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The Constitution and Fundamental Rights

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DEDICATION

Today's ceremony is one I could hardly miss, for I held in highest esteem and deepest affection the man whose name this classroom now bears, Chesterfield Smith. Without reservation or exaggeration, I count him the most magnetic, exuberant, irrepressible, altogether irresistible lawyer I have known.

I first met Chesterfield in 1972 when he was President-Elect of the American Bar Association. Along with then ABA President Robert Meserve, Chesterfield was attending a meeting of the ABA Journal Board in Portland, Maine. Bob Meserve was the best of Boston lawyers, a sage counselor who spoke in measured tones. Chesterfield's speech, I must admit, was not similarly moderate and restrained. Indeed, he seemed to me and my fellow Journal Board members something of an *enfant terrible*. Later, I came to appreciate that Chesterfield's provocative style suited his purpose. He was never satisfied with the status quo if there was room for improvement. His uninhibited questions and comments stirred us up to better effort.

Lawyers tend to be cautious. More than a few are what I call "No" persons; advisers who keep their clients safe from risk by avoiding things yet untried. Chesterfield Smith was not of that stripe. He was, instead, a most positive "Yes" person. If asked, "Can we do this or that?," Chesterfield would invariably say "Yes we can," with one large proviso. This or that must be the right thing to do.

Whether with him or against him, lawyers agreed that Chesterfield Smith knew "neither timidity, fear, nor ambivalence." Sargent Shriver, the first Director of the Peace Corps, said of Chesterfield, his colleague in worthy causes: "[H]e never flinched from doing the right thing at the right time and in the right way." That was true, I would add, no matter the size or strength of the forces ranged against him.

Chesterfield made history as newly installed American Bar Association President. The day after the Saturday Night Massacre, deeply moved and concerned about that event, he declared on television and radio that "no man is above the law" and called for the impeachment of President Nixon. Elliot Richardson was of like mind. He was the Attorney General who resigned because he refused to follow the President's instruction to fire Independent Counsel Archibald Cox. Reflecting years later on the epic we call Watergate, Richardson said: "We, the people, . . . had the final voice in what happened—we were given that voice by the leadership of the Bar, which itself was embodied in Chesterfield Smith."

Stunning as the 1973 impeachment call was, Chesterfield propelled the ABA forward in a no less significant way years earlier, when he insisted it was the Association's obligation to assure there would be a lawyer, when needed, for those unable to pay.

Shirley Hufstedler, who, from the late 1960s through most of the 1970s, was the sole woman serving on the federal appellate bench, called her close friend Chesterfield a public service dynamo. By word and deed, he urged his own law partners, then lawyers everywhere, to place community service at the center of their professional lives. Lawyers could not claim membership in a true profession, he thought, if they worked only as fee-charging artisans and did not voluntarily contribute to the public good.

Chesterfield was a waypaver too, as Florida Bar President, as chairman of the committee that framed Florida's current Constitution, and in another remarkable respect. Long before the message took hold that equal opportunity is a legal and moral imperative, Chesterfield recruited women and minorities to work as lawyers at his firm and in his public service endeavors. Unlike many men of the greatest generation to which he belonged, it came naturally to Chesterfield to seek out and work with women. Chesterfield wanted no credit for appreciating what women can do. In his view, he aimed simply to attract the best talent. But perhaps he had in mind his daughter Rhoda, his son Chet, and the more open society he hoped they would find.

The list of women whose careers Chesterfield boosted is both long and impressive. It includes former Attorney General Janet Reno, Eleventh Circuit Judge Rosemary Barkett, his Holland & Knight protégé, partner, and one of his successors as ABA President, Martha Barnett, his beloved wife Jacqueline Allee—and me. Chesterfield provided constant aid and encouragement in 1980, when President Carter nominated me for a seat on the D.C. Circuit. Thirteen years later, he was again in my corner. He testified at the Senate Judiciary Committee's hearings when President Clinton named me to fill a vacancy on the Supreme Court.

I grew particularly fond of Chesterfield in the summer of 1978, when the ABA sent its first delegation to China. Members included 10 pillars of the Bar (all white men) and two others: Cecil Poole—an African-American who was then a U.S. District Court Judge in San Francisco—and me. China was not yet ready to handle tourists, so the men had to double up in hotel accommodations, which were generally spartan. There was more than an occasional grumble about the absence of creature comforts. But never from Chesterfield. He maintained his

good humor every step of the way, though the weather was hot and our rooms lacked air conditioning. And characteristically, he was not reticent about imparting to our Chinese hosts his forthright views on their then lawyerless society or on the huge posters of Stalin, along with Marx, Lenin, and Mao, that hung in large halls and city squares.

For a celebration of Chesterfield some years ago, I tried to capture the spirit of my dear friend, and fellow traveler. Chesterfield once said he would be pleased to see the words I wrote etched on his tombstone. So I think he would like me to end these remarks with an adaptation of my earlier words:

Bar leader nonpareil, Chesterfield Smith devoted his extraordinary talent and enormous energy to the improvement of the legal profession—to making the profession more honorable, more responsive to the people that law and lawyers serve. This mentor to the young and grand colleague to all enlisted countless co-workers in the quest for equal justice under law. He pursued great causes with a contagious exuberance and a style that could make even the most sober judge smile. He was, in sum, among the brightest, boldest, bravest, and all around most effective lawyers ever to be bred in Florida or the USA. My affection for him was unbounded.

May the classes and events that take place in this room prove a fitting tribute to Chesterfield Smith's work and days.

Ruth Bader Ginsburg
American Jurist and U.S. Supreme Court Justice

