2016

In Memoriam: Abner J. Mikva (1926-2016)

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I first met Abner Mikva in May 1970, when he was a forty-four-year-old freshman congressman representing Hyde Park, Woodlawn, and South Shore. President Richard Nixon had just announced the invasion of Cambodia, and campuses all over the country were in an uproar, including Kent State University, where the National Guard shot and killed four students during a protest.

Along with Geof Stone, I was part of a four-student delegation from the Law School that drove to Washington to participate in the law student lobby against the war in Vietnam. We spent several days visiting offices of Illinois congressmen and senators, urging them to oppose the war. Our base of operations was in Congressman Mikva’s office. He and Congressman Sid Yates were the only members of the congressional delegation who had spoken out against the war, and he was generous in giving advice to four law students whose passion far exceeded our judgment when it came to knowing how to get through to the mostly conventional old white men who populated the Illinois delegation.

Over the next forty-five years I watched Ab Mikva give generously of his time to literally thousands of passionate, naïve young people like Geof and I were in 1970. It took me a long time to fully understand why he felt it was so important to do that. But more on that subject later.
I had the good fortune to serve as Congressman Mikva's legislative assistant during his second term in 1971–1972. During those two years I was privileged to observe at close range, and to learn from, the qualities that made Ab Mikva such a respected and effective legislator (and later, judge).

First, he never confused the importance of his office with personal importance. Congress and the executive branch were full of powerful men whose belief in their own self-importance too often seemed to blind them to the interests they were supposed to be serving. Ab Mikva certainly understood that he had an important job—to do what he could to make sure that life, liberty, and the pursuit of happiness were guaranteed equally to all Americans, especially those whose race and gender had precluded them from enjoying full equality when the Constitution was first written and adopted by the white males who governed the country at that time. But he never thought that having an important job with important responsibilities made him any better or more important than his constituents or his staff or anyone else. He was open and accessible, and utterly without pretense.

During my first month working on Capitol Hill, I was awed by the place and the people around me. I felt every bit the neophyte, and lived in fear of blundering in some way that would make my cluelessness evident. That day wasn't long coming. Late one afternoon the congressman's chief of staff handed me a sheaf of papers and ordered me to deliver them to the congressman in the lobby of the House chamber at the Capitol immediately—"And don't get them wet, take the underground tunnel."

For weeks I had avoided the Byzantine maze of underground tunnels that connected the House office buildings to the Capitol, convinced I would get hopelessly lost. But I didn't dare go outside. It was pouring cats and dogs, with a driving wind. The only way to keep the papers dry was to brave the tunnels. Of course I got lost and felt like a complete idiot when I had to ask someone for directions to the Capitol.

After I delivered the papers I turned to leave, but the congressman told me to wait. He reviewed the material and ducked out of the corridor into the House chamber for a few minutes. When he returned, he said, "I figured that would do the job. Come on, let's go back to the office. Is it still pouring out there?" When I told him it was, he said we should take the underground tunnel.
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I didn’t pay close attention, but it seemed like we were taking a different route than the one I had taken coming over to the Capitol. At some point he stopped, looked around, laughed aloud, and said, “This doesn’t look right. I’ve been in this job for more than two years and I still get lost down here.”

I breathed a huge sigh of relief. If Congressman Mikva hadn’t mastered this maze after two years, how was I supposed to figure it out in my first month on the job? He had given me permission to learn by doing, to be unafraid of making the kinds of mistakes that are inevitable when you lack experience, and, most important of all, to be straightforward about acknowledging my mistakes (as he had been).

The second quality Abner Mikva exemplified was an abiding respect for the rule of law, and for the US Constitution. In his eyes no objective, however worthy, justified violating the constitutional constraints that bind the power of government.

One of my tasks was to sift through the pile of “Dear Colleague” letters that arrived every day from other members of Congress soliciting cosponsors for a bill. My job was to put each one in the YES, NO, or MAYBE pile. After nine months of doing this every day, I became confident in my ability to accurately sort the Dear Colleague letters. Very few went into the MAYBE pile anymore.

Late one afternoon I was summoned to the congressman’s inner office. As I took a seat in the chair across the desk, I saw he was holding a Dear Colleague letter in his hand. He had a look of disappointment on his face that set my mind racing. What had I done? What had I missed?

It was a Dear Colleague letter from his friend, close ally, and University of Chicago Law School classmate, Patsy Mink, the progressive Democratic congresswoman from Hawaii. She had asked him to join her and other liberal Democratic members of Congress in filing an amicus brief with the Supreme Court in support of environmental organizations suing the Atomic Energy Commission to halt proposed underground testing of nuclear weapons on Amchitka Island in Alaska. I knew the congressman had cosponsored Congresswoman Mink’s bill to prohibit such testing. It had seemed like an easy YES.

For the next ten minutes I was treated to a lecture on the importance of the separation of powers. What it amounted to was, “If Congress doesn’t have the votes to prohibit the AEC from conducting nuclear tests on Amchitka Island, we have no business
asking another branch of government to do our job for us.” Never again did I lose sight of the fact that no matter how strongly Abner Mikva felt about the merits of a given issue, he felt more strongly about respecting the integrity of the boundaries imposed by the Constitution.

The third enduring lesson I learned during my two-year apprenticeship was the importance of civility, a trait sorely absent from today’s public discourse. One day I was frantically searching for the congressman. I needed to impart some facts to him, correcting information I had given him that morning which had turned out to be incomplete. His chief of staff kept trying to brush me off, but I ignored her signals and kept pestering her. Exasperated, she finally told me, “Well if you must know he’s in the gym playing racquetball with Dick Ichord, so you will just have to wait until he gets back.”

I was stunned. How could he be consorting with the enemy like that? Hadn’t I drafted passionate speeches for him, denouncing the House Un-American Activities Committee, which Congressman Ichord chaired, and calling for its abolition? Hadn’t he sponsored legislation to abolish the committee, and called upon his colleagues to cosponsor it? I was irate. I felt betrayed. And I guess I let it show.

When he returned to the office he met for a while with his chief of staff. Then he called me in and said he heard I needed to see him. I gave him the information I wanted him to have. Then he said he’d heard I was upset that he’d been playing racquetball with Dick Ichord. I expressed my confusion, saying that I thought Ichord was the enemy. He patiently explained that just because you disagree with someone, even strongly, it doesn’t mean you can’t maintain a respectful, even amicable, personal relationship. In fact, he went on, it’s difficult to accomplish anything in a legislature full of different people representing all the different points of view in a country as diverse as the United States, if you can’t find a way to build personal relationships with people you disagree with.

It’s a lesson a lot of lawyers never learn, often to the detriment of their clients.

