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A DUES PAYING MEMBER OF HUMANITY

MARTIN H. BRINKLEY*

April 28, 2000

Dear Judge,

I find myself writing you a letter I didn't expect to have to write, at least for many years. But you have gone out from among us to a better place, and I comfort myself that everything I say here, however halting and deficient, you already know. So I am sharing these words with others; I hope you don't mind.

The passing of a lifetime could not obscure my memory of the first day I met you. It was a crisp, clear morning in February when I set out from Chapel Hill in my grandfather's old gray Buick, bound for Morganton and a clerkship interview with a great man who changed my life. Somehow, even before I submitted my clerkship application, even before I had met you, I felt an uncanny premonition that working for you was what a benevolent God intended me to do. It was a spiritual compulsion, an inexplicable summons from a higher place, so intense that it did not bear giving voice to, for fear of turning one's luck. My desire was so great, and my chances, after all, so low. I didn't simply want a clerkship; I wanted a clerkship with *you*, and the two were worlds apart. "He's the best," one of my professors at Chapel Hill had said. I needed no convincing.

Exhilarated and more than a little overawed at the prospect of what lay ahead, I turned off Interstate 40 and headed north into Morganton on Highway 18, passing the green marker near Grace Hospital that reads "Sam J. Ervin, Jr. Highway." I remember being struck at that moment at how Morganton seemed to belong to you, and you to it. Morganton is a unique old North Carolina town in an old North Carolina county, like the town two hundred miles eastward where I grew up. It is a town in which one great family has lived for five generations now, going out into the world to give unremittingly of themselves to state and country, but always returning to drink from the spring where the water was coolest and sweetest. Flannery

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O'Connor once said that the longer you stare at an object, the more of the world you see in it; and if Morganton and Burke County were world enough for you, I knew they were world enough for me.

Mainly I was intimidated, though, being on my way for an interview with the revered Chief Judge of the United States Court of Appeals for the Fourth Circuit, the son of a legendary United States Senator. I passed Broughton Hospital and turned left on College Street. At the top of the hill was a nondescript, government-issue structure bearing a sign: "Morganton Public Safety Center." Down a cinderblock hall, past rooms lined with city planning maps and rusting file cabinets, there jutted from a old plywood door an unassuming announcement on a piece of scarred aluminum, "Sam J. Ervin, III, United States Circuit Judge." Margaret McGimsey and Wilma Williams, your secretaries since your first days on the bench, welcomed me and offered me a seat surrounded by boxes of briefs, where I was to wait for you to return to chambers from lunch. You arrived a few minutes later wearing your customary working costume: a pair of khaki trousers, an open-collar plaid shirt with two Parker fountain pens protruding from the breast pocket, and brown penny loafers.

In hindsight, the interview resembled an afternoon visit on the porch of the Ervin homeplace on Lenoir Street. I recall our canvassing my hometown of Wake Forest, the North Carolina political scene, the counties you visited as a Superior Court judge, a few good books we both had read, the comparative merits and failings of the Presbyterian (your) and Episcopal (my) churches, and, almost as an afterthought, a basic job description for your law clerks. I do not remember a word being spoken about my law school grades, law review membership, writing sample, college transcript, career ambitions, or any other such pedestrian subject. In helping you hire law clerks two years later, I learned that by your book these were mundane matters, important at some level perhaps, but ultimately insignificant by comparison with the weight you placed on an applicant's qualities of character, friendliness, sense of humor, warmth, concern for others, and commitment to the welfare of the state and the country. My wife Carol still remembers how, when I arrived home that night, I said that whether or not I got hired, I had just met a truly great human being.

When you called me five weeks later to invite me to become your law clerk, I felt a jubilation I have experienced only two or three times in my life. Extraordinary as that sensation was, it paled by comparison with the clerkship itself: an ideal year, doing work I

loved for a man I loved even more. Clerking for you didn't even qualify as work. It was a kind of ecstasy, a feeling that one had been entrusted with a rewarding task of supreme importance in the certainty that the results would be of the best. Your chambers had no rules. Clerks were trusted to follow their own paths, to employ their own powers of logic and their own consciences in helping you decide cases and explain your reasons for them.

I believe it was your grandfather, the first Sam J. Ervin, who told your father when they first began practicing law together in the early 1920s: "Salt down the facts; the law will keep." One of the chief principles of sound appellate decisionmaking I learned from you was the importance of the trial record, the facts without which legal principles are but so many meaningless abstractions. You never let your clerks forget that every case we handled involved real people, usually desperately concerned about what the court would do. By studying humankind with you, we discovered anew the all-forgotten fact that the earth is peopled by many gallant souls, of every class, creed, and race. And we understood that treating all of them with dignity, as you did, was a higher and better calling than simply becoming a good lawyer. You even made us feel that someday, if we tried, we might be numbered among them.

These days it sometimes appears that personal values aren't often thought to be an appropriate consideration in decisionmaking as a lawyer. At times, it seems, our profession has come to believe that a good lawyer is always profoundly skeptical about values, viewing truth and justice as essentially manipulatable concepts. Under this view, deprecation of everything becomes almost a way of life. Questions of justice, wisdom, or policy become irrelevant; after all, at bottom we lawyers are simply hired knife-throwers. Winning and losing cases or negotiating is a game, played with all the seriousness of life and death. And yet, when my working life in private practice from time to time became a spiritual desert, when the trudge and the grind became too much to bear, there you were, a gentle voice at the other end of a telephone number I'd dialed out of the blue, never too busy to talk about anything or everything, never pressed for time, never with anything more important to do than share a laugh. Your presence ever reminded me that whatever demands the world might make of me, there was a little, little area in which I must (and could) rule myself.

Most of all, perhaps, you taught me—without ever seeming to teach—that the great thing is always to be what you liked to call a "dues-paying member of humanity." Your beloved Betty once told

me that your mother, Miss Margaret, said that you never saw a duty you didn't like. You were a living exemplar of your favorite verse of scripture, the great lines from the sixth chapter of the prophet Micah: "What doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?"

In St. Paul's Cathedral there is a crypt in which lie the remains of Sir Christopher Wren. The crypt contains a marble entablature on which is carved an epitaph written for the great architect of the cathedral by his son: "Si monumentum requiris, circumspice"—"If you are seeking my monument, look around you." I cherish your life, I revere your memory, and I hope that some corner of my life can be a worthy monument to you, Judge. I will always be proud to model myself, my life, and my career after the enduring character of the most humble, warm, funny, wise, and compassionate man I have known.

I find that often now, amid the din of law practice, I owe to you sweet sensations, felt in the blood and along the heart, which have brought a fleeting tranquility and restoration to my troubled mind. Summoned up by my memories of you, these sensations will forever provide me with what William Wordsworth called "feelings . . . [o]f unremembered pleasure; such, perhaps, [a]s may have had no trivial influence [o]n that best portion of a good man's life: [h]is little, nameless, unremembered acts [o]f kindness and of love."¹ And I know that if I can ever attain a fraction of the serenity you possessed, I will find myself more often in the mood described by the poet, "[i]n which the heavy and the weary weight [o]f all this unintelligible world [i]s lightened,"² and I "become a living soul: While with an eye made quiet by the power [o]f harmony, and the deep power of joy, [I] see into the life of things."³

Your devoted friend,
Martin

1. William Wordsworth, *Lines Written A Few Miles Above Tintern Abbey*, in WILLIAM WORDSWORTH 131, 132 (Stephen Gill ed., 1984).

2. *Id.*

3. *Id.*