



# THE BULLETIN



## JUSTICE O'CONNOR AND PAST PRESIDENT LANCASTER Speak of Civics, History and the Future

A highlight of the 2012 Spring Meeting was the informal, on-stage conversation between retired United States Supreme Court Associate Justice **Sandra Day O'Connor** and Past President of the College, **Ralph I. Lancaster, Jr.**, of Portland, Maine.

President **Thomas H. Tongue** remarked that Justice O'Connor needed no introduction to the assembled guests, so Lancaster joined O'Connor on the stage for a relaxed, humorous and personal conversation ranging from her favorite horse to her path to the Supreme Court.

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## EDITORIAL STAFF

**Ann F. Walker, JD**, Deputy Director, [awalker@actl.com](mailto:awalker@actl.com)  
**Amy Nanney**, Project Coordinator, [ananney@actl.com](mailto:ananney@actl.com)  
**Liz Doten**, Design Director  
**Ben Majors**, Photographer, EventWorks

**Dennis J. Maggi, CAE**, Executive Director  
American College of Trial Lawyers  
19900 MacArthur Boulevard, Suite 530,  
Irvine, California 92612  
T: 949.752.1801 F: 949.752.1674  
Email: [nationaloffice@actl.com](mailto:nationaloffice@actl.com)  
[www.actl.com](http://www.actl.com)

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# FROM THE EDITORIAL BOARD

Through the end of the 1990s, *The Bulletin* was just that, a newsletter bulletin board devoted to keeping the Fellows abreast of current developments.

Over the years since 2000, as the College began increasingly to rely on its website and the Internet to communicate current matters, *The Bulletin* has evolved into a journal. It now covers in depth the rich substance of national meeting programs, articles on topics of interest to the trial bar and significant activities and achievements of Fellows.

Some years ago, a new In Memoriam section began to celebrate the lives and inspiring life stories of departed Fellows. Collectively, these memorials paint a lasting picture of a remarkable group of trial lawyers, bound together by the enduring values that led to the creation of the American College of Trial Lawyers sixty-two years ago.



E. Osborne "Ozzie" Ayscue, Jr.

Over the years since 2000, *The Bulletin* has been written in great part by Editor **Marion A. Ellis**, who was the co-author of *Sages of Their Craft*, the fifty-year history of the College, and Past President **E. Osborne "Ozzie" Ayscue, Jr.** Marking a transition, this issue of *The Bulletin* and the last were produced by the College staff, who will continue to report on regional and national meetings of the College in future issues. An interim summer issue will be a collective effort of articles reported by Fellows.

Future issues will be under the co-editorship of Past President **Andrew M. Coats** and Canadian Fellow **Stephen M. Grant**. Ozzie Ayscue has agreed to continue writing the In Memoriam section and with his years of experience and expertise will serve as Editor Emeritus.

Andy Coats and Stephen Grant look forward to hearing from the Fellows with ideas, suggestions and assistance as they seek to continue making *The Bulletin* interesting and relevant to our readers. Please contact the National Office with any questions, or to volunteer your service, at [nationaloffice@actl.com](mailto:nationaloffice@actl.com).

# CONVERSATION WITH SANDRA DAY O'CONNOR: FROM THE RANCH TO THE COURT ... AND BEYOND

After graduating from Stanford Law School, Justice O'Connor returned to her home state to practice law and later went on to serve as Maricopa County Superior Court judge, Arizona Court of Appeals judge, and Arizona State Senator. In 1981, she again left Arizona when called by President Ronald Reagan to serve as the first female Justice of the Supreme Court of the United States.

While on stage at the meeting in Scottsdale, Justice O'Connor and Past President Ralph Lancaster discussed iCivics, an online program that introduces elementary and middle school children to civics and the Constitution with a goal toward more-knowledgeable and engaged citizens of the future.

Although iCivics is Justice O'Connor's current pet project, she carries a catalogue of interests that date to her youth on the family's Arizona ranch. Her childhood memories traveled with the Justice as she served on the nation's highest court for a quarter of a century. Having returned to private life in 2006, Justice O'Connor now shares her childhood memories of life on the ranch and her observations of a life well lived as the author of best-selling books for readers of all ages.

The lightly edited transcript of Justice O'Connor's conversation with Ralph Lancaster follows: >>





## IT'S ONLY SEMANTICS

### **PAST PRESIDENT RALPH I. LANCASTER, JR.:**

I have a good friend, Justice O'Connor, who says that retire means re-tire, to put new treads on.

### **HON. SANDRA DAY O'CONNOR:**

Yes, put new tires on, to start over.

### **LANCASTER:** Exactly.

### **JUSTICE O'CONNOR:** Well, that's a good idea.

## iCIVICS – A PASSION

**LANCASTER:** I've been looking at what you've been doing, and I think you've worn out three full sets of tires since you retired. One of the most impressive, to me, is iCivics. As I understand it, you and Justice Breyer hosted a convocation at Georgetown.