Finally, I come back to the place where I began. For most of the forty years I knew and loved and admired Abner Mikva, it baffled me how he maintained his optimism about democratic self-government in general, and Congress in particular. My experience of both left me increasingly cynical and disillusioned.
It wasn’t until the Mikva Challenge program expanded from Chicago to Washington, DC, two years ago, and I got involved in it personally, that I finally understood the secret to Ab’s boundless optimism. He always surrounded himself with young people who were passionate and naive enough to believe that they could change the world for the better. That was why he encouraged his staff not to stay on the Hill too long, but to go back where they came from and get involved in the life of the community, including political life. That was why he insisted on hosting legions of summer interns in his congressional office, even though it took the staff far more time to figure out what to do with them than it saved in terms of productive additional work being done. And that was why he said that the Mikva Challenge program gave him more pleasure than anything else he and his wife Zoe ever did (other than raising their children and grandchildren). He thrived on the energy and passion of the high school students who got turned on to the excitement and personal empowerment that comes from participating in the democratic process. He loved showing them how to channel their anger and frustration over injustice and governmental wrongheadedness into civic action that can lead to positive change. And it gave him hope for the future. Just as it gives me renewed hope when I volunteer to help out in classrooms in Washington, DC, where Mikva Challenge teachers are helping students develop skills in public speaking and issue analysis, so they can live the credo of the Mikva Challenge program, that “Democracy Is a Verb.” It is something you do, not something you just read about in a book.

Abner Mikva exemplified that credo throughout his career in public service. The responsibility now falls to the rest of us to engage as many young people as we can in becoming active citizens, just as Ab engaged so many of us.

The only time I ever saw Ab’s optimism waver was in the months before his death when he contemplated the current presidential primary election cycle and worried about the continuing polarization of the electorate. He was convinced that the best antidote is increased participation—that if 90 percent of America’s eligible voters cast ballots in every election instead of fewer than 40 percent as in the 2014 midterm elections, government would look very different in terms of the kinds of people who run for office and the kinds of people who get elected. The impact of special interests, single-issue voting blocs, and super PACs would all diminish. He even suggested we ought to consider compulsory
voting laws, as in Australia, Belgium, and more than twenty other countries. (I'm not sure it was coincidental that President Barack Obama floated the same notion a month later in a speech in Cleveland.)

But that challenge will have to be left to the next generation. For ninety years Ab Mikva did more than his part to preserve, protect, and defend the Constitution and the best of American democratic self-government. May he rest in peace.
By the time I came to the Law School, Abner Mikva was firmly ensconced as a judge on the DC Circuit. He was one of the white-haired legal giants standing beside the likes of Judges Skelly Wright and David Bazelon, someone who looked as if he had always worn a judicial robe. He was a loyal and distinguished alumnus of the Law School, someone who would occasionally reach out to urge us to hire a particularly promising law clerk (such as a young lawyer named Elena Kagan).

But it was quite another Abner Mikva that I came to know later. That he might not be someone who lived entirely on Mount Olympus first suggested itself when I saw a movie comedy starring Kevin Kline and noticed that the actor playing the chief justice swearing in a new president was Abner Mikva. Most judges did not do comedy.

More was revealed shortly after he left the bench and became White House counsel. A group of friends of the Law School gathered at a lunch to hear him provide a cogent account of the challenges that the executive branch was confronting. Before he delved into the details, however, he began with the observation that, in taking his current job, he had disregarded the advice that his former partner (and later Supreme Court justice) Arthur Goldberg gave him as a young lawyer. Ab was warned that he should never have a practice that was too dependent on one client. And he had not followed that advice. “After forty years,” he told us, “look at where I am. I have only one client. He is a lawyer. And his wife is a lawyer. And they both live above my office.”

A cheerful idealism and boundless optimism never left the eager young law student who, on arriving on Chicago’s political scene, found that nobody wanted someone nobody sent, and this is the Abner Mikva I came to know when he returned to the Law School after his time putting out fires in the Clinton White House.

Ab was a happy warrior who lived comfortably in multiple worlds. When he was back at the Law School, he was completely at home as a teacher and a mentor, and he never took his finger

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off the pulse of the body politic. You could learn more about what was happening in local and national politics while standing in line with Ab in the Green Lounge than you could from reading any newspaper. What about a reform politician with an impeccable record and long experience? “You can't support him,” Ab would say. “He just isn't going to win.”

During Barack Obama’s long primary campaign for the United States Senate, Ab was beaming with confidence. The confidence mystified us. Obama was in an eight-person field. He had been running a distant third just a few weeks before the election, but Ab was completely confident. Then the two candidates in front of Obama imploded, just as a perfectly timed advertising campaign hit the airwaves. Early on the morning after Obama’s victory, we again found a beaming Ab standing in line in the Green Lounge. How did Ab know that he was going to win? It was simple. “Barack has the gift that every politician needs—he’s lucky!”

The same wisdom and optimism was present during Ab’s last visit to the Law School. The occasion was Obama’s return to the Law School. We had to wait for a long time, but the time passed quickly for those of us who found ourselves again in line with Ab, this time for security. It was a long wait, but Ab was as upbeat as ever, as connected as ever, and looking forward, not backward. We were lucky to have him with us.
Adam O. Emmerich†

In death, as in life, Abner Mikva has been an inspiration to me. The flood of admiration, affection, and anecdote that has poured forth following Judge Mikva's death, and in celebration of his ninetieth birthday just this year—from the president, Supreme Court justices (and nominees), senators, congresspersons, governors, mayors, elected representatives at every level of government, from children and grandchildren, from young people caught up in the excitement and promise of the Mikva Challenge, and from colleagues and mentees from every walk of life—has been impressive in every respect, and profoundly affecting. Those of us who had the privilege of working for the judge were not surprised; we felt the same way when we were honored to clerk for him, and we have treasured that magic year as we made our way in life and the law. Still, we were humbled to learn again all of the ways in which the judge fought fiercely to make our world a better place, on the broadest possible tapestry of national and international affairs, and the time and love he gave so freely to so many, family, friends, colleagues, and mentees, in their legions.

The Abner Mikva story has been well told by many articulate and witty people, who knew him well throughout his years of service and accomplishment. (And in some cases well before, going back as far as the maternity ward, in the case of Newt Minow.) It would not be my place to retell those chapters. I will stick to what I know best, which is what a great lawyer, great judge, and great boss Judge Mikva was.

Judge Mikva’s prowess as a lawyer's lawyer is often overlooked in accounts of his life. Of course, there is the obligatory mention of his service as Editor-in-Chief of this Law Review. The Law Review, as he thought of it then, as we thought of it when I had the privilege of serving, and as I am sure the students and editors at The University of Chicago Law School still do today. And oftentimes also a retelling of one of the first great Abner

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Mikva stories—the proposed merger of The Law Review with that East Coast competitor, the Harvard Law Review, in response to that school's offer of cut-price subscriptions for law students not fortunate enough to attend an institution with its own law review. Then-Editor-in-Chief Mikva famously wrote back to Harvard, saying:

Thank you so much for your generous offer, but the University of Chicago has a quite distinguished law review of its own. But your proposal raises an interesting possibility. Perhaps we should merge our two law reviews and create a single law review that would clearly dominate over all competitors. I know there might be a problem about the name, so I suggest a simple solution: We use the first half of our name and the second half of yours. Hence, the new journal would be known as The University of Chicago Law Review.

As in the famous law review merger proposal, such is Judge Mikva's puckish, humane, disarming persona, and such is the scope of Judge Mikva's accomplishments on a broad stage of politics and public affairs—as a charismatic catalyst for mobilizing fervent volunteers at the grassroots in his political campaigns, as a reforming legislator, as a man who dreamed of big change in society and made a dent in achieving that mission—that his intellect, insight, and craftsmanship as a lawyer are often given less prominence than would be the case had Mikva not been such a great human being, who excelled and achieved in so many ways.

