

*A Tribute To*

THE HONORABLE HAROLD R. TYLER, JR.

1921 - 2005

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**THE HONORABLE HAROLD R. TYLER, JR.**

**1921 - 2005**

Tuesday, September 27, 2005

The Association of the Bar of the City of New York

New York, New York

## **Presenters**

Welcome and Reading of the City Bar Statement in Remembrance

ANTONIA M. GRUMBACH

Partner

Patterson Belknap Webb & Tyler LLP

Reading of the Southern District of New York Statement in Remembrance

THE HONORABLE MICHAEL B. MUKASEY

Chief Judge, United States District Court

Southern District of New York

## **Remarks**

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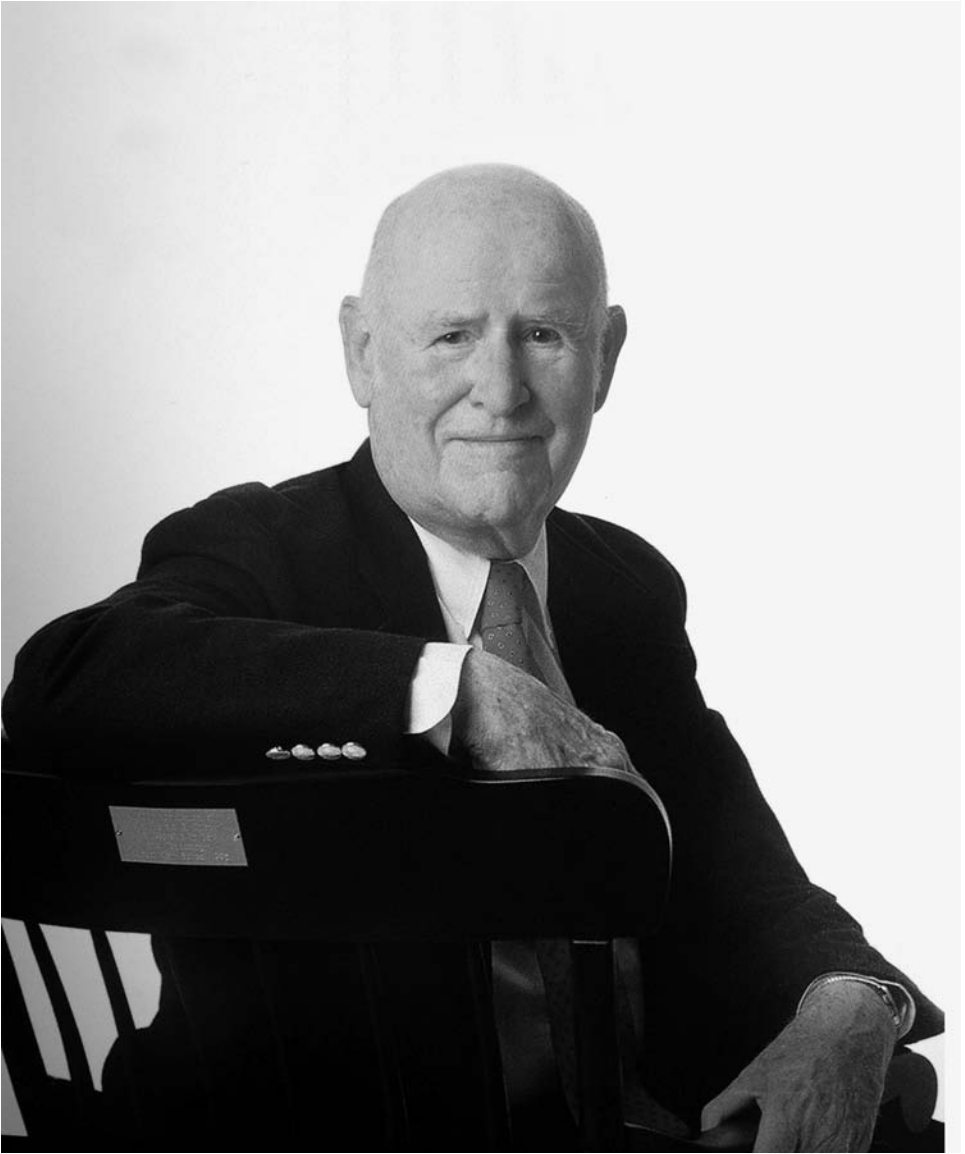
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THE HONORABLE HAROLD R. TYLER, JR.

**A Tribute To**  
**THE HONORABLE HAROLD R. TYLER, JR.**

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**Welcome**

**ANTONIA M. GRUMBACH**

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MS. GRUMBACH: Good afternoon. I am Antonia Grumbach. On behalf of Patterson Belknap Webb & Tyler, I would like to welcome you to this tribute to Judge Tyler.

We're really pleased to have so many members of his family, his children, his grandchildren, his sister, and his widow, Sallie Norris, who made him so happy over the last few years, and her children and grandchildren, all part of Judge Tyler's extended family.

We at Patterson are going to miss Judge Tyler terribly. He was with us for nearly 30 years, and they have been great years for us. He set the tone of the firm, and this is Tyler all over: Integrity, generosity, real concern for people, a deep commitment to public service. And somehow he made every single one of us who came in touch with him feel special. He was the paramount egalitarian.

However, he had many, many lives before he came to Patterson, and so this afternoon we are going to hear about some of them.

But first, before we begin with his various friends, I will read a City Bar Association tribute to him, and Chief Judge Michael Mukasey will read one from the Southern District where Tyler was a judge. Judge Mukasey is a Patterson alumnus who came to us because of Judge Tyler, so it's great to have him here.

And after all these tributes, we will hear from friends who knew Judge Tyler and will talk about different periods in his life. They are lined up here, and you will find them all in the program. John Campbell, who has known the Judge probably longer than anybody else in this room; John Doar, who worked for Tyler when Tyler was Assistant Attorney General in charge of the Civil Rights Division in the late '50s, early '60s; Togo West, also a Patterson alumnus who clerked for Judge Tyler when he was on the bench; Dick Parsons who was also at Patterson and who was working in the Ford administration in Washington when Tyler was serving as Deputy Attorney General under Edward Levi. Last will be Greg Diskant who will talk about Judge Tyler and his days at the firm.

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In the middle we are going to be lucky enough to have a brief tape of Judge Tyler recounting an episode from his memoirs. Each of you should have at your place two chapters from these memoirs, thanks to Bob Pennoyer who corralled Judge Tyler into sitting down and talking about his life.

We have transcripts of many of his memories, and we'll hear a brief excerpt from one of those sessions, which Bob Pennoyer will introduce. So now I will start with the tribute from the City Bar Association.

### **Statement on the Occasion of a Remembrance for Judge Harold R. Tyler, Jr., September 27, 2005.**

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Judge Tyler had a long-standing commitment not only to the City Bar as an institution, but to the values the Association stands for. He was a leader of the Association, serving as Vice President for two years and in many other leadership capacities during his nearly 50 years of membership.

The City Bar would like to highlight two leadership positions that exemplify Judge Tyler's commitment to access to justice. During the Reagan administration, when the very existence of the Legal Services Corporation was being threatened, Judge Tyler chaired a group of dedicated lawyers and organizations, convened by the City Bar, entitled the Committee to Preserve Access to Legal Services. The ad hoc committee took a major role coordinating efforts with other groups around the country in articulating the case for preserving legal services for the poor. The committee developed and advocated persuasive arguments and succeeded in its efforts. Judge Tyler's committee still exists, now chaired by Susan Lindenauer, and meets regularly at the Association.

Several years later, then Association President Sheldon Oliensis asked Judge Tyler to be the first Chair of the Projects on the Homeless. This committee was charged with implementing the extensive recommendations of a City Bar Committee, chaired by now Judge Bob Patterson, that proposed extensive ways of addressing the homeless problem in New York City. It was important that this sensitive task be given to a person at the top of the profession who could exert leadership to begin the difficult task of persuading City and State leaders to make meaningful changes to their homeless policies.

