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## Justice Liu Delivers the Mathew O. Tobriner Memorial Lecture at UC Hastings

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California Supreme Court Justice Goodwin Liu delivered the Mathew O. Tobriner Memorial Lecture at Hastings College of the Law on April 17, 2013. His topic was the role that state courts play when addressing questions of federal law, both constitutional and statutory. Noting that state courts are, unlike their federal counterparts, courts of general jurisdiction, he emphasized that they are therefore fully empowered to interpret and apply federal law and — contrary to the assumptions of many — may and do decide cases that raise solely federal law issues.



Justice Goodwin Liu

Justice Liu observed that since the 1930s American law has become increasingly “federalized.” He described this as an incremental process, the result of both expansive interpretations of the federal Constitution by the United States Supreme Court and the enactment of federal regulatory legislation covering fields as diverse as civil rights, the economy, and the environment. Given the ubiquity of federal law, state courts cannot avoid dealing with federal statutes and constitutional principles.

Moreover, Justice Liu maintained, state courts should welcome the opportunity to make a useful contribution to the judicial understanding of federal law. As one example he mentioned *Perez v. Sharp*, 32 Cal.2d 711, a case decided by the California Supreme Court in 1948, holding that state laws prohibiting interracial marriages violated the Equal Protection

clause of the *federal* Constitution — a determination rendered nearly 20 years before the US Supreme Court reached that same conclusion in *Loving v. Virginia* (1967) 388 U.S. 1.

The lecture was warmly received by a large and enthusiastic audience of Hastings students and faculty, judges, lawyers, and family and friends of the late Justice Tobriner. Former California Supreme Court Associate Justice, and current Hastings faculty member, Joseph R. Grodin introduced Justice Liu, highlighting some of his numerous academic and professional accomplishments before his appointment to the California Supreme Court in 2011 by Governor Jerry Brown. Justice Grodin also recalled Justice Tobriner as one of the finest justices in the history of the California Supreme Court — the author of opinions that resonated throughout the nation and are still studied in law schools. At the same time, he reflected on Justice Tobriner’s personal character and values: his passion for justice and his empathy, his ability to see the human beings behind the cases.

After Justice Tobriner’s retirement from the Court he had been scheduled to teach at Hastings, an opportunity lost upon his unexpected death in 1982. After his passing, Justice Tobriner’s friends and admirers joined with his family to initiate the memorial lectures at Hastings as a suitable public way to keep his legacy alive. (An article by former Justice Grodin concerning the origins of the memorial lecture series appeared in the Spring/Summer 2012 issue of this Newsletter. It was accompanied by a list of each of the 21 lectures that had been presented at Hastings between 1983 and 2004, providing the name of each speaker, the topic, and a citation to the Hastings journal in which they were published.) Justice Grodin joined with Hastings Dean Frank Wu in expressing both his gratification at seeing the tradition of lectures by distinguished speakers revived after a pause of nine years, and his pleasure that Justice Goodwin Liu had agreed to be the first speaker in the renewed series of memorial lectures. ★

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#### ENDNOTES

1. Chief Justice Tani Cantil-Sakauye, *State of the Judiciary, Address to a Joint Session of the Calif. Legislature* (Mar. 11, 2013), see <http://www.courts.ca.gov/21268.htm> [as of Apr. 16, 2013].
2. *State Court Caseload Statistics*, State Court Caseload Tables, 2010, Appellate — Grand Total Court Caseloads, Nat. Ctr. for State Cts., see <http://www.courtstatistics.org/Other-Pages/StateCourtCaseloadStatistics.aspx> [as of Apr. 16, 2013].
3. Dear & Jessen, “Followed Rates” and Leading State Cases, 1940–2005, 41 *U.C. Davis L.Rev.* 683 (2007).
4. *Remarks of Jeff Bleich at the First Annual Conference on the California Supreme Court*, 1 *Calif. L. Rev. Cir.* 1 (2010), see

<http://www.californialawreview.org/assets/pdfs/Circuit/01.01.Bleich.pdf> [as of Apr. 16, 2013].

5. See generally Karlan et al., *Go East, Young Lawyers: The Stanford Law School Supreme Court Litigation Clinic*, 7 *J. App. Prac. & Process* 207, 209–210 (2005) [discussing similar lawyering skills taught in US Supreme Court clinic].
6. Admin. Off. of US Cts., *Judicial Business of the United States Courts*, 2012 Annual Report of the Director, see <http://www.uscourts.gov/Statistics/JudicialBusiness/2012.aspx> [as of Apr. 16, 2013]; Jud. Council of Calif., *2012 Court Statistics Report, Statewide Caseload Trends, 2001–2002 through 2011–2012*, (2012) p. xiv, see <http://www.courts.ca.gov/documents/2012-Court-Statistics-Report.pdf> [as of Apr. 16, 2013].