To put it simply, Judge Mikva was a great lawyer and a great judge. Given that he came to the DC Circuit from Congress, it would not be unfair to say that there was something of a suspicion that Judge Mikva would approach the business of the court with the sensibility of the congressman he had been. That was never the case. Judge Mikva understood what was going on in the vastly complex cases arising out of the regulatory state, which made up the meat and potatoes of the court's business. He understood the intricacies and obscurities of the legislative mandates being carried out, and understood the politics and personality that make the federal government and its organs human, complex, unpredictable, and intractable. But this experience and insight were icing on the cake of the discipline and rigor Judge Mikva brought to his time on the DC Circuit. He was first and foremost a consummate jurist. A well-informed, insightful, no-baloney jurist, but also one who was as razor-sharp a lawyer as one could imagine.
There is no court in our country more intimately involved with both the executive and legislative branches than is the DC Circuit. The Supreme Court of course has the last word, and its great pronouncements in administrative law and statutory interpretation provide a frame within which the regulatory state and its agencies must operate and against which the actions of the executive, the independent agencies, and the legislature must be measured and tested. But the business end of that measurement, review, and, when necessary, correction is the DC Circuit. No one understood that better than Judge Mikva, and he was uniquely qualified for that role.

The breadth of cases that Judge Mikva participated in hearing and deciding during my time in his chambers speaks eloquently to the scope of the regulatory state that exists in our United States. A small sample of the more interesting such cases might include those listed in the attached appendix. In each case, Judge Mikva dug deep, mastered (easily, I might add) the facts and the law, got the context of things (including oftentimes the extremes of advocacy that clients or counsel had demanded or resorted to), and engaged intensely with his clerks, his colleagues on the bench, and counsel at argument to test his own thinking and analysis. He was never too proud to take account of something he had overlooked or incompletely understood, and the process of thinking and drafting and ultimately common law-making in which we participated during our clerkship has provided a lifetime foundation on which we have all built.

Judge Mikva was equally a scholar of the law. A speech delivered by Judge Mikva at the American University Law Review's banquet during the time I clerked for him well demonstrates the judge's sophisticated understanding of the relationship between a reviewing court and an administrative agency. Judge Mikva came close to criticizing, but did not quite criticize, the Supreme Court's Chevron decision. He acknowledged the Supreme Court's supremacy, but suggested that lower courts would suffer from confusion and uncertainty as a result of the Supreme Court having "muffle[d] the beat" and created a standard of "deference" no more certain than the length of the chancellor's foot. This was

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2 Id at 9.
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classic Judge Mikva, putting complicated legal concepts in commonsense, profoundly insightful, and not in the least pedantic terms.

While Judge Mikva brought intellect and insight to bear on the important, intricate, and sprawling administrative procedure docket of the DC Circuit, he never gave less than his all to cases with a more human scale—the repeat offender challenging the fairness of his trial, the lone plaintiff who faced discrimination on the job. Judge Mikva never forgot that litigants were real people with real problems, looking to the law for help. One of the judge’s greatest qualities was his compassion for the human condition, with all its frailties. He genuinely liked people, and believed it was a privilege to serve them. That feeling was contagious, and we clerks equally felt it a privilege to serve in Judge Mikva’s chambers.

It is often said in these sorts of tributes that we shall not see his like again. For the sake of our polity, I hope that the work Judge Mikva did in his lifetime, in Congress, on the bench, in the White House, and most of all in the Mikva Challenge, will encourage and inspire many others to follow in his footsteps (including in the law, which is, properly understood and lived, always a branch of public service); to bring to bear the same passion, loyalty, intellect, aspiration, pragmatism, and good fellowship that characterized all that Judge Mikva did in his life, and in all his relationships, including with those of us fortunate to spend an intense year with him; and to chip away at making the world a better place. Most of us will have trouble approaching being anything like the person Judge Mikva was and doing anything like what he achieved. But no one would be prouder or happier than Judge Mikva to have encouraged the effort or in the accomplishment. He was a mensch, and we shall miss him.
APPENDIX A. SELECTED DC CIRCUIT 1985–86 CASES

Population Institute v McPherson, 797 F2d 1062 (DC Cir 1986), concerning a dispute between a grantee of the UN Fund for Population Activities and the administrator of the Agency for International Development, in which the former alleged that the latter had improperly withheld funds earmarked by Congress.

Community Nutrition Institute v Young, 773 F2d 1356 (DC Cir 1985), regarding a challenge to the FDA’s decision to approve, without a public hearing, aspartame’s use as a food additive in liquids.

San Luis Obispo Mothers for Peace v United States Nuclear Regulatory Commission, 789 F2d 26 (DC Cir 1986) (en banc) (Mikva concurring in part and concurring in result in part), reviewing the Nuclear Regulatory Commission’s grant of certain licenses for nuclear power plants, in light of a challenge that, among other things, the Commission had acted arbitrarily and capriciously in failing to consider earthquakes.

Gregg v Barrett, 771 F2d 539 (DC Cir 1985), in which certain members of Congress and other private plaintiffs brought suit alleging that the preparation of the Congressional Record was defective, rejecting the suit as to the members of Congress on separation-of-powers grounds under the doctrine of remedial discretion and as to the private plaintiffs on First Amendment grounds.

Thompson Medical Co v FTC, 791 F2d 189 (DC Cir 1986), in which a challenge to an FTC order concerning labeling and advertising requirements for an over-the-counter medication was rejected by considering not only the FTC order on its own but also whether and how the FTC and FDA could both exercise review over medication, noting that drug advertising and drug safety could indeed represent another instance of “overlapping and concurring regulatory jurisdiction.” Id at 192.

Dameron v Washington Magazine, Inc, 779 F2d 736 (DC Cir 1985), concerning the allegedly libelous publication by The Washingtonian of an article in which it asserted that air traffic controllers had been partly responsible for certain airplane crashes and discussing both the official report privilege, given NTSB reports on the crashes, and the public figure doctrine (though applied, by the court’s own admission, to an “involuntary, limited-purpose public figure”), rejecting the application of the former, but concluding the latter applied to protect the publication in this instance. Id at 737.
Randolph-Sheppard Vendors of America v Weinberger, 795 F2d 90 (DC Cir 1986), involving a suit under the Randolph-Sheppard Act which required that blind persons licensed by state agencies be given priority to operate vending facilities on federal property.

Reuters Ltd v FCC, 781 F2d 946 (DC Cir 1986), reviewing the decision of the FCC to rescind certain microwave radio station licenses in a manner that would represent a departure from its own rules and regulations.

Grano v Barry, 783 F2d 1104 (DC Cir 1986), considering an appeal on recovery of attorney fees under the Civil Rights Attorney's Fees Awards Act in connection with citizens seeking to prevent the demolition of a historic tavern.

In re AOV Industries, Inc, 792 F2d 1140 (DC Cir 1986), as to the appropriate standard for challenges to bankruptcy reorganization plans being dismissed as moot.

Fink v National Savings and Trust Co, 772 F2d 951 (DC Cir 1985), which arose from an ERISA dispute, and dealt with, among other issues, the liability of cofiduciaries of an ERISA trust fund for breaches of fiduciary duty by the trustee.

