what for [her] has been [his] most profound teaching: that as judges we can and must bring the full measure of our human capacities to bear in applying the law to resolve current problems and present needs.”¹³ And she celebrated “his conclusion: ‘it is only as each gen-

⁷ *Id.* at 676 (noting Minnesota Supreme Court Justice Jeanne Coyne’s statement that “a wise old man and a wise old woman reach the same conclusion”).

⁸ Kevin Sack, *Cuomo’s Choice To Head the Court of Appeals: A Judge’s Judge*, N.Y. TIMES, Feb. 23, 1993, at B2.

⁹ *Id.*

¹⁰ Judith S. Kaye, *Safeguarding a Crown Jewel: Judicial Independence and Lawyer Criticism of Courts*, 25 HOFSTRA L. REV. 703, 705 (1997).

¹¹ Kaye, *supra* note 1, at 755.

¹² *Id.*

¹³ Chief Judge Judith S. Kaye, *In Memoriam: William J. Brennan, Jr.*, 111 HARV. L. REV. 14, 17 (1997).

eration brings to bear its experience and understanding, its passion and reason, that there is hope for progress in the law.’”¹⁴ Chief Judge Kaye paid greatest tribute to these ideals in their exercise; she embodied the highest judicial principles she applauded in others.

With her retirement, the State of New York has lost a treasure.

¹⁴ *Id.* at 18 (quoting William J. Brennan, Jr., *Reason, Passion, and “The Progress of the Law,”* 10 CARDOZO L. REV. 3, 12 (1988)).