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Recommended Citation

Link to publisher version (DOI)
https://doi.org/10.15779/Z382J0S

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Remembering Mathew Tobriner

Laurence H. Tribe†

Mathew Tobriner was a more modest man by far than many whose talents could hold no candle to his. To paint him larger than life would dishonor his humility, his commitment to truth, his sense of proportion. And it would be needless: his life, unvarnished and unmagnified, is testament enough. His true memorial will be the words he himself wrote, and the commitment to justice—to freedom, equality, and community—which those words demand and inspire.

When I first met Mat over sixteen years ago, and learned from him as his law clerk, he was "the judge," the author of one lucid advance after another in the progressive legal tradition he so splendidly came to exemplify. Years later, when he became "Mat," he remained the judge, always the scrupulous devotee of fair process and open inquiry in search of a justice he thought implicit in the law. Even when he was beleaguered by small-minded or misguided critics, he remained a tower of repose and tolerance. I heard him talk of his detractors only with sadness and an almost childlike surprise—never in anger, never with recrimination.

While his passions ran only to causes and cases—to principles, but not to parties—his compassion was altogether human, personal, and particular. To write of the disadvantaged and their rights was for Mat no exercise in abstraction; it was an expression of his inner self. A man of station, even privilege, he clearly felt more than almost anyone else I have ever known what it must mean to be powerless and dispossessed. It showed in the way he treated those who worked for him, or for his court, no less than in the way he treated those who argued before him and those they represented—or failed to represent.

Of all the people I have ever met, only my own father seemed to me as totally gentle, as wholly without guile, as completely unmarred by meanness. If I did not want Mat, in the poet's words, to "go gentle into that good night," it was not because anything but gentleness could possibly have been his way. It was only because I thought he deserved a different kind of rest from the one he found so soon after completing his long tenure as the nation's most outstanding state court judge.

History will record Mathew Tobriner as a jurist of vision, the genuine leader of a great tribunal for many of its proudest years. But his-

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tory looks backward; Mat mostly looked ahead. He is one of whom it truly could be said that, although his struggle came to an end a few weeks ago, for all those whose cares and concerns he shared, the work goes on; the cause endures; the dream shall never die.