Brown v Marsh, 777 F2d 8 (DC Cir 1985), in which a civilian Army employee brought a Title VII suit alleging race discrimination, and dealing with exhaustion of administrative remedies and the consultation of an EEO counselor, in a case that had been, in some form or the other, pending for well over a decade.

Mudd v United States, 798 F2d 1509 (DC Cir 1986), finding that a trial order limiting the right of a criminal defendant to consult with counsel on the defendant's testimony during a weekend recess violated the Sixth Amendment without the need for a showing of prejudice.
Elena Kagan†

I owe Ab Mikva a lot. He gave me my first real job, which was clerking for him. He recommended me for my second job, clerking for Justice Thurgood Marshall. Then he helped me get my fourth job (as far as I know, he had nothing to do with my third); that was as a professor at The University of Chicago Law School, where Ab had gone and where he was always held in exceptionally high esteem. And finally, Ab gave me my fifth job, as an associate counsel to President Bill Clinton (although by the time I arrived at the White House, Ab was on the verge of leaving it). Ab Mikva, it’s something of an understatement to say, had a ton to do with my career. I wouldn’t be where I am now if not for him.

And I’m sure I’m not the only one in debt to Ab in that way. The Judge was a great boss (more on this soon); but he was an equally great ex-boss, generous far beyond the common measure. He was a counselor and a champion to his former clerks. When one of us called, he listened carefully and gave supremely wise advice; then he might call back the next day because he had thought of something to add—or, still more likely, he had thought of a way he could assist. Once, a few years after our clerkship, one of my coclerks asked to discuss a matter with him, and Ab took him to breakfast at the congressional dining room, which apparently the Judge still presided over as a kind of mayor. One poached egg (Ab’s standard breakfast) later, my coclerk’s problem was solved—and he had met what seemed like half of the House of Representatives.

Ab’s tenure as a congressman had not a little to do with the kind of judge he was. I don’t mean at all that he viewed the one job as the same as the other. Quite the opposite. I remember the first case I worked on for him concerned an administrative action that Ab pretty clearly would have voted to authorize in the role of congressman. But the law as it was didn’t support what the agency had done, and I wrote an elaborate bench memo saying so—elaborate because I thought, at that early stage of the clerkship, that the Judge might need some convincing. Of course, the only thing the Judge thought was wrong with my memo was that

† Associate Justice, Supreme Court of the United States.

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it went on for far too long; the Judge saw the case as easy, and made clear to me that the next time out, I didn't have to strain so hard. He well knew—and deeply respected—the difference between politics and law.

But he also understood the intersection between the two spheres—which is to say that his knowledge of government and policymaking made his legal work more grounded and, because more grounded, better. When I began to clerk for him, the use of legislative history as an aid to statutory interpretation was a hot topic, as to some extent it remains. More than any other judge I can think of, Ab could and did distinguish among different kinds of legislative history, and show why some were reliable and some weren't. In case after case, he demonstrated an intuitive feel for how Congress operated, and for how to read and understand its work product. And similarly, he had a pitch-perfect sense, derived from Congress's oversight duties, for what really happened in administrative agencies and what one could—and couldn't—reasonably expect from them. In short, his experience in Congress made him a model DC Circuit judge; he understood at a granular level, which most judges simply don't, all the diverse governmental actions it was his job to review.

For me, the other notable aspect of his work on the bench had much to do with his personality: he was a happy warrior, who loved the vim and vigor of debate among judges. At the time I clerked, the balance of the DC Circuit had tipped against Ab on many of the cases he cared most about. But the Judge wasn't one to mope or, still less, to give up. He played the part of the loyal opposition with gusto. He worked hard to engage his more conservative colleagues, principally with reasons and arguments but also with good fellowship and humor. And because of his never-say-die attitude and energy, he sometimes managed to achieve at least partial victories. When that wasn't the case, he could let it rip; what he called his perorations—which no clerk, in my year anyway, ever learned to imitate—could be pretty fierce. But once a dissent was done, the opinions in the books, he reengaged with his colleagues, showing the sincere respect he had for them—and for the judicial process itself—by trying, in yet another case, to persuade them.

So Judge Mikva taught me about law and judging; but he also taught me and all his clerks about how to live a good and honorable life, and about what it means to have a great and generous soul. He cared about the right things: his country, his city, his
colleagues and friends, and of course his family—Zoe and his daughters and grandchildren, of whom he was terrifically proud. He was idealistic always—not starry-eyed, but optimistic, with a deep faith in the governmental institutions he was part of and in the people they served. He had boundless personal warmth, a wonderful laugh, and a sense of sheer fun (I remember how he relished driving around in his convertible, which he referred to as his "toy"). He had a kind of radiant decency, which brought joy to everyone lucky enough to know him. How many judges are really lovable? How many are truly beloved? Abner Mikva, for one.
It all began for me in the fall of 1968. My hair was longer and a lot darker. I was just out of school and about to start my career as a teacher at Bloom Township High School. Viet Nam, civil rights, and pollution were issues occupying my attention—so was the Democratic Convention in Chicago. My father urged me to get involved in politics, and he convinced me to go to an event in Calumet City and listen to our state representative, Tony Scariano.

While I thought Scariano was terrific, I was blown away by another man who spoke, Abner Mikva, who was running for Congress in an overlapping district. A state representative himself, Mikva had challenged the Daley Machine, was against the war, was great on civil rights, and on and on.

I signed up for Citizens for Mikva that day. I learned how to canvas in that campaign. It was fun, and it was easy. Scariano and Mikva won. Winning in politics was easy.

In the summer of 1970, I volunteered in Ab’s congressional office. There I met Genie Ermoyan: sweet as could be and tough as nails. Dave Cleverdon and Leon Davis were also on Ab’s staff, and they convinced me to organize the Ninth Ward of Chicago for the upcoming election. We won. Ab beat a man named Harold Marks by a three-to-one margin. Winning elections was not that difficult.

I went back to teaching, although my dream was to someday be a college math professor. One day in May 1971, I opened the mail only to find a letter from Saint Louis University offering a full fellowship. As I began to celebrate that evening, I received a call from Ab, a champion of public education whose wife was a schoolteacher. After telling him my good news, Ab said, “Aw, forget teaching. Come and work for me. There are plenty of good teachers.” I did as he said.

The first day on the job, Genie told me that the operational word in this job is flexibility. I learned more about this flexibility four months later once I had settled into this new job. Genie had

† Treasurer, Mikva Challenge Foundation; Former Campaign Manager, Citizens for Mikva.
The congressional staff over to her apartment to celebrate my twenty-fifth birthday. At about ten o'clock, Ab called to give us the news. The Illinois Supreme Court had ruled that a Republican-sponsored congressional remap bill, which had been stalled in the legislature, was now the law. The old Second Congressional District, like all Gaul, was divided into three parts. Ab was now in the same district as his good friend Ralph Metcalfe.

There was a district north of Chicago with no incumbent. So Ab said, “Look at the numbers. Could we win there?” The numbers were not encouraging, as no Democrat had been elected there since 1880. However, Adlai Stevenson had come close in the last election. And it did include Evanston. Besides, Ab’s elections were easy!