Under Judge Tyler, the Association became involved in litigation that has helped thousands of people in financial peril remain in their homes. He also advocated for a number of reforms, including the establishment of an eviction prevention program, under which the City funds legal services to prevent eviction. This program returns to the City in saved benefit expenditures several times the amount spent on legal services.

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After his term as chair of the project ended, Judge Tyler continued to be part of the Association. Indeed, he spent his last night attending a program here, coming to hear former Judge John Gibbons discuss his representation of persons detained in the "war on terrorism." His judgment, skill and experience will be missed by the City Bar and the entire New York legal community.

Now I would like to turn the podium over to Judge Mukasey.

### **Reading of the Southern District of New York Statement in Remembrance**

#### **THE HONORABLE MICHAEL B. MUKASEY**

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JUDGE MUKASEY: Thank you, Antonia. Although I was Judge Tyler's law partner for some nine years, and was proud to count him as a friend for longer than that, these remarks are being delivered not really in my own behalf, but rather on behalf of the U.S. District Court of the Southern District of New York, where he served as a district judge for 13 years. We did not serve together on the court, so it seemed appropriate to turn to someone who did serve with Judge Tyler, and who, himself, was a Chief Judge of the Court, Judge Charles L. Brieant, who was kind enough to prepare these comments and this tribute on behalf of the court.

I made a few minor editorial changes in his excellent draft and a personal interpolation, but there is one change I should mention as I begin, and that is that Judge Brieant's draft refers to Judge Tyler throughout as Ace, which, of course, is how his contemporaries and colleagues knew him.

As I will mention later, I first came to know him when I was a callow prosecutor, so I could no more have called him Ace than I could have called my own father by his first name or nickname. So with apologies to Judge Brieant, I am going to refer to Judge Tyler throughout these comments as Judge Tyler, and for those of you who would wish to hear Ace, hear Ace.

Harold R. Tyler Jr., known as Ace, was appointed to the District Court in 1962 when he had just turned 40, and served until 1975.

His academic background was leavened by a sound common sense and understanding of human affairs which his upbringing in upstate Waterville, New York, population less than 2,000, had given him. He had already served as an Assistant U.S. Attorney in this district and headed the Justice Department Civil Rights Division in the Eisenhower administration.

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Both before and after his judicial service, he taught law at various times as an adjunct professor of law at Albany Law School, New York University Law School, and did a term in Cambridge.

When Judge Tyler came to the bench, the Chief Judge was Sylvester Ryan. And of the 19 other judges down on the court, none still continue to sit. Of those who served with Judge Tyler during his tenure, only Judges Briant, Motley, Conner and Owen remain.

Judge Tyler came to a very different court than the one you now know and saw it through years of active transition. From a court of the high seas and high finance, occupied principally with maritime cases and major securities and financial matters, to a court of the working people, concerned with civil rights litigation, employment cases, and issues of personal liberty.

He not only saw, but helped the transition in 1972, from what was called the master calendar to a system of individual assignment of cases. The court to which he came in 1962 did not convene in the morning until 10:30 a.m. The deputy clerks were assigned to a judge for two months at a time, and the judges rotated courtrooms in the old building on a roster set by seniority. Some of the courtrooms were splendid, but others were barely habitable, and judges with seniority would make sure that they were assigned to the less desirable courtrooms during their planned vacation time.

The main work of the court was done in civil motion part known as 506 after the courtroom in which it convened. Sessions sometimes lasted until 10 or 11 at night, following which the judge on duty was granted several weeks with no assignment and no courtroom, so as to catch up on the motions.

Judges were assigned by rotation to calendar parts and to civil or criminal trial parts, all according to an elaborate roster drawn up by the Chief Judge. It then paid to be Chief Judge. A judge in the calendar part would determine that a case was ready for trial, and sent it to a judge in the trial part who was ready to receive the case. That meant that when the trial judge got the case, he was completely unfamiliar with it unless he happened to have decided a motion earlier in its history when he was in 506.

There was an oddity in those days known as the Rule Two Case, a case that was regarded as complex, difficult or high profile or all of the above. The Chief Judge would hear about such cases through the clerk's office or by being approached by a lawyer seeking a Rule Two order in his or her case. The Chief Judge would then choose a judge to whom the case would be assigned for all purposes.

Judge Sylvester Ryan, a consummate politician of the old school, whose career included service as District Attorney for the Bronx, was Chief Judge when Judge Tyler arrived in 1962, and long after that continued to refer to Judge Tyler as Sonny. Chief Judge Ryan would package up the high profile case with a couple of others that needed attention, usually seamen's cases where prompt justice was needed, and tender them to the assigned judge with a cheerful comment such as, "My boy, this case is going to make your career and, by the way, I need you to take these other cases, too."

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Such a case was the prosecution of Carmine DeSapio, the last grand sachem of Tammany Hall, who was prosecuted and convicted for bribing the City's water commissioner. When DeSapio was convicted, the prosecutor sought detention or high bail, but Judge Tyler denied the application, pointing out that DeSapio had been part of the City's life for many years and expressing confidence that he would show up for sentencing and surrender to serve his sentence as, in fact, he did.

Judge Tyler was not simply being kind to a fallen politician. He had a keen insight into the people he dealt with, regardless of which side of the law they found themselves on. He also had great consideration for their humanity.

One amusing manifestation of that was his practice of calling everyone he encountered by their full name, even defendants in criminal cases. And so when the time came for a defendant to address the court at sentencing, a right every defendant has, Judge Tyler would look down and say something like, "And what say you, Mr. Anthony Greco?" And often there would be puzzled hesitation before the defendant responded, because for some it was the first time they had ever been addressed with such formality and civility. He had a ready wit and a friendly demeanor, but was also a hard worker and a quick study.

In 1969, agitation began among the Bar and the public to clean up a backlog of 16,000 cases that had built up, in part, as the result of vacancies, but in large part because of the inefficiencies of the master calendar system. Judge Tyler volunteered, along with Judges Palmieri, Pollack and Edelstein, to serve on the pilot program to test an individual assignment system. After the two-year pilot program proved highly successful, the rest of the court grudgingly went along, largely as a result of the persuasive efforts of Judge Tyler in getting the rest of the judges to adopt a system that was radically different from the one they were used to. No small feat with any group of people, but a truly wondrous accomplishment with a group of judges.

In addition to the DeSapio case, he handled other notable cases including a long running ping-pong match involving him, the Second Circuit and the Supreme Court known as *Eisen v. Carlyle and Jacquelin*; a class action in which he decided the case, was reversed by the Second Circuit, was vindicated by the Supreme Court which remanded the matter, and then on remand, both he and the Second Circuit were in agreement, but the Supreme Court reversed again.

He also handled the ASCAP Royalty litigation and the resulting consent decree which he turned over to Judge Conner when he left the bench to become Deputy Attorney General in the Ford administration in 1975. That case, by the way, came full circle after he left the Justice Department and went into private practice. When it came time for Judge Conner to appoint a successor to the administrator supervising payment of the royalties, he appointed Judge Tyler.

Judge Conner added somewhat ruefully that Judge Tyler had left him another case when he went to Washington in 1975, the bankruptcy of a company that made printing presses and hacksaw blades. The printing press end of the business was easily sold, but the hacksaw blade business wasn't quite as easy to get rid of.

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As I mentioned at the beginning of these remarks, I first came to know Judge Tyler when I was a prosecutor in 1972. I had been one of two lawyers who tried a stolen stock case before him and delivered my first opening in that case. During a robing room conference, Judge Tyler graciously made a big deal of the opening, and my preening was probably noticeable because the lead prosecutor in the case leaned over and suggested that Judge Tyler was probably laying it on a bit thick to get an out-of-town lawyer, who represented one of the defendants, to get his client to enter a guilty plea, as in fact he did the following day.