**JUSTICE O'CONNOR:** Yes, and I'll tell you how it came about. When I stepped down from the Court, it seemed to me there was much criticism of judges. I'm sure you read it and heard it too; it was everywhere. Judges were called every bad name I can think of, and they were compared unfavorably to a lot of people. It was reaching the point that several of us on the Court thought it would help to have a conference and invite leaders from around the country to talk about the trend to find out what was going on and what we could do.

We held a conference at Georgetown Law School in Washington. We put our heads together, and I asked all the members of the Court to help

me think of the people we should try to get there. We had a very good assembly of people and a marvelous program designed to focus on the criticism of courts and judges, to identify what the problem was, and to talk about it.

The conclusion we reached was that the problem was the product of a lack of education and understanding about the role of courts and the role of judges.

The lack of knowledge seemed odd to us. We're in the legal profession. We know about it. We go to court. We know what it's all about. As members of this organization, you certainly do. But the general public does not, and the extent of the lack of knowledge was very disturbing. So we tried to talk about what we could do. It boils down to education.

And it turns out that about half of the states in the United States have discontinued requiring civics education during the grade school years. I remember having civics every year. I thought it was sometimes dull and boring, to tell you the truth, but at least we had civics instruction and we learned something.

Dull or boring or not, they don't teach civics in many states today, and the results are terrible. About two-thirds of young people getting through eighth grade today cannot name the three branches of government, much less say what they do. And adults aren't much better. It's shocking. You can't imagine how little understanding there is in this country today among people of all generations about our form of government, how it works, how it's organized, and the role of the individual within the system.



## A LITTLE HISTORY

Now, we didn't start out, as you know, with the right to a public school education under the Constitution. It wasn't until the early 1800s that people started saying we should have public schools in this country; that we should educate young people about our system of government. Since that time, the country has decided to have public schools; to educate students; to teach civics; to teach how the government is structured, what the Constitution provides, and how it works.

In recent years about half the states have stopped making civics and government a school requirement. Now we're focused on math and science and a little reading, but not civics. The results have been frightening. That was what stimulated me and a few others to start a website covering civics.

## IT STARTED WITH OUR COURTS

**LANCASTER:** As I understand it, you started something called Our Courts, and that has morphed into something called iCivics.

**JUSTICE O'CONNOR:** At first we were dealing only with the court system, because that's what the Justices who came to that first meeting thought we ought to focus on. Goodness, you ought to hear the members of Congress talk about the courts. They're neither informed nor enthusiastic about judges and courts.

Our first effort was to put up a web program called Our Courts. What I did initially was to contact teachers of young people through the eighth grade. We found out from every state what the requirements were for teaching, and then we designed a program to teach young people how courts and judges operate and what they do.

It was pretty good. We taught by using games that young people could play on a computer. We know that young people through the eighth grade spend, on average, seventy hours a week in front of a screen, whether it's a TV or a computer. I just need an hour or two. I don't need seventy hours, and I can teach them something.

## "BRANCHING" OUT

After two or three years using Our Courts, I decided that we should expand our teaching of civics beyond the judicial system to the other two branches of

government. We hired some great designers of computer games for young people, and we consulted a group of teachers for the lower grades across the country about what subject matter ought to be encompassed. We had good guidance and we put together some marvelous games. We now have eighteen different games on the website.

I encourage everyone to look at the iCivics website. If you have children or grandchildren in your household, encourage them to look at it. The games are fun, and they effectively teach as they go. I am very enthused about it. I now have at least one chairperson in all fifty states. We are trying to work with each state to get the schools well acquainted with the program and to get them to use it. *[Editor's Note: See [www.icivics.org](http://www.icivics.org).]*

A few states have started passing Sandra Day O'Connor laws to require it. I think that's a good idea. So you can tell your legislators to do the same thing, because iCivics really works. It's fun. We've tested young people before and after they've played the games. They learn a lot, and it's fun for them to do. How could you go wrong? They're learning something.

## WE CAN ALL MAKE A DIFFERENCE

**LANCASTER:** What can we do to advance the cause for you and iCivics?

**JUSTICE O'CONNOR:** You can be helpful because you know people in each of your states who control the education system in your state. If you get your State Secretary of Education familiar with the iCivics program and get her commitment to use iCivics in the grade schools, you will have done your part.

Many of you probably know the person to contact in your state. If not, get acquainted and see what you can do. You can make a difference, you really can. And I would love it if you would be interested enough to get iCivics in use in your state.

**LANCASTER [to the audience]:** I wouldn't want to suggest that if you don't follow that direction, you'll be found in contempt, but it's a real possibility.

