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Oral History of Distinguished American Judges

HON. SANDRA DAY O’CONNOR
JUSTICE, U.S. SUPREME COURT
An Interview

with

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[START RECORDING]

00:00:24 MS. MARCI HAMILTON: This project,
Justice O'Connor, is [for]¹ NYU's

Institute for Judicial Administration
and it's an oral history project. We
have your opinions from both the
[U.S.] Supreme Court and the Arizona
Supreme Court² and [of course your
views about the court and growing up
on a western ranch in your books³].

But we're interested [today] in
hearing about, [your so-called]
retirement, which [has been busy and]

00:00:50 impressive. What is it about the

iCivics Program⁴ that drew you into
it? I mean you [were the force behind
the creation of this online project,

¹ Words in brackets indicate post-interview clarifications made by the interviewers and should be used in any permitted quotations from this interview to the extent such words deviate from the recording.

² Justice O'Connor sat on the Arizona Court of Appeals, which hears most appeals from the Arizona superior courts, except for death penalty and some cases involving elected officials and disputes between counties, which go directly to the [Arizona] Supreme Court.

<http://www.azcourts.gov/guidetoazcourts/Todays-Court-System-Has-Three-Levels> (last visited, August 21, 2017).

³ Sandra O'Connor and H. Alan Day, *Lazy B. Growing Up On A Cattle Ranch In The American Southwest* (Random House, Inc. 2002).

⁴ The iCivics Program founded in 2009 by Justice O'Connor is an online platform offering civics-related educational resources. <https://www.icivics.org>.

which we would like to learn more about].

JUSTICE SANDRA DAY O'CONNOR: Okay, well I'll tell you. It is the notion that young people across this country need to have some idea of how our government works and how it functions and how they can be part of it. And today, I don't think there's

00:01:12

any unified way in this country of

teaching young people anything about the courts. And it was my effort to make sure that we taught them

something. They had some concept of

00:01:23

the courts. I think our courts are amazing. And if you have good

judges, they can inspire, they can make us understand what the courts are doing and relate to people. It's very important. So that's why.

MS. HAMILTON: How far has iCivics grown? You started it. You hired web designers.

JUSTICE O'CONNOR: Yes. Well, it's grown. I think we really have

00:01:46

programs throughout the United States today that are moving in the right direction, so I'm very pleased. I really am.

00:02:06 MS. BARBARA WOODHOUSE: And I think something that's been very interesting is the use of technology and the internet and the web and all of these things in terms of using them as teaching tools.

JUSTICE O'CONNOR: Yeah, I wish I were an expert in all of those things, I'm not. I'm an old klutz when it comes to the modern technology,
00:02:15 but it's worth learning about and it

is effective. I mean it's how you spread ideas across the country.

MS. HAMILTON: Well, you spoke about judges and we have this wonderful system of course. You're one of the rare Supreme Court Justices who has also had experience in the states.

JUSTICE O'CONNOR: Yes.

MS. HAMILTON: What do you think

00:02:34 about the state of the state [court]
justices and judges around the
country right now?

JUSTICE O'CONNOR: It varies greatly,
from state to state. But the thing
that matters to me is that we work
towards, in this country, having a
system whereby we teach young people
about the notion of a system of laws
and justice that will serve all of
00:03:00 the citizens of each state. And a

system that isn't wildly different
from Arizona to New York, for
example. But similar systems that
00:03:11 produce some effective way of
deciding cases on some unified
concepts of law. And that's what
we're trying to do.

MS. WOODHOUSE: Certainly one of the
things that you've made a hallmark of
your retirement activities, I
shouldn't say retirement because you
are so busy, is this idea of
[promoting] judicial independence.

JUSTICE O'CONNOR: Yes.

00:03:35

MS. WOODHOUSE: And is that part of the lesson [of iCivics]

JUSTICE O'CONNOR: [Interposing] Well, yes, I mean when you teach young people about our system of laws and of courts, you have to integrate in that how we select the judges and the degree that they have to use their own judgment in resolving some of the issues and cases that come

00:03:56

before them. And yet at the end of the day, have a system of laws that works pretty well across the country, that's what we want.

00:04:06

MS. HAMILTON: I live in the state of Pennsylvania where we've had a very recent scandal in the State Supreme Court, which has been awful. It seems to me that one of the most important points you've made in the public square since leaving the court is that politics can corrupt the selection of judges and justices.

JUSTICE O'CONNOR: We have to be careful about how we select our

00:04:28 judges and try to use a system that will be effective and put people on the courts that the public is happy to have there because they have good judgment and they're knowledgeable. That's what we want.

MS. HAMILTON: As opposed to being political choices.

JUSTICE O'CONNOR: Yes.

00:04:50 MS. HAMILTON: Well, when you were a child did you ever imagine you would be on the state--?

JUSTICE O'CONNOR: [Interposing] Oh, heavens no! I grew up on a ranch⁵.

00:05:00 I wanted to ride my horse well and do all those

things. No, no. I had no concept when I was young about a legal system and how I'd be part of it.

MS. HAMILTON: Do you think we've gotten better at teaching? That

⁵ Justice O'Connor was born in El Paso, Texas on March 26, 1930. She spent part of her childhood on her family's ranch, "The Lazy B", situated on the border of Arizona and New Mexico. For some of that time the ranch had no running water, no indoor plumbing, and no electricity. Sandra O'Connor and H. Alan Day, *LAZY B. GROWING UP ON A CATTLE RANCH IN THE AMERICAN SOUTHWEST* (Random House, Inc. 2002).

would make iCivics the icing on the cake?

00:05:18 JUSTICE O'CONNOR: I don't know if we have or not. I would hesitate to say that and the quality of the teaching depends so much on the people we use to do it, the teachers. And we need to be in a position to ask effective teachers to serve and to be part of the system.

MS. WOODHOUSE: One of the things I think iCivics has been able to do is get this kind of education about civic life back on the agenda because a lot of it was crowded out [by the growth of high stakes tests, where civics is not on the tests].

00:05:42 JUSTICE O'CONNOR: [Interposing] It certainly was.

MS. WOODHOUSE: Has that been part of the intention is to make sure--[that civics will be included in the curriculum].

00:05:47 JUSTICE O'CONNOR: [Interposing] I agree completely. We need to teach

the concept of civics and how we're part of it in each state and we have to make it function well and serve us well in every state and it's hard to do. But we need to work on it.

MS. WOODHOUSE: Well the children are learning from it and even I use it with my law students.

JUSTICE O'CONNOR: Good.

00:06:09 MS. WOODHOUSE: To get them in the right frame of mind.

JUSTICE O'CONNOR: Good. Get them to help us.

MS. WOODHOUSE: Yeah, yeah, they love it. I think this question about the judicial independence is something that has been very much on the top of your agenda. And I wonder, you started your judicial career in the state courts.

00:06:31

JUSTICE O'CONNOR: I did, in Arizona, my home state.

MS. WOODHOUSE: And you ran for election, is that right?

00:06:37

JUSTICE O'CONNOR: Yes, because in

that state, at the time, and I think still today, judges run for office and have to be elected⁶. So it's not the system used in every state certainly but it was there. And how you assured in that kind of situation that you have good judges is troubling. It's difficult to do when you have total popular election of judges. It's not always picking the best qualified.

