

**JLT MEMORIAL
REMARKS OF BC LAW PROFESSOR MARK BRODIN**

GOOD AFTERNOON.

THIS IS OF COURSE A MOST BITTERSWEET OCCASION, THE FIRST TIME I'VE SPOKEN AT SUCH A GATHERING WITHOUT THE GRACIOUS PRESENCE OF THE JUDGE HIMSELF, LOOKING ON WITH THAT WONDERFUL SMILE OF HIS. BUT WE ARE HERE TO CELEBRATE A LIFE, INDEED A TRULY EXTRAORDINARY LIFE, BOTH ON AND OFF THE BENCH.

I ESPECIALLY DIRECT MY REMARKS TO JUNE, BETH, CHRIS, JOE JR., & THEIR FAMILIES.

ALL OF US HERE SHARE THREE THINGS IN COMMON:

- **WE ALL ADORED JOE TAURO,**
- **WE ALL ARE PROFOUNDLY SADDENED BY HIS PASSING,**
- **& WE ALL TREASURE THE TIME WE HAD WITH HIM (EVEN PERHAPS THE FEW ROUGH SPOTS).**

I FIRST MET THE JUDGE WHEN HE INTERVIEWED ME IN THE FALL OF 1972.

- **WE HAD AN IMMEDIATE CONNECTION—NOT THROUGH THE LAW, BUT MUSIC.**
 - **I HAPPENED TO HAVE JUST BOUGHT AN ELLA FITZGERALD LP ON THE WAY TO THE COURTHOUSE, & WE ENDED UP TALKING JAZZ & BIG BANDS MOST OF THE HOUR.**
 - **THAT WAS FINE WITH ME, SINCE I KNEW WAY MORE ABOUT THE AMERICAN SONGBOOK THAN I DID FEDERAL JURISDICTION OR PATENT LAW.**

HAVING SERVED AS HIS FIRST LAW CLERK, I HAD THE DISTINCT PLEASURE OF WITNESSING CLOSE-UP THE EMERGENCE OF THIS WISE & COMPASSIONATE JURIST.

- **JOE TAURO ASSUMED THE BENCH WHILE STILL A YOUNG MAN,**
 - **AND IMMEDIATELY DIRECTED HIS TIRELESS ENERGIES AND UNIQUE TALENTS TO THE DAUNTING TASK OF RESCUING "THE MOST HELPLESS OF THE HELPLESS,"**
 - **AS HE WOULD LATER DESCRIBE THE PLAINTIFFS IN A CLASS ACTION DETAILING THE DEPLORABLE CONDITIONS AT THE BELCHERTOWN SCHOOL FOR THE MENTALLY DISABLED. [IT HAD A MUCH MORE OFFENSIVE LABEL AT THE TIME.]**
- **WE TOURED THE INSTITUTION IN MAY, 1973, OBSERVING FIRST HAND THE FILTH, THE SQUALOR, THE BRUTAL CONDITIONS, THE STENCH, THE INDIGNITIES THOSE IMPRISONED SOULS WERE DAILY SUBJECTED TO.**
 - **ONE STAFF MEMBER DOWN-PLAYED THE HORRORS BY SIMPLY DISMISSING THE RESIDENTS AS "LOW-FUNCTIONING" —**
 - ***"JUDGE, THEY DON'T REALLY REGISTER ANY OF THIS."***
 - ***WELL I CAN TELL YOU --- IT CERTAINLY DID REGISTER WITH THE JUDGE.***
 - ***AT THAT MOMENT, HE BECAME THE VOICE OF THE UNHEARD, OF THE LEAST AMONG US.***
- **OUR LONG RIDE BACK TO BOSTON WAS SPENT MOSTLY IN STUNNED SILENCE.**
 - **NOTHING IN OUR VERY PRIVILEGED LIVES COULD HAVE POSSIBLY PREPARED US FOR WHAT WE WITNESSED THAT LONG LONG DAY IN MAY SO MANY YEARS AGO.**
 - **BELCHERTOWN WAS NOT A SCHOOL, IT TURNED OUT, BUT A SORDID HUMAN WAREHOUSE, RIFE WITH UNSPEAKABLE CRUELITIES, SEXUAL ABUSE, LACK OF MEDICAL CARE, EVEN NUMBERED GRAVES IN THE CEMETERY-- FOR THE NAMELESS NONENTITIES.**