## A NEW CIRCUIT RIDER

**[to Justice O'Connor]:** Now, in addition to your absorption with iCivics, you've been sitting on circuit courts around the country?

**JUSTICE O’CONNOR:** I have. Some of the circuits seem to think it’s good to have a visit from a retired Justice. So I’ve been sitting around the country with some of the circuits, and my next sitting will be in the Fourth Circuit. I follow that with a visit to the Third Circuit in Philadelphia.

I’ve sat with the Fourth Circuit two times already, and I must say, I think it is one of the best-run of all the circuits in the country. I like the Fourth Circuit very much; I think they’re organized quite effectively.

**LANCASTER:** Now, I can’t resist asking this question of you.

**JUSTICE O’CONNOR:** Okay.

**LANCASTER:** I may be in contempt. But I’m assuming that as a result of sitting on the various circuits, and you’ve sat on a lot of them, that there has come a time when you were faced with an issue which had been decided by the Supreme Court, and a Justice O’Connor had dissented from that opinion, and you had to either author or join in that opinion...

**JUSTICE O’CONNOR:** No, I really haven’t had to face that head on yet. I think most of the circuits, when they’re figuring out what to assign the panel, have avoided that situation.

**LANCASTER:** I was going to follow up by asking you if you ever wrote one of those opinions and it began something like “x years ago I dissented in such-and-such a case. The others were wrong then. They’re wrong now.”

**JUSTICE O’CONNOR:** Well, that sounds all right to me, but I haven’t faced that situation.

## OUTDOORSMAN O’CONNOR

**LANCASTER:** Let me ask you, on a personal side, are you still riding horses?

**JUSTICE O’CONNOR:** A horse? Not if I can help it. Before I could walk, they had me sitting on a horse. And I rode all those years on the ranch and many years later for recreation. But it gets you kind of sore when you’re old and creaky like I am.

**LANCASTER:** Are you still fishing?

**JUSTICE O’CONNOR:** Yes, absolutely.

**LANCASTER:** Are you still playing tennis?

**JUSTICE O’CONNOR:** Very little, because I don’t run fast enough to get the ball.

**LANCASTER:** Still playing golf?

**JUSTICE O’CONNOR:** Yes.

## COWGIRL O’CONNOR AND THE RANCH



*Justice O’Connor as a young girl, astride her beloved Chico.*

**JUSTICE O’CONNOR:** Well, the photograph of me on a horse was at an age when I could ride. I had a wonderful little horse. My favorite horse when I grew up on the ranch was one named Chico, which means “small” in Spanish. It was a horse that we found in a wild horse herd. You don’t often get a good riding horse out of a bunch of wild horses, but Chico was fabulous, and I loved him. If I fell off, he would stop and wait for me to get back on. No other horse would do that, so Chico quickly became my favorite.

**LANCASTER:** Was this on the Lazy B Ranch where you rode Chico?

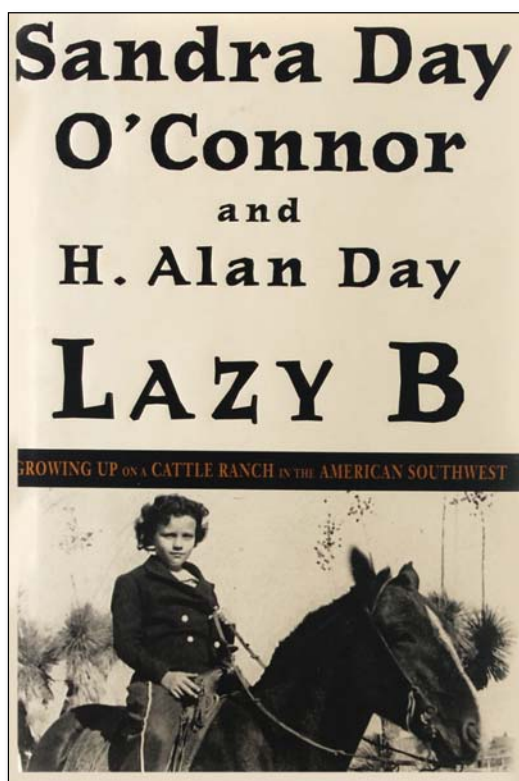
**JUSTICE O’CONNOR:** Yes.

**LANCASTER:** And wasn’t that ranch in excess of 100,000 acres?



**JUSTICE O'CONNOR:** Well, it was approximately 300 square miles in size. It was on the New Mexico-Arizona border, along the Gila River. My grandfather, Henry Clay Day - how do you like that? - founded it and established the ranch there in 1880 when New Mexico and Arizona were joined as one entity. He had to buy cattle for the ranch. When he went down to Mexico to buy a herd of cattle, the cattle he bought had a *Lazy B* brand on them. That's a *B* lying on its side. A brand, if it's lazy, is lying down. So we just used the name for the ranch, *Lazy B*, ever after, and it's still called the Lazy B Ranch.