00:07:03

MS. HAMILTON: I think a lot of students, and I know I would be interested in hearing, about your service on the highest court of the state of Arizona.⁷

JUSTICE O'CONNOR: Well, eventually.

MS. HAMILTON: You worked--

JUSTICE O'CONNOR: [Interposing] I worked my way up.

00:07:21

⁶ Justice O'Connor was elected to the Maricopa County Superior Court in 1974. As of October 2016, Maricopa is one of three Arizona counties whose judges are now screened and selected by public committees and appointed by the Governor of Arizona. The remaining Arizona counties still elect their superior court judges. *Selection of Judges*, Ariz. Judicial Branch, <http://www.azcourts.gov/guidetoazcourts/Selection-of-Judges> (last visited March 29, 2017)

⁷ Justice O'Connor sat on the Arizona Court of Appeals, an intermediate appellate court. See footnote 2.

JUSTICE O'CONNOR: I saw the system from the inside.

00:07:27 MS. HAMILTON: Having seen that, which level did you have the most fun? [As opposed to] the most important.

JUSTICE O'CONNOR: Oh, I don't know. I like having enough room to make decisions, so the higher up you get the more decisions you can make.

[Laughter]

MS. HAMILTON: Certainly [more] long lasting.

JUSTICE O'CONNOR: Yes.

00:07:42 MS. HAMILTON: Did you enjoy having trials, conducting trials?

JUSTICE O'CONNOR: Oh, they're interesting. I mean you learn a lot but they can also be boring when they go on forever and you think you've heard and understood but you're still listening.

MS. HAMILTON: I mean I think there are judges who prefer to be on the
00:07:59 ground level. And I think there are

judges that prefer to be the last--
JUSTICE O'CONNOR: [Interposing]
appellate-type judges and just hear
legal issues, that's what you do at
the

00:08:07 appellate level.⁸

MS. HAMILTON: Right.

JUSTICE O'CONNOR: You're not sitting
listening to the testimony hour after
hour. You're deciding some legal
issues and I did more of that. And
I'm glad I did because I think it can
get very tedious being a trial court
judge and listening to endless
testimony.

00:08:25 MS. WOODHOUSE: Do you think that the
experience of being a trial court
judge helped you when you were trying
to make decisions [at the Supreme
Court]?

JUSTICE O'CONNOR: [Interposing] Oh,
of course it helps. You need to have

⁸ After serving on the Maricopa County Superior Court, Justice O'Connor was appointed to the Arizona State Court of Appeals, where she served until her appointment to the U.S. Supreme Court by President Ronald Reagan in 1981.

a good feel for how it flows and it how it goes and the kinds of things that judges can do to keep it moving along.

00:08:41 MS. HAMILTON: What about, not just knowing how trial court judges operated, but you also served as a legislator.

JUSTICE O'CONNOR: I did.

[crosstalk]

00:08:51 JUSTICE O'CONNOR: Well, that was good because I could then work on the structure of the courts and what to do, I mean how to do it. And I enjoyed being a legislator.⁹ It was worthwhile. If you're in the leadership position and have a chance to develop some of the concepts and push them through, that's worthwhile. I enjoyed that.

00:09:14 MS. HAMILTON: I remember when I was

⁹ In 1969, Arizona Governor Jack Williams appointed Justice O'Connor to fill a vacancy in the state senate. Justice O'Connor then won re-election twice eventually becoming the majority leader, a first for women anywhere in the U.S. SANDRA DAY O'CONNOR, THE OYEZ PROJECT AT IIT CHICAGO-KENT COLLEGE OF LAW, http://legacy.oyez.org/justices/sandra_day_oconnor (last updated March 23, 2017).

clerking 89/90 [during the 1989 Term, when] it was the height of the rise of federalism as a principle and everything [at the Court]. But you were always the voice, not just when I was clerking, but afterwards too, who had [the most] common sense about the way states work.

JUSTICE O'CONNOR: Yes.

00:09:33

MS. HAMILTON: You may have been the first female Supreme Court Justice, but you were really the one that came with this on-the-ground understanding of how states work in this respect.

00:09:41

JUSTICE O'CONNOR: It's more important than the sex of the judge.

You need to understand what you're doing and the way the whole system works.

MS. HAMILTON: What did that education in the legislature bring to you to bring to the Supreme Court? [How did that education in the legislature help you at the Supreme Court?] What did you see that other

justices [who] come from academics,
come from

00:10:02 private practice [did not]?

JUSTICE O'CONNOR: I know. It's hard
for me to say because it can apply in
different ways but at least I have an
appreciation of how evidence is
developed and presented at the trial
court and how you need to move on and
make the decisions you have to make
but keep going. That's hard, and it
can be very tedious in trial courts.

00:10:27 You can sit there for days listening
to testimony that you wonder why we

have to do this, sometimes you do.

MS. HAMILTON: When I was reading
Lazy B¹⁰, which is one of my favorite

00:10:39 books. I make everybody read it.

Because my mom is from Wyoming, my
family is from the west.

JUSTICE O'CONNOR: Yes.

MS. HAMILTON: It brought back a lot

¹⁰ "The Lazy B" is a reference to the book authored by Justice O'Connor and her brother, H. Alan Day, about their family and childhood. *LAZY B. GROWING UP ON A CATTLE RANCH IN THE AMERICAN SOUTHWEST* (Random House, Inc. 2002).

of happy memories for me. But it
[also] seemed to me that you always
understood that each state is
different from each other state.

00:10:56 JUSTICE O'CONNOR: Yeah, and they
don't have totally uniform ideas. I
mean some are very similar certainly
in the western states. But each one
will have its own differences because
you have different leaders in the
different states. And each leader
will have certain things the leader
wants to work on and do that differ
from those in other states. You're
not going to have replicas
00:11:21 necessarily.

MS. HAMILTON: Well I remember the
story about water and how--

00:11:29 JUSTICE O'CONNOR: [Interposing] Water
was the key in the west, my
goodness. Every drop counted. You
can't imagine. I mean if it started
to rain we would all stop. We would
just stop and just watch every drop
fall because it was so important. It

meant everything to us. You cannot *begin* to imagine how important water was out in that arid southwest.

00:11:55 MS. HAMILTON: You talk about how the Washington bureaucrats had no clue about what it meant out west.

JUSTICE O'CONNOR: No, they didn't, and not many people do. If you live in most of the U.S. you have enough water to get by and you're not watching every drop but it's not that way in the southwest.

00:12:18 MS. WOODHOUSE: I remember one of the things I learned from you, when I came as a clerk, I had been taught at Columbia that the plain meaning rule¹¹ was dead.

[laughter]

00:12:26 MS. WOODHOUSE: And when I arrived here I found out it was really, really alive and well.

JUSTICE O'CONNOR: I hope so.

¹¹ The plain meaning rule requires a statute to be applied according to its plain meaning without delving into its legislative history.

MS. WOODHOUSE: I don't know if you remember this but one of the things you felt very strongly was that the legislature has an important job.

JUSTICE O'CONNOR: Yes.

MS. WOODHOUSE: And they should be held to the words that they put on the paper.

00:12:39 JUSTICE O'CONNOR: Yes.

MS. WOODHOUSE: And that really was a revelation to me.