- **THE JUDGE IMMEDIATELY BROUGHT THE OPPOSING ATTORNEYS INTO INTENSE NEGOTIATIONS THAT WOULD SOON PRODUCE AN ALL-ENCOMPASSING REMEDIAL DECREE FOR BELCHERTOWN & THE FIVE OTHER STATE SCHOOLS.**
 - **RATHER THAN SIMPLY MANAGING THE LAWSUIT, OVER WHAT WOULD BE YEARS OF ADVERSARY SPARRING, THE JUDGE SERVED AS THE CRITICAL CATALYST IN A PIONEERING CONCILIATION PROCESS.**
 - **THE DECREE WOULD TRANSFORM THE INSTITUTIONS-- LIVING CONDITIONS, SERVICES, STAFFING, EDUCATIONAL PROGRAMS-- & POINTED PROGRESSIVELY TOWARDS DEINSTITUTIONALIZATION THROUGH COMMUNITY PLACEMENTS.**
 - **MOST IMPORTANT, HE HAD SECURED THE CRUCIAL FINANCIAL COMMITMENTS FROM THE KEY STATE LEADERS-- THE ULTIMATE COST OF IMPLEMENTATION WOULD APPROACH \$500 MILLION.**

THE DECREE REMAINED IN EFFECT FOR TWO DECADES, & BECAME THE MODEL FOR THE RESOLUTION OF SIMILAR LITIGATIONS IN MASSACHUSETTS AND ELSEWHERE.

- **IT IS STILL USED AS A CASE STUDY IN INSTITUTIONAL REFORM AT HARVARD'S KENNEDY SCHOOL OF GOVERNMENT.**
 - **"A VISIT TO ANY ONE OF THE FIVE STATE SCHOOLS," THE STUDY CONCLUDES, "PROVIDES ELOQUENT TESTIMONY TO THE IMPROVEMENTS ACHIEVED SINCE THE SIGNING OF THE DECREES."**
- **AS HIS GOOD FRIEND EARLE COOLEY PUT IT, JOE TAURO "DOES NOT THINK THE LAW HAS ONLY A PASSIVE ROLE TO PLAY. HE IS NOT AFRAID TO FASHION A REMEDY WHICH BREATHES LIFE INTO A CONSTITUTIONAL RIGHT."**

I THINK JOE TAURO WAS TRANSFORMED BY THAT DAY IN BELCHERTOWN.

- **HIS HARDER EDGES SOFTENED, HIS COMPASSION FOR THE VULNERABLE BLOSSOMED, HIS SENSE OF MISSION IN THE QUEST FOR EQUAL JUSTICE CEMENTED.**
- **OF COURSE, SOME THINGS ABOUT HIM STAYED THE SAME. WHEN HE SAW ME QUOTED IN A NEWSPAPER INTERVIEW THAT WE HAD DRIVEN OUT TO BELCHERTOWN AT OVER 100 M/P/H IN HIS HOT TWO-SEATER SPORTSCAR,**
 - **HE MADE TWO THINGS VERY CLEAR.**
 - **NO MORE MEDIA INTERVIEWS,**
 - **& NO MORE COMMENTS ON HIS DRIVING HABITS, OR CHOICE OF MOTOR VEHICLE.**
 - **I LIVED BY THOSE ADMONITIONS.**

BELCHERTOWN WAS JUST THE BEGINNING.

- **HE WOULD FOR EXAMPLE GO ON TO HELP BOSTON MOVE BEYOND ITS CHECKERED RACIAL PAST BY ENGINEERING SETTLEMENT OF AN NAACP CASE THAT BEGAN THE DELICATE PROCESS OF DESEGREGATING THE CITY'S PUBLIC HOUSING.**
 - **THE BOSTON GLOBE WROTE: "FOR TAURO, WHO BROKERED THE SETTLEMENT, IT WAS A VICTORY FOR JUDICIAL ACTIVISM ON ONE OF THE MOST VEXING ISSUES FACING THE FEDERAL JUDICIARY. A SETTLEMENT AVOIDED A DIVISIVE TRIAL THAT COULD HAVE ENGAGED THE JUDGE'S ENERGIES FOR YEARS.**

AND THEN THERE WERE THE LEGIONS OF LANDMARK DECISIONS HE PENNED OVER HIS LONG YEARS ON THE BENCH. TWO STAND OUT IN MY MIND.