**LANCASTER:** We have a book called *Lazy B*.



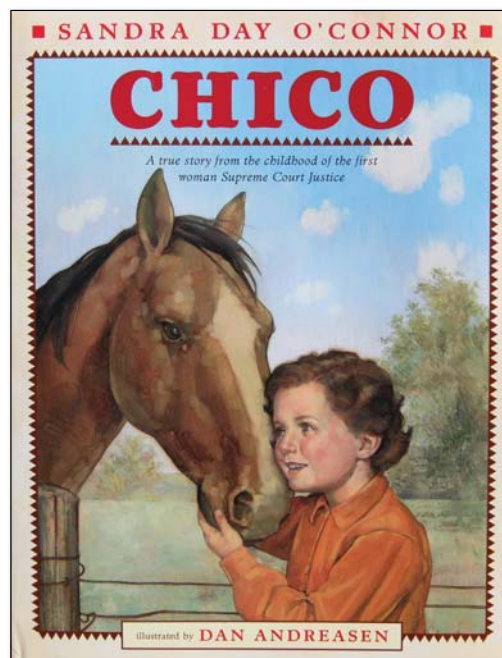
Cover of *Lazy B*, published 2002

**JUSTICE O'CONNOR:** That's right. That's pretty fun. My brother and I wrote that, and it tells stories from the ranch about how it worked and some of the characters and some of the happenings. I think it's a lot of fun, to tell you the truth.

**LANCASTER:** And you wrote about Chico?

### JUSTICE O'CONNOR, THE AUTHOR

**JUSTICE O'CONNOR:** I did. I wrote a children's book called *Chico*, and that was fun. It's a good little book for children or grandchildren.



Cover of *Chico*, published 2005

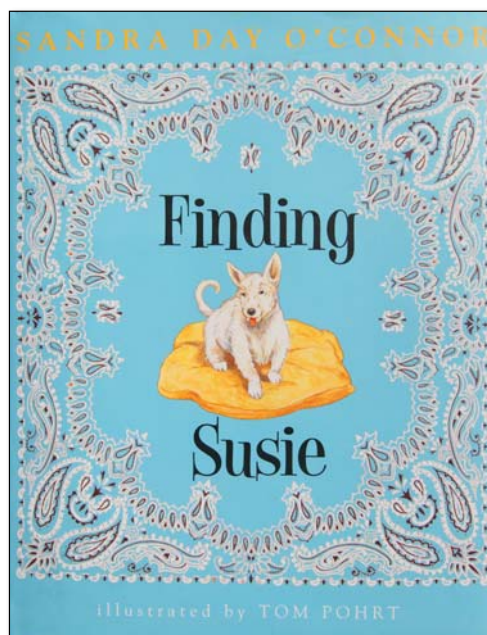
**LANCASTER:** Now, the heroine is a woman named Sandra.

**JUSTICE O'CONNOR:** How could that be?

**LANCASTER:** So is that sort of autobiographical?

**JUSTICE O'CONNOR:** Yes, it's about my favorite little horse, Chico.

**LANCASTER:** Then you wrote one called *Finding Susie*.



Cover of *Finding Susie*, published 2009



**JUSTICE O’CONNOR:** That was our little dog at the ranch, and that’s a good story, too. And then I wrote *Majesty of the Law*.

I have a new book contract.

**LANCASTER:** I was just going to ask you about that. The rumor mill is that you have a new book coming out.

**JUSTICE O’CONNOR:** I do, and it’s more about the Court, but I hope it will be of interest and entertaining.

And then I’m going to get busy and write one called *How the Cowgirl Got to the Court*. So I’ll get busy on that soon.

### ELECTED OR APPOINTED?

**LANCASTER:** Let me ask you your opinion of an elected judiciary?

**JUSTICE O’CONNOR:** You already know or you wouldn’t ask. I have to say, I’ve been very outspoken on this issue. About half the states still try to elect some of their judges. Arizona was one of the states that elected its judges.

When I was in the State Senate in Arizona, one of the things that I tried to do was to put together an Amendment to the Arizona Constitution to provide that judges would not be popularly elected. And what we did was to apply the condition to the big counties, such as where Phoenix and Tucson are, but leave the other counties alone. We then provided for a merit selection plan for both trial and appellate courts in other areas of the state. This plan has worked out well.

**LANCASTER:** Before we leave the topic of elected versus meritbased judges, is your opinion based in any way on the fact that you were elected to the Superior Court?