JUSTICE O'CONNOR: Right, what did you say? What words did you use here? What did you say? Well, let's do what you said in the statutes you passed.

MS. WOODHOUSE: Yeah. Hold their feet to the fire.

00:12:51 JUSTICE O'CONNOR: Exactly. It does them some good.

MS. HAMILTON: I take it that's about the larger question of accountability and who's accountable for....

00:13:01 JUSTICE O'CONNOR: And what did you say here and okay, then you can't do

X, you have to do Y. Explain it to them if they fail to understand.

[laughter]

MS. WOODHOUSE: Interpreting the law.

Yes.

MS. HAMILTON: Do you remember...

00:13:18

Obviously for Barbara and [me], one of the greatest highlights of our career was working for you...

JUSTICE O'CONNOR: [Interposing] -

Well, the other way around, I had good law clerks and I loved that.

That makes such a difference.

MS. HAMILTON: -but do you have, are

there mentors in your past, at

Stanford or in Arizona that you

particularly--

00:13:35

JUSTICE O'CONNOR: [Interposing] Well

I had a few professors at Stanford,

particularly in the law school, that

I admired very much and they made a

huge difference to me. I had a

00:13:51

couple of professors who were willing

to spend time after class talking to

you about concepts, if you still had

some questions and issues to talk about and I thought that was great. I really did. I'm not sure that happens in every class at Stanford or any place else, but when it does, it's great.

00:14:13

MS. HAMILTON: Were there any particular or either at Stanford--

JUSTICE O'CONNOR: [Interposing] Oh yeah, I have to go back and it

wouldn't do any good now. I'm sure they've all gone now.

MS. HAMILTON: [Crosstalk] Who were your shepherds in Arizona in terms of going through that system? I'm sure there were powerful people.

00:14:31

JUSTICE O'CONNOR: Now in Arizona I never went to the university there.

So I didn't go to law school or

undergrad work in Arizona. In Arizona it was a question of learning through the practice of law, how the

00:14:44

system works. Because by that time I was active and practicing as a lawyer, so that was what I did in

Arizona.

MS. HAMILTON: But were there people in the legislative process that kind of took you under their wing or...-?

JUSTICE O'CONNOR: Well, I don't know. I tried to take a few people under my wing.

00:15:01

MS. HAMILTON: I have no doubt.

JUSTICE O'CONNOR: So I could make things work.

[laughter]

MS. WOODHOUSE: I think from reading your books that your mother¹² and your grandmother¹³ were very influential in terms of [your role models]--

00:15:12

JUSTICE O'CONNOR: [Interposing] They were, as you could imagine, I'm sure as you look back in your own lives, that's probably true. And I had a grandmother, if her eyes were opened

¹² Ada Mae Wilkey was born in Mexico in 1904. Before marrying Justice O'Connor's father Harry Day, Ada Mae had graduated from the University of Arizona (which was not typical for a girl at that time) and had been divorced. Joan Biskupic, SANDRA DAY O'CONNOR, 10-11(HarperCollins 2005).

¹³ At age 6, Justice O'Connor was sent to the home of her maternal grandmother, Mamie Wilkey, in El Paso, Texas, to attend the Radford School for Girls. SUPRA at P.16.

her lips were moving. She never stopped talking. I had to learn to say yes, grandmother, no, grandmother, at all the right times and never hear a word she said and that takes work.

MS. HAMILTON: That's a true skill.

JUSTICE O'CONNOR: Yes.

MS. WOODHOUSE: Yes, indeed.

MS. HAMILTON: Now was she the one you were living with when you were in Texas?

00:15:40 JUSTICE O'CONNOR: Yes.

MS. HAMILTON: You were in school?

JUSTICE O'CONNOR: Uh hmm, my mother's mother

MS. HAMILTON: Wow.

JUSTICE O'CONNOR: And she just was a talker. Also had energy and a worker but oh my goodness sakes, oh. A lot to live with. My ears still hurt.

[laughter]

00:15:59 MS. HAMILTON: Then you actually rose to a career where most of the building is very silent.

JUSTICE O'CONNOR: [Laughter].

MS. HAMILTON: That's why this is--

00:16:06

JUSTICE O'CONNOR: [Interposing] To my great relief, yes.

MS. HAMILTON: This I believe one of the greatest lessons, I always tell everybody, two lessons I learned from you that had nothing to do with the law.

JUSTICE O'CONNOR: What was that?

00:16:22

MS. HAMILTON: The first one was I had drafted up something in one of the cases and I think I'd been a little sharp and you called me in and you said, "We don't talk like that". And I thought I was being pretty nice.

[laughter]

MS. WOODHOUSE: I have a very similar experience.

JUSTICE O'CONNOR: Did you?

00:16:38

MS. WOODHOUSE: Where I remember sitting next to you and you were writing on the [draft of the] opinion and you crossed out a word [,it was a

sharper word than necessary,] and you said, "We don't really need to say that".

[laughter]

00:16:49 MS. HAMILTON: Which is the height of professionalism. And not every justice aspires to that kind of *amazing* professionalism. And I mean, maybe you can tell everybody where you learned how to be so judicious in your conversations--

JUSTICE O'CONNOR: [Interposing] I'm not sure but it certainly seems to me, at the end of the day, to be more effective than to forget yourself sometimes and put things in sharper tones than you should. I think it's better to be less vindictive and more instructive.

00:17:14 MS. HAMILTON: Because you're thinking about the horizon.

JUSTICE O'CONNOR: Yes.

MS. HAMILTON: Yes, you have to--

00:17:35 JUSTICE O'CONNOR: [Interposing] The future.

MS. HAMILTON: Yeah.

00:17:43 JUSTICE O'CONNOR: Particularly as a judge because your opinions may have to be followed in the future, so you want to keep them fairly fair and long lasting.

MS. HAMILTON: That brings up the interesting question though, you were on the court quite a few years. As you get toward ten years, 20 years, do you start feeling like your prior opinions are a weight or that they are a help?

[laughter]

00:18:06 JUSTICE O'CONNOR: Well, you hope they're going to be a help, but I guess not in every instance are they. You can find out in the later years of your career that you may have said some things that you want to tone down a little, having had experience. I don't know that I had some holdings that I had to absolutely overturn. I don't recall doing that. I hope I
00:18:32 didn't, but I might have. I don't

remember doing that. But you want to be pretty thorough and careful as you create new principles of law that you're not doing something you're going to regret a few months down the road.

00:18:49 MS. WOODHOUSE: I've heard people describe you as a judge's judge in the sense that you were writing for that particular case and not trying to make huge sweeping declarations.

JUSTICE O'CONNOR: Yes. If you're more cautious about making *sweeping rules* as you go along, you're more apt to see the principles survive and to see if, in practice, it works out pretty well. And don't make those sweeping pronouncements until you've had years of experience with it.

00:19:15 MS. HAMILTON: Which you had some pretty wonderful sweeping statements [in] your last opinion, so that [crosstalk]. No, not careless, wonderful.

00:19:37 JUSTICE O'CONNOR: Good.

MS. HAMILTON: Wonderful. But the second thing you taught me, and Judge Becker had already prepared me for this, was that as important as your legal career is, here you were a Supreme Court Justice, your family¹⁴ is more important.

