

Try to resolve some disputes outside the courts, O'Connor advises graduates

Following is the 1982 commencement address by U.S. Supreme Court Justice Sandra Day O'Connor:

First, I want to say hello to the class of 1982. You are the people who asked me to be with you today. My presence here reflects that there are some offers that even supreme court justices can't refuse. Yours was one of them. Thank you for asking me to share your day with you. Thank you, Don Kennedy, for your kind words and thoughts; and thank you, dear friends of Stanford and of the graduates, for being here today for this wonderful celebration.

As I stand here and look about me, it is like taking a journey in a time tunnel.

I remember, so clearly, the day I first sat in this amphitheater. It was the end of September, 1946. The occasion was the first gathering of my own class, the class of 1950. While your class and mine are separated by a span of 32 years, I can assure you that our two classes share a common belief. There is no greater, more foresighted office in this land of ours than the Admissions Office of Stanford University. Certainly, all of you would agree that if my decisions on the U.S. Supreme Court are as wise as Fred Hargadon's admissions decisions about you in the spring of 1978 this country is entering into a judicial golden age.

Each spring, when I was here, I would come for the wonderful spring sings. One year, as a group was singing "Singing in the Rain," it started to rain, proving again, that Stanford students can make anything happen if they try hard enough.

I received my undergraduate degree in 1950 on this spot, during the presidency of Wallace Sterling, who is with us here today.

My last appearance was three years ago when I sat in the same first row here, as a trustee, and watched my oldest son carry the president's flag at his own graduation ceremony.

I have one more future visit here that I know of now: the graduation of my youngest son, a sophomore here, who proudly carries the title of admiral of the Big Wav Yacht Club.

I realize that we have gathered here this morning to applaud those of you who will be receiving degrees. But, as one who has sent a few dollars to Stanford for children who have been students here, I suggest that there are several heroes and heroines here today who should be recognized and with whom you graduates would like to share your glory. I refer, of course, to your parents who made two significant contributions to your presence today. First, they had the brains which you were lucky enough to inherit and, secondly, they, and various benefactors of Stanford, provided the money that you needed to sustain yourselves while you were here. I congratulate your parents, and I commend you graduates for your good judgment in selecting your parents.

I have not had time to give many talks this year. My duties on the court don't give me the luxury of much extra time. A commencement speech is a particularly difficult assignment. You are given no topic and are expected to be able to inspire all the graduates with a stirring speech about nothing at all. I suppose that's why so many lawyers are asked to be commencement speakers; we're in the habit of talking extensively even when we have nothing to say.

But as I begin, I want to briefly comment on several changes that have occurred in our country since I was at Stanford.

Although we criticize our country, it is well to periodically mention the strides we have made as a nation in recent decades.

First of all, as my presence here today evidences, the opportunities for women in this country have changed dramatically. As some of you may have read, the only job offer I received in the private sector on my graduation from Stanford Law School, in 1952, was a job as a legal secretary. However, since it was a partner in that same law firm who, as attorney general, recommended my appointment to the president, I have no present intention of initiating legal action. Today, almost 40 percent of all law school classes are comprised of women. Talented women are being actively recruited by private law firms on graduation. Women judges are serving ably at all court levels.

The other great change has been in the increased opportunities in our land for members of minority groups. The very heart of this country is equality of opportunity, and respect for all individuals for what they are, and I am thrilled to see some progress in that regard.

We also have somewhat cleaner air and somewhat cleaner water and somewhat smaller cars than when I graduated. While none of the problems reflected are really solved, we can at least see a few changes and some progress.

I can remember, as I was growing up, and when I was a student here, reading about and hearing about the great



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—Sandra Day O'Connor

historic leaders of our country, people who "preserved a nation" or "changed the course of a generation." I would also read about the people then in power. I would wonder what they were really like. They seemed so distant. I wondered how I or anyone else could ever impact on them because "they" seemed so remote, and yet powerful. Since September, I suppose I have been one of "them," the people at that seat of government in this nation. Today, I can share with you something I have learned repeatedly, as I engaged in public service in Arizona, and now in Washington.

First, everyone, regardless of rank or reputation, shares the same basic human qualities, and has his or her faults as well as virtues. Secondly, the person who really favorably impacts on this world is, as has always been the case, not an institution, not a committee, and not a person who just happens to have a title; rather, it is the truly qualitative individual. The qualitative individual does matter in this quantitative world of ours, now as ever. When I speak of the qualitative individual and his or her role in life, I am not speaking just about the hero who slays the dragon or the humanistic politician who defeats the demagogue. I am speaking of every person in this land. For each of us has dragons and demagogues we must battle, and how we fight that battle is more meaningful to each of us than a legion of legendary giants.

This dual concept of the qualitative national leader, as well as the qualitative unknown citizen, is expressed in the Talmud very nicely:

"In every age, there comes a time when leadership suddenly comes forth to meet the needs of the hour. And so there is no man who does not find his time, and there is no hour that does not have its leader."

At first blush, this ancient saying suggests merely that there will always be a Moses when a Moses is needed. Yet, on further examination of the words, "there is no man who does not find his time," we realize that the message conveyed is that each of us, in our own individual lives and the crises we face will have a time to lead. Whether we will lead only a family, or a handful of friends, and where and how we will lead, is up to us, our views and our talents. But the hour will come for each of us, and because we know this, we surely must also know that the very nature of humanity and society, regardless of its size or complexity, will always turn on the act of the individual and, therefore on the quality of that individual.