**JUSTICE O’CONNOR:** No. I was away from the law for a while, as I was doing County Attorney things, and John and I moved to Arizona where they elected their judges. I had been plodding along in Arizona. I had a partner, and we had just opened shop in a shopping center in Maryvale, Arizona, hung up a shingle and took what we could get. We did not have the kinds of problems usually solved in the U.S. Supreme Court.

We took a bunch of criminal appointments because it was in the days before public defenders, and we just did whatever we could to scratch out an existence.

After a time, I thought that it was time to maybe get back to the law and try to become a judge. I ran for a position, because Arizona still elected its judges, and I ran for a seat on the Superior Court. I had competition, but darned if I didn’t win. And so I became a judge.

**LANCASTER:** Did you have to go out around raising funds?

**JUSTICE O’CONNOR:** Yes, and the people who contributed then, as now, I think, largely were the lawyers who would appear before me.

**LANCASTER:** I take it there were no Super PACs in those days?

**JUSTICE O’CONNOR:** I don’t think so. That came a little later.

**LANCASTER:** That leads me to *Citizens United*. You’re aware of the fact that a Montana court has said, “I don’t care what the Supreme Court said. That is wrong, and we are not going to follow it.”

**JUSTICE O’CONNOR:** Good for Montana.

**LANCASTER:** As I was doing research, I noted that the Supreme Court has issued a stay on the Montana decision.

**JUSTICE O’CONNOR:** No doubt.

**LANCASTER:** Justice Ginsburg was quoted as saying that a petition for cert will give the Court an opportunity to consider whether, in light of the huge sums currently deployed to buy candidates’ allegiance, *Citizens United* should continue to hold sway. Do you want to comment on that?

**JUSTICE O’CONNOR:** Well, I don’t have any business commenting on what the Court is doing now, and I try not to. But maybe the Court will have an opportunity, by virtue of that petition, to look at the question again. I certainly would not be shouting, “Oh, you can’t do that.”

**LANCASTER:** I thought you might, as a citizen, suggest how you felt about *Citizens United*.



**JUSTICE O'CONNOR:** I have tried to keep my mouth shut when it comes to telling the Court what to do since I left it.

## THE SCHOOL OF HARD KNOCKS AND FUN - THE EARLY YEARS

When I was first starting out, I practiced law. None of the firms would give me a job. *[To the audience:]* And I have to tell you this story, you need to hear it:

I got out of law school in 1952, and I had done very well in law school. I had all the honors and made the *Law Review* and all that stuff, and that was fine. It hadn't occurred to me that it would be hard to get a job after getting out of school. I just assumed I would be able to find something.

My husband, John, and I were engaged at that time to be married. He was a year behind me in school. We both liked to eat, and that meant one of us had to earn some money, and that person was me. There were notices on the bulletin board at Stanford: "Stanford Law Graduates, call us. We would be happy to talk to you about a job." I called at least forty firms on that bulletin board at Stanford. Not a single one of them would even give me an interview. They said, "Oh, you're a female. We don't hire women." I mean they wouldn't even talk to me.

I had an undergraduate friend at Stanford whose father was a lawyer in Gibson, Dunn & Crutcher in California. That was a big firm in those days and still is. I said, "Could you talk to your dad and maybe get me an interview there?"

She did, and I made a trip to Los Angeles to interview. You know, my friend's father looked like he belonged to the American College of Trial Lawyers, he was that distinguished. We had a nice conversation, but he said, "Miss Day, this firm has never hired a woman lawyer. I don't see the day when we will." I looked kind of shocked, and he said, "Well, our clients wouldn't stand for it." So that was the end of that. I looked dejected, and he said, "Well, now, would you like me to explore whether we could find a place for you here as a legal secretary?" And I said, "No, I don't think so. Thank you."

So I went off from that and I didn't know where to turn, because we were going to get married that

Christmas at the Lazy B Ranch and I really did need a job. And I heard that the County Attorney in San Mateo County, California, had once had a woman lawyer on his staff. I wrote him a letter and made an appointment to see the County Attorney. He was very nice.

In California, they still elect the county attorney. It's an elected job, so they're gladhanders. They're always glad to meet you, hoping for a vote or something. I don't know.

We had a very pleasant conversation, and he said, "Yeah, I had a woman lawyer here and she did fine, and I would be happy to have another one. Your qualifications are good. I would be willing to have you, but I get my money from the Board of Supervisors, and I'm not funded to hire another deputy right now. The supervisors determine how much to give me, and I've used the money I have, and that's it for now." And he said, "Let me show you around the offices," and he walked me around, and he said, "As you can see, I don't have an empty office to put another deputy in right now."

So I went back to the Lazy B Ranch to finish making plans for our wedding, and I wrote him a letter and said, "I really enjoyed meeting you and seeing your offices. I know you don't have any money, but I would be willing to work for you for nothing until such time in the future as you get a little more money. I also know you don't have an empty office, but I met your secretary and there's room there to put a second desk, if she wouldn't object."