Judge Tyler's presence put lawyers at ease, which in the tension of the courtroom is a welcomed quality. I got to know him better after the trial than while it was going on, specifically when for some reason I simply forgot that one of the defendants was on for sentencing. Another assistant who was present in the courtroom covered the sentencing, but I made a pilgrimage to Judge Tyler's chambers that afternoon, anticipating with some terror what he might say.

He put off my apology with a chuckle and a wave of the hand and proceeded to regale me with stories of his own lapses when he was an assistant. It is a measure of his kindness, but I don't know to this day whether any of those stories were true or whether he simply conjured them, or embroidered them in order to put me at ease. He was that kind of person.

It's been said that if you want to make a good judge, start with a good man. Judge Tyler was the embodiment of that saying, a good judge, and a good man. And wherever and whenever lawyers and judges gather, he will be missed.

Thank you.

(Applause.)

## Remarks

**JOHN P. CAMPBELL**

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MR. CAMPBELL: I'm John Campbell. I'm laughing through my tears because if there was one thing about Harold Tyler, he never took anyone seriously, and made it clear to that person he wasn't taking him too seriously. There was one exception, I think, that was President Ford. He never said anything jokingly about President Ford, at least to my knowledge.

What I'm recounting to you here is a lot of it direct evidence, but some of it hearsay from what he told me. I had lunch with him three days before he died, and as we had become reasonably away from the heavy duty of a law office, we tended maybe to have a little bit longer lunch hours and a little more liquid at those lunches, and he got to be pretty good at that.

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He was stubborn because I was under instructions from members of his family to make him get hearing aids. That's because I had them early, because I wasn't hearing anything, and he wasn't hearing much more, honestly. You could be eight inches from his ear and he wouldn't hear you. He'd say, "I don't need hearing aids. Women, they just mumble, and speak too softly as they get older."

I said, "Hallie, I'm six inches away from you and I'm shouting, and you're not hearing anything I'm saying."

Well, I passed around here a sort of visual aid, some maps of Oneida County. Waterville is in the Town of Sangerfield on the southern part of the County, next to the Oswego County Line. And I mentioned some of the towns we frisked around during the immediate pre-war years.

If you go to the beautiful Oneida County, it's got in the middle of it the county seat of Utica. It's bisected by the Erie Canal, now the Barge Canal, the New York Central Railroad, and the Mohawk River, all items of intense beauty and resource. If you go through Utica, the main drag is Genessee Street. You go there up to Greater Utica, Village of New Hartford and take a left and go down through, let's see, Chadwich.

Chadwich has a bleachery and it also had a contemporary of ours called Painless Bernie Kilbourne, who became Chairman of the State Republican Party toward the end of his dental career. And you go past that to Deansboro. Deansboro is hop country and got revived with repeal in 1933. And a lot of people we knew were in the hop growing business, principally providing the West End Brewing Company which makes Utica Club Beer. Hallie and I used to joke about that with people.

Then you go through Clinton which had Hamilton College and the distinguished Root family. And as boys we met Elihu Root who had been a number of things and was part of the line of distinction which came down to Hallie. Elihu Root must have been in his late 80s or 90s then, but he was around Clinton in those days.

Then you get to Waterville, at the head of the Nine Miles Swamp. Waterville is a very nice small town, and its principal citizen was Harold Russell Tyler, Sr., known as Ty. He was not blessed with any particular university education, but he surmounted that very well, and he had a number of businesses. I think he was in the horse business, the insurance business, the real estate business, a couple of other things he did.

And as many people in that area, they were always in the Reserves, in the National Guard. I think Mr. Tyler, who incidentally was bald as a brick, he went to the Mexican Border Campaign in 1916, which some of you juveniles don't know is entirely a Cavalry Expedition, chasing one of the presidents of Mexico then claiming the slot, Pancho Villa.

Then Mr. Tyler was in the First World War, went to France. And most of our parents were in France in 1917, 1918. One of the things I talked about with Hallie just before he died, we were talking about what a bunch of horse feathers the book

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about The Greatest Generation was. He mentioned the greatest generation was the First World War generation which was extraordinary.

He said, and I guess he was right, that then we're about 120 million people, maybe 110 million people in the country. And we went to that war on April 17th of 1917, and by November 11, 1918, we had a million and a half American soldiers in France, all volunteers, or practically all volunteers. And that always impressed us, impressed people in Waterville and the other towns.

As boys and as young men coming up through the '30s, we expected there would be a war. We were isolationists, but we expected there would be a war.

And Hallie got up there and went to Princeton. He was in the artillery ROTC, and as most other people, doing something. You have to remember the circumstances. France fell in May of 1940, and the President declared a state of unlimited national emergency, I think are the words he used, and he got a coalition cabinet consisting of Henry Stimson to be Secretary of War and Frank Knox the Secretary of Navy. They were both Spanish Veterans, and World War I Veterans.

But Henry Stimson said that he couldn't take it on at his age unless the senior Robert Patterson, the founder of the firm, who was then a circuit judge, came with him to be Undersecretary. Robert Patterson had got the DSC in the First World War, had become a district judge appointed by Herbert Hoover, and then a Circuit Judge appointed by Franklin Roosevelt. There is a picture which I think I've seen somewhere in Patterson Belknap, I've seen anyway, of an army private saluting this rather dingy fellow in a KP suit peeling potatoes, handing him the telegram, saying, "You're Undersecretary of War." And he went.

And I understand Judge Learned Hand said, "He must be crazy. He's giving up a tenured job, with a huge salary, I think of \$12,000 a year, to take an undersecretary job of no permanence for, I think, for about \$8,000 a year."

Well, Judge Patterson did that. And he was known in Utica, known to the people, the lawyers we knew, and the Hand brothers, who came from Elizabethtown in Essex County, were known. They used to visit the older lawyers in town. They had a chance to meet some of them and Mrs. Learned Hand came from Utica, her name was Frances Fincke. Her family had the oldest firm, next to the oldest firm in Utica, called Miller Brandegee and Fincke, which is now called Evans Piernie and something. The oldest firm was Kernan and Kernan, which was described as two heads are better than one.

Well, we knew all this stuff and we grew up with it. And the line of Elihu Root to Henry Stimson to Robert Patterson was known to us. I think it had something to do with Hallie's career. I tried to get him to come to my firm when he came -- after we lost the '76 election. I think that the -- Bob Patterson is here, who was in Columbia with us, and he was more persuasive than was I. Hallie talked shortly just before he died about -- he said, "Well, if you don't go to your friends' funerals, they won't come to yours."

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We talked about the phrase Ronald Reagan used about going to the big teepee in the sky, and wherever Hal is right now he's laughing, I bet you he's laughing.

Now we went -- he came out of the war and went to the bond business. I think he made a little money, and then we went to the Columbia Law School.

This is pre-air conditioned Columbia, and is -- I think there are some people here, Charley Briant was a member of that distinguished group. We got through it in the fast course, two years. One reason we were all going the fast course was the GI subsistence bill of 75 bucks a month continued if you went through the summer, very important.

Hallie lived with a couple of intellectuals in an apartment at 150 East 50th Street. One of them was a fellow named Tyler Clark, universally known as Stooze Clark, who has also gone on to the big teepee in the sky. He was a great friend to all of us. And another was Bob Carena, who was a classmate of Hallie's in Princeton and a football player. And there was a pro-league war after the second war.

Bob Perina was playing for the Brooklyn -- whatever they call it, I think the Brooklyn Dodgers. And they were playing to steady crowds of maybe 800 people, strong numbers, and he was getting the astronomical salary of \$14,000 a year.