Sometimes I am concerned that people in our country, including young, gifted people like you, at some point develop a sense that government and our society have grown so complex and so large that the individual simply cannot impact on the decisions that affect the country and affect all of us.

Let me disabuse you of that notion. My experience in the

executive, legislative and judicial branches of government and my position on the supreme court all point to this conclusion: an informed, reasoned effort by one citizen can have dramatic impact on how someone, like a legislator, will vote and act. When I was in the legislature, one person, sometimes with a direct interest in the matter, sometimes without one, would on occasion persuade me by the facts, by the clarity of the explanation and by the reasoning, to do something which I never would otherwise have done. I have been at caucuses when a group of legislators was trying to decide what to do, and, time and time again, my fellow legislators would refer to the logic or fairness of what some plain, unknown citizen has said.

I have had an opportunity to view this same basic phenomenon from a different perspective in my role as a Supreme Court justice. A majority of litigants who come before us are people who are essentially unknown, not only to us but even within their own community. We resolve their problems and, in the process, resolve the problems of thousands of millions similarly situated.

I might make a similar point about the lawyers who appear before us. Certainly, some of those who appear before the court are among the most heralded advocates of the land, but most are not. Most are lawyers who have never been before the court before and will never be there again. Many of these lawyers are from small firms and small towns. Some of the best arguments in the 150 or so I have heard have come from legal unknowns, and sometimes the argument of a famed lawyer fails to live up to his or her reputation.

The essential point of all this is simply to make the same point in a different context. The individual can make things happen. It is the individual who can bring a tear to my eye and then cause me to take pen in hand. It is the individual who has acted or tried to act who will not only force a decision but be able to impact it.

Thus far, I have been talking to you for the most part about the role of the individual in participating in governmental decisions. But my principal message to you is broader than that. It is this: that the main goal each of us should have in life is to solve problems and to help other people. We do this because it is important and it is needed. But we do this also because it will bring us pleasure and pride in our own actions.

I cannot overemphasize that there are amazing ways in which the individual can impact on society, even as a volunteer and without reference to any governmental act at all. Let me give you one example, of which there are thousands. I know a man in Phoenix who conceived of the idea of an organization he called second harvest. Essentially what he wanted to do was to feed the poor, but to do it as cost efficiently as he could. So he arranged for fields which had been harvested by the farmers to be harvested again by volunteers for all of the many products which still remained; this was how the organization came to be called "second harvest." He arranged also to get foods from grocery stores that were otherwise going to be thrown out because they were becoming outdated, although still nutritious. He raised cash and bought food in bulk from wholesalers and all of these things were distributed to people who needed it. His concept was so successful the organization has now spread to many areas in our nation. This is one person. One idea. One qualitative individual impacting meaningfully on what some consider to be an unchanging world.

There are innumerable ways in which all of us can help in all fields. Let me mention only one which is close to my heart. One of the things each of you can do as individuals to improve our nation's court system is to help us resolve more of the disputes which arise in this country someplace other than in the courtroom. I believe there is a widespread and justified view in this country that quantitatively the courts are carrying too large a burden, the size of which cannot adequately be resolved merely by increasing the number of judges, and that qualitatively the courts are being asked to solve problems for which they are not institutionally or traditionally equipped.

The results of this double burden are well known to you. Court delays are so severe in some jurisdictions that an aggrieved party might just as well have no remedy at all. The costs of litigation have often become so high as to deprive many of our citizens of true access to the courts and to cause litigation to become known as the newest form of "the sport of kings."

What can we do about this? There are other alternatives to some of our traditional ways of resolving our problems. In some instances, delay has been avoided and the costs of proceedings have been diminished by legislation requiring mandatory arbitration of certain claims, or simplified, largely unadministered probate proceedings. Some jurisdictions have attacked the problem by simplified procedures in small claims courts. More recently, efforts are being made to resolve many problems, including landlord-tenant disputes, at citizens' dispute resolution centers where laymen, rather than lawyers, help mediate disputes.

Other societies have not had the same need of lawyers or courts that we have here. While Japan affords perhaps the most extreme example, it is interesting to note that in

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Japan there is one lawyer for every 10,000 citizens whereas in California there is one lawyer for every 233 citizens.

As a citizen, a former legislator and a judge, I am fully aware of the increased number of laws and, therefore, the increased likelihood of disputes arising. However, I firmly believe that individuals and business concerns can dramatically impact on resolving their own problems outside of the courts. First, I suggest to those of you who will be in business that you very carefully consider providing in your contracts that any dispute arising between the parties will be resolved by arbitration. Arbitration often can provide a speedier and a satisfactory solution.

Secondly, I suggest, as you negotiate disputes, you remember the golden rule: do unto others what you would have them do unto you. That might make you a little more generous, save you a lot of time and money and make my job a lot easier.

I wish I could visit and get to know you all. You are a talented, fortunate, attractive group. You are the cream of our nation. As I said at the beginning of my remarks, 32 years ago I sat where you sit today. Thirty-two years from now my wish for you is that you will love this school as much as I have for all these years, that you will be able to be proud of the many improvements we will have made in our society in those intervening years, that you haven't had to pay too many lawyers' fees, that you will have spent a significant portion of your life putting service, public or private, above self, that you will have had fun and excitement along the way and that you will all be lucky enough to be able to have your children attend this paradise on earth that we love and that we call Stanford.

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