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Erin Ryan

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IN TRIBUTE TO JUDGE JAMES R. BROWNING:
THE CENTER OF HIS CIRCLE

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*--Professor Erin Ryan
Northwestern School of Law
Lewis & Clark College*

I began clerking for Judge Browning in 2001, just as he began his transition from active to senior status after more than forty years on the bench. I had just graduated from Harvard Law School, which I had attended after brief careers as a musician and then a forest ranger near Yosemite National Park. Judge Browning and I shared a love of wilderness and open spaces that somehow bridged his Montana upbringing with mine in New York. Today I am a tenured law professor and at the moment, a Fulbright Scholar in China, studying environmental governance in a system so different from the one in which he first immersed me. To recount the story of his influence since then, there are too many points to begin.

I could share what I learned from him about the art (and artifice) of holding a society together by the rule of law, a lesson especially powerful now that I am living in a society that isn't.

I could recall the simple delights that he took in life, like his ritual mischief of eating a single peanut before reaching the supermarket cash register across from the Pasadena courthouse. He would enjoy the peanut in the aisles but save the empty shell for the cashier, which he politely presented with an impish grin. Then he would insist on jaywalking back to court across the wide boulevard, darting through unsympathetic traffic, even into his 80s.

I could talk about the red ink that drowned every draft opinion I ever wrote for him, carving my overblown prose into the elegant brevity that is his hallmark. "If you are really attached a particular turn of phrase," he would tell me gravely, "it is a sign that you must discard it."

I could recount the memorable opinions that we worked on. There was the one preserving a modicum of tribal sovereignty despite centuries of the countervailing trend in Federal Indian Law, in which he deftly wielded precedent to both cut and shield, demonstrating the great common law tradition of pursuing justice within consistency. Or the one upholding sensible environmental regulations against an insensible but novel federalism challenge, resolving perplexing questions that kept me alone in chambers with federalism theory texts for unending days and nights (and which would later fuel my own research agenda toward an academic book that, now ten years later, has just been released). Or the case in which he found a

remedy to assist the septuagenarian inmate at risk of losing nearly all his teeth to callous neglect by prison staff, even after I had resignedly concluded that there was none.

I could talk about the humble but practical choice to make his San Francisco office not in the hallowed Chief Judge's central chamber, but in the corner meeting room that was smaller but had better sun (such that generations of clerks would, as I did, crawl out of a law library carrel and into the grandest office we would doubtlessly ever inhabit). I could talk about the treasures and secrets that I found improbably hidden within the very walls of that office, where previous clerks had left them over the years—small notes and totems that would momentarily suspend me in the gossamer margin of present between the ghosts of JRB brethren past and spirits yet to come. It is fitting that the building now bears his name, as well as the spirit of collegiality, wisdom, and mercy that he infused into the conduct of justice within it.

But my favorite JRB tale has nothing to do with the Courthouse, or a case, or even the law. It is about the wisdom he shared when he graciously agreed to officiate at my wedding the following year. We were thrilled that he was willing, as he was already the grandfather I never had as an adult, the mentor I never had in law school, and the sage we all hope for in positions of authority. My fiancé regarded him with similar awe and adoration. We could think of no one better to shepherd us into this next, most important phase in our lives.

Judge Browning agreed to marry us, but first we would meet with him to discuss the project. Not of the wedding itself, of course, but the project of our marriage. By that time, he and Mrs. Browning had been married well over half a century, and he clearly had as much wisdom on this issue as anything legal. We met at the Mill Valley Train Station Cafe and dove into the sanctity of the matter over blueberry muffins and hot drinks. He wanted to know why we had chosen to marry, and what we expected of the institution. He needed to know that we were ready, and that we would approach our commitment with the requisite spirit of joy and resolve. This was important to him. He could not preside at a wedding that skewed more toward the flowers and photographs than the sacred bond at its heart. At the end of our meeting, apparently satisfied with our discussion, he gave my husband a wink and the most practical advice of all: "My secret to fifty years of bliss? She is always right!"

There were plenty of flowers and photographs at the wedding, which took place in a Sonoma County garden over Labor Day weekend, with happy friends and relatives gathering from our all corners of the country. It made no difference to Judge Browning that my husband's two mothers had made the same level of commitment we would now undertake. It made no difference that our vows referenced a nature-based spirituality that was not his own (though I gladly altered the phrasing of one line in the ceremony to suit the difference). It made no difference to him that we had implored him to let us arrange his ride, and so he and Mrs. Browning arrived nail-bitingly late as he slowly but safely navigated to our remote garden setting. The only thing that mattered to Judge Browning was the solemnity and joy of the occasion. He presided with a grace, wisdom, and generosity that helped set transcendental

foundations for the marriage he helped bring into being. Through the times of solace and difficulty since, we have always drawn on the strength and faith that he infused into our rite of passage.

In retrospect, Judge Browning's contributions to our wedding were not that different from those he made to every case that he helped decide, every law clerk that he shepherded, every aspect of justice that he has helped to administer over the years. In each instance, he never loses sight of the ultimate object of his attention: the people before him. Whether interpreting the principles of constitutional federalism, the doctrine of qualified immunity, or the Sherman Antitrust Act, his considerations—though impeccably informed by jurisprudence—always center on the individuals who will be impacted. The citizens participating in their own governance. The suffering elderly inmate, and his caretakers who will next time rise to the occasion. The consumers that antitrust laws are designed to protect. The bride and groom, immersed in alternating tides of hope and fear.

Judge Browning always sees the human beings at the center of the circle, and he looks them in the eye. He has always wielded the judicial power as a tool for realizing justice by advancing human dignity. Because of his example, countless litigants, attorneys, court personnel, and clerks have renewed their faith in the legal system, and in a civil society organized around it. I certainly did. This is, perhaps, his greatest gift.