

COMMON GROUND WITH AN UNCOMMONLY GOOD MAN: A TRIBUTE TO JUDGE LAURENCE H. SILBERMAN

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The passing of an influential, high-ranking government figure typically brings assessments of their public life and service. But people are so much more than their public acts. When I reflect on the life of Judge Laurence H. Silberman, for whom I clerked more than 25 years ago, what stands out to me is the warmth, mentorship, and friendship he showed me, and so many others, outside the public spotlight. That may seem—and probably should be—unremarkable. Judges, after all, typically have those relationships with their law clerks. But I was, at the time I interviewed with him and ever since, a Democrat. He was, seemingly since birth and until the day he died, a Republican. We both knew these critical details about each other when we met, yet I applied to him, and he hired me. And I was but one of a number of Democrats who counted him as a friend and mentor. To be sure, he mentored and befriended many more Republicans. But in these bitterly partisan and divided times, it is worth pausing to praise a man who always put friendships and country above politics.

At the center of Judge Silberman’s brand of conservatism was patriotism. Real patriotism, not just saying patriot in a Twitter handle. He gave a lifetime of service to America. He served in the Army, as Solicitor and Undersecretary of the Department of Labor, and as an Ambassador to Yugoslavia. In the wake of Watergate and the Saturday Night Massacre, he served as Deputy Attorney General. “I used to tell people,” he once said of that role, “we had an obligation to loyally carry out the President’s policies except where we were prosecuting him.”¹ Even after becoming a judge, he answered the call for still more government service beyond his judicial duties: he served as co-chair of the bipartisan Iraq Intelligence Commission to uncover why we had faulty intelligence that Iraq was producing weapons of mass destruction.

Judge Silberman’s love of this country motivated everything he did. He was a worthy recipient of the Presidential Medal of Freedom for this lifetime of dedication. And he respected and admired others who shared this commitment to service, regardless of politics. He treasured his friendship with Merrick Garland and held him in the highest regard. I know he believed Garland deserved a seat on the Supreme Court, and he was one of Garland’s biggest backers to become Attorney General.

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¹ The Historical Society of the District of Columbia Circuit, *Oral History Project*, “Honorable Laurence H. Silberman” at 75 (Dec. 13, 2001).

The key lesson I took away from my clerkship and long friendship with Judge Silberman was that you could disagree with someone vehemently about politics, but still respect each other and find common ground based on far more fundamental shared values like honor, honesty, love of country, and devotion to the rule of law.

I remember one conversation we had, along with some other law clerks, about government welfare policy. At one point in the discussion, I revealed to him that one reason I felt so strongly about providing all of America's children with a social safety net was because I would not be his law clerk without that helping hand. My family needed food stamps and government-subsidized housing at various points when I was a child. I received Pell grants to go to college. He listened intently to my back story and seemed genuinely moved by it. We both agreed all children should get those same opportunities, but we still ended up disagreeing on how to make that happen. He thought children would ultimately be made better off if their parents had to work, whereas I thought that no child should suffer if they had a parent who could not make ends meet for whatever reason. We could not agree on the means, and that partly accounted for our respective party affiliations never changing. But it helped to see we shared the same ultimate goal. We were both trying to figure out how to make America the best it could be for the next generation.

Another image seared in my memory from those days clerking is the one of Judge Silberman and Judge Patricia Wald, a Democrat, sitting side-by-side in the court library each day. He would go to read the Washington Post, and she would read the Washington Times, each of them reading the paper they refused to get at home to get a better handle on what their political opposites might be thinking. They did not agree on much when it came to law or policy, but they were mirror images of each other. They were both models of integrity, and they had a beautiful friendship. One of his first acts after being asked to serve as co-chair of the Iraq Intelligence Commission was to recommend that Judge Wald also be named as a member.

They were also both astute and consummate experts in the workings of DC. In addition to teaching me how to be a better lawyer and writer, Judge Silberman also taught me more about politics than anyone else I ever met. No one knew Washington like he did. I still remember his tutorials on how to read a newspaper article and figure out who the unnamed sources likely were (hint: the identity of the person familiar with John Doe's thinking is almost always John Doe himself).

We never did see eye-to-eye on politics, and sadly, that divide became more pronounced over the years. Neither of us were immune to the shifting political landscape around us. I took some comfort in knowing we continued to agree on the fact that the character of a president is critical, and therefore both shared the same view of Donald Trump. That, however, was about it in terms of common political opinions in recent years.

But our disagreements were not the topics of conversation when we spoke. Because I live in NYC and he was in DC, we only saw each other in person about once a year, and we only had one or two phone conversations most years. When you know you only have so much time to catch up and connect, you focus on what matters most. For Judge Silberman and I, there was always so much more that united us than divided us, and our conversations always left me feeling optimistic about America. I hope Judge Silberman's memory can be a reminder to us all that we

ought to place greater value on the things we have in common than on the political views that too often keep us apart.