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Mini-Memories of the Supreme Court, 1961 Term

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Mini-memories of the Supreme Court, 1961 Term

Roy A. Schotland*

Thinking of Bob Hudec brings to mind, first and mainly, the memorable warmth, openness, and unfailingly enthusiastic good cheer for which Marianne and Bob stood out. Like Peter Ehrenhaft, I was with Bob when he was Stewart's new clerk, working with Tom Kauper; if I remember correctly, Bob's second year was with Jan Deutch, who—as Bob pictured it—read newspapers all morning, then turned out stunning work without ever staying late. I know that both Tom and Jan found Bob an unbeatable co-clerk. Certainly Bob was one of my favorite co-clerks, albeit at a slight remove (I was with Justice Brennan), because no one combined insight, intellectual curiosity and sheer whimsy better than he—and, to confess likely bias, because no one was friendlier and more gracious than Marianne and Bob. Through them, I met people whom (despite their being from Yale) I still see. I've long regretted that geography got in the way of staying close to the Hudecs.

Stimulated by Peter Ehrenhaft's mention of our year's lunches with distinguished guests, let me add one note to President Truman's visit, and a mite more.

Before or after our lunch with Truman, as he was walking on the Court's main floor, down the corridor from the other direction came Justice Douglas. Naturally they greeted each other boomingly, but I couldn't help wondering what each was thinking. Remember, when FDR chose Truman in 1944, reportedly Douglas was a strong candidate for that nomination. Were they each thinking of what might have been?

From that height to what probably was the true low of our lunches: an Atomic Energy Commission member who, when asked why we continued to stockpile nuclear bombs, pointed out that if we didn't, that would cost jobs.

And bits from other lunches: Dean Acheson, saying of the Berlin Wall something like, "We just never imagined something

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like that, we weren't prepared at all." And Justice Black, when asked about Charles Evans Hughes, describing his courtesy call, shortly after he'd been nominated, upon the Chief (in my words, though I've no doubt of the substance). First, remember that Black was a leading Senator who'd participated in the hottest legislative battles of the 1930s. "Hughes leaned forward and said, in a low voice—"When you come to Washington, you can do one of two things. You can do your job, or you can be part of the social scene. And if you try to do both, it will kill you." In fact, in Hughes' first time at the Court he'd nearly had a breakdown, and had stayed on the Court only because of the masterful support of Chief Justice White.

And Congressman Manny Celler, who by then had been Chairman of the House Judiciary Committee forever, was asked by a clerk why he'd enacted an increase in the number of federal judges shortly after Kennedy had become President. . . although he'd resisted that step for a decade. Celler, his face readily showing amazement, said with disdain, "Son, in all my years in Congress [by then, over thirty], here's one thing I've certainly developed, and that's a big fat fanny."

Last, a lunch with Justice Byron White, the day after his first conference of the Justices. It was a Saturday, and a group of us—as best I recall, this included Bob—had wandered out of the Court for lunch next door at the Methodist Building cafeteria. White, when he and his two clerks met us, asked us to join them. After we'd all gone through the line and all sat down, the Justice asked with a restrained but obvious eagerness, "Well boys, what do you think of my votes yesterday?" That drew total silence. As I watched him, I couldn't help thinking I saw a sudden sense of loneliness come over him.

It was a great Term. Bob added to it so invaluablely and so uniquely.



(From left to right) Larry Gunnels, Roy Schotland, Henry Steinman, John Rheinlander, Gordon Gooch, Nathan Lewin, Robert E. Hudec, President Harry S. Truman, George Saunders, James Adler, Peter Ehrenhaft, Thomas Kauper, Frank Michelman, Thomas Kittgaard, and Burke Mathis.



Robert E. Hudec and Justice Stewart

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\$ 57.60

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* Mr. Justice Reed provided his own lunch the luncheon with Attorney General Kennedy was paid for in currency other than legal tender.

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