

TESTIMONY OF JAMES O. FREEDMAN  
BEFORE THE SENATE JUDICIARY COMMITTEE  
ON THE NOMINATION OF WILLIAM H. REHNQUIST AS  
CHIEF JUSTICE OF THE UNITED STATES  
JULY 30, 1986

My name is James O. Freedman and I have been President of the University of Iowa since 1982. Before that, I served for eighteen years as a Professor of Law at the University of Pennsylvania Law School, having been Dean of the Law School from 1979 to 1982.

I am grateful for the opportunity to appear before this Committee to express my high regard for Justice William H. Rehnquist. Because it is now more than four years since I left the ranks of legal scholars in order to become an educational administrator, I will not speak, as so many others will, to Justice Rehnquist's career on the Supreme Court of the United States. Instead, I will direct my remarks to Justice Rehnquist's character, integrity, and intellectual ability.

My association with Justice Rehnquist dates back exactly seven years, to July 1979, when we served together on the five-member faculty of the Salzburg Seminar in American Studies. The Salzburg Seminar was founded in 1947 by a group of idealistic young Americans for the purpose of

- 2 -

providing a European forum for the exploration of significant aspects of American society. Every summer it holds a three-week session on American law and legal institutions at Schloss Leopoldskron, the former home of Max Reinhardt, in Salzburg, Austria. The student body is composed of approximately fifty lawyers -- practitioners, judges, civil servants, professors, and corporate counsel -- from the nations of Western Europe, Eastern Europe, and the Middle East.

During those three weeks in July 1979, I had the opportunity to attend Justice Rehnquist's lectures on American constitutional law, to join him in teaching a seminar on certain aspects of the American criminal justice system, and to be with him daily, in the classroom, in the dining hall, and at social occasions. This experience left me deeply impressed by the strength of his intellect and character.

In the classroom, Justice Rehnquist's lectures were a model of conscientious preparation and scholarly self-discipline. They were fair, balanced, appropriately skeptical of much conventional wisdom, and creative in their assessment of the relationship between the growth of American law and the development of American political and social institutions. They bore the mark of a powerful mind

and a spacious imagination governed by standards that will not tolerate shallowness of thought or shoddiness of generalization.

As Justice Rehnquist outlined the historical development of American law in the Nineteenth Century, he explored the distinctive interplay of such aspects of the American experience as the intellectual heritage of the common law, the Westward Movement, the growth of economic enterprise, the industrialization of cities, the rise of the railroads, and the pressure of sectional interests. He described how American judges, lawyers, political officials, and citizens sought to create a body of law out of what Perry Miller has called a "confused and confusing complex of emotions, traditions, and aspirations."

He regarded the growth of the law in the Nineteenth Century as an essential episode in the history of the American mind. And he conveyed the general temper of the times, the anguished hopes and optimistic efforts of a new nation to govern itself effectively and justly, with an admirable intellectual elegance and precision.

If the fifty students attending the Salzburg Seminar in July 1979 had expected a Justice of the United States Supreme Court to be distant, forbidding, or chilly in his personal relationships, they were soon disabused of that

- 4 -

stereotype. For all the stature and prestige of his position, Justice Rehnquist was genuinely approachable. He was a humane and decent presence in the classroom, in the dining hall, and in the after-dinner coffee conversations. He conveyed to the students an authentic interest, warmth, and modesty.

Those who bear the heavy responsibilities of judicial office frequently find that their entire being is consumed by their public self. Justice Rehnquist is one of those unusual public figures who has recognized the importance of cultivating a private self dedicated to the development of his powers of creativity, of humane understanding, and of cultural appreciation. The fact that he continues to read and write as extensively as he does, and that he has recently taken to learning to paint, suggests the importance he properly attaches to the cultivation of a private self. Judges who preserve a private self -- a harbor from the turbulence of public life -- renew themselves by reflection and contemplation in ways that enrich the contributions they make by their public service.

William H. Rehnquist is a person of rare qualities of mind and character, qualities that will bring distinction to the office of Chief Justice of the United States. They

- 5 -

are qualities the Nation should cherish in the Chief Justice of a Court with the ultimate responsibility for administering those wise restraints that make us free.