So that apartment, the appointments were a little better because of the professional football league war than Hallie's subsistence allowance and Tyler Clark's underwear salesman, which is what he was.

But that apartment was you know, the usual small apartment, 500 square feet, and it was a watering hole. Tyler Clark had been in the 10th Mounted Division and had been wounded. And the parties -- it was pretty hard to get 200 people in an apartment that size, but it was done. And the elevator man, who had been in the Third Army, he figured that the 200 people was probably about 100 over the legal limit were there, so he just stopped the elevator and came and joined the party. And that didn't do much help to some other people in the building, but it added greatly to the intellectual level of the meeting.

We then came out, went to work, not to Patterson Belknap, and worked along and we got jobs and got married, began to build the population of the nation. And then after about a year and a half, when the North Koreans jumped over the 38th parallel, and it was a serious situation with the army's rather modest forces being driven back in Pusan, and everybody being called up.

Now Judge -- this Judge Patterson and I were aviators and we were obsolete and over-promoted. But that wasn't true for artillery men, and infantry and marines. They were all called up. And Hallie went off, and it was pretty hard times. The Soviets then had about ten times the troops that NATO had in Europe. And we sent the regular divisions to Korea and the national guard divisions to --some of them to Europe.

Hallie had the good luck of getting in to the 43rd Division which was the Vermont, Connecticut, Rhode Island National Guard and made many friends out of that. Another one of them named Hunter Mauran, who just went to the big

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teepee in the sky. He was a little younger than we were, but they had a wonderful time. I wasn't there. But the stories went on and on.

We had a party about six months ago where they reminisced about Hallie's somewhat less dignified role in life. Apparently they were in Augsburg, which had a Cafe Augsburg where, according to Hunter Mauran, the later to be judge, Hallie leaned against the balcony and fell off and nearly crushed a German below. And he was picked up and away he went. So that was recounted. Then they came back to work and had the usual career.

On January 1, 1960, he was spending the weekend with us and the telephone was running off the hook because they wanted him to go to Washington. And he didn't want to go, I don't think, but he went. And it was announced Senator Eastland would not hold a confirmation hearing. He didn't expect it, and went. But he got called over in August. I went down with him. I tried to help him, but he didn't need any help from me. Senator Eastland called him in and said, "Boy, you're going to get confirmed."

That's what Hallie told me, and he went over this fairly recently. "Don't believe Rockefeller, don't believe Nixon, don't believe Eisenhower, you're going to be confirmed." They had the hearing. And Senator Javits came and sort of balled it up by speaking for the New York nominee.

And then Senator Eastland hit the gavel because Senator Olin Johnson of South Carolina had said, "Mr. Tyler, I understand you got some views about the Civil Rights Act of 1958, which isn't Constitutional and I will ask some questions."

Eastland hit the deck and said, "Senator Johnson, you're wanted right away over at the hearing at the Post Office Committee," and sent him out of the room.

And then he hit the gavel again, and this is what Hal told me just before he died. He told me before too. He said, "Well, Mr. Tyler, come into my office. This hearing is adjourned." And when he was in the office, Hallie was confirmed. It hit the front page of the *Times*. And there were some other very good nominees that weren't confirmed by Senator Eastland.

So I'm running out of my allocated time, as expected. I was expecting to go overtime, I think. But anyway.

And he called in December, said, "Boy, this is Jim Eastland, from Greenville, Mississippi. Knock out the Illinois and Texas results, throw the election into the House. The South will vote for Nixon, and you'll be the new attorney general."

Well, Hallie told me, he said he didn't think he could work that.

But then Bob Kennedy, who was a contemporary of all of us said he wanted him to stay on because he had him confirmed as the Attorney General of Civil Rights, and that was a problem for the incoming Democratic administration. But Hallie said, "No, if you give me somebody who isn't a bomb thrower, I think I can get him past Sonny Jim Eastland," which had historic consequences with Burke Marshall, who is here, and John.

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Then of the 120 new judges appointed by President Kennedy, six were Republicans. One was Harold Tyler, and he served on the bench from 1962, as Judge Mukasey told you.

In 1974, he was drafted off the bench after all the troubles. And I did go down and I went to see Senator Eastland with Hallie on that one. We get in there and Senator Eastland says, "Boy, I got telegrams from Rockefeller, Kennedy, the Republicans, the Democrats" -- he tried the Barry Goldwater liable case in the '60s -- "Senator Goldwater. This is going to be the dullest hearing we've ever had."

And I think I can go on for hours, but that's about it. Thank you.

(Applause.)

## Remarks

### JOHN DOAR

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MR. DOAR: I've been asked to reflect on the year that Judge Tyler served as Assistant Attorney General of the Civil Rights Division in the Department of Justice. It was the year that marked the beginning of what I regard as an exemplary career as a public man.

You all remember the passage of the Civil Rights Act of 1957. Briefly, it prohibited any state official from discriminating against a black citizen who tried to vote or have his vote counted. It prohibited, forbade any person to threaten or intimidate, or coerce a black citizen who tried to register to vote. And it gave the Attorney General of the United States the power to bring actions in the Federal District Courts and to secure civil injunctions against that kind of conduct.

After the Act was passed, most of the civil rights people didn't react very positively to it. Recently, Robert Caro has called the statute meaningless, meager, at best a symbol of hope.

But there was, created by another statute, another division in the Department of Justice, the Civil Rights Division, and it was to be headed by an Assistant Attorney General. Judge Tyler was not the first Assistant Attorney General of the Division. The first Assistant General served for about two years and I think, in all candor, very little, if anything, happened during those two years. It became time to make a change, to get somebody that had some spark to him. The administration selected Judge Tyler.

He came into Washington in the fall of 1959, and was confirmed right thereafter. As far as I can see, his record will be measured by what he did in that year 1960 to January 20, 1961, a short 13 months. He only had slightly more than a year to make

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his mark as a public man. He was put in a position where he had very, very formidable obstacles. Let me just list a few.

The area over which he really had jurisdiction stretched from Memphis to New Orleans, 400 miles. And from west to east, from Shreveport to the Atlantic Seaboard, much longer than 400 miles. The division that he inherited had 27 lawyers, but only six to eight of them worked on civil rights. Can you believe it? Only six to eight lawyers worked on civil rights in 1960 in the Department of Justice.

He was hampered by investigative agencies that had no enthusiasm. In fact, were very negative about any kind of investigations of civil rights abuses. The local FBI agents in Mississippi and Alabama and Louisiana were tied in with local law enforcement. Their superiors in Washington would review field reports endlessly before the Civil Rights Division would get them, and the Director of the FBI had generally a very negative attitude toward civil rights.

As for the five to seven lawyers that were there, they were desk-bound. They never moved out of Washington. Finally, there was the almost hopeless attitude of the U.S. Attorneys in Alabama, Mississippi and Louisiana. It's not to say that Judge Tyler couldn't move a U.S. Attorney if he wanted to. I've seen him wrap the U.S. Attorney from Memphis right around his little finger. But not many people could have done what he did with him.

On the other hand, he had some real assets in the Division. He had two real professionals in Harold Greene, who later became a federal judge, and St. John Barrett who was the second assistant. Both of those lawyers were really the proudest sort of career government attorneys. And then he had these five or six or seven young lawyers who had come in under the honors program or who had been hired in the other division and transferred over.

I'm not going to mention them all, but I do want to mention two of them. David Norman, who just had an absolutely remarkable knack of conceptualizing theories supporting claims under the Civil Rights statute. He was almost blind, and he read his reading with a telescope. But he was a marvelous lawyer and a marvelous man. And the other lawyer was Bob Owen. You all know Bob Owen, he was really a protege of Judge Tyler. He came with Judge Tyler and worked for Patterson Belknap until he died.