I remember driving on Dempster from the lake to Des Plaines, then back along Sheridan in New Trier. What were we doing here? How would we ever organize a campaign here? Ab said we could.

The local newspapers gave Ab’s name a new prefix: “South Side, Liberal, Carpetbagger.” The primary election was tough, but we won. Now we faced a general election in a Republican district against Sam Young. Where did Sam come from? After all, it was Sam who once told the congregation at Beth Israel that “some of my best friends live in Skokie.” At the first debate, at New Trier West High School, we had packed the audience. Sam started his tirade on Ab by listing all of the missile systems and defense programs Ab had voted against, and with each one the crowd cheered louder until he had them all on their feet. I am not sure Sam ever did figure out that it was Ab they were applauding for those votes.

The 1972 election night was tough. Ab seemed to take it the best of all of us. After all, he knew how his plan would work out in the end. It was just one battle, lost by 7,459 votes. He knew it would get better.

In 1974, Henry Bayer took over the precinct operation after having turned Evanston into a well-oiled machine in 1972. Henry was the best organizer I have ever met. Report nights, when area chairmen called in their canvassing progress, were feared by those who did not produce. And if they did not call in, they would be called! Henry worked on a twenty-four-hour clock; there was always time to track down a delinquent volunteer. Typical report nights went well into the mornings. One special night, Henry was particularly upset with Young, and, besides, the canvassing was not going as well as he wanted. I noticed he had Jim Epstein and
Jerry Esrig looking up phone numbers off of some letterhead. I assumed he was tracking down volunteers who had not yet reported. But calling them at three in the morning seemed a bit harsh. Soon Henry got on the phone and started calling, one by one, the Doctors for Young Committee, confirming their support and asking for additional contributions.

Of course, we had committee problems of our own. Each year, our Lawyers for Mikva Committee continued to grow. We started 1974 by calling those lawyers who signed on in the previous campaign to make sure we could still use their names. We then went on to build the list. Later, we discovered that when one man was called—call him Bill Smith—our volunteer thanked him for his support and then asked to speak to his brother, Ed. He said Ed was not there but we could certainly use his name, too. Soon after, we mailed out our solicitation to lawyers, displaying proudly our long list of Lawyers for Mikva. Mike Royko, then of the Daily News, was so impressed with this effort that he dedicated a column to it. After all, Ab was well-known as a reformer, a man of strong character and ethics. And as only Royko could do, he pointed out that one lawyer, Ed Smith, was in prison, doing time in Stateville Penitentiary, and wasn’t that an interesting endorsement? (That explains why Ed could not come to the phone.)

It all played out as Ab knew it would in 1974. It was a great victory party at the White Eagle in Niles. We had five thousand volunteers on the street that day. We won by a margin of 2,878 votes (50.09 percent of the vote). Compared to the next one, it was a landslide.

What a great campaign it was in 1976. We had a plan for registering college students during the summer and making sure that they got absentee ballots in the fall. After all, most, although not all, of those votes were ours. This was the only disagreement I ever had with any of the Mikva women. Laurie Mikva was working hard on this project and did not like my plan of beginning our phone calls to students by asking if they were for Ab. She wanted to register every student; it was the right thing to do. I recall saying, “We’re not out to save the world; we’re just trying to elect a congressman. If they’re Republicans, let them register themselves.” Jim Epstein then made a comment about what an inspiration I was to these young people.

The Kantors in the first campaign, Judy Gaynor in the next two, and then Julian Berman in the fourth were responsible for
fundraising feats. The most often heard comment from our contributors was that it was like sending a child to college—except that it took six years. In 1972, it cost $200,000. By 1976, it was more than $400,000. Judy seemed to have one event after another, always very classy—and always raising lots of money. I'll never forget the grand opening of Arnie's. Arnie Morton, the famous Chicago restauranteur, donated his restaurant for a reception before it opened to the public. It was a magnificent place on Rush Street with crystal chandeliers. Judy called me the day of the event to say attendance was not looking good and to ask me to help get some bodies to fill it up. I called our campaign offices and told our student interns there was a free meal available at Arnie's. Of course, they all showed up, splendid in their jeans, cutoffs, and Mikva T-shirts, to join our contributors at the gala. I thought Judy was going to faint as they devoured the shrimp table. Unfortunately, Arnie himself was there, and he was not pleased.

Election night was long in 1976. In fact, it took about a week. Our count had us losing when we went to bed. It was not until the official canvas that we discovered we had actually won by 201 votes: 106,806 to 106,605. Sam challenged the election, and we went through a recount. Our victory held. Then Sam went to Congress and challenged it again. House Resolution 527 dismissed Sam's challenge, and Ab then came to be known as "Landslide Mikva" in the Democratic Caucus.

HR 527 was adopted in May 1977, marking the end of Sam Young's political career. I retired that year, too, to try my hand at the private sector.

Bob Perkins and Greg Kinczewski took over in 1978 with a new challenger, John Porter. It was a very tough year for Democrats, but Ab won by 1,190 votes, five times the margin of 1976.

For a full decade, we never worked harder, believed stronger, or grew more than in those campaigns. It was Ab's plan all along to give us that. And for that we are all so very grateful.
Ronald S. Miller†

Other contributors to this special issue celebrating the life of Abner Mikva will cover his many extraordinary accomplishments from another point of view. His story is truly a version of the "American Dream" writ large. I concentrate on my good fortune in associating for over fifty-five years with a man who was my boss, my law partner, my role model, and most of all my great good friend.

Ab was one of the partners who in 1960 interviewed and hired me as an associate in my present law firm, then known as Goldberg, Devoe, Shadur & Mikva. Ab was at that time chairman of the Illinois House of Representatives Judiciary Committee. Traveling with him to California and New York on legal matters provided me ample time to absorb his wise, progressive views on legal, political, and social issues.

I also worked for Ab in his unsuccessful 1966 primary campaign for US representative and in his successful campaigns for US Congress in 1968 and thereafter. The 1968 political season was filled with history-making events. The evening of the Democratic Convention riots found my future partner Mike Shakman and me in bond court acting as pro bono counsel for demonstrators being arrested haphazardly for "disorderly conduct" and "resisting arrest" charges. Toward the end of the processing, Ab showed up from Illinois Democratic Headquarters to help. About midnight the three of us proceeded to the sidewalk outside of the Hilton Hotel. It was at the last stages of what the Walker Committee later described as a "police riot." Ab was outraged. He had finally received the reluctant endorsement of Mayor Richard J. Daley. However, he now assumed that the US attorney, appointed at the recommendation of the powerful Daley, could not objectively prosecute the attacks on the demonstrators' civil rights. Ab decided to call a press conference for the following morning to request a special independent prosecutor. He knew this move would further deteriorate his already shaky standing with the powerful mayor. But he did not hesitate. The press conference was held—a true profile in political courage! Shortly thereafter, in November 1968,

† Partner, Miller Shakman & Beem, Chicago, Illinois.
Abner was overwhelmingly elected and soon became an important leader, rising to the chairmanship of the influential Democratic Study Group in 1979.