That was my first job as a lawyer. I received no pay, and I put my desk in with the secretary. But you know what? I loved the job. I really did. I had the best time. I got all these legal questions from county officials and boards and commissions asking about problems and asking for opinions. I got to do the research and draft up something, and if the county attorney approved it, off it went. I was having a good time.

My classmates, ninety-nine percent of whom were male, had some good-paying jobs in the law firms, and they were taking depositions and doing research. They weren't having the fun I was having. So I liked my first job, such as it was.

## THE RIDE TO THE HIGHEST COURT

**LANCASTER:** Let's return to how the cowgirl

got to the Court. So you're sitting in your chambers. You're now on the Appellate Court in Arizona, and the phone rings and somebody named William French Smith is on the line and asks to speak to Judge O'Connor. Were you surprised, or had you been waiting for the call?

**JUSTICE O'CONNOR:** No, I had not been waiting for the call. It's hardly likely that some cowgirl from Arizona and some State Court Judge in Arizona would be considered for the nation's highest court. It had not been my aspiration. It had not been my expectation. And it was actually frightening to get a call and be asked to come to Washington and talk to people about a potential Supreme Court seat. It was not anything that had been on my list of goals and objectives, because I thought it was so unlikely.

And it was amazing. I did go, out of curiosity, if nothing else, and met with the people in the Cabinet there closest to President Reagan. When he had been campaigning for the presidency, trying to get the nomination, he thought he was not getting enough support from women and he started saying, "Now, if I become President and if I have a chance, I would like to put a qualified woman on the U.S. Supreme Court."

And little did he know he was going to get elected and have that chance, and in the process his Attorney General, William French Smith, asked me to come back. Bill Smith told me sometime later that when he took the job as Attorney General, he knew he would probably be consulted in the event there were a vacancy on the Court. He started keeping a list of names that he hand-wrote, and he kept it under the telephone in his office at the Department of Justice. And he said my name ended up on that list.

I'm still not sure how. I don't think he was sure how. But it ended up on that list. And it's partly because there were so few women judges in those days, and of those that were serving, almost none of them were Republican. So being a Republican woman judge caught their attention. That's probably how my name got on the list, but I thought it was so unlikely.

We already had a wonderful justice from Arizona in Bill Rehnquist. Bill Rehnquist had moved to Arizona after getting out of law school at Stanford. He and his wife were happily living in Phoenix and enjoying life there, when he had taken some kind of a job back in Washington because he still had political interests.

I just thought it was very unlikely, but I went back and met with the Cabinet members. They had taken a hotel suite in a place in downtown Washington and they spent the morning giving the various people around President Reagan a chance to talk to me, as a group and then individually, if they wanted. And after everyone had asked their quota of whatever it was, we left and William French Smith said, "Now, I would like you to come down to the White House tomorrow. Would you do that and be there at x hour?" And I said, "Well, fine. Where is it?" I hadn't been to Washington.

So I had him tell me where it was. He took pity on me, and he said, "Well, I'll have my secretary pick you up. She drives an old green Chevrolet." And so I stood on the corner at Dupont Circle and looked for the car, and sure enough, here she came, and she took me down to the White House. We sat and waited until the President had time, and then I went into the Oval Office. And if you haven't seen it, it's small. You don't expect to go into the Oval Office and have it be such a small space. But it was, and there was President Reagan, looking fine.

I had met him a time or two because Nancy Reagan's parents lived in the Biltmore Circle here in Phoenix. Ronald Reagan came with Nancy several times to Arizona, and he had spoken at Republican events in Arizona a time or two. So I said, "How do you do," but I didn't know him.

And so we sat and had this nice conversation in the Oval Office, and frankly, he was more interested in horses and ranch life than he was in legal issues. So we didn't spend much time on the law, and we spent a lot of time on horses. The time went by very quickly and pretty soon it was up and it was my time to leave. So I did.

I went to the airport that evening to fly back to Phoenix, and I remember sitting down in my seat on the plane and breathing a big sigh of relief and saying, "Well, that was interesting, but thank goodness I don't have to go back there and do that job."

And I was sitting in my chambers at the Court of Appeals in Arizona some days later and the phone rang, and it was President Reagan on the phone, and he said, "Sandra?"

"Yes, sir, Mr. President."



“I would like to announce your nomination for the Court tomorrow. Is that okay with you?”

[*Editor’s note: Justice O’Connor jumped to indicate her surprise.*] Well, to tell you the truth, it wasn’t; but what am I going to say? I mean it’s wonderful to be asked to be the first to do something. I have a certain spirit of adventure. But I didn’t want to be the last woman on the Court, and if I took that job and messed it up, that might happen. I was very concerned about it. I called John O’Connor and we chatted,



and he said, “Well, of course you can do it. You’ll do fine. You’ll do fine. Just don’t give it a thought.”