00:19:46

JUSTICE O'CONNOR: Well, you start there and you end up there at the end of the day when you can't do anything, they have to take care of you. So you're going to start and end with family.

00:20:05

MS. HAMILTON: But you always made time for family and you always made time--

JUSTICE O'CONNOR: [Interposing] and law clerks, I hope.

MS. HAMILTON: Oh, absolutely.

MS. WOODHOUSE: We were family.

JUSTICE O'CONNOR: You were my court

¹⁴ Justice O'Connor married John Jay O'Connor III who developed Alzheimers and died in 2009. They have 3 sons, Scott, Brian, and Jay. Justice O'Connor stayed at home for about five years, from 1960-65, to take care of her sons. *Sandra Day O'Connor*, The Oyez Project at IIT Chicago-Kent College of Law, http://legacy.oyez.org/justices/sandra_day_oconnor (last updated March 23, 2017).

family.

MS. HAMILTON: Well I tried to bring your grand-clerk, Will¹⁵, today but he

00:20:16 had to work.

JUSTICE O'CONNOR: Oh dear, really? Oh dear, that would've been fun.

MS. HAMILTON: I know. I know. I told him.

00:20:21 JUSTICE O'CONNOR: Oh, I would've loved that.

MS. HAMILTON: Yeah, he's applying to law school.

JUSTICE O'CONNOR: I'm not surprised. Oh, I think he's going to be, not at all surprised. Isn't that fun?

MS. WOODHOUSE: I had little children when I was clerking, well they weren't that little actually.

00:20:35 JUSTICE O'CONNOR: You had grown children when you were here.

MS. WOODHOUSE: My son was about 10. My daughter was about 14.

¹⁵ William Kuzma, son of Professor Marci A. Hamilton.

JUSTICE O'CONNOR: Oh, are you a great grandmother yet?

MS. WOODHOUSE: Not yet. Not yet, but I am a grandmother twice over.

JUSTICE O'CONNOR: But you might be.

MS. WOODHOUSE: Yes.

00:20:45 JUSTICE O'CONNOR: Yeah.

MS. WOODHOUSE: And you did something so wonderful, I don't know if you remember it. I came in and mentioned to you that today was my son's

00:20:55 birthday. And you said, well we have to call him and wish him a happy birthday.

JUSTICE O'CONNOR: Sure.

MS. WOODHOUSE: And you dialed him up and you had a long conversation with him, this - - ten year old, about how much you appreciated his lending you his mother. And it was important to the country.

00:21:11 JUSTICE O'CONNOR: To the country.

MS. WOODHOUSE: And you told him about being with your grandmother and how when you lived with her you

missed your mother sometimes.

JUSTICE O'CONNOR: Yes.

MS. WOODHOUSE: That was just the most moving thing for me. And after that if you had said [asked me to] jump off the bridge, I would've jumped off the

00:21:25 bridge. It was [a pivotal moment for me] [crosstalk].

JUSTICE O'CONNOR: Oh, that's too funny.

MS. WOODHOUSE: You had my loyalty [forever][crosstalk].

00:21:29 JUSTICE O'CONNOR: That's great.

MS. WOODHOUSE: But I think it helped a lot for me as a woman with young children to feel that that [choice between career and family] wasn't a stark choice you had to make.

JUSTICE O'CONNOR: No, no, and it isn't. You have to teach young people how to converse and talk about things where there's more than one solution.

00:21:54 MS. HAMILTON: Thinking about the

clerkships, now when you were clerking how many cases a year did they have?

MS. WOODHOUSE: Oh, I don't even remember. All I remember is that it was sun up to sun down and then to midnight.

MS. HAMILTON: We had 135, toward the end of your tenure was what? 80, 90 cases a

00:22:11

year. Which balance did you like better, lots of cases or--

JUSTICE O'CONNOR: [Interposing] No, it's better to have fewer because

00:22:23

then you can put more work into the ones you have. But you don't always have control over that because life goes on. You may be stuck with the higher number and have to make the best of it.

MS. HAMILTON: But I take it there's some mumblings now that, not the justices, I think the clerks, don't get as many opinions to work on in each chamber.

00:22:44 JUSTICE O'CONNOR: Oh, is that right?

MS. HAMILTON: Yeah. Because--

JUSTICE O'CONNOR: [Interposing]

Because the court is taking fewer cases?

MS. HAMILTON: So few cases.

JUSTICE O'CONNOR: Is that right?

MS. HAMILTON: If you only have 70 cases and you have--

JUSTICE O'CONNOR: [Interposing] And

00:22:51 that is not many.

MS. HAMILTON: Yeah.

JUSTICE O'CONNOR: I wonder *why* that's happening. I'm not sure I know. Do you?

00:22:58 MS. HAMILTON: No, no, I don't understand it.

JUSTICE O'CONNOR: What are the scholars saying about it?

MS. WOODHOUSE: I've heard--

JUSTICE O'CONNOR: [Interposing] why the reduction.

MS. WOODHOUSE: --people say that it had something to do with the appeals jurisdiction, but that doesn't really

answer the question.

JUSTICE O'CONNOR: No.

MS. HAMILTON: I think it might be the solitary cert pool¹⁶. The fact you got a cert pool with so many justices in it and we didn't. We had fewer [justices in each pool]. And then you get more ideas coming out. The goal is for every clerk to recommend "deny" because you're going to be in the hot seat--

00:23:29 JUSTICE O'CONNOR: [Interposing] Yes, exactly.

MS. HAMILTON: If you're talking to eight justices, I think you're going to recommend "deny" a lot more and it's going

00:23:38 to be harder. It's going to be a timid little grant. But also, I

¹⁶ Justices may participate in the "cert pool." Petitions for writ of certiorari (requests for review) are divided among the participating Justices. The participating Justices divide their petitions among their law clerks. The law clerks, in turn, read the petitions assigned to them, write a brief memorandum about the case, and make a recommendation as to whether the case should be accepted or not. The Justice provides these memoranda and recommendations to the other Justices at a Justices' Conference.

<http://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/supreme-1>

think it's a change in judicial philosophy of the role of the court.

JUSTICE O'CONNOR: How is it changing in your opinion?

MS. HAMILTON: Well.

JUSTICE O'CONNOR: What move has been made do you think?

00:23:53

MS. HAMILTON: I think it's the idea that the justices are only here as a referee in [hard-]fought cases [from] across the United States and to let the federal Courts of Appeal settle most everything. I mean at this point.

00:24:16

JUSTICE O'CONNOR: Not really, the court is choosing the principle of law that's going to govern in areas where there is disagreement in the lower courts. So this court has to make those choices as it goes along. And sometimes it's hard to know which route to take that will serve the nation best, but that's the job the court has.

00:24:32

MS. HAMILTON: I think that the

public perception, forget the scholars, what do we know, but public perception is that it's kind of just befuddlement as to why the court would have so few cases.

00:24:55 JUSTICE O'CONNOR: I'm not sure I know. It starts at the bottom. It starts with those who are litigators who have the issues in the lower courts and the extent to which they want to continue to present an issue to the appellate courts in hopes of getting it resolved. And there are many things at play there. For one thing, it's very expensive to do. And I don't know how many litigants can afford to have someone take a case on. Now

00:25:18 if you're a criminal defendant you can do it because the government is paying the cost of the prosecution and the appeal and so forth. But if it's a civil case, it's expensive to

00:25:32 litigate all the way up to the top. And I don't know how many people want

to pay that bill.