I have been a board member of the DC-based Lawyers’ Committee for Civil Rights under Law since 1977. Therefore, I had numerous occasions to travel to DC, always making it a point to visit with Ab either at his court of appeals chambers or for dinner. One dinner in 1986 with Abner and Arthur J. Goldberg, a founder of our law firm, was particularly memorable. For two hours I sat in silent awe absorbing Goldberg’s stories of his career as general counsel for the United Steelworkers, secretary of labor, Supreme Court justice, and UN ambassador. Ab also recounted his own stories of life in the Illinois House of Representatives, as the chairman of the US House Democratic Study Group, and as a judge on the DC Circuit Court of Appeals.

Ab became chief judge of the DC Circuit Court in 1991. In 1994, President Bill Clinton asked that he step down from that lofty pinnacle to become White House counsel. This meant giving up lifetime tenure, diminution of judicial pension rights, and relinquishment of other important benefits. However, Ab did not hesitate to honor his president’s request. Thus, Abner Mikva became one of the very few individuals to have served in high positions in all three branches of the US government.

In 1996, Ab and his equally accomplished wife Zoe returned to Chicago. He joined the faculty of his alma mater, The University of Chicago Law School, as a professor and director of the Mandel Legal Aid Clinic. In mid-2000, he suggested that my wife Pat and I join him in a small gathering to meet a fellow law school professor, Illinois State Senator Barack Obama. Senator Obama was then running against the incumbent, Representative Bobby Rush, in the primary for the US House of Representatives. I had never heard of Obama. After hearing him speak at that small gathering I turned to my wife and expressed my highest possible political praise, “He is another Ab Mikva!” I proceeded to support Obama’s political aspirations, and endeavored to enable him to become better known to important community leaders.

I was able to do this because since 1995 we have conducted, principally at our Miller Shakman & Beem law firm conference room, a monthly discussion group of thirty-five to forty-five persons, known as “The Public Affairs Roundtable.” This group consists of many community leaders in law, journalism, and government. Accordingly, I invited Obama to join the group, at first as
In Memoriam: Abner J. Mikva (1926–2016)

an attendee and subsequently as a discussion leader. Abner, who attended most of the meetings, continued to be an important mentor and supporter as Obama moved politically onward and upward, ultimately to the pinnacle as president of the United States.

Soon after the Mikvas returned to Chicago, I introduced Ab to another outstanding Roundtable attendee, Dr. Leon Lederman. Lederman, a Nobel laureate for physics, was at that time serving as director of the US accelerator laboratory known generally as “Fermilab.” These two great citizens, both sons of poor, Yiddish-speaking immigrants, had much in common, including a passion for justice and participatory democracy plus a well-developed sense of humor. For many years, and several times annually, Pat and I would drive with the Mikvas to Batavia for cocktails and dinner with the Ledermans on the grounds of Fermilab. The round trip could take up to three hours, which gave the Millers a wonderful opportunity to hear uninterrupted episodes of Ab and Zoe’s remarkable careers.

In the twenty-year history of the Public Affairs Roundtable, Abner led five sessions. Two of those sessions combined him with his lifelong friend, the equally accomplished former FCC Chairman Newton Minow. These two great Americans were born four days apart in the same Milwaukee hospital. They had each served as editor-in-chief of their respective law reviews, had clerked at the same time for two US Supreme Court justices, and had gone on to separate distinguished careers in law, government, and foundation chairmanships. In 2006, they reached eighty years of age. We conducted a wonderful Roundtable session at which the two gentlemen reviewed their respective careers and commented on current events. In January 2016, we again scheduled a Roundtable session to coincide exactly with Ab’s ninetieth birthday date. As in 2006, the two great friends sat side-by-side as a parade of attendees showered them with respect and affection followed by a heartfelt group rendition of “Happy Birthday.”

In recent years Ab’s health began to fade. He therefore spent most of his time at home participating in the care of his beloved wife Zoe, who was also in poor health. Nevertheless, his lively interest and involvement in politics and current events continued unabated. To accommodate this situation, I arranged for many lunchtime mini-Roundtable sessions consisting of four or five politically and legally sophisticated friends who were regular Roundtable attendees. Ab often expressed his appreciation for my
organizational efforts. In truth, it was a labor of love since I and the invitees were eager to receive Ab's legal and political insights.

One final story demonstrates Ab's universal popularity. In mid-2015, a Saturday Chicago Tribune article stated that former US Representative Barney Frank, coarchitect of the Dodd-Frank Act, would appear the following Wednesday at a noon Union League Luncheon Club book signing. I assumed that Ab knew Frank and invited him to be my guest. I contacted the club and explained the relationship between Ab and Frank. The event organizer arranged for the three of us to be seated together during the lunch. When I told Frank that Ab would be seated with him, he said Ab was not only a great friend but one of his heroes. A lively conversation between the two took place over lunch.

When the time came for Frank to address the group, he opened his remarks by stating that present in the assemblage was a great American, one who had served in all three branches of the US government and was a mentor to many, including President Barack Obama. He stated that Obama had recently awarded Judge Mikva the Presidential Medal of Freedom, the nation's highest civilian honor. There followed a rousing round of applause. After the session, eight or ten people stood in line to shake Ab's hand, explaining where and how they had worked on his behalf, and expressing their continuing admiration and gratitude for all that he had done. Meanwhile, I stood silently by, watching and reminding myself of my extreme good fortune to have been a close friend of such a unique and outstanding citizen.
Newton N. Minow†

I was blessed to have Ab in my life from the very beginning. We were born four days apart in the same Milwaukee hospital in January of 1926. Both of us had parents with Jewish roots who had come to Milwaukee from Ukraine in the early part of the twentieth century. My mother and father arrived as small children. Ab’s mother and father were older when they arrived years later. Ab and I both attended a fine public school, Washington High School, which provided a first-rate, excellent education. Judge Milton Shadur was ahead of us at Washington, and later was Ab’s law partner with Justice Arthur Goldberg before Milt became a distinguished federal judge in Chicago.

Adolf Hitler invaded Poland and the United States entered the war while Ab and I were in high school. At Washington, Ab and I competed for the same job, editor-in-chief of the Washington Scroll, our high school newspaper. Ab won the job, but made me sports editor, which showed his political skills; he told me it was a better job. We both were involved as debaters, and in all high school activities. We were both interested in the same girl—fortunately neither of us got her. There was a weekly poker game at Ab’s house with a five-cent limit for raises; Ab’s mother was a regular participant, and the game always produced many laughs and good spirits, with one eye on the war.

Ab enlisted in the Air Force and became an officer and navigator. I enlisted in the Army and became a sergeant in the China/Burma/India theater. We both survived safely and went to college and law school with the benefit of the GI Bill. Ab went to the University of Wisconsin, met Zoe, and then went to The University of Chicago Law School. I went to Northwestern, met Jo, and then went to Northwestern Law School. This time, each of us became editor-in-chief of our respective law reviews and were recommended for the same job: law clerk for Justice Sherman Minton at the Supreme Court of the United States.

