

In Memoriam Rex E. Lee



1986



1988

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Rex.¹ The name, in Latin, means “King.” And he was.

I first met Rex E. Lee in 1975. I was an undergraduate journalism student on the staff of *BYU’s Daily Universe*. He was dean of the new Law School, temporarily housed at the St. Francis Catholic School. I had been assigned to interview Rex about the new Law School building, then under construction across the street from the Wilkinson Center.

When I arrived for my scheduled appointment, the door to Rex’s office was open. He was talking energetically on the

phone, his feet propped up on one corner of a utilitarian-looking desk, and the office walls rang with the rapid-fire rhetoric (punctuated with sweeping hand gestures, broad grins, almost random guffaws, and the occasional semi-stutter) so characteristic of Rex. As he stood to pace behind his desk, the phone now pressed to his ear with his shoulder, he saw me standing outside and waved me into the office. That was my first step into Rex’s charged and incredibly engaging world.

When he got off the phone, Rex greeted me like he already knew me and quickly

took control of the interview. He zestfully explained that “a law school education” was “different” from other academic pursuits because it taught one “to think like a lawyer.” He launched into a brief, but impassioned, evaluation of something called “Socratic Method.” He took a set of blueprints from the corner of his office, rolled them across his desk, and pointed out how “well thought out” the new building was. (The students would have study carrels *in the library*, their “homes away from home.” The classrooms would have tables, not desks, because “law students use *lots* of books and take *lots* of notes.” The classrooms themselves, moreover, would wrap around the professors “to facilitate Socratic questioning.”)

As the interview ended, Rex rolled up the blueprints, leaned across his desk, looked straight in my eyes, and said—quite earnestly—“You know, you’re a bright young man. You ought to consider coming to law school.” I was surprised (and somewhat embarrassed) by the comment, because the last question still rumbling around in my befuddled mind was “Just what does Socrates have to do

with ‘thinking like a lawyer’ and ‘horse-shoe-shaped classrooms?’” Of course, after being described as “bright,” that question went unasked. (And probably just as well, considering how the first year of law school “matured” my opinion of the old Greek.) But one thing was quite clear as I left Rex’s office that day: *this* man loved the law, loved people, loved life, and loved his role in all of it.

This man loved the law.

About 18 months later, I entered the J. Reuben Clark Law School to learn to think like a lawyer. Rex had infected me with his enthusiasm for a life in the law and had issued a challenge. Accordingly, I set about meeting that challenge. In a simple interview, Rex—the King—had changed me immeasurably for the better.

I am not alone. His resumé (which would make any monarch blush) reveals that, during his reign, Rex improved innumerable lives. He did so by establishing himself as one of the country’s finest lawyers, organizing a nationally



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recognized law school, serving a celebrated term as the nation's premiere Supreme Court advocate, and distinguishing himself as president of one of the largest private universities in the United States. But there was more to this man than an exceptional resumé; pervading and undergirding all of his achievements was an absolutely central devotion to his family and his God.

Rex graduated first in his class from the University of Chicago Law School in 1963. From law school he went to Washington, DC, to serve as law clerk to Byron White, associate justice of the United States

the simple expedient of refusing to take "No" for an answer.⁴ Rex was similarly enthusiastic in his recruitment of students. The invitation he extended to an awed student journalist in 1975 was not unique; when Rex saw promising student talent he would promptly issue a summons to join with him in the exhilarating challenge of creating a superb law school.⁵ The energy and sense of mission that coursed through the early years of the J. Reuben Clark Law School had Rex E. Lee as their principal headwater.

Rex's unique service was hardly limited to the Law School. He served the entire

important lesson I try to pass on to my own students: "It is not enough to do the right thing. You must do the right thing the right way."

Because of his unwavering commitment to and respect for the rule of law, Rex suffered substantial political opposition during his tenure as solicitor general. But he also built a unique and enduring reputation as a man committed to principle, not mere politics. Recently, the current assistant attorney general in charge of the Department of Justice's Office of Legal Counsel, Walter Dellinger, visited Brigham Young University's campus as an invited lecturer. Although Mr. Dellinger's political opinions are almost certainly in tension with some views held by Rex when *he* was at the Department of Justice, Mr. Dellinger

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Supreme Court. From Washington, DC, he returned to his home state of Arizona, where, as a partner in the Phoenix law firm of Jennings, Strouss & Salmon, he established himself as a lawyer of incredible promise. Within four years of graduating from law school (and before he had even taken a single deposition in any lower-court civil proceeding) Rex argued his first case in the United States Supreme Court.⁶ But, as was true throughout his life, Rex, even early on, was never blinded by his own brilliance. He assured me, more than once, that his first argument was "a disaster"; "perhaps the worst oral argument ever given."⁷ If so, it was a transgression for which he more than amply atoned.

In 1972 Rex left his burgeoning legal career to become the founding dean of the J. Reuben Clark Law School at Brigham Young University. Rex's selection as dean was more than a happy accident. It was providential. Rex's acceptance of that invitation, moreover, was characteristic of his entire life. Rex knew, better than anyone I have ever known, that "when ye are in the service of your fellow beings ye are only in the service of your God" (Mosiah 2:17).

Rex went about setting up the Law School with the same conviction and drive that caused his spoken words, not only to rush torrentially forth, but sometimes to bump into each other. In record time he collected a superbly talented faculty by

nation, first as an assistant attorney general in charge of the Civil Division in the United States Department of Justice from 1975 to 1976, and then as solicitor general of the United States from 1981 to 1985. As solicitor general, Rex had the incredible opportunity to focus entirely on the legal effort he enjoyed most: briefing and arguing cases in the United States Supreme Court. Supreme Court briefs and arguments were vital nourishment for Rex's legal soul. (Indeed, at the time of his death, as he lay in a hospital bed, he was preparing to argue his 60th case before the Court). Rex flourished as solicitor general.