MS. HAMILTON: I think that's right.

MS. WOODHOUSE: I've also heard

statements that perhaps some of the

earlier decisions of the court

limited the numbers of cases that

could get into the system, for

example, around habeas corpus or

00:25:53

issues about when you had a case that

you could bring. And I don't know,

since I'm not a criminal lawyer, I

don't really know much about that,

but that's been--

JUSTICE O'CONNOR: [Interposing] I

don't think that changed, but it's

possible the court is taking fewer

cases. Which would make sense

overall.

00:26:17

MS. WOODHOUSE: Well it seems as if

the law clerks are having a little

less work to do and we actually, I

think, thrived on the work.

JUSTICE O'CONNOR: You had a lot when

00:26:26

you were here, both of you. We had

more than you could do I think.

MS. WOODHOUSE: It was wonderful.

[crosstalk]

JUSTICE O'CONNOR: But we had a choice of good issues. What?

MS. HAMILTON: We got Christmas and Easter.

JUSTICE O'CONNOR: Oh well, I'm glad you were able to do that.

00:26:41

MS. HAMILTON: That was great.

JUSTICE O'CONNOR: Yes.

MS. WOODHOUSE: Well, we had wonderful Saturday meals in chambers¹⁷. So you kept us well-nourished and working away there.

JUSTICE O'CONNOR: Yes.

00:27:01

MS. WOODHOUSE: That was a wonderful experience. What do you think then of the criticism that you hear sometimes of having these young people who are just out of law school, they're coming in, do you

¹⁷ Barbara Bennett Woodhouse recalls Justice O'Connor had a practice of meeting each Saturday with her clerks to talk over pending cases. Justice O'Connor would bring a delicious meal she had cooked herself, often Southwestern food. The clerks felt this gesture showed Justice O'Connor appreciated the clerks' hard work and wanted to provide them nutritious meals.

think that is a good system?

00:27:09 JUSTICE O'CONNOR: Oh, it is a good system. I enjoyed so much having really bright, intelligent law clerks. We get the best here. Because we have very important cases and we hire as law clerks the best students and the brightest young people who apply. And it's so much fun to work with them and to get their ideas and their research and to be able to talk about all the possibilities. I think it's a great system. I loved it.

00:27:34

MS. HAMILTON: The trial courts always have a career clerk.

JUSTICE O'CONNOR: Yes.

MS. HAMILTON: And so--

JUSTICE O'CONNOR: [Interposing] We didn't. No.

00:27:49

MS. HAMILTON: --you got the experience, but you all have never had that.

JUSTICE O'CONNOR: It was an interesting time, I'm sure you

thought so too. Certainly was for me.

00:27:55 MS. HAMILTON: Yeah. Well, I think it's the steepest learning curve you could put a young person in.

JUSTICE O'CONNOR: Yes.

MS. HAMILTON: It's a gift.

JUSTICE O'CONNOR: I agree.

MS. WOODHOUSE: It's terrifying when you first arrive and then you start to do more and more and realize [you can do so much more than you thought possible].

JUSTICE O'CONNOR: [Interposing]

00:28:05 Well, even at the end of the day, you're not sure you've reached all the right ideas or answers. You do the best you can. But how wonderful to be in an appellate court where it's possible to consider the various possibilities and do the best you can with these very challenging issues. That's a great privilege.

MS. WOODHOUSE: Speaking of lessons
00:28:28 learned, that was one of the lessons

that I think was critical for me is you can't agonize over the decision that you've already made.

00:28:37

JUSTICE O'CONNOR: No, you have to make one and move on.

MS. WOODHOUSE: Right.

JUSTICE O'CONNOR: That's important to know.

MS. WOODHOUSE: For a justice that must be a very, almost a necessary [attribute]

00:28:52

JUSTICE O'CONNOR: [Interposing] It really is because you can't go back always and try to correct something you've thought about before. You have to do the best you can and move onto the next case.

MS. HAMILTON: One of the most interesting parts of the Supreme Court, and my students are always amazed that this is a fact, is that it shuts down June 30th and then it starts up the first Monday of October.

JUSTICE O'CONNOR: Yes.

00:29:08 MS. HAMILTON: Do you think that's a model that is worth exporting to other places?

JUSTICE O'CONNOR: Well, it depends on your schedule and your workload.

00:29:17 If you have a workload similar to ours, it worked fine. But it depends on how many cases you have and what kind of a schedule you're on.

MS. HAMILTON: But it forces the court to make these decisions.

JUSTICE O'CONNOR: Yes, which you need. There are people in all these appellate courts who'd postpone decisions longer if they could and

00:29:38 you need some motivation and reason to go ahead and decide it and move on. People can postpone things too long.

MS. HAMILTON: When some of the most contentious cases come out in June, and of course, the press loves to obsess about [crosstalk]--

JUSTICE O'CONNOR: [Interposing] Yes, indeed.

00:29:56 MS. WOODHOUSE: But it does put an end to the term [crosstalk].

JUSTICE O'CONNOR: You hope, yes.

MS. HAMILTON: But the press has all these theories, right. Around May
00:30:06 I'm sure you get the same calls. You get the calls from the press saying, "Now they're holding these cases and so [they'll be decided at the end of the Term". That's not really the way the court works is it?

JUSTICE O'CONNOR: No, no, not at all. You finish, you go to work and you try to decide the cases on your calendar and I tried to start early
00:30:25 on the ones that were going to take the most time. Try to get it behind you.

MS. HAMILTON: I remember the drafts would be circulated by hand.

JUSTICE O'CONNOR: Yes.

MS. HAMILTON: And then if there was an amendment the draft would be circulated by hand and I was actually doing some research a couple of years

00:30:42 ago on several cases. And I was amazed that the court printer would print a new draft with a two word change in it.

JUSTICE O'CONNOR: Is that right?

00:30:52 MS. HAMILTON: and circulate it.

JUSTICE O'CONNOR: with two words.

"And if".

[laughter]

MS. WOODHOUSE: It could be really important words.

JUSTICE O'CONNOR: Yeah, it's ridiculous but true.

MS. HAMILTON: But true, but true.

00:31:06 Did you like the way the court had set up the system in terms of--

JUSTICE O'CONNOR: [Interposing] Oh, I did. I thought it worked well. When I arrived I didn't know what system the court would use, but I thought what they had developed through the years worked fine and certainly served my needs.

MS. HAMILTON: And was it adequate communication between you and the

00:31:24

other justices?

JUSTICE O'CONNOR: Oh sure, and you were perfectly free to walk down the hall and chit chat with them or write them a letter or however you wanted

00:31:32

to do it. Some justices preferred to have it all in writing. And some were perfectly happy to talk about issues. So you have to figure out which justice is willing to approach it which way and follow that.

MS. WOODHOUSE: One thing about the term ending, so that you have a summertime, it struck me that you get a chance to also travel and see and work with judges from other

00:32:02

countries.

