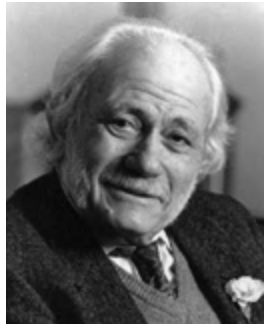

The Mathew O. Tobriner Memorial Lectures at UC Hastings

BY HON. JOSEPH R. GRODIN*

Mathew O. Tobriner was one of the finest justices ever to sit on the California Supreme Court. His opinions, always elegantly crafted, always tuned to the role of the law in protecting individuals against preventable harms and the abuses of government and corporate power, came to be studied by law students and lawyers throughout the country. And his personal warmth and enthusiasm inspired love and devotion in all who knew him. So it was natural and predictable that upon his death in 1982 his closest friends and admirers would join with his relatives to find a suitable public way to keep his legacy alive.

The driving force behind the search for a suitable memorial was Gerald Marcus, a founder and partner in the firm of Hanson Bridgett, and a longtime close friend of Justice Tobriner, with whom he had collaborated over the years on a variety of legal, political, and community activities. Marcus consulted with Tobriner's widow, Rosabelle Tobriner, and his two sons, Michael Tobriner, a lawyer in San Francisco and Stephen Tobriner, a professor at UC Berkeley, along with numerous others to come up with a plan. The plan, reflecting Tobriner's own

interests in legal scholarship and development of the law, was to raise funds to sponsor an annual lectureship in Tobriner's name. Hastings College of the Law, where Tobriner had been scheduled to teach, was chosen as the site of the lectures and as repository of the funds. The lectures were to be of publishable quality, and to be published alternately in the *Hastings Law Journal* and the *Hastings Constitutional Law Quarterly*. In addition



Gerald Marcus

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to giving the lecture, the person invited was expected to spend additional time at Hastings, visiting with students and professors, and in the community, meeting with lawyers and judges. After each lecture there would be a buffet gathering to which students and faculty would be invited, followed by a dinner attended by sponsors of the lectures as well as representatives of the Hastings community.

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Hon. A. Leon Higginbotham, Chief Judge Emeritus of the U.S. Court of Appeals for the Third Circuit, delivering the Mathew O. Tobriner Lecture in 1994. Looking on are (LEFT TO RIGHT): Hastings Dean Mary Kay Kane; attorney Michael Tobriner, one of Justice Tobriner's sons; and Hon. Thelton Henderson, Chief Judge of the U.S. District Court for the Northern District of California, who introduced Judge Higginbotham.

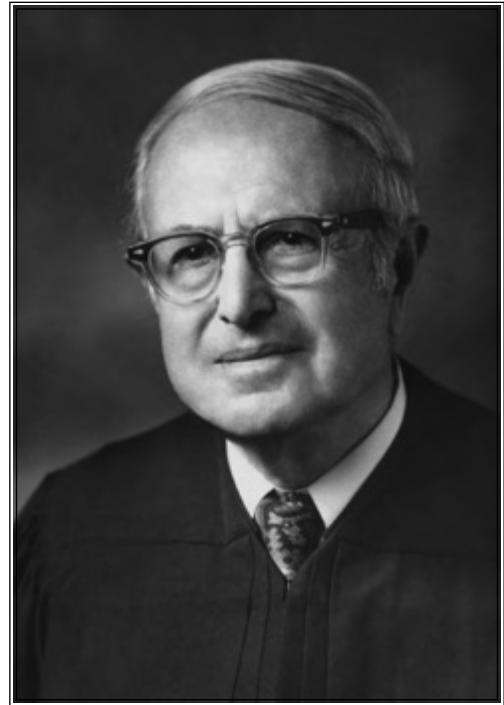
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A Memorial Committee was formed, with former Chief Justices Phil S. Gibson and Donald Wright as Honorary Co-Chairs, and an Advisory Committee to advise Hastings on the selection of lecturers and topics. Hon. Robert F. Peckham, Chief Judge of the U.S. District Court for Northern California, served as first chair of the Advisory Committee. Initial members of that committee were Hon. Rose Elizabeth Bird, Chief Justice of the California Supreme Court, Gerald Marcus, Michael Tobriner, and myself, then an Associate Justice of the California Court of Appeal. A broader committee, assisting Gerald Marcus in the raising of funds for the project, included Harry Polland, from Tobriner's former law firm, and many of Tobriner's former law clerks and staff attorneys: David Balabanian, Harold "Hal" Cohen, Paul N. Crane, Antonio Rossman, Laurence A. Tribe, Robert Vanderet, and Michael Willemsen. Dean Bert Prunty of Hastings was a member *ex officio*. Over the years, Marcus and the Financial Committee received donations from more than 500 contributors, thereby endowing a fund sufficient to cover expenses and honoraria for the visiting lecturers.

