

# Judge Brennan

It's easy to talk to Tom Brennan. He is the same engaging personality, whether he is sharing a sandwich with a student in his favorite lunch spot, the Subway shop down the street, or dining in the company of the movers and shakers of whom he has long been a member.

Such disarming lack of pretension and ceremony, one gets the impression, comes not merely from practice – the kind of public face that many politicians put on as the price for getting votes – but straight from character molded by a genuine love for people, the kind of love by which one recognizes and appreciates one's own success in the achievements of others.

**J**udge Brennan ended up doing big things by doing small things consistently well and often, with focus and enthusiasm, building on slight opportunities that few others would even think of. As in this example:

## What is your best advice for new attorneys today?

“Part of it is in how you capitalize on the assets and opportunities you already have around you. When I was first running for office, still in law school at the University of Detroit, I knew that the name ‘Brennan’ was associated with law in Detroit, although no one in my immediate family was a lawyer. I went to old Judge John V. Brennan, no relation to me, and told him I was running for public office and that I would never do anything to besmirch the Brennan name. He was very gracious and kindly toward me. In fact, through the years, when my name was in the paper for some accomplishment or other, into his 90s, he would write me a note of congratulation – ‘Oh my, Thomas, I see you were just elected chief justice. I’m sure you’ll do a fine job.’

“But the name alone ... I figured that when people found out who I really

am and what I could really do, I would have some potential. But I lost five times before I was elected to public office.”

How he finally was elected is a model of perseverance, and shows how negative circumstances can turn into positive opportunities. It began with an oratorical contest sponsored by the old Hearst newspaper the *Detroit Times*, a contest that he won but didn't get recognized for:



“A guy came over to me afterward and said, ‘I am very sorry about this, but you actually won. I didn't tell you or anyone else because we figured if you didn't win, it wouldn't matter, and if you did win, we couldn't send you to the finals in New York anyway, because you are ineligible.’ It seems that someone found the rules limited

winners to four-year college students, but I was already in law school, my fifth year of college.

“Apparently, the *Detroit Times* felt bad about the incident, because they ended up with a big picture of me and my wife in the newspaper, with a story mentioning that I was a candidate for the state legislature. Now in those days, there were 21 state representatives from the city of Detroit, and they were elected at large. So in the original ‘bed sheet ballot’ for the primary, there were about 120 Democratic candidates and 80 or 90 Republicans. I ran fifth among the Republicans.”

With that success (even though he was not elected), the newspaper ran an editorial about the “healthy political signs” in this young Brennan whom they “had discovered through our oratorical competition.” The subject of the competition was Henry Clay, who had also entered politics, like Brennan, at 23; and the paper predicted “a bright future.”

“My mother saved that editorial for years.”

Republicans in Detroit didn't win races in those days. Finishing fifth among Republicans was still far

behind the Democrats. In 1954, when the legislature divided the city into districts, Brennan ran again as a Republican and lost. He lost again in '55 in the special election to replace deceased Democrat John Dingell to John Dingell, Jr. Loss number three.

“In '57, I got smart and ran for a nonpartisan office, common pleas court judge. I came in fifth again in a field of 120, but only one seat was up. “And in '59 I ran fifth once more for common pleas court, but there were four seats available, so I was getting closer!”

The year 1961 was a critical one. “Polly was about sick and tired of me running for office and spending money we didn't have. In fact, I remember praying in church, ‘Lord, either let me win or take away this burning ambition.’ Finally, my pals talked her into letting me run for judge again, and every time the newspaper mentioned the race they would say ‘defeated five times,’ dismissing me as another loser. But I won anyway.”

After two years, Brennan caught the attention of Gov. George Romney, who asked him to fill a vacancy in the circuit court. He took the job and held onto it through the election of 1964, and in 1966 Romney asked him to run for the Michigan Supreme Court. He was 37 years old.

## What do you tell a young lawyer?

Work hard and do your best at serving your client and be faithful to the law and maximize your opportunities.

“I remember working with the American Bar Association one time, trying to persuade them that what we're doing (at Cooley) is a good thing. They kept saying, well, you

take all these people with low LSAT scores, and blah, blah, blah...in those days the LSAT was measured from 200 to 800 or something like that, and the median was 500. We took some people who were under 500, around 400 or so, and we had been doing it for a long time. So I had someone in my office do a survey and we came up with a list that we called the ‘400 Club.’ These were people who had graduated from Cooley Law School whose credentials were really very modest, but as they graduated they went on to do very accomplished things, just good things – like one fellow in a small town who represented the local auto dealer and the local bank, he was on the school board, he was just Mr. Citizen in that community. I don't know that he ever got rich, but he was certainly a highly regarded person in that community.”

Success, to Tom Brennan, is what one makes of life. And one makes more of life by living more fully.