JUSTICE O'CONNOR: Well, not work so much with them. I mean they aren't asking you to come and sit on their cases but you do have an opportunity to get well acquainted with some judges from some other countries. And it's fun to see how a court in another part of the world with a

00:32:23 somewhat different legal system does
 their work. I enjoyed that a lot.

MS. WOODHOUSE: That comparative
 aspect, I teach comparative law now.

JUSTICE O'CONNOR: Ahh, good. I
00:32:35 enjoyed that.

MS. WOODHOUSE: Yeah, it sort of
 opens your mind--

JUSTICE O'CONNOR: [Interposing] Yes.

MS. WOODHOUSE: Were there people
 that you met in your travels around
 the world that particularly made an
 impression on you?

JUSTICE O'CONNOR: Oh yeah, you meet
 some wonderfully talented people and
00:32:48 others who didn't care much for the
 pursuit of conversation. [laughter]
 You meet them all.

MS. HAMILTON: I mean one of the most
 amazing things you did was to start
 the CEELI program, the Central and
 East European Law Initiative.¹⁸ What

¹⁸ The Central European and Eurasian Law Initiative (CEELI) is a public service project of the American Bar Association (ABA) initiated in 1990 to support the rule of law in Central and Eastern Europe and the then newly independent states of the former Soviet Union. The work of CEELI now falls under the

was it that got you involved with that?

00:33:08 JUSTICE O'CONNOR: I'm not sure looking back now why I did, but it was just wonderful to be deeply involved with some of these countries that themselves were trying to be formed and create good structures for their governance. And work with them and try to be helpful and encouraging. I thought it was terrific.

MS. HAMILTON: You spent a tremendous amount of time on that.

00:33:22 JUSTICE O'CONNOR: I did. I did. Central Eastern European Law Initiative. And I think some good came out of it.

00:33:40 MS. HAMILTON: Was that your brainchild? Was that something--

JUSTICE O'CONNOR: [Interposing] I'm not going to claim it. I'm sure it arose from ideas from many directions

but I did focus on it, put a lot of energy in it for a good many years.

MS. WOODHOUSE: There's a particular moment in time in terms of the development of [constitutional democracies]¹⁹--

00:33:56 JUSTICE O'CONNOR: [Interposing] It was at a time of formation that made your work more useful than it might be at some other time after it had been adopted and used.

00:34:08 MS. HAMILTON: I remember the year I clerked, the President of Peru showed up. And of course, they'd had one constitutional crisis after another. They just had so many issues with the constitution. Have you had [more] chance[s] to talk to world leaders like that about constitutional formation?

JUSTICE O'CONNOR: Well, I have on occasion but it was more active when

¹⁹ In the late 1980s many Eastern European republics began moving away from Communism towards democracy culminating in the fall of the Berlin Wall in 1989 and the dissolution of the Soviet Union.

00:34:30 you were here. I mean that was a
time when things were actually
happening in different parts of the
world. And some of the systems were
being formed and developed. So it
made it a time when your
participation could be particularly
stimulating. You could help
encourage them to go ahead and
develop something, very exciting to
do. It really was.

MS. HAMILTON: You've always been a
doer.

JUSTICE O'CONNOR: Well, sort of.
[laughter]

00:35:01 JUSTICE O'CONNOR: Yeah, I'd say so.

MS. HAMILTON: I mean you still have
all these projects going, which is--

JUSTICE O'CONNOR: [Interposing] I
have quite a few.

MS. HAMILTON: --impressive.

JUSTICE O'CONNOR: - - but not as
many as I did when you were around.

MS. HAMILTON: That's fair and
honest.

00:35:14 JUSTICE O'CONNOR: Not as many. Not
as much health left either.

MS. HAMILTON: But what are you
prioritizing now?

JUSTICE O'CONNOR: Now?

MS. HAMILTON: Yeah.

00:35:29 JUSTICE O'CONNOR: Oh I don't know
how to describe that. Whatever is on
the schedule I see what I think is
most pressing in terms of time. And
also, which one is of special

interest to me. What do I want to
work on and push? And I like
development of countries. And I like
developing or helping get different
00:35:45 countries and systems together to

talk about common problems and see
how best to handle them. - - .
Okay.

MS. WOODHOUSE: You've continued also
to sit on various appellate courts.
The judging part of your life is
still [continuing]

JUSTICE O'CONNOR: [Interposing] A
few. A little bit. It's declining

00:36:12 now that I'm getting ancient.

MS. HAMILTON: Was it fun to be at a federal [court of appeals]--

JUSTICE O'CONNOR: [Interposing] Oh, absolutely. Of course it is. Yeah, it's so interesting to see how other courts operate and what they would do and how your approach would differ and what works best. I like all that, don't you?

00:36:33 MS. HAMILTON: Oh, it's fun.

JUSTICE O'CONNOR: Yes, it is.

MS. HAMILTON: But I'll never forget, I was at a conference and it was the day after you'd heard argument in the

00:36:40 God Pods²⁰ case in the prison system up in Ohio²¹, I think. And it'd been in the, what is Ohio, the sixth circuit. And one of the people litigating the case was speaking. And he comes up to me and he says,

²⁰ *Americans United for Separation of Church and State v. Prison Fellowship Ministries*, 509 F.3d 406 (8th Cir. 2007).

²¹ The *Americans United* case, SUPRA, involved a religious program in a partially state-funded prison in Iowa. The appeal was heard by the U.S. Court of Appeals for the Eighth Circuit. Justice O'Connor (Ret) sat by designation.

00:37:04 "When I walked in the room and I had to do an oral argument on the establishment clause to Justice O'Connor, I almost had a heart attack."

[laughter]

JUSTICE O'CONNOR: I think people tend to get a little more worried about something than they should when they talk to a justice and they think, oh my god, now I have to talk to that person who knows more than I do. No, it's not true. It's still a help.

00:37:22 MS. WOODHOUSE: Though it seems as if the judges on the other courts just

really enjoy having that input and--

00:37:32 JUSTICE O'CONNOR: [Interposing] Oh, they do. They do. And I must say

that I particularly appreciated and enjoyed through the years the

privilege of having law clerks from different law schools, different backgrounds, and having a chance over the year to get to know them and

00:37:56 enjoy them. And that's just one of the great privileges of being an appellate judge. If you are part of a system that enables you to use some of these wonderful young people.

It's great. That's how I met both of you. [laughter]

MS. WOODHOUSE: Right. And I think many of your law clerks have gone on into the world of the academy.

JUSTICE O'CONNOR: They have, many are professors.

MS. WOODHOUSE: Some onto the bench.

JUSTICE O'CONNOR: Yes.

00:38:13 MS. WOODHOUSE: You've been sending us out to [make a difference.]

JUSTICE O'CONNOR: [Interposing]

That's right, I think we've done a pretty good job of keeping people

00:38:18 supplied in the system. [laughter]

MS. HAMILTON: Well, even your home state, I mean it's--

JUSTICE O'CONNOR: [Interposing]

Arizona.

MS. HAMILTON: Yeah, that's kind of a

Sandra Day O'Connor court there now.

JUSTICE O'CONNOR: Well, no.

[laughter]

MS. HAMILTON: I'm teasing.

00:38:30 JUSTICE O'CONNOR: But anyway, it's
fun to see.

MS. HAMILTON: I really enjoyed the
dedication of the law school.²²

MS. WOODHOUSE: That was quite an
event.

