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GUIDO CALABRESI: CITIZEN OF YALE

*Honorable Drew S. Days, III**

A colleague at Yale Law School called me recently for my views on the type of person the institution should be seeking to serve as dean upon Guido Calabresi's departure. I responded that the perfect candidate ought to be, among other things, someone of stature in the legal academic community, excellent with students and faculty, and a good fund-raiser. The qualifications for the Yale Law deanship seemed so embarrassingly obvious to me that I began to wonder why I was wasting my colleague's time even mentioning them. They were obvious because they reflected the degree to which Guido Calabresi took an office and made it over in his own image, to the benefit of the entire and extended Yale Law School community.

Guido is a world-class scholar, a status that is difficult for any academic, but particularly for a legal academic, to achieve, given the degree to which foreign legal systems differ from our own. Some have suggested that Guido enjoys receiving honorary degrees so that he can sport ever more spectacular caps and gowns at each year's Yale Commencement. But most know, in view of his achievements as a founding father of the "Law and Economics" movement in American legal thought, as a constitutional scholar, and as a keen commentator on the intersections among medical ethics, law and social policy, Guido Calabresi has spread his reputation far and wide, with predictable results.

That he has been a hit with students can easily be discerned at each University Commencement when the chant "Guido, Guido, Guido" bursts spontaneously from the lips of Law School graduates seated among thousands of their families, friends and fellow degree recipients in Yale's Old Campus. A few years ago, law students at a number of schools around the country decided to organize a "Diversity Day" to protest the limited number of minority-group faculty members. At Yale, not un-

* B.A. 1963, Hamilton College; L.L.B. 1966, Yale University; Solicitor General of the United States of America. These remarks were delivered at the Tenth Anniversary Banquet of *The Journal of Contemporary Health Law and Policy*, April 8, 1994, in Washington, D.C. President William J. Clinton nominated Dean Calabresi to fill a seat on the United States Court of Appeals for the Second Circuit on February 9, 1994.

characteristically, the day included a series of speeches delivered precariously by both students and faculty from an ancient table midway down the center corridor that runs the length of the Law School. During the afternoon, Guido decided to climb up on the table and make a few remarks about Yale's efforts to achieve diversity. Soon, thereafter, Guido and the students entered into serious discussion about his talk, about the genuineness of the Law School's commitment to minority recruitment and the degree to which that commitment had produced results. During that conversation, then-President Benno Schmidt arrived and concluded that Guido was under heavy attack from the student audience. Benno rose to Guido's defense, only to have the students not so politely say that they knew that Guido was a good fellow, in fact that they *loved* Guido. Otherwise, why would they feel so free to beat up on him? Benno decided that he had other battles to fight and returned to his office.

The students' love and admiration is a reflection, first, of *his* love and admiration for them. But it is also a consequence of his responsiveness, his respect for them as colleagues and his ability to impart to the entire student body, not just to those who are fortunate enough to take his classes, his love affair with law and learning. Guido has the ability of a headwaiter in a first class restaurant, to describe the intellectual specials at Yale Law School in a way that makes students ravenously hungry. By the way, you have not seen a commencement until you have experienced the one at Yale Law School. When weather permits an outdoor ceremony, the process of getting about one hundred and sixty graduates across the grassy platform in the Law School courtyard takes about twice as long because Guido either kisses, or is kissed by or exchanges kisses and hugs with, every graduate. In fact, I have thought at times as I sat with the faculty as an eyewitness to this remarkable process that I could calibrate with some precision the nature of Guido's positive relationships with the graduates by measuring the extent to which, and by how many feet, he advanced toward them before they could reach him.

As a fund-raiser, Guido has broken all records at the Law School. The enthusiasm that students have for him seems to grow even more intense after they leave New Haven. And even those who did not have the benefit of his tutoring have been stirred to unprecedented acts of generosity by Guido's deep commitment to the Law School, his challenging vision for the institution ("The Golden Age of the Yale Law School Is Yet to Come" is his motto) and his ability to make alumni, years out of Yale, feel as though they were back on Wall Street in New Haven. Speaking of Wall Street, I have watched with my own eyes, Guido, offering more than

a match for floor traders on the American Stock Exchange, instigate and then referee by telephone, receiver in each hand, a bidding war between two of my very wealthy classmates to make a bigger contribution to our twenty-fifth reunion gift. They knew what Guido was up to and loved every minute of it. As a result of his efforts, my class gave more to the Law School than the same class at another counterpart institution to the north that will remain nameless, despite its being many hundreds of students larger.

Guido's support for faculty members has also been exemplary, encouraging our scholarly pursuits, underwriting conferences and symposia, faculty workshops and discussion groups that give the Law School the "intellectually yeasty" atmosphere that attracts and holds excellent faculty. Of course, there are times when we have reason to doubt Guido's invocation of unwritten Law School rules that favor his position when faculty meetings become disputatious. But it really takes a person of Guido's intellectual and forensic gifts to explain with a straight face the distinctions among meetings of the Faculty, of the Expanded Governing Board and the Governing Board. Give up? The Governing Board is the Law School's tenured faculty. I talked a couple of years back to a professor from a sister school who described for me some of the fractiousness of his faculty. I told him that we sometimes had heated debates but Guido was always able to calm things down with a few well-distributed hugs to the combatants. And, after all, how many law school deans remember to call members of their faculty to wish them happy birthday, and in Italian no less!

As I reflected on Guido as dean, I came to a very sobering conclusion. Won't Yale Law School need at least two people to fill his shoes?

My portrait of Guido would be incomplete if I failed to acknowledge his and Anne's enormous contributions to the Greater New Haven Community in ways too numerous to list this evening. Guido for all of his worldly ways and stellar achievements, and Anne have never forgotten the less fortunate among us, those who could use a helping hand.

Having said all of this about Guido, I must make clear that I am doing so despite something of a professional conflict of interest. You see, one of the Solicitor General's responsibilities is to authorize what are called petitions for rehearings *en banc* (rehearings by the full court of appeals) when a panel of three judges has ruled against the Government. Or the Solicitor General may decide to seek review directly from the Supreme Court in such cases. On the day that Guido's nomination was announced,

I called him and told him that I had a proposition; if he got it “right,” I would not seek rehearing *en banc* or Supreme Court review of his decisions. For once, he was speechless and properly so.

Let me tell you something, as I am accustomed to saying these days, off the record, not for attribution, and in my personal, not official capacity, I am certain he *will* get it right. Why should he stop now?
All the best, Guido.

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