Well, I did give it a thought, but as you know, I ended up doing it with all my concerns about qualifications. But it was a very interesting, wonderful place to be, and the Court worked, I thought, quite well as an institution and still does. It’s amazing, and the Justices handle the cases well. They really do prepare. They read all the briefs, precedents, and cases, and they address the issues directly. And they don’t always agree, but they know how to disagree agreeably. That’s the main thing I like to teach young people in school today: to learn how to disagree agreeably.

## CIVILITY REIGNS

We’re living in an age where it’s considered good politics to shout and scream at each other,

to insult each other, and to be confrontational, rather than constructive. We really need to move to constructive engagement in public life.

[*Editor’s note: Enthusiastic applause from the audience.*]

[*addressing the audience*]: I think that’s where you come in. I really admire this organization of yours, the American College of Trial Lawyers. You’re the best. You really are. You have a great membership. And there’s so much discord and so much confrontational politics today. Every one of us needs to get in the business of making people ‘cool it’ and have reasonable discussions and learn how to disagree agreeably.

That’s what our message needs to be, and I know we can do it. You’re the people who can most effectively teach that, because you learned that a long time ago. That’s what you have done and it’s made you successful. That’s what I want our nation’s politicians to do, and it’s what I want our young people to learn. So that’s my hope.

**LANCASTER:** There’s a wonderful excerpt from William French Smith’s memoirs about this whole episode. As I recall it, he sent people out to interview you.

**JUSTICE O’CONNOR:** He did, including Ken Starr. I didn’t know that at the time. I learned it later.

## NEW FRIENDS

**LANCASTER:** Now the seat you took [on the Court] was Potter Stewart’s seat.

**JUSTICE O’CONNOR:** Yes, Potter Stewart had been serving and he had done a great job. He was a very good Justice, I think, and he decided to retire about four months after President Reagan had taken his oath of office.

**LANCASTER:** Yes. I stumbled across a little limerick that read:

A toast to Potter Stewart.  
His chivalry can’t be beat.  
The first Supreme Court Justice  
to give a lady his seat.

But it was, as I understand, really Lewis Powell who was your mentor on the Court.



**JUSTICE O’CONNOR:** Well, he was my closest neighbor. I was put in a chambers on the main floor of the Supreme Court and my closest neighbor was Lewis Powell. He was a man who really enjoyed visiting with his colleagues on the Court. He didn’t mind taking time to do it, and he was full of Virginia grace and personality and just nice and polite. Maybe that was it. But I would frequently stop in, and we would end up sometimes chatting about one of the cases that was coming up or something we had to decide. He was great.... I would say that Lewis Powell was the friendliest.

I had gone to school, as you know, with Bill Rehnquist and we were great friends in law school. He liked to play charades and so did I. We had a group where I lived, and we often played charades, and he would participate. We went to lots of movies, and he and I both liked to play bridge. We did all that stuff in law school. That was fun.

### MAY I HAVE THIS DANCE?

**LANCASTER:** Now, my memory is, also, that at some point you said that Lewis Powell was a great dancer.

**JUSTICE O’CONNOR:** Oh, he was, and he said that on his tombstone it was going to read “The first Supreme Court Justice to dance with another Justice.” I haven’t been down there to check the tombstone, but I’ll bet it’s not there.

**LANCASTER:** Well, I think the total quote was, “The first Supreme Court Justice to dance with another Justice, so far as we know.”

**JUSTICE O’CONNOR:** I’ve never heard that latter phrase. But he was wonderful. Was he ever a member of the American College?

**LANCASTER:** He was Past President of the College.

**JUSTICE O’CONNOR:** Past President. He just couldn’t have been a nicer man.

**LANCASTER:** Tell me – you’ve served as a trial judge and a state appellate judge.

**JUSTICE O’CONNOR:** Right.

**LANCASTER:** Supreme Court Justice. And

now you’re sitting on the circuits. Have you sat on district courts, too, or just—

**JUSTICE O’CONNOR:** No, I’m not going to sit on a district court and do a trial. I think I wouldn’t know the ins and outs of some of those rules these days, and the sentencing is a nightmare in criminal cases. I don’t want to do that.

**LANCASTER:** Give us a sense, if you will, of the various experiences you have had as a judge and a Justice, the pluses and the minuses of all of those



different roles that you have played as a jurist.

**JUSTICE O’CONNOR:** Well, I don’t find many minuses in being on the United States Supreme Court. It’s a wonderful court and the members take their position very seriously, and they really try to do the best they can. I think it’s a good system, and our system of having written opinions is a good one. I think we can be very proud of our United States Supreme Court and the system that produced it. I enjoyed being part of it.