But now the second advantage he had besides these young two professionals, and five or six young wonderful lawyers - the circumstances worked for him. It was an election year. In the bureaucracy above him, the Deputy Attorney General, the Assistant to the Attorney General, and the Attorney General were pretty much occupied on other things, to win the election. And so if Judge Tyler made up his mind he wanted to do something in that year, he was able to do it and get it done fast.

What did he accomplish during that year? He accomplished a lot. Let me tell you first, the earliest case that he really made his mark was not a civil rights case, but it was a civil rights case. It was a breach of contract case against Harrison County,

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Mississippi, for not providing a public beach available to citizens of all races on the 27-mile beach in Harrison County between Biloxi and Gulfport. The beach had washed out years before and the federal government agreed to contribute money to rebuild the beach, and they entered into a contract with Harrison County to do so.

The contract provided that Harrison County would keep the beach public. They didn't. In the late '50s, late 1959, blacks tried to use the beach. They were run off the beach by whites. They were arrested by the police.

Judge Tyler moved. In May 1960, the United States sued Harrison County, it sued the supervisors of Harrison County, it sued the sheriffs of Harrison County, it sued the mayor of Biloxi, it sued the chief of police of Biloxi.

Judge Tyler got before Judge Mize of the Southern District of the U.S. District Court for the Southern District of Mississippi. Judge Mize, who was a master of delay, required the United States to interplead as indispensable parties 1,800 land owners along that 27 or 17-mile beach. Judge Mize thought he was doing a great thing. To the contrary, it was one of the things that helped us, because all of those land owners, as well as the public officials in Biloxi and Harrison County, began to see that the Civil Rights Division in the Department of Justice was moving, and moving in Mississippi. This was in the spring of 1960.

He then moved to protect the right to vote in cases in Alabama and Louisiana. Maybe you remember the case in Tuskegee where they had gerrymandered the city limits to keep all black citizens who formerly had been residents of the city outside the city limits, so they couldn't vote for the mayor. He brought three cases in Louisiana, one in Bienville Parish, which is over in the pine country east of Shreveport.

And then there came a matter of intimidation. Judge Tyler had one case that was especially interesting. In October 1960, the United States brought suit in Haywood County, Tennessee against 60 private citizens and four corporations who had sent eviction letters to sharecroppers who worked on their cotton farms, because these black sharecroppers had tried to go up to register to vote.

Judge Tyler sent us down to Haywood County to get affidavits, and we did get some very good affidavits from these black citizens who had been evicted. And we drew up a motion for a preliminary injunction with these affidavits attached. We took pictures of the people that had been evicted, and we would take them in front of where they lived, in front of these shacks where they lived. We would line the whole family up outside the shack, and we attached those pictures as well.

And that brings me to a kind of interesting story which probably none of the other speakers will know about. It illustrates Judge Tyler's unique way of putting things. After we put together this affidavit -- and every week Judge Tyler would go up to the Attorney General's office for lunch in the Attorney General's dining room. And this was a tradition within the department at that time. And all of the Assistant Attorney Generals were there, as well as Mr. Hoover, the Director of the FBI.

## A TRIBUTE

During the soup course, Tyler remarked that we had this case in Haywood County, Tennessee and it was going very well. And it seemed to him, he said, that his lawyers were doing a better job of investigating with a \$19.50 camera than all of Mr. Hoover's legions. Now, I don't know if this is true, but I've been told that Mr. Hoover's face reddened and he swallowed his spoon.

The last case he filed was in January of 1961. I remember that case. He sent a memorandum to me on January 2nd. He said, "There's been a witness that's been intimidated after he testified before the Civil Rights Commission in New Orleans, and we want to take action. The Attorney General wants to take action." And by January 19th, we had filed a suit and made a motion for a preliminary injunction, and attached a very remarkable affidavit that Bob Owen helped draw up from the black farmer, Francis Joseph Atlas, who had been the witness.

What the people, the white people in that county had done, is that they refused to gin his cotton. They refused to sell him seed corn, and he just couldn't farm. That came to be Judge Tyler's gift to the new administration. He left on their desk notices that there would be a hearing in a few days to enforce that preliminary injunction. I always thought that Judge Tyler thought that it was kind of consistent with his sense of humor.

How do you summarize that year? I say Judge Tyler energized the Division; he moved the Justice Department; he forced the FBI to begin to respond. He foreshadowed what it would take and how to go about it if the government was going to play its part in breaking the caste system. And he made his mark in the Justice Department as to how an Assistant Attorney General should meet his responsibilities.

What about his legacy? He made the Civil Rights Division the place to be for some of the very best lawyers already in the Division, Barrett, Greene, Owen, Norman, and he attracted the very best young lawyers in the country to want to work there. And those lawyers and paralegals came and came and came after Judge Tyler left, and worked and worked and worked. They did their part in bringing about the passage of the 1965 Voting Rights Act which really changed the world. And as a legacy, I say not bad, not bad at all.

(Applause.)

## Remarks

### ROBERT M. PENNOYER

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MR. PENNOYER: Over lunch several years ago I told our friend Tyler I would like to help him with his oral history. He agreed, and we set aside Wednesday afternoons over a period of many months to record his recollections from 1942 when he entered the military to 1977 when he left Washington at the end of the Ford administration to join our firm.

He spoke of events which touched the lives of many of you in this room. The recordings show his remarkable contribution to history, his wisdom, his modesty, and above all, his sense of humor.

I will digress here for a moment because John Doar, with exceptional modesty, did not mention the importance of his role in helping Tyler lead the civil rights effort in the late '50s and early '60s. Tyler was very proud of the people who he was able to recruit, and he gave special mention on these tapes to the contributions that John Doar made.

With the help of his family, we plan next spring to publish a book which tells the story of Tyler's life in his own words. Today we have given you a booklet containing some excerpts. You will now hear a five-minute recording of Tyler's account of his involvement in the resignation of Justice William O. Douglas and the appointment of Justice John Paul Stevens in 1975 when Tyler was sitting as Deputy Attorney General.

### Recording of the Honorable Harold R. Tyler, Jr.

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JUDGE TYLER: It started when I received a call from the Justice, himself, who said in substance, "You're going to think I'm crazy, but I'm asking a favor of you. I've concluded that I must resign. I tried to hang on. My colleagues are unhappy with my performance, I suspect, and they're right. I accept that at last because I'm just so ill I can't contribute."

"But I do not want to follow the usual protocol, and that is mail or deliver the resignation directly to the President. I want to send it to you with a copy for the Justice Department. And the reason for this is you are working for a President who was part of a group who sought to impeach me."

So he said, "I want to send Mary over to bring this to you, if you would permit."

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Well, I said, "Of course." She arrived about half an hour later, and I ushered her into my office, and we chatted. And she said, "You know, Bill is a little odd about this, to tell you the truth, but this is what he wants, and I'm so glad you're indulging him." And I said, "Well, of course, I'm indulging him."

I delivered the original resignation to President Ford's personal counsel in the White House. And then the President called the Attorney General and said that he understood that Harold Tyler had delivered this and he wondered if both you and he could come over tonight at 7 p.m. in the Oval Office, which we did.

So when we arrived, we went in and sat down. The President looked at me and he said, "Well, now you've got a list or two, haven't you?" And I said, "Yes, sir. And I have a long list, and a short list." And I brought a copy for him. So I gave him both.

So the President said: "Well, you know, I'd better sleep on this. But I do want to make up my mind, because I think it's incumbent upon me, at least, and I'm sure you would agree with this, to do this quickly. And I don't want to let the thing hang out there unresolved."

So the next day he called and said that he had picked John Paul Stevens. He sent the nomination over right away. And 19 days after he sent the nomination over, the Senate confirmed Justice Stevens. I don't recall there was anything -- I think there were only one or two votes in opposition.

