

TRIBUTE TO JUDGE GUIDO CALABRESI

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I first heard the expression, “a life lived greatly in the law,” as I first learned of many important things: in Guido Calabresi’s torts class. And I’d like to talk with you a little bit this evening about what that means: “a life lived greatly in the law.”

The most important thing, I think, actually has not so much to do with law. It ultimately is about “a life lived greatly.” And I think that that greatness of living comes from a greatness of soul. I don’t think I can put it any better—I wouldn’t try to.

Let me back up. I consider Guido my fairy godparent. Children learn what they live, they learn by example—Guido has been my godfatherly example. I don’t think I can put the point about “greatness of soul” any better than how Guido’s biological son, Massi, put the point at Guido’s seventieth birthday party. We were all in the barn together—and again, children learn what they live—and Massi said: “The thing about my dad is that he likes helping people. I bet he’s helped each and every one of you gathered here today. I bet he’s done you a favor.” And I started nodding my head, just instinctively, and I started looking around and each person was nodding his or her head, quite instinctively, and there we were all together in this barn, all nodding our heads—it was a barn of bobbleheads. It was really quite extraordinary, because Massi had cut at precisely to the bone of the truth.

So that’s the most important thing. But now what about this part, “in the law”—“a life lived greatly in the law.” The other tributors and I haven’t coordinated, but it’s really quite extraordinary to think that all of us are focusing on at least four of the same dimensions: a life lived greatly as a law teacher; a life lived greatly as a legal scholar; a life lived greatly as the dean of a great law school (not the only great law school, but a great law school); and a life lived greatly as a judge. And we’ve all mentioned that—quite independently—there are very few people in the world, you see, that have that greatness along all four of these dimensions. And then it was also mentioned: a greatness as a mentor. I think that pulls all of these together, in a way.

So how does one measure greatness of a teacher? It’s a hard thing to explain to someone who wasn’t in the classroom. I do think it’s quite striking that so many of us up here on the podium and previously at this podium have been classroom students of

Guido; I think that's not a coincidence. I think it's striking as I look out, here in the audience, that I see other folks who were classroom students of Guido. But if one had to measure these things—they're very difficult to measure—I don't think that there's anyone I know who has had a more distinguished group of students in law in the world. Students who describe themselves, not just as people who happen to be in your classroom, but people who say, "I was Calabresi's student." And some of us have done torts—and I'm looking at one now—and some of us have done other things, but we are all Guido's students because he was a great teacher.

Just as an aside that way: my third year of law school, when I decided I wanted to be a teacher, I actually sat in on my favorite teacher's class a second time, if you can believe it. I sat in on Guido's class just to hear the stories one more time. I'm not a torts scholar, and yet I remember *Ives v. South Buffalo*,¹ *Western & Atlantic Railroad v. Henderson*,² *Holmes v. Math[ur]*³—which is how he pronounced it—*Leame v. Bray*,⁴ and *Rylands v. Fletcher*.⁵ Therein hangs a tale: I remember every one of these silly torts cases, and I don't do torts! You see, because he was a teacher, and he made every class memorable—so memorable, I remember this stuff thirty years later. Way more, frankly, than I remember anything that happened in Constitutional Law.

Calabresi as a legal scholar. Well, you know the statistics: youngest professor in the history of Yale; the author of not one, but several of the most-cited law review articles of all time, including one that by acclamation is one of the very handful of greatest law review articles ever, one co-authored with a student, and Guido co-authored so many with so many things with so many different students.⁶ You see, they're connected, there are connections. Not all great teachers are great scholars, not all great scholars are great teachers, very few of them are half-decent administrators, and then you when add the judicial dimension—these skillsets, they don't always overlap. Okay, but you know the statistics: author of two books that won the highest awards of the American Bar Association, the

1. 201 N.Y. 271 (1911).

2. 279 U.S. 639 (1929).

3. [1875] Ex. 261 (Eng.).

4. (1803) 102 Eng. Rep. 724 (K.B.); 3 East 593.

5. [1868] H.L. 330 (Eng.).

6. See Guido Calabresi & Alan Melamed, *Property Rules, Liability Rules, and Inalienability: One View of the Cathedral*, 85 HARV. L. REV. 1089 (1972); Guido Calabresi, *Some Thoughts on Risk Distributions and the Law of Torts*, 70 YALE L.J. 499 (1961); Guido Calabresi & Jon T. Hirschoff, *Toward a Test for Strict Liability in Torts*, 81 YALE L.J. 1055 (1972).

