



Off the Bench

While Senators Debated His Future,
William Rehnquist Became a
Laid-Back Professor in Malibu

BY DONALD R. PHILBIN JR. AND PAMELA J. MINETTO

On the first Monday in August, a temperate, foggy morning, Chief Justice designate William H. Rehnquist stood and faced his audience. He had just finished two days of interrogation before the Senate Judiciary Committee. The group he was about to address, though, consisted not of senators in Washington but of students in Malibu. As the committee deliberated, he headed for the West Coast to teach a two-week seminar to two dozen future lawyers.

The associate dean of the Pepperdine University School of Law, James McGoldrick Jr., had come up with the idea of asking a sitting justice of the Supreme Court of the United States to participate in the university's visiting-professor program. The agreement was completed last February, in Rehnquist's chambers, over a lunch of ham sandwiches, potato chips, iced tea and apples. A course on the history of the Supreme Court and constitutional law—taught from a personal vantage point and covering 18 cases (some more than 200 pages long)—was planned. We students were responsible for an understanding of "the commercial development of the steamboat and the railroad; the history of the westward movement; . . . the Granger, Greenback, Populist and Progressive Movements; the Great Depression and the New Deal." The "standard biographies of John Marshall, Joseph Story, Roger B. Taney, Samuel Freeman Miller, Stephen J. Field, Oliver Wendell Holmes, Louis D. Brandeis and Charles Evans

Hughes" were suggested reading.

But President Ronald Reagan's nomination of Rehnquist as the 16th Chief Justice of the United States threatened to scuttle the plans. We watched the Senate hearings daily—while trying to get through the massive reading list—not knowing if he would be forced to cancel.

THE STUDENTS congregated nervously near the classroom that first Monday morning. Many of us had gone to a law school class with less than a thorough grasp of the material, but never when one of the highest jurists in the land would be firing questions on complicated topics.

At 9, we were in our seats. Rehnquist soon took over the class. As he previewed the course and set the historical stage for the first case, we slowly relaxed. Then, in the

gentle tone we'd become used to in the next two weeks, he framed the first question.

There was absolute silence. No one volunteered to recite the facts of a case we had all dissected in constitutional law and read in full as recently as an hour before. Did he expect a cursory overview of the facts, the issue, rule and rationale, or were we expected to knit the history, personalities and case itself into an articulate recitation of some grand constitutional doctrine?

The first Socratic victim was chosen at random. Together, Rehnquist and the student explored the facts and context of the case, placing emphasis on the social aspects of the time as well as the personalities involved. When they had finished, it was break time. We'd survived.

Rehnquist soon was addressing us by name, from memory, and often would

break into a *cappella* renditions of popular songs from the period in which a constitutional doctrine had been formed. At other times, he would mimic historical figures—for example, F.D.R., delivering a fireside chat. Maps were frequently hauled out to illustrate a critical geographic relationship. Once he paced off the size of the original Supreme Court chamber to make a point.

During breaks, the Justice would sit on a shaded bench outside the School of Law, ready to chat with anyone.

The course reached its final day—which was also the day the Senate committee would vote on Rehnquist's nomination. We were discussing judicial reforms when, at 9:30, Dean Ronald Phillips entered the room and handed Rehnquist a slip of paper. He read the note, smiled and re-read it, aloud: "The Senate Judiciary Committee approved your nomination by a vote of 13 to 5. Congratulations. . . ." We rose and applauded.

After class, there was a lunch on the dean's patio. At the end of the lunch, a student rose and thanked the Justice. In reply, Rehnquist noted the unusual circumstances in which this seminar had been cast. He thanked us not only for being his students but also for being his companions during a period of uncertainty. And then the future 16th Chief Justice of the United States asked us to stand, and he led us in "Auld Lang Syne."

Donald Philbin and Pamela Minetto are third-year law students at Pepperdine