JUSTICE O'CONNOR: Yes, that was
exciting to have happen.

MS. HAMILTON: It's a beautiful
building.

00:38:41 JUSTICE O'CONNOR: And I hope, now
they're building a brand new one in
downtown Phoenix. I went to the
groundbreaking ceremony recently.

MS. WOODHOUSE: It'll be very close
00:38:51 to the court.

JUSTICE O'CONNOR: Closer, yes.

MS. WOODHOUSE: Oh, I see.

MS. HAMILTON: - - .

²² Sandra Day O'Connor College of Law at Arizona State University ("ASU"). The ASU Law School was renamed in honor of Justice O'Connor in 2006.

JUSTICE O'CONNOR: In a central location instead of out in a suburb as it had been. I'm pleased about that. And I hope the two of you will continue to participate in some way and come back as distinguished professors [of law] [laughter]. Now you can tell us all how to do things, which we need.

00:39:11 MS. WOODHOUSE: I always enjoy seeing emails coming from the Sandra Day O'Connor [College of Law].

JUSTICE O'CONNOR: Yes. It's done pretty well. I think it's quite an effective law school. I like it.

00:39:31 MS. HAMILTON: One of the other projects out in Arizona though is the preservation of the house.

JUSTICE O'CONNOR: Yes.

MS. HAMILTON: Which is now dedicated to public purposes.

00:39:38 JUSTICE O'CONNOR: My old adobe house is now held under the O'Connor House

label of structure.²³ And it's up on a hill overlooking Tempe²⁴ and the Salt River.²⁵ And it's used effectively for a number of gatherings. It's been good. It's not open to the public to go walk in. We can't maintain that. But it's been very, very useful and very nice to have. I'm happy with that.

0040:09

MS. HAMILTON: There are gatherings there.

JUSTICE O'CONNOR: Oh yes.

MS. HAMILTON: And people--

JUSTICE O'CONNOR: [Interposing]

Regularly. It's good.

MS. HAMILTON: How did that start, in terms of saving it?

²³ The original adobe home of Sandra Day and John O'Connor in Paradise Valley, Arizona was saved from demolition by a committee, "Friends of O'Connor House", and moved brick by brick, to its current location on the Arizona Heritage Center campus in 2009. The O'Connor House is operated and maintained by The Sandra Day O'Connor Institute. <http://oconnorinstitute.org/programs/oconnor-history/oconnor-house>.

²⁴ Tempe is a city in Maricopa County, State of Arizona, United States.

²⁵ The Arizona Salt River starts from the fresh water of the Gila River. It is said to become salty due to the Salt Cedar or Tamarisk tree that lines the river.

00:40:18 JUSTICE O'CONNOR: Well, it was the house that my husband and I built when we first went to Arizona. We wanted an adobe house. I had grown up in an adobe house out on the Lazy B Ranch. It was plastered. And I kind of wanted an adobe house that didn't have to be plastered, which means you have to have a huge overhanging roof. So when it rains

00:40:32 it doesn't wash down the adobe, that's the deal. We managed when we built to get an architect who had had some of his training at Frank Lloyd Wright and he designed a huge overhang so that the walls were safe.

00:40:56 And we did develop an adobe house. And that house is still there and still functional and it's so much fun. It's great.

MS. WOODHOUSE: And you moved it from its place.

JUSTICE O'CONNOR: We moved the original to a different location but it's happy.

MS. WOODHOUSE: And I remember you
00:41:13 showing me that house and saying that
there was a dance floor, right? That
you had built an outdoor dance floor.

JUSTICE O'CONNOR: We did when we had
our house because my husband and I
00:41:24 like dancing a lot. We made sure we
had a floor that would meet that
purpose with the house.

MS. HAMILTON: Did you build that
house after, weren't you in the JAG²⁶
or--

JUSTICE O'CONNOR: [Interposing] Well
John was.

MS. HAMILTON: John was in the JAG
Corps.

00:41:38 JUSTICE O'CONNOR: And it was after
he got out of the Judge Advocate
Generals and we came back and settled
in Arizona.

MS. HAMILTON: Now what did you do
while he was in the JAG Corps.,
because you were a lawyer too?

²⁶ Judge Advocate General Corps is the legal branch of the U.S. Military. Each military branch has its own JAG Corps.

JUSTICE O'CONNOR: Yes, I got a job overseas that I could do in the Quartermaster Market Center²⁷. And we

00:41:55 were trying to, during World War II we tried to supply a lot of things to our allies in Europe. And we didn't want certain goods going to the wrong side of this conflict. We had all kinds of means of trying to assure

00:42:14 contractually and otherwise that we were being safe with what we were supplying. And that was part of what I worked on.

MS. HAMILTON: That's interesting. I never heard that particular detail. It makes sense you would have to do that.

00:42:35 JUSTICE O'CONNOR: Yeah, we had to do a lot of things to protect our interests.

MS. HAMILTON: How long were you all over there?

²⁷ The Market Center system was first organized in 1941 as a procurement system for fresh fruits and vegetables for the U.S. Army.

JUSTICE O'CONNOR: About five years.
At least four. And it was fun
because we traveled all the time when
we could. And we both liked skiing a
lot and we found a little cottage in
Kitzbuhel²⁸, Austria that we could
rent

00:42:55 for wintertime. And so we had a
great time.

MS. HAMILTON: That's a good life.

JUSTICE O'CONNOR: It's fun. Yeah,
it was good.

00:43:02 MS. HAMILTON: What's your favorite
sport of all time that you've played?

JUSTICE O'CONNOR: Oh, skiing.

MS. HAMILTON: Is that right?

JUSTICE O'CONNOR: Our favorite
thing, but that's only good in the
winter.

MS. HAMILTON: Yeah. More than golf
and tennis.

JUSTICE O'CONNOR: I played tennis
00:43:14 quite a bit and enjoyed that. And in

²⁸ Kitzbuhel is a medieval town in the Austrian Alps popular for skiing.

my ancient years I'm doing a little more golf. I'm not all that good at it but that's something you can improve over the years.

MS. HAMILTON: You started pretty good.

[laughter]

MS. HAMILTON: I mean you didn't let anybody see you [play golf] until you were [good at it].

00:43:31 JUSTICE O'CONNOR: That's right. Don't let them see you.

MS. HAMILTON: I remember--

JUSTICE O'CONNOR: [Interposing] There's a lot to correct, yes.

00:43:37 MS. WOODHOUSE: I remember you went kayaking in the Cedar Key²⁹ with--

JUSTICE O'CONNOR: [Interposing] Yes.

MS. WOODHOUSE: --with my husband and me.

JUSTICE O'CONNOR: Yes, yes.

MS. WOODHOUSE: You did a great job.

JUSTICE O'CONNOR: Which was fun.

²⁹ Cedar Key is a city in Levy County, Florida.

MS. WOODHOUSE: Yeah.

JUSTICE O'CONNOR: Yeah.

00:43:45 MS. WOODHOUSE: I think this athletic talent is [part of who you are.]

JUSTICE O'CONNOR: [Interposing] Well, it's nice to do a few things.

MS. HAMILTON: What our clerks will talk about is, "what was your trip at the end of the year? Where did you go?" In your memory what was either the craziest trip or the most fun or ...?