- ONE ENJOINED PUBLIC SCHOOL OFFICIALS FROM REMOVING LIBRARY BOOKS THAT THEY FIND OFFENSIVE & INAPPROPRIATE FOR YOUNG MINDS.
- THE SECOND FORBID FORCED MEDICATION & ISOLATION OF PSYCHIATRIC PATIENTS.
 - "WHATEVER POWERS THE CONSTITUTION HAS GRANTED OUR GOVERNMENT," THE JUDGE WROTE IN THE STATE HOSPITAL CASE, "INVOLUNTARY MIND CONTROL IS NOT ONE OF THEM."
 - "THE MOST EFFECTIVE ANTIDOTE TO THE POISON OF MINDLESS ORTHODOXY," THE JUDGE WROTE IN THE SCHOOL CASE, "IS READY ACCESS TO A BROAD SWEEP OF IDEAS AND PHILOSOPHIES. THERE IS NO DANGER IN SUCH EXPOSURE. THE DANGER IS IN MIND CONTROL."
- THE JUDGE WAS SO SO PROUD WHEN NAT HENTOFF, THE GREAT JOURNALIST & FIERCE DEFENDER OF THE FIRST AMENDMENT, WROTE:
 - "THERE IS A FEDERAL JUDGE IN BOSTON, JOSEPH TAURO, WHOSE PASSION FOR THE FIRST AMENDMENT WOULD HAVE GREATLY GRATIFIED JAMES MADISON. IN 1978, TAURO PRESIDED OVER A SCHOOL LIBRARY CENSORSHIP CASE. IT WAS ATTENDED BY MORE THAN A HUNDRED STUDENTS AT CHELSEA HIGH SCHOOL. TAKING EVERY AVAILABLE SEAT IN THE COURTROOM, THE KIDS WATCHED IN FASCINATION AS *THEIR* RIGHT TO READ THE BOOK WAS CONFIRMED BY A FEDERAL JUDGE."
- *THE VOICE OF THE UNHEARD.*
- AND IN 2010, JOE TAURO BECAME THE VERY FIRST FEDERAL JUDGE TO RULE THAT THE SO-CALLED DEFENSE OF MARRIAGE ACT, DEFINING IT EXCLUSIVELY AS A UNION BETWEEN A MAN AND A WOMAN, WAS UNCONSTITUTIONAL.

THESE OPINIONS ARE THE PAINSTAKING, METICULOUS, THOUGHTFUL WORK PRODUCT OF A JURIST AT THE VERY HIGHEST LEVEL OF HIS CRAFT,

- **A TRUE JUDICIAL STATESMAN, WHO UNDERSTANDS THAT THE CALLING OF A JUDGE, THE MISSION OF A JUDGE, IS TO TRANSLATE THE LAW TO THE COMMON BENEFIT OF THE SOCIETY, TO ALL ITS CITIZENS, NOT JUST THE FORTUNATE AND THE PRIVILEGED.**
- ***TO BE, IN SHORT, THE VOICE OF THE UNHEARD.***

THE ABSOLUTE CLARITY OF THAT MORAL PURPOSE, AS WELL AS HIS POETIC ELOQUENCE IN EMPLOYING IT, MARK JOSEPH TAURO'S ICONIC CAREER ON THE BENCH, & IT ENNOBLES US ALL.

- **OH, HOW WE NEED JUDGE'S OF HIS CALIBER IN OUR TROUBLED REPUBLIC TODAY.**

OLIVER WENDELL HOLMES WOULD ADVISE HIS YOUNG COLLEAGUES THAT TO ACHIEVE GREATNESS IN OUR PROFESSION, YOU MUST IMMERSE YOURSELF IN THE AGONIES OF THE TIMES.

- **THE OBJECT OF OUR ADMIRATION TODAY CONSISTENTLY HIT THAT ONE OUT OF THE BALLPARK.**
- **HIS IS TRULY A LIFE TO BE CELEBRATED, HERE TODAY, & FOR ALL TIME.**

I WILL TREASURE ALWAYS HIS FRIENDSHIP, HIS SUPPORT, HIS WISE COUNSEL, HIS GENEROSITY (ALL THOSE JOYOUS OCCASIONS AT ANTHONY'S PIER FOUR FOR THE WHOLE STAFF, PLUS HIS DEAR FRIEND GEORGE HIGGINS), HIS MARVELOUS WIT.

NOW, I THINK JOE IS LOOKING DOWN ON US AND SMILING.

- **IN FACT *I KNOW HE IS*, BECAUSE LOOK-- HE'S RED-PENCILED MY DRAFT! [YOU SEE!].**

THANK YOU ALL, & GOD BLESS THIS MOST HONORABLE COURT.