The first lecture was given in the fall of 1983, by Hon. J. Skelly Wright, Judge of the U.S. Court of Appeals for the District of Columbia Circuit, speaking about the contributions of state courts to the protection of liberties.

Judge Wright was followed in 1984 by Laurence Tribe, a former Tobriner law clerk and a noted constitutional scholar, who spoke of the potential dangers in applying cost/benefit analysis to determine the scope of constitutional rights. U.S. Supreme Court Associate Justice William Brennan spoke in 1985, in defense of his continuing dissents in death penalty cases. In 1986 the lecturer was Anthony Lewis, a renowned journalist and author of "Gideon's Trumpet," the prize-winning story of how the U.S. Supreme Court, acting upon a roughly-drafted petition by a prisoner, established the constitutional right to counsel. Throughout the succeeding years, lecturers included federal jurists Harry A. Blackmun of the United States Supreme Court; Abner Mikva, Chief Judge of the U.S. Court of Appeals for the D.C. Circuit; and A. Leon Higginbotham, Chief Judge Emeritus of the U.S. Court of Appeals for the Third Circuit. State high court Chief Justices Shirley S. Abrahamson (Wisconsin) and Judith Kaye (New York) spoke on state constitutions as independent sources of protection for individual rights. Barbara Black, Dean of Columbia University Law School, spoke on the subject of judicial independence, and journalist Daniel Schorr on the tension between free speech and control over campaign contributions. Civil rights and equality were the topics of lectures by professors John Hope Franklin, noted historian of the Reconstruction, Charles Ogletree of Harvard Law School, Derrick Bell of Harvard and NYU Law School, and Gerald Torres of the University of Texas. International human rights was the subject for Jose Zalaquett, of the International Commission of Jurists; Richard Goldstone, prosecutor at the International Criminal Tribunal for the Balkan States and Rwanda; Gabrielle Kirk McDonald, formerly President of the International Criminal Tribunal for the former Yugoslavia; and Mary Robinson, former U.N. High Commissioner for Human Rights and President of Ireland. Soon after the attack of 9/11, Aharon Barak, President of the Supreme Court of Israel, spoke on the tensions between human rights and state security, and Wael B. Hallaq, Professor of Islamic Studies at McGill University, spoke on "Muslim rage" and Islamic Law.

Individuals associated with the lecture series came and went. When Judge Peckham died, his place as chair of the Advisory Committee was taken by the then-current Chief Judge of the U.S. District Court for the Northern District, Hon. Thelton Henderson. Dean Bert Prunty of Hastings was succeeded by Dean Mary Kay Kane and then by Dean Nell Newton. The original Administrative Committee was supplemented over time by the addition of Hon. John T. Racanelli, Presiding Justice of the California Court of Appeal, District One; David Balabanian, San Francisco attorney and former Tobriner law clerk; Joan Graf, Executive Director of the Legal Aid Society of San Francisco; Thomas J. Nolan, a distinguished Palo Alto attorney; Professor Stephanie M. Wildman (wife of



MATHEW O. TOBRINER

"It is the quality of justice tempered with humanity. It is the ability to see the human being behind the rule of law. It is a sensitivity to the needs of individuals in a society dominated by big government and big institutions. It is a commitment to fairness of procedures, whether the claimants be criminal defendants, welfare recipients, public employees, or business licensees. It is a clear-eyed perception of the reality of relationships, stripped of labels. It is the ability to identify with others, despite differences in age, race, social position, or lifestyle. It is the ability to understand and have compassion for the frailties common to all humanity. It is the quality of eternal youth, that freshness of spirit, openness of mind, and tenacious idealism that served to nourish and inspire all those who came into contact with him or read his opinions. It is the ability to continue to care, when others have given up on caring. It is the maintenance of his own balance, and sense of conviction, in the face of pressures and distortion. It is the ability to translate ultimate human values such as love and respect and responsibility into legal doctrine. It is the persistence of integrity in a world where that commodity is in short supply."