I went to Washington for my interview with Minton, who told me he wanted to hire Midwestern students, but that he had a few

† Senior Counsel, Sidley Austin, LLP; Former Chairman; Federal Communications Commission.
days ago hired another young man from Chicago. He said his name was Miska or maybe Mifka. I said, “Mr. Justice, it is Mikva my childhood friend!” I called Ab from Washington to tell him the good news; Ab had not yet received Minton’s letter. I told him he had done it again, just as in Washington High School. However, I then got a lucky break because another law clerk vacancy developed with Chief Justice Fred Vinson, who hired Northwestern graduates, and I started work in the middle of the 1950–1951 term before Ab and Zoe arrived to serve in the 1951–1952 term. Jo found an apartment for Ab and Zoe near us in Parkfairfax, Virginia, and we served together at the Supreme Court along with my friend and later law partner, Howard Trienens.

A happy tradition at the Supreme Court is that each justice meets for lunch with all that term’s law clerks for an informal conversation in which the clerks ask the justice questions. The *Brown* case—whether to order desegregation of America’s public schools—was pending at the Court, but was delayed and postponed for argument and decision. Ab and I asked Justice Felix Frankfurter why the *Brown* case was not scheduled. Frankfurter responded, “Do you think we are going to decide that case in an election year?” Ab and I learned a lot that day.

In our law clerk class that term was another Milwaukee young man, William Rehnquist, later Chief Justice Rehnquist. Many years later, when Ab and I were planning a reunion at the Court with our term’s law clerks, I called the chief justice to ask if he would participate, he said yes on one condition: he would not be a player in the Trienens-Mikva poker game in which he consistently lost when we were all law clerks together in 1951 and 1952.

When Ab and I celebrated our ninetieth birthdays together this January, we agreed that we both were very lucky to have long, happy marriages, Ab with Zoe, and me with Jo. We also agreed that our most important contributions were that each of us has three daughters. Of the six daughters, five are lawyers—all in some form of public service—and one a rabbi, all doing good in the world.

We were involved in all Ab’s political campaigns, and I often served as campaign treasurer. One story about the 1978 campaign, his last: Late in the campaign, Ab called me to report that the President of the United States, Jimmy Carter, had offered to come to Chicago to campaign for him, but that we would have to pay a percentage of the Air Force One expense. I asked, “How much?” Ab said, “$25,000.” I said, “We don’t have $25,000.” Ab: “I
know, but the president says he knows you and he will come to your home for a brief fundraiser to raise the money.” I said, “Do you think it is worth it?” Ab: “Yes, by all means.” I said, “Ok,” and called my wife Jo who almost fainted but said, “Let’s do it for our dear friend, Abner.” So we did, and the president, with the Secret Service complete with sniffing dogs, arrived, with the Glencoe police chief observing that a president had never before entered the village. And Ab won the election—barely with a handful of votes.

We’ve all heard the story about Ab’s first entrance to Chicago politics, when he came to the Democratic Ward Committee Headquarters to volunteer. The committeeman, cigar in his mouth, asked, “Who sent you?” Ab said, “Nobody.” The committeeman removed the cigar from his mouth and said, “We don’t want nobody nobody sent.”

In July of 2016, Ab arrived in heaven, and at the entrance to the pearly gates, the committeeman for the District of Heaven asked, “Who sent you?” Ab said, “Nobody.” The committeeman asked, “What is your name?” and Ab said, “Abner Mikva.” The committeeman said, “Hold on. I’ll Google you and check your name.” After checking, he said, “Judge Mikva, welcome. There are two gentlemen here who also died on July 4 who have invited you for dinner, Thomas Jefferson and John Adams. Welcome and c’mon in!”
Geoffrey R. Stone†

In a radio address to America in 1931, George Bernard Shaw startled his audience with the following proposition: “Every person who owes his life to civilized society, and who has enjoyed ... its very costly protections and advantages, should appear at reasonable intervals before a properly qualified jury to justify his existence,” which, Shaw added, should be “summarily and painlessly terminated if he fails to justify it.”

Now, I do not advocate such a program. But I do believe that every one of us who enjoys the hardbought protections and advantages of our system of self-governance has a responsibility to justify his or her existence under it.

Abner J. Mikva passed this test with flying colors.

Ab Mikva grew up in Milwaukee during the Depression. After serving as a navigator in World War II, he attended college and then entered The University of Chicago as a law student in 1948. In his application for admission to the Law School, Ab declared: “I am fired up with an ambition and a desire to do well in a field of endeavor in which I can apply my reasoning powers as well as the formal education I have acquired. The logical answer is law.” Ab emphasized, however, that although “my plans for applying the training of law are not yet crystallized, I have a desire to enter public service.”

Inspired by the idealism of Democratic reform candidates Adlai Stevenson and Paul Douglas, who were running for governor and senator, respectively, in Illinois in 1948, Ab, a first-year law student, decided to volunteer to do some election work in Chicago’s Eighth Ward. This led to an exchange with a ward committeeman that demonstrated the conflicting worlds of an entrenched political organization and an idealistic young liberal.

“Who sent you?” asked the committeeman.

“Nobody.”

“We don’t want nobody nobody sent. We ain’t got no jobs.”

“I don’t want a job,” said Ab.

† Edward H. Levi Distinguished Service Professor of Law, The University of Chicago Law School.
"We don't want nobody that don't want a job. Where are you from anyway?"

"University of Chicago."

"We don't want nobody from The University of Chicago in this organization."

Returning to the rather more secure confines of his legal education, Ab excelled and, indeed, served as editor-in-chief of The University of Chicago Law Review. In this capacity, Ab wrote a truly memorable letter.

In 1950, the editor-in-chief of the Harvard Law Review wrote a letter to the deans of all law schools that did not then have a law review of their own, offering to sell subscriptions to the Harvard Law Review to the deprived students of such schools at a discount. Although The University of Chicago Law School had, in fact, published its own law review for some eighteen years, its existence apparently had escaped the attention of the students at Harvard Law School. When Dean Edward Levi received the invitation from the editors of the Harvard Law Review, he passed it on to the then-editor-in-chief, Ab Mikva.

In his letter responding to the invitation, Ab expressed his appreciation for the Harvard Law Review's generosity, but pointed out that The University of Chicago did, indeed, have a law review of its own. He suggested, however, that the editors of the Harvard Law Review might be interested in a merger of their two institutions. Noting that there might be some disagreement over the name of the new journal, Ab, demonstrating his emerging political skills, suggested a compromise. "I suggest," he wrote, that "we adopt the first half of our name and the second half of yours. The new journal would then sensibly be known as the University of Chicago Law Review."

After graduating from law school in 1951, Ab served as a law clerk to Justice Sherman Minton of the United States Supreme Court. He then returned to Chicago to practice law, but as indicated in his law school application, his ultimate goal was public service.

Thus, over the next twenty-five years, Ab battled the Chicago Democratic organization as a state representative, a congressman, and a private citizen, always fighting with boldness and tenacity. Early in his law practice, for example, Ab represented Times Film in a suit against the Chicago Police Movie Review Board. Chicago was then one of the few cities where every movie that opened had to be screened by a movie review board, which,
in Chicago's case, was made up of the widows of policemen. As one might expect, there were many movies the widows did not like. Ab took the case all the way to the United States Supreme Court. Although the Court declined to hold the ordinance invalid on its face, four justices concluded that it violated the First Amendment, and in time the widows' review board simply dribbled out of existence.

