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Requiem

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Requiem

HENRY PAUL MONAGHAN*

Besides being brief, it is not apparent what one should say. No doubt due to my own upbringing, I cannot view this an occasion for a celebration of a life that ended just a handful of hours ago. Nor do I view this an occasion for a discussion of John's work. *The New York Times* provided a splendid account of that. I would add only that John received an honorary LL.D. from Yale six months ago. The opening sentence of the accompanying citation said it all: "Your work set the standard for constitutional law scholarship for our generation." I am comforted in declining these topics because I know that there will be future occasions when John's life will be celebrated, and his enormous and lasting contributions to the law discussed.

This is perhaps an occasion on which to say something about John, but I am not up to that I am afraid. Suffice it to say that John was an eminently fair and reasonable man. He was also gentle, generous, and empathetic without being weak or indecisive. He was proud of and intensely loyal to his friends. He was also witty, and greatly enjoyed good humor. One of the reasons his famous book *Democracy and Distrust* is so successful is that he makes important points with wit and eloquence. But, quite consistent with his character, that wit was never at anybody else's expense. There are no put-downs in his work. He had his faults, of course. On his very best days he had no patience. He was also perpetually restless. For example, after he published *Democracy and Distrust*, he told me that he needed something new. His available choices were two: dean of Stanford or a detective in the Sacramento police department.

In thinking about what to say, I again and again came back to about the last 17 months or so of John's life, from John's wedding on. John told me that he was ready to die, that he had accomplished his life's work. That he had accomplished his life's work may have been true, but that he was prepared to die was not. John very much wanted to live. He loved his home. He was happy at Miami. He very much liked his colleagues, and he adored his secretary, Beth. Most importantly, he was greatly looking forward to his life with Gisela, and all that that would open up to him.

* Harlan Fiske Stone Professor of Constitutional Law, Columbia University. John Ely died on October 25, 2003, a few weeks short of his sixty-fifth birthday. These remarks were delivered at a memorial service three days later.

John and Gisela knew that John had cancer, but it seemed to be in control. Two days before the wedding, they learned that the cancer had spread badly. Their wedding vows had special meaning.

I am glad that human beings have little ability to see what is ahead, and that life is lived one day at a time. Looking back, however, John had a long, hard death, with much pain and depression. The initial period of chemotherapy left him very tired and depressed. When it failed, John came up to New York for an experimental program. He was depressed, and in fact, because of the heavy medication, John was out of it much of the time. That program also failed. When he came back here, conditions improved. There was pain and depression to be sure, plenty of both, and there were simply countless visits to doctors.

But there were good periods. His energy increased, and he took a real interest in the world. He read the newspaper and books. When I would arrive, I would often find him sitting in his favorite chair smoking his pipe. We talked of doing a book together. All of us were confident that he would be around for some time. But, as the doctors warned, the final decline came quickly. When John died, about 10 to 5:00 on Saturday afternoon, he looked at peace, now completely free from the pain and depression. I understood for the first time the grain of truth in the common adage that John was better off dead.

I should say that during the last months of his life John visibly changed. Throughout his life John was a very private person. His mother once told young John that boys don't cry. Disastrous advice, I believe. In his final months, however, John became much more open and accessible. The support he received from his friends greatly delighted and heartened him, and he was quite forthcoming in expressing his feelings and emotions. There were many Tuesdays with Morrie, if you know that bestseller.

I have gone on too long, but I would be remiss if I said nothing about John's sons and Gisela. He loved his sons, and that love was fully reciprocated. They were unfailing pillars of support for him. Of Gisela, I can't say enough. These last months were very, very hard months. Countless demands were placed upon her. She responded to them all, with love, patience, and great strength.

It is time to say good-bye. On occasions like this, one falls back on the structures that gave one support in the past. And so, I would like to say a prayer for John, a prayer I heard intoned many times by priests in their resplendent black vestments. *Requiem aeternam dona eis, Domine* (Grant them eternal rest, O Lord), *et lux perpetua luceat eis* (and may the light that knows no end shine on them).