And the process was interesting in another sense that the afternoon of the day the nomination went over, Senator Jim Eastland, who was the long-time Chair of the Judiciary Committee, called me and he said: "Would you be able to get the nominee to come in this Sunday? And I will get Senator Byrd," who was then the majority leader, "and Teddy," as he called Senator Kennedy, "and Roman," Roman being Roman Hruska who was the senior minority person on the minority side of the judiciary committee.

And I remember thinking to myself, this will end it. If these people approve, it's all over with. Nobody is going to oppose these guys. I mean, they had long careers in the Justice Department and great power in the Senate.

So the Chairman called that evening and said -- I answered the phone and he said, "Judge, I do think the man has just been confirmed." I said, "Wait a minute. The Senate doesn't sit on Sundays." He said, "Do you think that the four of us will be overruled? No, you don't. It's a done deal. We'll try and have the vote tomorrow."

Well, they didn't quite make it, but it was pretty quick.

MR. PENNOYER: I hope you enjoy the book.

(Applause.)

## Remarks

### THE HONORABLE TOGO D. WEST, JR.

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MR. WEST: Judge Tyler came to the bench in May 1962, a Republican appointed by President John Fitzgerald Kennedy. He was, during this time on the bench, lawyer turned judge; teacher; leader; and mentor.

As judge, he was, by law, adjudicator of cases of controversies in the Courts of the United States. He was very good at judging. Indeed, as a trial judge he was spectacular.

And he had standards.

He was a model of judicial economy and efficiency. He thought it "passing strange" when direct and cross examinations of witnesses could not be conducted with focus and –there is no other way to say it – alacrity.

He preferred oral arguments on motions to proceed briskly in some clear direction toward some discernable conclusion. He supposed that briefs and memoranda in support ought to be models of spare clarity.

As teacher, Judge Tyler offered his clerks the most profound lessons of professionalism, public service, preparation, and thoroughness. We also learned the benefits of patience. If we were astute, we learned the limits – his limits – of patience as well.

Yet, we learned from Judge Tyler's courtroom to be scrupulously fair and careful in the treatment of lawyers and parties. We learned from his opinions to be scrupulously fair in our treatment of law, fact and precedent. And we learned that fairness and justice in the Courts of the United States are not vague conceits or gauzy aspirations, but rather the beating heart of a nation two and a quarter centuries old, whose existence depends entirely and uniquely on the continued consent of the government.

As leader, Judge Tyler marshaled us all in many ways: certainly, the chief judge seemed to seek his opinion on almost every aspect of court administration. Judge Tyler was the heart of the first effort in the Southern District of New York to create the Master Calendar, which by making the individual judge responsible for the disposition of his case, heralded a more efficient era in trial management.

He was a natural magnet for those who saw in him the potential for leadership in public positions outside the federal judiciary. The rumors were many; and at least one of them turns out to be true.

As mentor, throughout his career – not just his time on the bench – Judge Tyler cared deeply about the personal and professional fortunes of those who worked

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for and with him. He took a personal interest in the careers of his law clerks; and I mean very personal. On one occasion, when I called him from Washington to inform him that I was returning to public service in the Carter Administration, he commented with some exasperation "Well, I guess you have made up your mind to be a government employee all your life!" Yet, he always believed public service to be one of the noblest things a person could do with all or a portion of his or her life.

In his selection of his law clerks, he was far ahead of his time in giving meaning to that comment by Justice John Marshall Harlan in his dissent in the 1896 Supreme Court decision in *Plessy v. Ferguson* that "There is in this country no superior, dominant, ruling class of citizens. There is no caste here." Long before other judges, at the federal or state level, were considering the possibility that many races and both sexes had the skills to qualify as law clerks, Judge Tyler had hired his first woman law clerk and by 1968, his second African American clerk.

Although he never made a big thing of it, Judge Tyler was a member of what Tom Brokaw has designated "America's Greatest Generation," having served as an Army artillery officer both in the second World War and again in the Korean War. Judge Tyler was proud of his service, as he was of the fact that he was a descendent of one of the Army's more famous Major Generals. He once told my wife, who accompanied me to my interview with him as a job seeker, that he was struck by the fact that I was one of the few applicants he interviewed in the fall of 1967 who intended to enter active military service upon completion of law school.

In speaking about Judge Tyler much later during the ceremony at the Albany Law School I likened him to another jurist who had served the nation in a time of war and returned to a life in the law and eventually to the bench. I do so again now.

It was Oliver Wendell Holmes, Jr., who observed to a group of his fellow veterans that:

"Grief is not the end of all. Our...brother still lives  
for us, and bids us think of life...As we listen,  
the great chorus of life and joy begins again...  
and...our trumpets sound once more a note of daring,  
hope and will."

There was never a time when Judge Tyler ceased to live an active life. Right into his 83rd year he continued to live his life to the fullest. Even as we memorialize him today, let us remember that he bids us think of life. And to live it as he did: with daring, optimism, and great will.

(Applause.)

## Remarks

### RICHARD D. PARSONS

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MR. PARSONS: Togo, you're right, everything has been said. But not everybody has said it. Although I didn't know that I'd hear from the Judge himself today, I must say. It is sometimes said, and it should be said more often, that we all stand on someone else's shoulders, meaning that none of us got to where we've gotten to in life on our own, without help, without support, without boosters, without mentors, without good parents.

And certainly when I think of the many, many shoulders that I have had the privilege of standing on to get to where I've gotten to in life, Judge Tyler's are among the broadest. Not only would I not be where I am, I don't think I would be who I am at this point in my life, but for his influence.

However, I was asked to speak really more about a period of time when I first encountered the judge during the latter part of his government career. And I'll try and stick to that theme. I met the judge in the late winter, early spring of 1975, when he was the Deputy Attorney General of the United States, and I was, as he used to call me, a kid-lawyer in the White House. I was working for the Ford administration Domestic Counsel as the general counsel and had, what we called from the White House side, oversight of Justice and Treasury and a few other departments, and what they called from the department side, meddlesome interference.

So I met the Judge in the early spring, late winter of '75. And just to start to kind of frame something that he influenced very greatly, you will all recall that the year prior, less than a year prior, President Nixon resigned in disgrace and he was succeeded by the Vice President, then Gerald Ford, who had been appointed to that position because Spiro Agnew had resigned before that in disgrace. And then Ford, the first appointed Vice President, appointed Nelson Rockefeller his vice president. So you had a president and a vice president, neither of whom had been elected to the office, and a country that was really rocked in terms of its confidence in its government and in its processes for governing.

And yet at the end of the Ford administration -- and I think one of the reasons maybe, John, you never heard Judge Tyler make light of President Ford was because he had profound respect for him -- at the end of the Ford administration, whatever else had happened in this country, confidence in the government, confidence in our Constitutional processes and confidence in our leadership had been restored.

And it was not just because of Gerald R. Ford, good man though he was, and Nelson Rockefeller, good man though he was; but because of people like Harold R. Tyler, Jr., a rock of integrity, of balance, of justice, of compassion, but also of humor and goodwill.

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And I have thought back on those days in terms of what went wrong, and then what went right. If I had to identify two characteristics, human qualities, that the Nixon administration -- and I didn't come here to dump on them, but to make a comparison -- lacked, they lacked fundamental integrity and they also lacked humor. They lacked an ability to connect with people at the most fundamental levels. And those were two qualities that Judge Tyler had in spades.

We had many, many, many adventures. I probably spoke to him once a day, every day, because we were supposedly the coordinating mechanism between the White House and Justice and nothing happens in this country that doesn't implicate or effect the Justice Department. And so we had great discussions on the war on crime, which was then ongoing, on the war on drugs which was then ongoing, on civil rights matters.

