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## Randolph W. Thrower: A Tribute

William H. Bradley

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## **RANDOLPH W. THROWER: A TRIBUTE**

*William H. Bradley\**

It is a mark of our success and growth as an institution that so many of us now present never had the chance to practice with Randolph, although he remained active until well into his eighties. It is not hyperbole to say that he was a giant—in our firm, in the legal profession, and as a human being. He was truly the complete lawyer. I can't, in a few minutes, touch on everything, and I won't try. But here are a few things.

He loved his family, and he and Margaret, a lovely and beautiful woman, had a marriage of more than seventy years. Randolph would not take offense to hear me say that she was his better half.

He loved our law firm, and he spent his entire legal career with us beginning in 1936, except for his time in the Internal Revenue Service, and during the war years when he was in the FBI and then in the Marine Corps. He was dedicated to excellence, and he defined the concept of “firm citizen” with full participation in all firm activities.

Looking out on today's group of partners, it is hard to recall that there was a time when the firm was exclusively white and male. Randolph was a leader in promoting both racial and gender diversity.

He was a superb legal technician with a deep knowledge of the Internal Revenue Code. Among other things, he pioneered the development of the regulations permitting LIFO accounting for businesses. And later, when he was Commissioner of Internal Revenue, he participated heavily in drafting the Tax Reform Act of 1969.

He demanded full preparation from everyone who worked with him, and, back in the day when we wrote extended legal memos, his assignments would often begin, “Read every case . . .”

He was a fierce advocate for his clients, and he didn't shy away from a fight. But he was always the voice of reason and restraint and was a superb and

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\* William H. Bradley is a Senior Partner at the law firm of Sutherland Asbill & Brennan LLP. He delivered remarks to his fellow partners following Randolph Thrower's passing. The following piece reflects the spirit and substance of those remarks.

patient negotiator. On more than one occasion, I remember being at the Internal Revenue Service with Randolph when we were arguing some position. He would let me have at it, and I would go round and round with the IRS representatives, getting nowhere. He would just watch with a sort of bemused expression, and then, when everyone was worn out, would say, “What I think you’re saying is . . .,” and suddenly everyone would have to agree on the solution he suggested.

At a time when regular office hours extended through midday on Saturday, he was an indefatigable worker. Sunday’s weren’t off limits either, and there would be regular calls to associates to drop by the house for a swim and a sandwich on a Sunday afternoon, and “Maybe we can go over a few things . . .”

He believed strongly in public service, and that was key to his service as Commissioner of Internal Revenue—that, and his internal courage and sense of integrity, which made him willing to be fired from a position he loved. The public record reveals two such instances when his sense of integrity led him to be crosswise with the White House. The first was his development of a position that a private school that adopted a pervasively discriminatory policy was acting contrary to public policy, and therefore, under the common law was not a “charity” and was not entitled to be exempt from tax. That position was later upheld by the United States Supreme Court. But he withstood bitter political opposition as he formulated it within the IRS. Second, and better known, was his response to the White House when he was directed to initiate tax audits of people on the so-called “enemies list.” His response was, sure, we’ll audit them, just like everyone else, when their names come up through the regular audit selection process. That cost him his job. What was remarkable was that he was never bitter, and he never sought the recognition that came to him when the Watergate tapes were released and his courage and integrity were evident. But if you ever went with him to a meeting at the IRS, you could see the respect he had earned among the professionals at the agency.

His experience with the IRS did not chill his willingness to take on other difficult, and often thankless, assignments in public service. In 1975, he was appointed by Maynard Jackson, then the Mayor of Atlanta, to investigate a scandal involving organized cheating by Atlanta police officers on promotional exams, and issued a report that led to the dismissal of the Atlanta Police Commissioner. Later, he served for twelve years as the Chair of the Atlanta Board of Ethics, advising the Mayor on ethical issues.

Last September, the firm recognized Randolph's 100th birthday by presenting him with a book of best wishes and by making a substantial contribution to the Atlanta Legal Aid Society, an organization that he had championed throughout his career. Our inscription was as follows:

*Dear Randolph:*

*For more than 75 years, we have been honored that you have chosen to be our colleague and partner, and we have all benefitted immeasurably from your leadership, your guidance, and the example you have set for generations of Sutherland lawyers, demonstrating that effective advocacy for our clients is not compromised by adherence to the highest ethical standards. Now, on the occasion of your 100th birthday, we are delighted to join in making a gift of \$100,000 to the Atlanta Legal Aid Society in your name. We wish you a Happy 100th Birthday.*

*The Partners of Sutherland Asbill & Brennan LLP*

I thought I would close by quoting a couple of paragraphs from his lecture on Ethics in the Tax Profession, which he presented to the American College of Tax Counsel in 2001. He noted:

Ideally, and in its highest and best sense, the ethics of our profession amounts to a positive moral quality that pervades the profession of law. This positive moral quality justifies the reference to law as an "honored profession" and lawyers being given preferred positions and responsibilities in society. Ethics are a spirit and a culture.<sup>1</sup>

He went on to describe some "termites" that he worried were eating at the ethical foundations of today's law firms:

Leading my list of termites is the "bottom line." As law firms grow in size by the hundreds and offices are placed in numerous cities, the bottom line can easily become the one common measure of value. It is a very practical common denominator that all within a firm can recognize. An attractive bottom line helps to keep partners together and to attract associates at increasingly skyrocketing salaries. The danger is that it can move beyond being merely a common denominator and become an uncompromising dominator controlling all of our important decisions. Unswerving dedication to the bottom line is a threat to our ethical standards and can be against the interests

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<sup>1</sup> Randolph W. Thrower, Partner, Sutherland Asbill & Brennan LLP, 2001 Erwin N. Griswold Lecture Before the American College of Tax Counsel: Is the Tax Bar Going Casual—Ethically? (Jan. 2001), in 54 TAX LAW. 797, 799 (2001).

of our clients, the public interest, and, in the long run, our own interests.

A prominent hand maiden of the bottom line is “billable hours.” Lawyers provide for their clients a mixture of time and talent. Keeping an accurate record of time is essential for fair billing to a client and for analysis by a firm of its own operations. However, firm pressures, competitive conditions among lawyers, and financial stimuli can cause an unconscionable increase in a lawyer’s working hours. The dominant pressure can be to build hours rather than to serve clients.<sup>2</sup>

His prescient analysis and cautionary words are well worth remembering as we honor his memory.

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<sup>2</sup> *Id.* at 801.