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BREAKFAST WITH JUSTICE BLACKMUN

SHERRY F. COLB*

I am delighted to have the opportunity to walk down memory lane and recall some of the wonderful moments that I was privileged to spend with Mr. Justice Harry A. Blackmun. The walk is a short one, because I was his law clerk quite recently, during the October 1992 term of the Supreme Court, but in some ways, the year feels like a very long time ago. It also seems, as I look back upon that year, that it lasted a far shorter time than it did, perhaps the length of an extended breakfast.

Like every other lawyer who has clerked for Justice Blackmun, I got to know him best at breakfast. Every weekday morning, promptly at 8:07, the Justice would come out of his office and collect his clerks in the adjacent room. Next to this room was a bathroom with a shower. I include this detail because the year I clerked, the shower in my apartment provided only cold water in the morning, so when winter came, I began showering in chambers instead of at home. The Justice (and my co-clerks) found this very amusing, and as I emerged from the bathroom with wet hair, holding a gym bag and surrounded by steam making its way into the chambers, the Justice would sometimes ask with a grin, "So Sherry, are you clean now?"

After gathering us, the Justice would walk with us down the stairs nearest his chambers, and we would all chat until we reached the cafeteria. That's when we would stand in line and order our respective breakfasts from Angie the cook. Angie quickly learned what each of us liked to have and began cooking it before we arrived. The Justice liked to have one pancake, although he made himself a waffle once on the waffle-iron.

After receiving our food, we would all proceed to a table toward the back of the cafeteria. Not far from us was another table around which were seated five or six police officers, a constant reminder that the Justice's safety was threatened by some of those opposed to the landmark decision of *Roe v. Wade*, authored by the Justice in 1973.

At breakfast, we talked about everything and nothing. We discussed our respective cases and our progress on bench memoranda, drafts of opinions, and vote-counting once an opinion had circulated among the other Justices. We spoke about how poorly the petitioner's lawyer had argued his case the other day and how lucky he was that the merits were on his side. We wondered together who Clinton's next nominee for

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Attorney General would be when it surfaced that the current one had jay-walked in broad daylight. The Justice made sure that we all spoke at breakfast. If one of us was quiet, he would bring him or her out with questions.

Breakfast was the time for our families and friends to meet the Justice as well. I brought my mother on my birthday. My mother told Justice Blackmun of her experiences as a survivor of the Holocaust and of her feelings upon coming to the United States. The Justice listened intently, fascinated and filled with empathy and concern. No matter whom we brought to breakfast, however remote from the law and from Washington, the Justice made them feel welcome, included and special. None of my friends and family will ever forget dining with Justice Blackmun.

At times, the workload was quite heavy, and everyone was tired and tense. But breakfast did not stop for work; we could all depend upon it as long as we were all well. The conversation would often turn to work at such times, and the Justice would ask us, "Am I doing the right thing here?" His humility was and is as genuine as it is extraordinary. Though he knew that part of judging was making decisions, choosing among difficult alternatives, he never stopped agonizing over those choices and coming to every new case with an open and critical mind.

Our last breakfast of the term was a very emotional one. We began the morning by giving the Justice a gift and a card, in which we expressed how grateful we were for the experience we had shared together. The Justice looked sad and led us silently down the stairs. Several of us took pictures during breakfast, to prove that this had not all been a dream. At the end of the day, I went to see the Justice alone.

I realized as I did this that I had only spoken to the Justice without my co-clerks present on three or four other occasions during the year. He never played favorites but treated us as a united team and a family. Part of this approach was that he met with us as a group, most often at breakfast. I told him that I was going home now and that when he returned from his summer break, I would be starting my new job as a law professor. His eyes welled up and he gave me a big hug. "Remember," he said, "you're always welcome here." That is the welcoming, warm and kind Justice Blackmun, and I will always remember.