

CHIEF JUSTICE WARREN W. MATTHEWS

Chief Justice Warren W. Matthews delivered the following as a tribute at the Justice Jay A. Rabinowitz Retirement Event, February 28, 1997.

This is truly a remarkable evening. It is without precedent in the history of Alaska. I thank the musicians and the organizers and the other speakers, but you should know that for those of us who are presently on the Alaska Supreme Court, this is, at best, a bittersweet occasion. It marks the end of the career of the man who has been our mentor, and our friend since each of us came to the court.

In my case, this is an association that has continued for twenty years. You have heard from the other speakers and, of course, you know that Jay is a warm and witty, caring human being. What I can add based on a vantage that is unique to myself and my colleagues and Jay's former colleagues, is that Jay has been a truly great justice. He has a first rate intellect, he has compassion, he has understanding of human foibles and failures, he has imagination. He's a skillful and rapid writer. These qualities he has, and these qualities are needed, but there is another thing as important.

It is, to use a dated expression, that Jay Rabinowitz is a grind. That is, he's a tremendously hard worker. Being a justice on the Alaska Supreme Court is an interesting job, it's the job that lots of people, lots of very highly qualified people seek. But it is not a glamorous job. To do it right, all of the briefs in every case must be read, and read with understanding. And hundreds of pages of record and transcript also have to be absorbed with understanding. We have 600 new cases a year. Each one requires individualized attention. Opinions must be drafted, the opinions of other justices have to be voted on and critiqued. Dissents have to be written. More than a 1000 motions a year are ruled on. And then there are the rules. Too many rules revisions, some say, but it's very time consuming. And there is also, of course, administration. During our most intensive period of work, which is when we hold oral argument, we commonly have to read more than 300 pages of briefs every day. And it's hard, time consuming work, it's work that you take home, and it's work you stay with for long hours in the evening.

All of this Jay has done, done with retained interest without burnout, day after day, year after year, for 32 years. His children have a lasting image of him spending his evenings sitting up in bed, his back propped up against a pillow, reading, sometimes writing with a pen and yellow pad, with briefs and transcripts and pieces of record scattered all over the bed, and spilling off onto the floor. I think this is not a publicly appreciated quality of Jay's, this dogged diligence, this willingness to work a case, and stay at it until it yields understanding. And this, I think, when combined with Jay's natural talents is what has made him the best of us.

I thought I would share one story; it's not just a tennis story. We had a tradition before Jay got sick of playing doubles tennis when Jay was in town, and Bob Coats, Al Augestad, Brad Owens, later Brian Shortell, were regular members of our circle. It was great fun, always great fun, even though Jay did not always seem to be pursuing disinterested justice in making line calls. It became part of our lifestyle, and when Jay got sick his participation, of course, abruptly ended. We continued to play and as he went through his therapy and his surgeries, in the darkest time of his treatment, we promised each other that if Jay was able to come back, we would toast his presence on the court after our game. And I am happy to say that last year, after the long struggles that most of you know about, that day came. And Jay returned to the tennis court, we had our game, it was pretty decent tennis, and then we opened a bottle of champagne and had our toast. It was a sweet moment for all of us.

Now I'd like to read excerpts of messages from a couple of people who could not be present and whose sentiments we second. This, from Chief Justice Boochever, now a senior justice on the Ninth Circuit Court of Appeals and best known as Hillary Lindh's grandfather. Chief Justice Boochever writes:

Jay gave thoughtful unbiased study of each case coming before the court. He not only authored numerous scholarly opinions, but he spent the same effort and care in reviewing the drafts authored by the other justices. I found his comments, although sometimes a little cryptic, always on point and well taken.

He also ably handled the enormous administrative duties of Chief Justice, overseeing the judicial system in this largest of states, with its tremendous variety of problems involving multiple cultures, thriving metropolises, rural villages and vast expanses of wilderness. His high ethical standards, fairness and understanding, did much to make Alaska's judicial system a model for others to emulate.

And this from Judge Kleinfeld, currently of the Ninth Circuit Court of Appeals. Judge Kleinfeld writes:

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As an Alaskan as well as a former law clerk, I am most grateful for Jay's great contributions to the development of the law and of the bar in our state. No one since statehood has done more for the quality of Alaska law than the Honorable Jay A. Rabinowitz.

And this from the Queen. Actually it's Queen Victoria's note to the liberal William Gladstone on the occasion of his retirement after serving for a record number of years in the House of Commons and four different stints as Prime Minister. I read this because if Alaska had a subtle and conservative monarch, I could see her writing a note like this to Jay on an occasion like this. She wrote:

Mr. Gladstone is right in wishing to be relieved at his age of these arduous duties, and she trusts he will be able to enjoy peace and quiet, with his excellent and devoted wife, in health and happiness. And that his eyesight may improve.

To which I would add, Jay, that except on those line calls, your eyesight couldn't be better. For three decades you not only led our court, but in a real sense you built it. Beyond your contribution to the substantive law, you established our traditions. We don't have cliques, we don't have voting blocks, we don't make personal attacks in our concurring and dissenting opinions. We treat litigants and attorneys with respect. And we decide cases on the merits, independent of personal or political considerations. All this is part of your legacy. Your influence has been so strong that I think it is right to say that in the future when people look back on the early years of statehood, for the whole period of your service, the Alaska Supreme Court will be regarded as the Rabinowitz Court.

And so we thank you, we mourn your retirement, and will you please come on stage so I can administer the gift.