

Tennis and Top Buttons

Remembering William H. Rehnquist

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I wrote a book report in high school on *The Brethren*, the Bob Woodward and Scott Armstrong “behind the scenes” takedown (or send-up) of the early Burger Court. The justices struck me, I have to admit, as a dysfunctional and petty bunch, but I remember thinking that one of them seemed pretty “cool.” The youngest justice, Bill Rehnquist, apparently went in for practical jokes, ping-pong in the basement, swashbuckling dissents, and shaggy hair. I am embarrassed to admit that the thought actually occurred to me, “It would be fun to be one of these ‘law clerks’ for him.”

About 10 years later, I showed up at the court for my clerkship interview with the chief, sweating horribly from the combined effects of Washington, D.C.’s June humidity and my one wool lawyer suit. I can only imagine how obviously disheveled, in both appearance and mind, I seemed to his assistants, Janet and Laverne, as I waited. Right on time, the chief came into the waiting room, in casual clothes, shook my hand, and said, “Hi, I’m Bill Rehnquist.”

He showed me around his chambers and the court’s conference room. We had a friendly conversation about obscure Arizona mining towns, our respective hitchhiking experiences, the death penalty, and my childhood in Anchorage, Alaska. Thinking back



to *The Brethren*, I asked him about pranks he'd played on Chief Justice Burger. When he asked me if I had any questions, I said—thinking it would be my only chance—that I would appreciate seeing the justices' basketball court, "the Highest Court in the Land." At the end of the interview, when the chief remarked that he'd never had a clerk from Alaska before, I started to get my hopes up.

During my clerkship year, the chief, my co-clerks, and I played tennis together weekly at a public, outdoor court near Capitol Hill. (We played on the same day that the week's "cert memos," analyzing petitions filed by those seeking review of their cases, were due, so—more than a few times—clerks played without having slept.) We took turns driving and buying a new can of balls. I was the chief's doubles partner that year, and I several times beamed him with my hopelessly chaotic serves. One day, I am ashamed to admit, after yet another double-fault, I slammed my racket to the ground and yelled an extremely unattractive expletive. My co-clerks looked across the net at me in horror. The chief, though, didn't turn around. He just slowly bent over, put his hands on his knees, and started laughing.

For me, maybe the best part of the job was the daily 9:30 a.m. meeting. We'd drink our coffee, talk a bit about football, movies, and weather, and check up on pending cases and opinions. Sometimes he'd wonder aloud why one colleague or another still hadn't circulated a draft. (He was always, though, unfailingly fair and genial about and toward his colleagues; he would never have tolerated from any clerk a snide remark about a justice.)

In keeping with his days as a sideburn-and-psychedelic-tie-wearing junior justice (though not with his expectations of lawyers who appeared before the court!), the chief didn't impose on his clerks the standard law-firm-ready attire rules. He did, however, have a problem with T-shirts showing under our shirts. So, whenever my co-clerks and I had a meeting, we'd quickly button up our top buttons. I sometimes forgot to hide the offending undergarment, though, and one day, in the middle of a conversation about a pending case, he looked at me, sighed, and wondered why even his "extremely lax" dress code was proving such a burden.

We had cheeseburgers and beer ("Miller's Lite," he called it) together regularly, and he allowed himself one cigarette with lunch. He invited us to his home for dinner and charades; I don't think I'll ever forget watching the chief act out *Saving Private Ryan*, crawling around under his coffee table, pointing his fingers like a gun, and mouthing "pow, pow!"

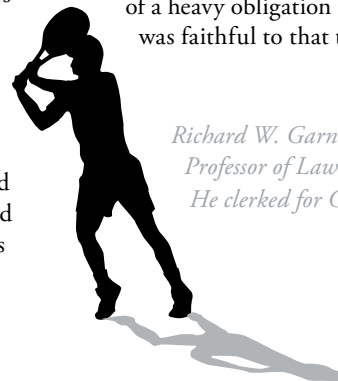
Chief Justice Rehnquist liked to put together friendly brackets and pools for the NCAA tournament, the Kentucky Derby, and the bowl games. One day, just after the 1996 election, he passed down to me a note from the bench. I assumed he wanted a law book or a memo, but instead he asked me to find out what was happening in one of the not-yet-called House races that was integral to our inter-chambers contest.



The chief's chambers ran like clockwork. We had a routine, and it worked well. He knew his job, and he knew he was good at it. He knew a staggering amount of law and was scarily quick at seeing and getting to the heart of any question. To prepare for oral arguments, the chief preferred not to read long, heavily footnoted memos, opting instead for talking through problems with his clerks, while walking around the block outside the Supreme Court building—sometimes twice, for a particularly tricky case. It was surprising, and always funny, that so few of the gawking tourists around the court recognized the chief justice as he ambled around Capitol Hill, doing his work. (He didn't mind at all.)

A few years ago, lured by the promise of great seats for the Michigan game (the Fighting Irish won, though the chief thought they "won ugly"), the chief justice visited Notre Dame and—after a game of doubles with me and two colleagues—spent an hour with my First Amendment class. The conversation quickly turned to advice about life and lawyering, balancing work and family, being a good parent, making a difference, and contributing to our communities. It meant a lot, to me and to my students, that he clearly cared more about helping these students find happiness in the law than about selling them on his legal opinions.

The chief was a lawyer's lawyer. He taught and inspired me, and all of his clerks, to read carefully, to write clearly, and to think hard. He will, quite appropriately, be remembered as one of the few great chief justices. For me, though, William Rehnquist is more than a historic figure and a former boss. Today, thanks in no small part to him, I have a great job: I get paid to think, research, and write about things that matter and to teach friendly and engaged students about the law. I will always be grateful. And I hope that the deluge of political spin to come will not drown out what Americans should remember about the chief: He was a dedicated public servant, committed to the rule of law and to the court. He regarded himself as the bearer of a great trust and of a heavy obligation of stewardship. In my judgment, he was faithful to that trust, and he fulfilled that obligation.



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