There are times when you feel the majority reached the wrong decision, but you can say so in your own writing, if you feel strongly about it. I think the system works well, and we’re lucky to have it.

### SECURITY AND THE JUSTICES

**LANCASTER:** Tell me a little bit about the security



for the Supreme Court Justices and retired Supreme Court Justices. Does it depend upon the Justice, as to what he or she wants for security?

**JUSTICE O'CONNOR:** I guess, in part, it does. I never had any or asked for any security in connection with where I lived. If you travel to give a speech or something, the United States Marshals can provide the transportation and get the Justice or the judge into the entity. I was brought here today by somebody from the U.S. Marshals Service, which was great.

**LANCASTER:** I saw them, and I made up my mind that I would not make a sudden move as I sat here this morning. They're huge.

**JUSTICE O'CONNOR:** I don't think they all are huge. But they're so well qualified and so decent and so nice, and I've been grateful that I can get some of their help sometimes, even as a retired Justice.

**LANCASTER:** Well, I asked because I think we're all aware that Justice Souter was mugged when he was running from his condo ... at the end of the day.

**JUSTICE O'CONNOR:** And then recently...

**LANCASTER:** ...Steve Breyer.

**JUSTICE O'CONNOR:** Yes, Justice Breyer down in Nevis.

**LANCASTER:** St. Kitts.

**JUSTICE O'CONNOR:** He was on Nevis. Well, I visited down there, so I know where he was. And he was...

**LANCASTER [to the audience]:** The newspapers got it all wrong.

**JUSTICE O'CONNOR:** There was a robbery, and he was confronted by somebody with a machete or something.

**LANCASTER:** Yes. Happily, no one was hurt. He was robbed of only about \$1,900 - so pocket change.

**JUSTICE O'CONNOR:** Yes, thank God no one was hurt. But that's scary.

**LANCASTER:** Well, it is... I know they talked to Dave Souter, because I've talked to him about it. And he was adamant that he wasn't going to change.



Justice Sandra Day O'Connor founded iCivics in 2009 to reverse Americans' declining civic knowledge and participation. Securing our democracy, she believes, requires teaching the next generation to understand and respect our system of governance. Through the use of its comprehensive and educational standards-aligned curriculum, iCivics prepares young Americans to become knowledgeable, engaged 21st-Century citizens. The fun and interactive instructional games are available free online, at [www.icivics.org](http://www.icivics.org).

The College has heeded Justice O'Connor's call to improve access to civics education for school-age

children. In 2011, the Foundation of the American College of Trial Lawyers donated \$35,000 to iCivics. This grant will support the development of a teaching tool for middle and high school teachers to educate students on the importance of the jury system and the perils to our democracy from the disturbing trend of vanishing jury trials.

Through the work of the Jury Committee and the State Committees, the College is identifying Fellows who will assist iCivics by volunteering to teach middle and high school students about the dangers associated with the demise of the jury trial. Fellow **Terry O. Tottenham** is spearheading the College's efforts.

If you are interested in volunteering with this project, or learning more about it, contact the College's National Office at [nationaloffice@actl.com](mailto:nationaloffice@actl.com)

**JUSTICE O'CONNOR:** No, he didn't want anybody tracking him down from the Marshals Service.

**LANCASTER:** And that was not a good neighborhood he was living in down there.

**JUSTICE O'CONNOR:** No, he didn't live in a perfect neighborhood.

**LANCASTER:** No. The first time Mary Lou [Mrs. Lancaster] and I went shopping for groceries down there, we went in, and I saw him pushing his shopping cart. I came up behind him and pushed my cart into his. "Oh, Ralph," he said, "you're here, you shop here? I shop here every Friday night." But he said that when he first went down there, when he went into the supermarket, there was the outline of a body in the entrance.

**JUSTICE O'CONNOR:** He lived in a very tough part of town....

**LANCASTER:** Well, we hope that you won't go back to St. Kitts.

**JUSTICE O'CONNOR:** Or wherever.

**LANCASTER:** Or wherever. Well, you know, I'm about out of topics.

### IN CLOSING ...

**JUSTICE O'CONNOR:** Well, let me just say once more that you have a great organization here. I've been a guest here several times through the years – at least four – and I just had such a wonderful time each time and thought the programs were of interest and the members were all so well qualified and interesting. You have a great organization and you stand for the best in our legal profession, which matters to me.

That's why I hope some of you will really follow up on the iCivics, and get schools in your state to start using it. I've kept it free; it costs the schools zero to use it. So they can't say, "Oh, it costs too much money, we can't." That's no excuse. If you can do some of that, it would be great.

**LANCASTER:** Justice O'Connor, we're deeply grateful to you for your willingness to take time from your busy schedule to join us today. I found our visit to be both entertaining and wonderful. ■



Concept sketch for the upcoming iCivics juries game