— JUSTICE JOSEPH R. GRODIN,
IN MEMORIAM: MATHEW O. TOBRINER,
33 HASTINGS L.J. XXV (1982)

Michael Tobriner) and Professor Edward Steinman, both of Santa Clara University Law School.

What remained constant was the high quality of the lectures and the opportunities they provided for students and members of the legal community to hear and rub shoulders with giants in the world of human rights and legal



U.S. Supreme Court Associate Justice Harry Blackmun meeting with Hastings constitutional law students prior to his 1998 lecture.

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scholarship, and for the publication of their thoughts and research. Recently, however, recognizing that the increased costs of attending law school present barriers to students wishing to pursue public interest careers, the Tobriner family and the Advisory Committee recommended to the College that the Fund's activities be expanded to support summer public interest internships. This was accomplished through a modification of the original trust, with court approval, to authorize the award of Tobriner Summer Social Justice Fellowships to Hastings students. Tobriner Fellows will serve internships at public interest law firms and institutions, such as the San Francisco Legal Aid Society, which Tobriner helped to found. Annual lectures from public interest law experts, and reports from recipients of Tobriner Fellowships, are also planned, thus continuing a tradition of holding an annual event in honor of Justice Tobriner's memory and commitment to social justice. ★

MATHEW O. TOBRINER MEMORIAL LECTURES

Between October 1983 and October 2004, twenty-one lectures were presented at Hastings College of the Law by distinguished judges, legal scholars, and other prominent figures of national, or international, reputation. The great majority of the lectures were subsequently published in the Hastings Law Journal, the Hastings Constitutional Law Quarterly, or other publications affiliated with the College. The speakers, the titles of their lectures, and the associated publication citations are listed in chronological order below.

J. SKELLY WRIGHT JUDGE, UNITED STATES COURT OF APPEALS DISTRICT OF COLUMBIA CIRCUIT	<i>In Praise of State Courts: Confessions of a Federal Judge,</i> 11 <i>Hastings Const. L.Q.</i> 165 (1983–1984)
LAURENCE H. TRIBE PROFESSOR OF CONSTITUTIONAL LAW HARVARD LAW SCHOOL	<i>Seven Deadly Sins of Straining the Constitution Through a Pseudo-Scientific Sieve,</i> 36 <i>Hastings L.J.</i> 155 (1984–1985)
WILLIAM J. BRENNAN, JR. ASSOCIATE JUSTICE SUPREME COURT OF THE UNITED STATES	<i>In Defense of Dissents,</i> 37 <i>Hastings L.J.</i> 427 (1985–1986)
ANTHONY LEWIS NEW YORK TIMES COLUMNIST LECTURER, HARVARD LAW SCHOOL	<i>Preserving the System: The Role of Judges,</i> 14 <i>Hastings Const. L.Q.</i> 1 (1986–1987)
BARBARA ARONSTEIN BLACK DEAN, COLUMBIA UNIVERSITY SCHOOL OF LAW	<i>Reflections on Judicial Independence,</i> <i>Hastings Community</i> (Summer 1988) <i>(article only, not text of lecture)</i>
HARRY A. BLACKMUN ASSOCIATE JUSTICE SUPREME COURT OF THE UNITED STATES	<i>Trends and Countertrends,</i> <i>Hastings Community</i> (Summer 1989) <i>(article only, not text of lecture)</i>
JOHN HOPE FRANKLIN PROFESSOR OF HISTORY EMERITUS AND PROFESSOR OF LEGAL HISTORY DUKE UNIVERSITY LAW SCHOOL	<i>The Civil Rights Act of 1866 Revisited,</i> 41 <i>Hastings L.J.</i> 1135 (1989–1990)
SHIRLEY S. ABRAHAMSON JUSTICE WISCONSIN SUPREME COURT	<i>Divided We Stand: State Constitutions in a More Perfect Union,</i> 18 <i>Hastings Const. L.Q.</i> 723 (1990–1991)