In 1956, Ab became the first liberal independent to wrest a seat in the Illinois House from the Chicago Democratic machine. In that role, Ab, along with then-Representative Paul Simon, fought vigorously for fair housing and against government corruption, earning him the enmity of Mayor Richard J. Daley. After ten years in the Illinois legislature, Ab was elected to the United States Congress from Illinois's Second District, in Chicago. Two years later, Daley, who, by the way, insisted on always referring to Ab as "that Mr. Mifka," redrew the district lines so as to eliminate Ab's district. This, I assure you, was no accident. Undeterred, Ab promptly moved to the North Shore, where he won several more terms in the United States House of Representatives.

In 1979, President Jimmy Carter appointed Ab to the United States Court of Appeals for the District of Columbia Circuit, where he distinguished himself as one of the most prominent jurists in the nation and, in so doing, remained true to the vision he had first brought to his legal education thirty years earlier.

I recently read through all of Judge Mikva's opinions dealing with the freedom of speech and press, my own area of special affection. Not surprisingly, these opinions lay bare a keen analytical mind, a ferocious commitment to individual freedom, a deep respect for precedent, and a passion for clear, straightforward, and honest exposition. In many of these decisions, Judge Mikva boldly protected core First Amendment rights in complex and often controversial settings.

In Action for Children's Television v FCC, for example, he invalidated an order of the FCC that barred all radio and television broadcasts of "indecent" material; in Community for Creative Non-violence v Turner, a case reminiscent of Times Film Corp v City of Chicago, Judge Mikva held unconstitutional a regulation of the Washington Metropolitan Area Transit Authority requiring all persons seeking to engage in free speech activity on Transit

1 See generally Times Film Corp v City of Chicago, 365 US 43 (1961).
2 932 F2d 1504 (DC Cir 1991).
3 893 F2d 1387 (DC Cir 1990).
Authority property to first obtain a permit; and in *Big Mama Rag, Inc v United States,* Judge Mikva invalidated as unconstitutionally vague a Treasury Department regulation that resulted in the denial of tax-exempt status to a feminist-oriented educational organization. In each of these, and many other decisions, Judge Mikva added significantly to our unique constitutional commitment to a robust and wide-open public debate and discourse. I might add that I was also pleased to note that in several of these opinions he was kind enough to cite my own work—and not once as a “but see.”

After fifteen years on the bench, Ab Mikva was appointed White House counsel by President Bill Clinton. Thus, in a career spanning more than half a century, Judge Mikva served at both the state and federal levels, and in all three branches of the federal government. He also found time to be a distinguished private lawyer with a particular bent for public issue litigation, a lecturer, an educator, and even a scholar.

After leaving the White House, Professor Mikva returned to his alma mater and, as a member of the faculty of The University of Chicago Law School, taught courses and seminars on “The Legislative Process,” learning experiences that were consistently described by his students as, and I quote from student course evaluations, “brilliant,” “insightful,” “enriching,” and “inspiring.”

In more recent years, Ab served as senior director of The University of Chicago’s Mandel Legal Aid Clinic; in 2004, he served as an international election monitor of Ukraine’s contested presidential election; in 2006, he was named chair of the Illinois Human Rights Commission; and in 2009, Ab was asked by Governor Pat Quinn to help straighten out the University of Illinois’s admissions scandal. Like the Energizer Bunny, Ab just kept on ticking.

As icing on the cake, in 1997 Ab and his incredible wife Zoe established the Mikva Challenge, a civil leadership program for Chicago youth that serves more than five thousand Chicago youths each year by getting them involved in the democratic process and by creating civic activism projects that enable them to work to improve their schools and local communities.

Through it all, Ab has brought a rare intelligence, wisdom, integrity, decency, and generosity of spirit to all he has done and to all the many lives he has touched. He is, indeed, the exemplar

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5 631 F2d 1030 (DC Cir 1980).
of the *public* citizen. Ab Mikva would have made even George Bernard Shaw smile.
I first heard of Abner Mikva when I was a college student on the East Coast. I had no connection to Chicago, but there were national news stories about a Democratic member of Congress from a mostly Republican suburban Chicago district who repeatedly won reelection by comically narrow margins—and, instead of playing it safe, used his time in Congress to push for gun control, thereby antagonizing the National Rifle Association, a famously powerful lobbying group. I later found out that that was part of a pattern with Ab. He entered politics as a reformer who took on the Richard J. Daley machine. He was first elected to Congress from a Chicago district; as if gun control weren't controversial enough, he opposed the Vietnam War and supported reproductive rights. Mayor Daley saw to it that the boundaries of the district were redrawn to leave Ab without a constituency, so he moved to the North Shore suburbs and won a seat in Congress from there.

He left Congress when President Jimmy Carter appointed him to the DC Circuit. There, among other things, he wrote an opinion upholding the right of a gay soldier to serve in the armed forces. That decision was overturned by the en banc court; Ab had to wait a couple of decades for history to vindicate him. President Bill Clinton made Ab his White House counsel. When he left that position, he and Zoe Mikva started the Mikva Challenge. He taught at Northwestern and at our law school. He had the career that an idealistic law student might dream of having.

To be idealistic in words and actions is one thing; to be a good person is, sometimes, another. There are those liberal visionaries who, as the saying has it, love humankind but hate people. Ab was a liberal visionary who was great with people. He was an energetic, gregarious, buoyant presence around our law school. He got to know people; he came to lunch; he went to workshops and lectures; he engaged people about the work they were doing. He was always friendly, always upbeat, always ready either to have a conversation about something important or just to make small talk. And, needless to say, if you were around Ab and wanted to

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† Gerald Ratner Distinguished Service Professor of Law, The University of Chicago Law School.
learn things you'd otherwise never know about politics and politicians, you had definitely found the right guy.

"This blessed place," he once called the Law School, in a speech at an alumni event. That is, let's face it, a pretty over-the-top description. It's also a description that was sure to be a crowd-pleaser at an alumni event. But, coming from Ab, it was not forced or contrived. It just reflected his characteristic enthusiasm and his cheerful way of connecting with people. While Ab was on the Law School faculty, if someone who he thought was deserving was in line for a job or an honor, Ab would not just make the phone call; he'd offer to organize a campaign. If you were discouraged about the way things were going in the country, he talked about the bright side and bucked you up.

When our then-colleague and Ab's protégé Barack Obama took his first step into national politics by running in the Democratic Party primary for the House of Representatives, Ab immediately wanted to help organize an event at the Law School. State Senator Obama lost badly in the primary, but it was the last election he ever lost. Many years, and a political era, later, in April 2016, when President Obama visited the Law School near the end of his second term, I was near Ab in the line to get photographs taken with the president. It would have been completely understandable if a ninety-year-old former politician began to reminisce about presidents he had known, or about his role in fostering Obama's historic presidency. Ab wasn't about to do any of that. He wanted to talk about how the president's approval rating in the polls had recently gone up.

It's easy, and a cliché, to be cynical about politicians, and no doubt many of them deserve it. But I don't see how you could know about what Ab did in his public career—and know how he was in the rest of his life—and stay cynical. The clients and constituents he represented; the people who benefited from the causes he fought for; the young people whose lives have been changed by the Mikva Challenge; and those of us who were his colleagues for a time—we all are very lucky to have crossed paths with this remarkable person.