00:44:03 JUSTICE O'CONNOR: With the law clerks?

MS. HAMILTON & MS. WOODHOUSE: Yeah.

JUSTICE O'CONNOR: Oh gosh, I'd have to go review them. I just--

00:44:08 MS. HAMILTON: [Interposing] How about the one you fell out of the raft.

JUSTICE O'CONNOR: Well, [laughter] I wouldn't put that down as the most fun. I didn't want to fall out but I did.

MS. HAMILTON: Yeah, well. I think

each of the clerks had an individual heart attack at that moment.

JUSTICE O'CONNOR: Yes, I'm sure.

00:44:22

MS. WOODHOUSE: That was probably the most--

JUSTICE O'CONNOR: [Interposing] But everything worked out.

MS. HAMILTON: But what's interesting is you could have just said every year we all go, we'll take all the clerks to the same place, some place fun.

JUSTICE O'CONNOR: No, no, we had to have--

00:44:34

MS. HAMILTON: [Interposing] It had to be an adventure.

JUSTICE O'CONNOR: Yes, absolutely. Something different every year.

00:44:38

MS. HAMILTON: How did you come up with the different places?

JUSTICE O'CONNOR: Well, it's easy. The world's a busy place. There's lots to see and do.

MS. HAMILTON: You would just be constantly looking and thinking about

it.

JUSTICE O'CONNOR: And I lived in the southwest of the United States and there is no shortage of great places to see.

00:44:52

MS. HAMILTON: True.

MS. WOODHOUSE: I remember when I was clerking it wasn't just the end of the year that we did this.

JUSTICE O'CONNOR: No, we had a few other events too.

MS. WOODHOUSE: And suddenly, we would be working late and then you would say, we're going on an outing.

00:45:07

[laughter]

MS. WOODHOUSE: In those days you were very recognizable because of having recently become the first woman on the court so you would wear dark glasses and a hat.

00:45:16

JUSTICE O'CONNOR: Oh sure.

MS. WOODHOUSE: And we would not know where we were going but we'd go and you'd say, there is an exhibit that we must see at the National Gallery.

Or the azaleas are so beautiful at the Botanic Garden. To me, like your life, you liked intense hard work interrupted by intense good fun.

00:45:41

JUSTICE O'CONNOR: Exactly.

MS. HAMILTON: But that's what you taught me and I still live my life that way, which is that you work your tush off all the time but you better take time--

JUSTICE O'CONNOR: [Interposing] But then go do something good.

MS. HAMILTON: When those cherry blossoms come out, you're going to be out there.

00:45:55

JUSTICE O'CONNOR: That is right.

MS. HAMILTON: It doesn't matter what you have due.

JUSTICE O'CONNOR: That's right.

00:46:00

That is right.

MS. HAMILTON: Of course the cherry blossoms would not cooperate.

JUSTICE O'CONNOR: Sometimes they didn't.

MS. HAMILTON: They wouldn't bloom on

the day they were supposed to.

JUSTICE O'CONNOR: No, I know.

They're very difficult little critters. They really are.

[laughter]

00:46:13

MS. HAMILTON: But you would come in and announce today is the day.

JUSTICE O'CONNOR: We have to do it that way to see them at their prime. So we tried--

MS. HAMILTON: [Interposing] Did you guys carve pumpkins?

MS. WOODHOUSE: Yes, we did, we did. I remember that, yes.

00:46:25

JUSTICE O'CONNOR: - - you had to carve. Absolutely.

MS. WOODHOUSE: Absolutely.

[laughter]

00:46:33

MS. HAMILTON: By far the most fun chambers in the building. I mean

none of the guys were doing that.

JUSTICE O'CONNOR: No, they don't care, but we did.

MS. HAMILTON: Yes.

JUSTICE O'CONNOR: And that made it

fun.

MS. HAMILTON: It was so much better
and they weren't cooking on Saturdays
and.

JUSTICE O'CONNOR: No, and we did.

00:46:41 MS. HAMILTON: Yes. And they don't
have grand clerks.³⁰ I mean I have
to say that had to be the best
clerkship in the building.

JUSTICE O'CONNOR: Yep.

MS. WOODHOUSE: And their grand clerk
t-shirts.

MS. HAMILTON: That's true. That's
true. I'll never forget Alex³¹ was
such a chubby baby and you sent the
00:46:56 grand clerk t-shirt and it was a
little snug. It was so cute.

JUSTICE O'CONNOR: I'm sorry it was
snug.

MS. HAMILTON: Oh, it was perfect.
00:47:04 It was perfect. It made her look
even cuter than she was.

JUSTICE O'CONNOR: That's fun.

³⁰ The term "grand clerk" was a term of endearment used by Justice O'Connor to refer to the children of her clerks.

³¹ Alexandra Kuzma, daughter of Marci A. Hamilton.

MS. HAMILTON: Yeah.

MS. WOODHOUSE: And Sacha³², who I think is your first [great] grand clerk just turned seven. So he's a big boy, growing up.

JUSTICE O'CONNOR: Isn't that something?

00:47:16 MS. WOODHOUSE: Yeah, it's quite a family.

JUSTICE O'CONNOR: Oh, I hope you know how much my law clerks meant to me then and continue to mean to me today. I'm very proud of all of them and it's just fun to see what you do now with your lifetime of brilliance and energy.

MS. WOODHOUSE: Wow.

00:47:36 JUSTICE O'CONNOR: You have so much to contribute.

MS. WOODHOUSE: The feeling is mutual.

00:47:42 JUSTICE O'CONNOR: I contributed mine, now you have to go--

³² Sacha Lasser, son of Barbara Bennett Woodhouse's daughter, Jessica Woodhouse. Ms. Woodhouse refers to Sacha as "Justice O'Connor's first great grand clerk".

MS. HAMILTON: [Interposing] Oh we
have to go.

[laughter]

JUSTICE O'CONNOR: Okay.

MS. HAMILTON: Well, the truth is, is
that no woman going into the very
difficult high stakes of women in
law, at the top levels, could be
better educated than by you.

00:48:02 JUSTICE O'CONNOR: Oh, well, that's
not very--

MS. HAMILTON: [Interposing] I'm very
serious.

JUSTICE O'CONNOR: That is not true.

MS. HAMILTON: The professionalism,
because it's so easy to get yourself
sidetracked by getting involved in
things that should be - - few. And
you taught, don't do that. Don't
00:48:15 ever do that. And the concept that
you just take the time. You go see
those cherry blossoms whether you
like it or not.

JUSTICE O'CONNOR: You have to do it.
00:48:22 Yeah.

MS. HAMILTON: Because if you do it,
you feel better afterwards.

JUSTICE O'CONNOR: There are certain
things you really need to do that
aren't available elsewhere, so we
have to do them.

MS. HAMILTON: Yep.

00:48:34

JUSTICE O'CONNOR: But I just was so
blessed with having law clerks with
such talent and warmth that they were
people I knew I wanted to see the
rest of my life. So thank you for
being part of that.

MS. WOODHOUSE: Oh, you're very
sweet.

MS. HAMILTON: Thank you.

JUSTICE O'CONNOR: Yeah.

MS. HAMILTON: Nice Justice.

[END RECORDING]