However, as those who have lived life fully well know, flourishing is often the result not of perfect conditions but of overcoming circumstances that are less than ideal. Rex faced more than his share of adversity as solicitor general. Throughout his legal career, Rex was the consummate "lawyer's lawyer." He knew the law. He understood the law. And most important, he respected the law. When political forces within the Department of Justice pushed for positions that could not be supported within the boundaries of existing precedent, Rex held firm. He told me something during his most difficult days as solicitor general that is the most

nevertheless held Rex in high regard. During luncheon remarks, he described Rex as a monument to the best traditions of the legal profession. Rex, he stated, was "solicitor general in the grand tradition." The entire nation has benefitted from Rex's commitment to that heritage.

Rex, of course, was committed to more than the law. He was deeply committed to his family. I once commented to Rex's son Mike that I was surprised that Rex had any family life at all. Mike seemed taken aback by the remark. "We never felt deprived," Mike said, "because when Dad was home, he was home. He played with us, supported us, taught us, and loved us. Moreover, Dad never relied upon that old canard that 'it is not the quantity but the quality of time that counts.' Dad spent not just quality time but quantity time. He never excused his absence from the family. He was *with* the family." The steady hand at the helm of the law was also on the oars at home.

The steadiness that pervaded Rex's home life characterized his relationship with God as well. Carolyn Brammer, Rex's confidential assistant at the Department of Justice, both when he was assistant attorney general and solicitor general, noted that when she first met Rex:

The thing that stood out in my mind the most was that he had this inner peace. At that time, I did not know about the Mormon Church or what LDS meant. All I knew was that while others were scurrying around and, in some instances, spinning their wheels, there was Rex, steady as a rock.

After Rex left the Department of Justice as assistant attorney general, he called Carolyn at home “and asked me to do him a favor—he then changed that to ‘let me do you a favor’”:

He asked me if he could have the Mormon missionaries stop by. When I spoke with my husband, he said “if this were anyone but Rex Lee, I would say no. But go ahead and tell him to have them stop by. You know, we’ll never get rid of them.” Within the year we were baptized and eventually we were sealed in the temple, with Rex and his wife, Janet, by our sides. Personally, he inspired me to be better than I ever thought I could be. Spiritually, he showed me by example how “to walk the walk,” as the kids today might say.

Rex never stopped “walking the walk.” After resigning as solicitor general, he returned to Provo and BYU in 1986. Shortly thereafter, he was diagnosed with a serious—and rapidly developing—cancer. But, following an exceptionally difficult year of medical treatment and therapy, Rex (and all of us) were granted a miraculous reprieve. He recovered, for a time, his strength. During that extraordinary period of health, he was named president of Brigham Young University. As president he set a new standard for openness and access, meeting regularly (and individually) with faculty and students on important issues facing the university. Rex served the university community with distinction from July 1989 until December 1995, just two and one-half months before his Father in Heaven called him home.

The last time I saw my friend was in the Utah Valley Regional Medical Center. Rex recognized me as I stood outside the door to his room in the Intensive Care Unit. As he had nearly 20 years ago, he waved me into the room. He couldn’t pace. He was too frail to stutter. He was even too weak to display his usual broad smile, but he still

grinned. And he pulled me down to him to mouth the words, “I love you.” I told him, then, with all the conviction of a breaking heart that I loved him, too. I told him that there were hundreds more, many of whom will read these words, who loved him as well. Then I had to leave, because tears were too close. Rex, my regal friend, deserved not tears but a celebration of all the riches he had bestowed upon me and so many others.

The rapid-fire voice, punctuated by sweeping gestures, ample smiles, random guffaws, and an occasional semi-stutter, that voice I heard for a first time as a senior journalism student, is now stilled. But the echoes ring on. They ring on in the lives of thousands of law students who, like me, have had the blessing of attending



the J. Reuben Clark Law School. They ring on in a country strengthened by Rex E. Lee’s unwavering devotion to the rule of law. They ring on in the lives of his wife, sons and daughters, who will emulate the example set by a loving husband and father. They ring on, as well, for all those who have been touched by the steady, genuine devotion displayed by a man who knew not only that he was a son of God, but that we are all brothers and sisters. Rex’s voice is silent, but his influence will never be stilled.

Rex means King. Long live the King.

NOTES

1. Although I worked with Rex E. Lee for nearly 20 years, I generally stood too much in awe of the man to address him simply as “Rex.” When I was a student at the Law School in 1977, he was “Dean Lee,” at the Solicitor General’s Office he was “General Lee,” and when we worked together again at BYU in the late 1980s he became “President Lee.” Rex, of course, never demanded such formality. I simply felt that addressing him by his various titles was appropriate. It was only during the last few years of our association, and at his urging, that I began to use his first name. In this short memorial, I write his name without titles, not out of disrespectful familiarity, but because—at least for me—the most important title he ever held was that of “friend.”

2. *Lassen v. Arizona Highway Department*, 385 U.S. 458 (1967).

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3. I know, however, that the above assertion is not true. *My* first argument in the Court was clearly the worst in that institution’s history.

4. Just ask Professor Carl Hawkins, whom Rex repeatedly described as the “centerpiece” of the new faculty.

5. Any list of the students who flocked to J. Reuben Clark Law School at Rex’s personal invitation would be hopelessly underinclusive. I have heard stories, from more Law School graduates than I can remember, detailing how they enrolled at Rex’s personal prompting. And the stories come from more than just graduates. A successful Provo businessman who *did not* attend law school has proudly recounted to me how Rex urged him to learn to “think like a lawyer.”