

TRIBUTE TO LAURENCE H. TRIBE

When I see Justice Breyer, and the rest of this company, I know that I am far from the most distinguished person to be here. But I believe I do have the distinction of traveling the farthest for this event.

In fact, I wrote out my comments as I crossed the ocean this morning, returning from my latest involvement in progressive politics overseas. I owe that trip, that involvement, and three decades in American political life, ultimately to Larry Tribe, who not only encouraged me to attempt my dream, but wrote the recommendation that opened the door to my first job as speechwriter to Mayor John Lindsay—there was only one speechwriter in those simpler days—when I was 26 years old. Norman Dorsen will be happy to hear that in so doing he saved the legal profession from me.

So I'm here because Larry is not only a scholar I admire and a friend I treasure, but in a very real sense, and in many ways, my mentor as well. He has been a mentor to many others outside my less reputable world of political consulting—an entire generation of talented and consequential teachers, lawyers, and legal scholars. John Sexton is not the only dean of a great law school to have been Larry's student; there is Kathleen Sullivan, the Dean at Stanford. Although, as far as I know, John will be the first of Larry's research assistants to be the president of a great university, there are more to come I am sure.

The reason I believe Larry has had such an impact on so many—from Judge Koeltl, who—how shall I say this?—has a conservative bent, to his other former students who virtually populated the Clinton White House—was expressed to me once by a friend of his and mine, Tom Rollins. “Larry,” he said at the end of his third year in law school, “inspires because you're young—you're in a very intimidating place like Harvard—and he doesn't treat you like an assistant, but like a colleague.”

There are others here far better qualified than I to speak in depth about Larry's scholarship. But from the first time I met him in 1962—when I was a young college debater and he was the legend who had won the national college debate championship the year before—I knew there were few, if any, others I would ever meet who would have his rare combination of gifts: genuine brilliance, absolute intellectual rigor, and capabilities of imagination and insight that let him see beyond conventional boundaries and which,

over the years, led this young refugee from the Russian colony in post-war China to become America's leading constitutional thinker.

The other qualities that so dearly mark him out are a sense of justice and a rare degree of courage. We have often talked about his conviction that the law doesn't exist for its own sake—as a series of formulas to be mechanistically applied—that the Constitution is not an historical artifact frozen in amber, but that its words have a living meaning, and that guarantees like “equal protection” are an ongoing mandate for each generation to widen and realize the ideals of liberty and justice.

In Larry's pursuit of that vision, he has become not only the greatest constitutional scholar of his time, but its greatest Supreme Court advocate. And he has achieved this not by catering to the Court's perceived ideology, but by force of reason and original thinking.

I spoke of Larry's courage a few moments ago. I could describe it in many ways—for example, his willingness to challenge a whole range of embedded assumptions. But here particularly are the instances that strike me today.

First is one of the cases that Larry lost in the Supreme Court. Well before gay civil rights was a mainstream cause, when much of progressive politics was still trying to avoid the issue, Larry argued in *Bowers v. Hardwick*¹ to strike down the Georgia law criminalizing the private conduct of gay men. He lost, and justice lost, on a 5 to 4 vote. Later, Lewis Powell, who was in the majority, said it was the one vote he cast on the Court that he most regretted.

From preserving affirmative action to protecting free speech to defending a woman's right to choose, Larry spends his gifts and, in Robert Kennedy's phrase, his “greatness . . . to bend history itself.”²

And he has the intellectual integrity to disagree with many of us and depart from what most automatically assumed his position would be when he concludes that position is wrong. So while rejecting the caricature of “original intent,” he has insisted that the Second Amendment truly does secure an individual right to keep and bear arms.

In 1987, he called me in Italy at a hotel in Venice to which he and Caroline had taken me on vacation with their family some years before. He had been asked by Senator Kennedy to be the lead witness opposing Robert Bork's confirmation to the Supreme Court. I

1. 478 U.S. 186 (1986).

2. Sen. Robert F. Kennedy, Day of Affirmation Address at the University of Capetown, South Africa (June 6, 1966).

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told him that even though I thought it was the right decision on the merits, it could so alienate the rightwing that it would diminish or even end any realistic chance that Larry himself would ever serve on the Court. He told me he had to go ahead, and his testimony probably had a decisive impact.

Larry Tribe should be on the Supreme Court, not arguing before it. But he would rather pursue justice than be a Justice. And to me, that truly is courage.

I conclude on a personal note.

An individual has, if fortunate, a few close friends for life. For me, Larry Tribe and John Sexton go back forty years and so does John Koeltl, and the memories seem like only yesterday.

Larry was my informal TA in Law School, where I was an indifferent student who survived because of him. He was my career counselor who made it possible for me to have an amazing life—from George McGovern's campaign in 1972 to Ted Kennedy, Bill Clinton, Al Gore, Ehud Barak, Gordon Brown, and Tony Blair, not to mention all the Senate and Gubernatorial candidates I have importuned him to support. And Larry's a brilliant mathematician and a gifted painter who on that long-ago trip to Italy with his family first opened my eyes to the art and architecture that has called me back there again and again. And Larry stood on the altar with me as I married Mary Louise, which was the best decision of my life.

Larry Tribe has a lot more to do, and so do we all. But today I think of how he sent so many of us on our way, and how he has sent American law and American life on a better way. I congratulate him on this tribute.

Thank you.

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