## Where do you think your passion for risk-taking comes from?

“I don't really know – I guess part of it comes from an overblown self-confidence, where I just think I am going to succeed. A friend of mine, Larry Nolan, says ‘Brennan has a hundred ideas a day, and 98 of them are no good, but the other two are pretty good.’ All you need are a couple of winners.”

Those ideas include a hand-built, three-wheeled bicycle he once made in his garage out of plumbing pipe and castoff bike parts. One of his sons was going to use it to deliver newspapers, “but it fell apart the first time he hit a curb.” In later years, past the

bicycle-building stage, Brennan had a contraption professionally made that he called the “golf bike.” After playing two rounds of nine holes with it, he found the bike “too slow, too noisy, and too hard to pedal,” so now it sits in his garage. “When I get these goofy ideas, the only way I can get rid of them is to do something about them – same with the novel (*The Bench*, available in the Cooley bookstore and from other booksellers), same with the American Golf League” (see sidebar).

## Does anything make you angry?

“I would hope that I reserve my anger for righteous indignation, when I see some injustice done. I think that anger – or any emotion that the Lord gave us – is to help us overcome our reticence to act. Polly and I used to say, in rearing our six children, that one of our rules is that we would never strike a child except in anger.

While that goes against all the psychologists, the fact of the matter is that if you were to strike a child and not be angry, you would be teaching the child something of sadism – that's kind of a vicious, cruel thing to do, smiling at them and then whacking them. I like to think that my anger is reserved for those times that action is really called for, when it is appropriate, righteous indignation.”

## You have been critical in articles and speeches about the “dumbing down” of education in America ...

“It started when they stopped teaching kids how to read (by phonics), and became more concerned with their psyches. I think you have to have (objective) standards.

“Precision in the use of words is essential if you are going to have



precision of thought. Many entering law school students today have never had the simple experience of diagramming a sentence. Fuzzy writing and fuzzy use of grammar go hand in hand with fuzzy thinking. So instead of logical discourse, you often get communication on a kind of gut level instead.”

#### What gets you up in the morning?

The question immediately reveals without saying so, that he and wife Polly are still very much in love after more than 50 years of marriage – “I’m blessed with having a good wife, and we have a good life together. She’s very concerned about my health and welfare and basically, if I didn’t have the golf league or anything else I am working on, just to spend the day with her is a privilege that I thank the Lord for.”

In fact, Brennan does not take his good life for granted. “Much of my life, we were poor as church mice, with six kids and that sort of thing. But I am sort of an Adam Smith capitalist, a free-enterprise type of guy, and I always thought that you do well economically by doing good – you don’t think about how much you are going to make, but how well you do the job; and if you do the job well and you’re fruitful and dedicated, the rewards will come.

“One of the things that troubles me about a lot of young people today interviewing for a job, is that among the first things they want to know is about the pension plan, about how many vacation

days they get, do they have to work overtime – my idea was always that when you get a job, you give it a hundred percent, and that if you do, you make yourself valuable and the rewards will come.

“That’s the way I’ve felt about the law school and everything I’ve done.

My compensation has been substantially more than I would have gotten had I stayed on the bench. In fact, when I was on the bench, I used to teach part time for a little extra compensation, because there isn’t much you can do as a judge that is not in conflict with your job. Teaching is one of those things; starting law schools is another – I saw it as an opportunity,

but it was an opportunity to do some good and ultimately, hopefully, to do something for myself as well. I’m not embarrassed by that – it’s just a matter of personal ambition and desire.

“It’s the idea of (economist) Adam Smith’s [*The Wealth of Nations*] ‘invisible hand’ that guides the welfare of the people and the nations. I always liked Dwight Eisenhower’s answer to what our foreign policy



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should be – he said we should always act in our enlightened self-interest. I think people often act against their

self-interest by doing not what is enlightened, but looking for immediate gratification rather than at the long term.”

#### How did your early upbringing influence you?

“My family was middle class. Dad didn’t go to college, but he always worked with his head rather than his hands (he was in auto financing), always wore a suit, and was known as ‘Mr. Brennan’ by the young people in the neighborhood. We grew up on a 35-foot lot with five kids and one bathroom, which by today’s standards is modest living. But my dad’s attitude was always that we had the best, and he always set a good table and we got new shoes from Sears Roebuck every year, leaving the old ones at the store because they were worn out.

“There was a great sense of pride and of family. My parents were church-going, God-fearing, taxpaying, beef-eating Irish.”

#### What would you like to be remembered for?

“By whom? By the public? By my friends and family?”

“I guess, at one time,” Brennan reflects thoughtfully, “I guess I thought that if I would like any kind of definition, it would be that ‘he was a Christian gentleman.’ That would

be a high compliment, in my eyes, because my religious faith and my family are the fundamental rocks of my life.”

“The law school, of course, is important, and I would hope that I have been a positive influence on a great many people’s lives.”

“But I know that our six children and 18 grandchildren are a substantial achievement, and every bit as important.”