But the one that I would share in terms of the qualities of this man -- John Doar mentioned the Voting Rights Act of 1965. Most people have long since forgotten that that Act had a sunset provision. Every five years, it would terminate unless extended by an affirmative act of Congress.

So at the end of the first five years, the Southern delegation, very clever fellows, had come up with a strategy to scuttle reenactment or extension of the Voting Rights Act. It was called the "Southern strategy." Very simply, the original Voting Rights Act only applied to the seven states in the deep south. It did not apply to the rest of the country. And it imposed a somewhat onerous and rigorous set of rules and regulations, well deserved, on those states.

So the "Southern strategy" went along the following lines. They said, well, what is good for the goose should be good for the gander. So why don't we make the Voting Rights Act applicable to all 50 states and then we're all in the same kettle of fish; knowing that a coalition of the southern state representatives and those representatives from other states who didn't feel like they needed the Voting Rights Act, collectively, could probably scuttle it. It didn't work. Even though Nixon supported it, it didn't work in 1970.

But in 1975 when Judge Tyler was Deputy Attorney General, they tried the same thing again. And because we had two very sort of principled, but I would say less than worldly fellows in the form of Gerald Ford, who was President, and Edward Levi, who was the Attorney General, they fell under the spell of the people who were weaving this as an approach that the President should endorse.

So literally we had the Attorney General and the President endorsing this strategy, which was being championed by southern people on the side. Judge Tyler and I were not exactly aligned with our bosses. And I said to him, "Geez, Judge, what are we going to do?" He said: "My boy, we're going to do what is right." And by that he meant, "The first thing we're going to do is sit those two guys down and we're going to explain to them why they're wrong, and how they're wrong. And then -- once they understand why they're wrong and how they're wrong -- we're going to take the fight to the Hill." And to his credit, this is what we did. The Judge was unafraid of flying into the face of any opposition if he thought he was right.

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I remember we had this long meeting upstairs in the West Wing, in the President's private quarters on a Saturday. Ed Levi actually called me that evening because it got a little heated after a while. Ed Levi called me to explain to me how he wasn't a racist. I mean, it was unbelievable. You know, this is just -- these are lawyers arguing.

But the bottom line was, largely because of the Judge -- because my best thing was always working in the shadow of the Judge. I'd say, "What he said" -- we got them turned around. And that was the very un-Washington-like thing to do, because in Washington, even in those days, and particularly now, people will agree to your face and then work around you, work the back edges. Not the Judge. The Judge would go straight at you and stand for principle and stand for what was right.

But perhaps in terms of who was this man, really, the story I would relate, I had the privilege of speaking at his funeral services, and I won't repeat what I said there. But there was one story that was on my mind at the time that I did not tell at his funeral, but I will tell it now, because it does relate to his time in the government, although I'm going to encroach a little on the period John Doar covered. It related to his time as the Assistant Attorney General for Civil Rights.

In '75 and '76 when I was serving in the White House, one very pleasurable event the President would have every year was a dinner for the Supreme Court, and he would invite all the White House lawyers. So it was just the Supreme Court Justices, the President, his counsel, and the White House lawyers. And the first time I went, remarkably they sat me next to Thurgood Marshall. Who knew? We got one.

At that time Thurgood was not well, he was in a wheelchair, he had had some sort of coronary thing. He subsequently recovered and served a good number of years of vigorous service on the court, but in 1975, '76 he was not well. And you could barely hear him. I sat next to him and tried to make conversation. You could barely hear him, and he didn't have a whole lot of interest in being there, but this was a tradition. When the President invites you to dinner, you go.

Finally he said: "So what do you do?" I said, "I'm a kid-lawyer in the White House, and I look after this and I get involved in that." I was trying to impress him, so I dropped a few names. "And I work with this one and I work with that one." And finally, I said, "Oh, and I work with a fellow you may not know, Judge Tyler."

And for the first time, he actually sort of leaned back. He said, "Harold Tyler?" I said, "Yes." He said, "He's a good man, he's a very good man."

I think I was 28 years old or something like that. So you don't cross-examine a Supreme Court Judge as to how do you know? What do you mean? But I was taken by the fact that this was seen to be the one thing that aroused him, and he said, "He's a very good man."

Many years later, I was talking to his son, Goody, about his father. And Judge Tyler came up. And I said, "I had a conversation with your father once where he said Judge Tyler was a very good man."

## A TRIBUTE

He said, "Oh, do you know the story?" I said, "No. I didn't ask."

He said: "Well, back in 1960 when my father was still trying civil rights cases, he was in Mississippi, and he was the lawyer for a family that was advocating for some entitlement which they should have had."

And at that point in time, you have to remember, the official position of the U.S. Government and the Justice Department in particular was not to interfere. It was a local matter, local rule, local justice, local courts.

In any event, Thurgood was down with this family he was defending or representing, and a group of Klansmen in their cars started circling the house, and they were holding torches out of the window and making very, very threatening gestures.

So Marshall called the Justice Department and got Judge Tyler and said: "You don't know me, but I know who you are and I know you by reputation. I'm Thurgood Marshall and I'm down here and I'm defending this family or representing this family. And we're being threatened by the Klan, and I actually fear for all our lives. And I know the official position of the government is that you are not going to mix in, but I'm counting on you to do the right thing," and hung up.

And about ten minutes later, some FBI cars came and circled and chased the Klan guys away.

And Goody told me, "My father always believed Judge Tyler saved his life, because he did the right thing."

And so he did. A good man, gone home to the big teepee in the sky.

(Applause.)

## Remarks

### GREGORY L. DISKANT

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MR. DISKANT: Like Mike Mukasey, I could never call him Ace. I learned after his death, however, that he had another nickname. You've heard John Campbell use it. Hallie. Who is Hallie? Hallie is Judge Tyler. Judge Tyler is Hallie? Not for me. He was Judge. That was his name.

For 30 years, Judge Tyler was Patterson Belknap Webb & Tyler. Talk about broad shoulders. It was called Judge Tyler's firm by many of us. He put us on the map, and we'll miss him very, very badly.

You can pretty much divide our firm's history into two periods, pre-Tyler and post-Tyler. Post-Tyler began in January 1977, when he left the Justice Department and joined his old friends Bob Patterson, Bob Pennoyer, Bob Potter at Patterson

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Belknap. And then things began to happen. New clients -- The Dime, The Daily News, Chemical Bank. New lawyers -- Dick Parsons, Rudy Giuliani. *Fortune* magazine named Judge Tyler as one of the five go-to lawyers in the United States for a company in deep trouble. *The American Lawyer* named the firm as one of the five firms on the rise. The excitement was palpable.

I joined the firm in January 1981, and I never really considered anywhere else. There were many things that attracted me about Patterson. But in the end, it was Judge Tyler. That's why I came. And I was never disappointed.

I often say that Patterson Belknap is about three things: interesting and important legal work, pro bono and public service, and a collegial and diverse workplace. Those are Judge Tyler's values, as I think we've heard repeatedly this afternoon. I think they're his legacy.

At the firm, it seemed that all that Judge Tyler did was interesting and important legal work. When the San Diego Yacht Club scandalized the racing world and raced, heaven forbid, a catamaran in the America's Cup, it was Judge Tyler who convinced the court that a catamaran was a "yacht or vessel" within the meaning of the original deed of gift. All of America's great sporting contests get decided by the courts, of course.

He argued in the New York Court of Appeals against his old friend Bob Fiske, whom he jokingly accused of using to an unfair advantage his superior knowledge of sailing. The argument was recorded. And for those who are interested and come back to our offices after this event, you can see a rerun, a limited edition rerun.

When the commissioner of baseball wanted to expel the Yankee pitcher Steve Howe after failing his seventh drug test -- that's the seven strikes and you're out rule -- he turned to Judge Tyler. And during the very brief period when George Steinbrenner was expelled from baseball for life, again Judge Tyler was the go-to guy.

