

# Tributes

## Tom Emerson: The Scholar as Hero

Guido Calabresi†

When I think of Tom Emerson—and I think of him a lot—there is one word that immediately comes to mind: courage. To be sure, Tom was many, many things, and each of them could more than justify calling him great. He was the preeminent First Amendment scholar of our time. He was the kind of teacher who inspired his students—not by flash or flare, but by depth of knowledge, intense affection, and utter probity of judgment that let them know that he would always support them, and at the same time never let them get away with careless or shoddy work. He was the committed reformer who, in and out of government, worked endlessly to make this world a better, more decent, and more caring place.

Yet each of these sides of Tom, though a sufficient basis for all the honors he received and for the esteem and affection all felt for him, do not begin to capture Tom the person. Tom Emerson *was* the great teacher, scholar, and social activist who in his old age received the encomia of the establishment. But he was much, much more. It is that which makes Tom's memory burn in my heart and in my mind.

Long before Tom was honored, Tom was banished. And it is this Tom Emerson—"Tommy the Commy," Tom the outcast, Tom the voice in the wilderness—that I remember and honor most. For it is this Tom Emerson who exhibited the strength and deep inner integrity to speak out and be calumniated again and again and quietly and calmly, but without equivocation, say yet again

---

† Dean and Sterling Professor of Law, Yale Law School.

that certain things were not to be tolerated. It is this Tom Emerson that I miss most.

It is this Tom Emerson, even more than Tom the overarching scholar, whom we desperately need today. We look around and see a government of cynics who use racial fears to divide us. We see a Supreme Court that, in its eagerness to execute those whom *it* deems guilty, cares little for precedent, logic, or human decency. And we long for someone to say so, regardless of what may befall. We long for Tom.

But Tom is gone and we remain. Let us dedicate ourselves to his memory. Let us, like Tom, always and unfailingly be polite. Let us, like Tom, always listen to the other point of view. But let us also, like Tom, never mince words, never trim, and never, *never* stop seeking to make our law, our government, our whole society a worthier place.

It is rare that a great scholar has heroic qualities. Tom, that most unlikely of shining knights, had them. And it is that Tom—Tom the hero, the scholar as hero—that I will remember most.