MATHEW O. TOBRINER MEMORIAL LECTURES

JOSÉ ZALAQUETT CHAIRPERSON, INTERNATIONAL HUMAN RIGHTS INTERNSHIP PROGRAM	<i>Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations</i> , 43 <i>Hastings L.J.</i> 1425 (1991–1992)
ABNER J. MIKVA CHIEF JUDGE, UNITED STATES COURT OF APPEALS, DISTRICT OF COLUMBIA CIRCUIT	<i>It's Time to "Unfix" the Criminal Justice System</i> , 20 <i>Hastings Const. L.Q.</i> 825 (1992–1993)
A. LEON HIGGINBOTHAM, JR. CHIEF JUDGE EMERITUS, UNITED STATES COURT OF APPEALS, THIRD CIRCUIT	<i>Justice Clarence Thomas in Retrospect</i> , 45 <i>Hastings L.J.</i> 1405 (1994)
RICHARD GOLDSTONE JUSTICE, CONSTITUTIONAL COURT OF SOUTH AFRICA; PROSECUTOR, INTERNATIONAL CRIMINAL TRIBUNALS FOR THE BALKAN STATES AND RWANDA	<i>Exposing Human Rights Abuses — A Help or Hindrance to Reconciliation?</i> 22 <i>Hastings Const. L.Q.</i> 607 (1994–1995)
DANIEL SCHORR SENIOR NEWS ANALYST FOR NATIONAL PUBLIC RADIO, VETERAN CBS REPORTER/ COMMENTATOR	<i>The First Amendment Under Pressure</i> , 18 <i>Hastings Comm. & Ent. L.J.</i> 433 (1995–1996)
CHARLES OGLETREE PROFESSOR OF LAW HARVARD LAW SCHOOL	<i>The Burdens and Benefits of Race in America</i> , 25 <i>Hastings Const. L.Q.</i> 219 (1997–1998)
JUDITH S. KAYE CHIEF JUDGE OF THE STATE OF NEW YORK	<i>Changing Courts in Changing Times: The Need for a Fresh Look at How Courts are Run</i> , 48 <i>Hastings L.J.</i> 851 (1996–1997)
DERRICK BELL VISITING PROFESSOR, NEW YORK UNIVERSITY LAW SCHOOL	<i>"Here Come de Judge": The Role of Faith in Progressive Decision-Making</i> , 51 <i>Hastings L.J.</i> 1 (1999–2000)
GABRIELLE KIRK McDONALD PRESIDENT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA	<i>Reflections on the Contributions of the International Criminal Tribunal for the Former Yugoslavia</i> , 24 <i>Hastings Int'l & Comp. L. Rev.</i> 155 (2001)
AHARON BARAK PRESIDENT (CHIEF JUSTICE) OF THE SUPREME COURT OF ISRAEL	<i>The Role of a Supreme Court in a Democracy</i> , 53 <i>Hastings L.J.</i> 1205 (2001–2002)
WAEEL B. HALLAQ PROFESSOR, INSTITUTE OF ISLAMIC STUDIES MCGILL UNIVERSITY	<i>"Muslim Rage" and Islamic Law</i> , 54 <i>Hastings L.J.</i> 1705 (2002–2003)
GERALD TORRES PROFESSOR, UNIVERSITY OF TEXAS AT AUSTIN	<i>The Evolution of Equality in American Law</i> , 31 <i>Hastings Const. L.Q.</i> 613 (2003–2004)
MARY ROBINSON FORMER UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS; PRESIDENT OF IRELAND	<i>A Human Rights Challenge: Advancing Economic, Social, and Cultural Rights</i> , 56 <i>Hastings L.J.</i> 1059 (2004–2005)