Silver Gavel Award and the Certificate of Merit, and the Order of the Coif Book Award.⁷ That just begins to scratch the surface, if you just focus on those things, because very few people change not just their field, but change how we think about law. A song lyric comes to me, I think it's from Paul Simon: "Architects may come and architects may go and never change your point of view."⁸

Calabresi changed our point of view, and not just about torts. Who would have thought, in 1955, that the central question, or at least a central question, one of the preeminent questions of tort law, was: how to minimize the cost of accidents, and their avoidance? That that was, if not the central question, then a central question. Forget torts, just the perspective that economics could bring to legal questions. How many people fundamentally changed how we think about law? Ronald Dworkin was mentioned, and I think appropriately so, in this room, and in law and economics; I think Coase was already mentioned; I think we should mention Posner. Very few people change actually how we think about law. I can't resist telling you a story that Guido once told me (and I'll come back to this): as a very young man, he went off to Germany and he presented some of these ideas, and a traditionalist said, "That is not the law"; and the young Calabresi said, "Yes, but it will be." That's Calabresi as a scholar.

Now, why not just, you know, quit while you're ahead? But that wouldn't be Calabresi. You know, he actually—and this is really quite extraordinary—in mid-career decided to do something different, something actually that he could have failed at, after having been the preeminent scholar of his generation—one of the preeminent legal scholars of the century. He could have just quit, but instead he decided to become a dean, and he could have just flopped; you know he made some very risky appointments early on (after all, he hired me). And by acclamation, I think he is reckoned one of the truly towering deans of the twentieth century. And there was maybe a Silver Age before Dean Calabresi, maybe a Bronze Age, but he ushered in a Golden Age of the Yale Law School. There have been many Golden Ages—and you heard Dean Revesz talk about the great skills of Calabresi as a legal academic—I mean, as a legal administrator, as a dean—and just to remind you, the skillset for that does not typically overlap with the skillset of a great scholar, of a great teacher.

7. GUIDO CALABRESI, *A COMMON LAW FOR THE AGE OF STATUTES* (1982); GUIDO CALABRESI, *IDEALS, BELIEFS, ATTITUDES, AND THE LAW* (1985).

8. SIMON & GARFUNKEL, *So Long, Frank Lbyod Wright, on BRIDGE OVER TROUBLED WATER* (Columbia Records 1970).

And then, he did it one more time! So that's what Dean Revesz was getting at with the Vicar of Christ—you know, not one great career, not two great careers. And he could have flopped once again, as a judge—and you heard from Judge Katzmann. So okay, four epic careers—and again, how do you measure greatness in a judge? I've given you some indices of greatness as a scholar—that's probably the easiest to measure—and greatness as a teacher, and we could measure greatness as a dean, and Dean Revesz has already told us some of the statistics, for example on reviving the Yale Law School financially and in other ways. So how do you measure greatness in a judge?

One way—it's not the only way—might be to think about his clerks. Because it's connected to this idea of mentorship. I don't think there's anyone in American law who has the collection of law clerks, of alumni of Judge Calabresi's chambers, that Guido Calabresi has. Not even most justices on the Supreme Court; it's really quite extraordinary.

So, now, to sum up: that's greatness. But I want to come back, in the end, to 'greatness of a life.' Because these are very—they're extraordinary—achievements, but what's so special about Guido? I would say it's a combination of brilliance, ambition, generosity, and humility. So let me just tell you, on the last dimensions, a story that Calabresi told me. You see, because you don't achieve these things if you're not hugely ambitious, and you can't if you're not brilliant, but then how many brilliant and ambitious people are *genuinely* generous and *genuinely* modest? That's the rare combination. I know some brilliant people, and I know lots of ambitious people, but brilliant, ambitious, *and* generous, *and* modest? A conversation with Guido—I think it comes from a deep place of comfort. A lot of people, here's the best you do: I'm okay you're okay. With Guido it's: I'm good! I'm really good! And so are you. And he makes you feel good about yourself, partly because I think he feels good about himself—that's about generosity.

So here's what he said to me. We were talking about someone, a person who may have lived a very great life in the law but said something a little sour at one point, and I was trying to understand what that was all about, and Guido said to me, "Oh, you know, this person has lived really greatly in the law, but maybe feels disappointed. Akhil, don't be like that." He said, "Look at me." He said, "I'm an economist, and I never won the Nobel" (although it's not too late, just like the papacy). He said, "I was an administrator, and I never became university president. I was a judge and I never got on the Supreme Court." Now first of all, think about the epic ambi-

tion. Just to think about these things as even within reach! And these weren't unrealistic ambitions for him, and yet the modesty, the generosity. He said, "Other people have done very great things too. I am what I am. I'm comfortable with that." Just extraordinary. And even then, trying to teach me something very deeply, basically about life. Mentor above all.

So, in conclusion Guido, all I can say is: I love you. You are and always will be my role model. I cannot imagine who I would be, what I would have been able to do, had I not met you.

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