Judge Tyler particularly liked to represent people in trouble, people like Mahlon Perkins, Roy Cohn, Norman Roy Grutman and Claus von Bulow. He most especially liked to represent those -- I won't say which ones they were, but you can guess -- that he called rascals, or rapscallions or miscreants.

There could be nothing more exciting for a young lawyer than to have your phone ring and the voice at the other end to say, "This is Harold Tyler. Do you have a few minutes?" It didn't really matter if a few minutes turned into weeks or months. You really hoped they would.

One of the hallmarks of Judge Tyler's years at the firm was how frequently he was called upon to perform some public service for the nation, the city, the state. Typically it was a complex investigation into a controversial issue that could only be resolved by someone of Judge Tyler's unimpeachable integrity.

I had the good fortune to work with him and Togo West when one of Judge Tyler's Princeton friends, Secretary of State George Shultz, asked him to travel to El Salvador in 1983 to investigate the murder of four American church women.

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A few years later, Mayor Ed Koch -- that's Honest Ed Koch, as Judge Tyler always called him -- asked him to perform a similarly daunting assignment investigating allegations of corruption against the City's Commissioner of Cultural Affairs, Bess Meyerson.

In those same years, Judge Tyler led the ABA's Standing Committee on the Federal Judiciary through the difficult waters of the Robert Bork nomination. He testified before Congress defending its somewhat lukewarm ten to five vote in favor.

When he was criticized by some for taking on a highly charged investigation into police brutality at the request of Mayor Dinkins, he responded simply: "My father taught me that when your elected leader asks you to perform a public service, you say yes."

Judge Tyler was a great man with a modest soul. I say modest soul. He had an ego. He once nettled some of our partners when he was quoted by *Fortune* magazine as saying: "Clients don't come to me because I'm a partner at Patterson Belknap. I don't want to knock the firm, but let's be honest about it. Abe Lincoln wasn't sought out because of his partner Herndon."

Well, of course, he was right. He was our Lincoln and we were lucky to have him. But he was a modest Lincoln, interested in substance, not money. He was interested in the practical, not the grandiose.

He could have gone anywhere when he left the Justice Department, and he could have earned far more money than Patterson Belknap was able to offer, but it was never all about the money to him. So he joined some of his old friends with the goal of building a premier litigation department, and he did.

When he came to our firm, it constructed for him what in hindsight can only be called an outlandish office on the 35th floor at 30 Rockefeller Plaza. It was three to four times larger than any other partner's office. But the windows were partially blocked and Judge Tyler liked looking out the window. So he rejected the gigantic office and he took the regular sized one next door.

I very vividly remember being interviewed by Judge Tyler there in the fall of 1980. To my growing dismay that I had done something wrong, he spent the entire interview staring happily out the window, which he liked to do.

It was also Judge Tyler who taught me the fastest route to court from 30 Rock is not the limos preferred by what he called "fancy pants" lawyers, but the Sixth Avenue subway, which we took many times together.

Judge Tyler was a magnet for talented lawyers. He responded to their help with generous praise and support. I never once remember him presenting an opinion without sharing credit. "Messrs. Tyler and Diskant, think you should do X or Y," he would say, and he would capture us both in the third person in his unique manner of speech. No one was paying for my opinion, of course, but a young lawyer would beam with pride to have his opinions sharing an equal billing with those of the Honorable Harold R. Tyler, Jr.

## THE HONORABLE HAROLD R. TYLER, JR.

His years in the Civil Rights Division marked him for the rest of his life. As Togo mentioned, he was one of the first Federal judges in the United States to hire African-Americans and women as law clerks. He led our firm to have some of the first African-American partners, Dick Parsons and Togo. He was just as supportive when we selected Antonia as our managing partner, the first woman to head a major New York firm.

And as Dick told the Thurgood Marshall story, I thought, well, he didn't tell the punch line. I heard the story also from Thurgood Marshall, who I clerked for. And the punch line was, yes, Judge Tyler did send the FBI to protect Thurgood Marshall and, yes, Thurgood Marshall always credited him with saving his life. But it was an election year, it was the fall of 1960, and the Republicans were concerned about keeping the white southern vote.

So the next morning when the White House was questioned, they denied the incident had occurred. And Marshall would laugh uproariously when he told it. And Tyler would chuckle as he always did when he told a good story.

He loved good stories. His speech is replete with them, with colorful sentences, with wonderful turns of phrase. It's made turning his oral history into a book a remarkably straightforward and very, very pleasurable project.

He had his own lexicon which you had to learn. In Judge Tyler's world, his partners were the Pattersons and the Belknaps. He dealt with great Americans, as in, "That Great American Henry Kissinger just called." Unfortunately there were those who worked for the Great Americans and they were munchkins. There's nothing much you can do about being a munchkin. It's a sad place to be.

If he doubted a lawyer's intelligence, he would say, "That's no latter day Cardozo," with a chuckle, of course.

An aggressive, take no prisoners litigator, like his good friend and partner Dave Dobbins, "it's that shin-kicker Dobbins." A lawyer who could stand up in court and try a case without any preparation, that is a "stick."

And I promise you nothing could rival the experience of watching Judge Tyler, forever the judge, defending a deposition by making and sustaining his own objections and then ordering opposing counsel to move on.

He was active in substantive law and the great issues of his day to the end. Just this year he filed an amicus brief in Supreme Court in the Padilla case, as one of a group of retired federal judges who thought, as the court ruled, that an incarcerated American citizen deserved a lawyer.

And he continued sitting as an arbitrator in complex matters to the end, holding the parties to the same high standards that he had lived throughout his life. In a case he decided just a year ago, he found one side fell short, and he awarded sanctions for what he called "patently dilatory and evasive behavior."

## A TRIBUTE

It was interesting to me to hear Judge Tyler's recollection of the Douglas resignation and the Stevens appointment. The first time I ever saw Judge Tyler was during that year when I was clerking for Justice Marshall, and there he was with what he called his "gleaming bald pate."

The day Justice Stevens took his seat on the High Court, President Ford came to court to introduce the new justice, and with him were the Attorney General and Deputy Attorney General Tyler.

A year later, I became a federal prosecutor and he became in a sense my boss, in the most distant of reporting relationships. After he died, I went home, and in the back of my closet I found the certificate appointing me an Assistant U.S. Attorney. And there on the certificate in his familiar handwriting, there was his signature in fading black ink, "Harold R. Tyler, Jr., Deputy Attorney General." So I brought the certificate to my office and will keep it there.

When Judge Tyler called someone a Great American, it wasn't always a compliment. It usually had a sardonic undertone mocking the pretensions of others. But he was a Great American. He was a citizen lawyer whose values of integrity, intelligence, hard work, efficiency and decency will never go out of fashion. And we miss him very, very much.

Thank you.

(Applause.)

## Closing

**ANTONIA M. GRUMBACH**

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MS. GRUMBACH: I've been thinking a lot about this afternoon and HRT, as I referred to him -- because I couldn't deal with "the Ace", "Judge" seemed a little formal sometimes, and I didn't know about Hallie for a long time, and I certainly would never have dared call him that. But I've been thinking about whether or not he would have liked this afternoon. He would have protested mightily against it, and I think he would have been very, very pleased.

So I want to thank all of you great and good friends. He was a wonderful friend of ours, and it's been a great afternoon. I want to thank just a few people who made this afternoon possible.

Steve Younger, our partner, who rounded up people and made innumerable calls. And Lisa Smith and her colleagues who got us all here and made the sound work, which was quite remarkable. It sounded as though Tyler was actually in the room. So thank you all.

We hope that you will come back to our offices now. You heard that you can watch the America's Cup video. We're right across the street, and there are some wonderful photographs of Tyler there. We would like to see you all come back. So see you soon.