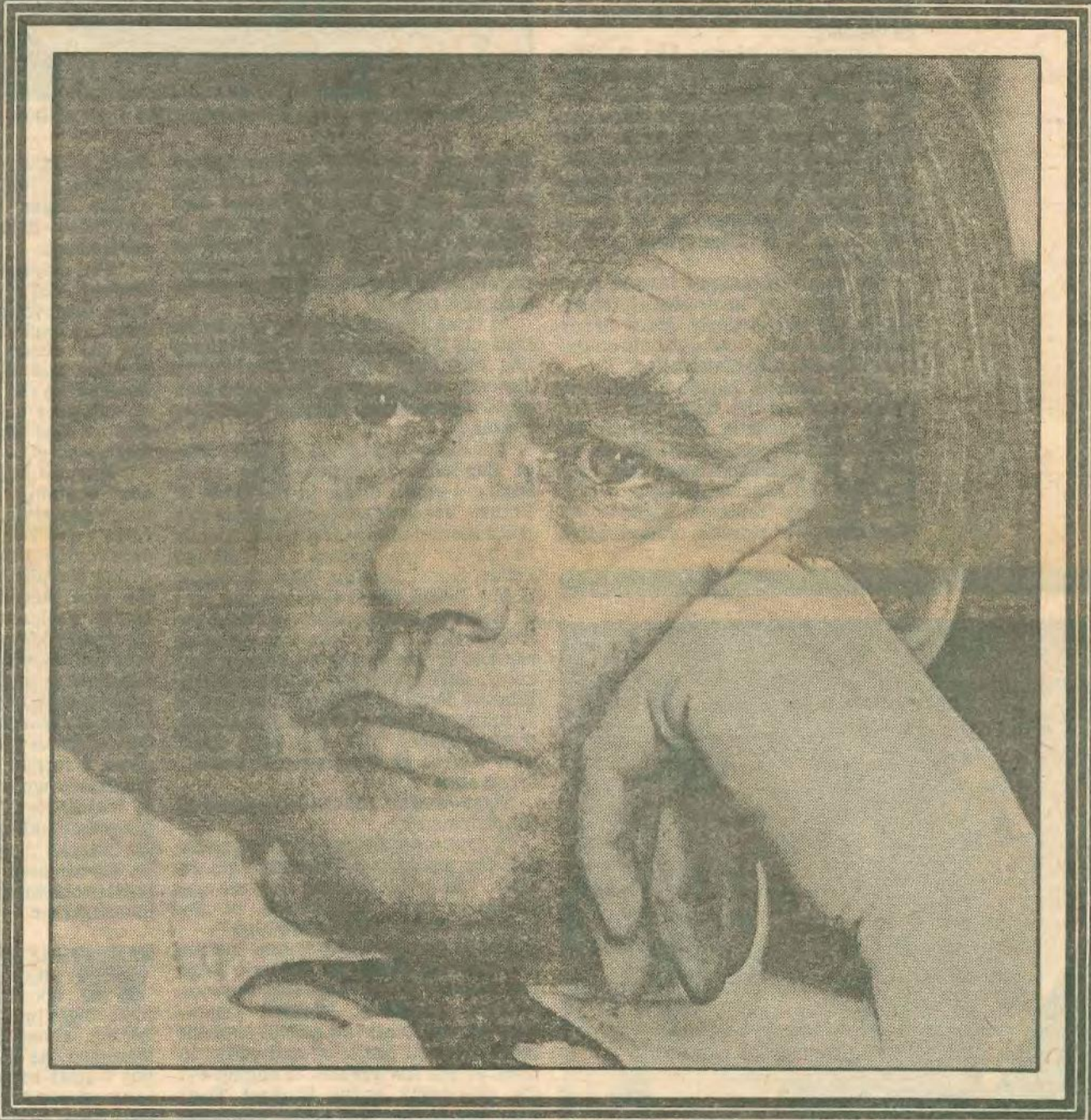


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# Manhattan



## **MICHAEL TIGAR: OUT OF LEFT FIELD**

***Liberals are asking why a one-time leftist whiz kid has taken on the Abscam defense of John Murphy, conservative New York City congressman***

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hurt Murphy. From now on Tigar's legal ammunition will be aimed at the elements and tactics of the indictments themselves. No mixed feelings about them.

"When you look at the tapes, it's clear that the agents are behaving outrageously," says Tigar. "It's also clear to me that this is, despite the protestations of senior officials at the Department of Justice, an investigation conceived and run basically by a little band of relatively junior civil servants, prosecutors and FBI agents who are minor in the hierarchy but relatively major in years of service."

**W**HAT IT ALL comes down to, says Tigar, "is that whether I agree or disagree with Murphy's politics—and I disagree with them—a little band of civil servants has tried to determine who's going to present the 17th district in New York." If that's true, they've failed so far. Murphy edged out three opponents in his primary on Sept. 9th.

As Tigar talks about the conception of his book of a "jurisprudence of insurgency"—the use of innovative legal thinking to advance social causes through law—the message comes through that Michael Tigar does not believe he has turned his back on the left. His political vocabulary seems to back him up.

"The focus of our cases has been to attack investigative techniques of the American secret police, and in the Letelier case, of foreign secret police agencies as well, which are nothing but the stepchildren of American secret police. And I mean the FBI, the CIA, and other assorted agencies whose activities we regard as historically inimical to the development of left movements in the U.S. and to the development of democratic rights in the U.S. We did that in Truong (David Truong), a Vietnamese convicted of espionage in Virginia two years ago, Letelier, Murphy, and you look down the list of our clients and you'll see a lot of that expertise, a lot of that concern."

It's easy to scoff at Tigar's explanations for defending Murphy, but it's hardly a rationalization cooked up on the spot. Asked more than 10 years ago how he could defend someone like Bobby Baker, he told a Washington Post reporter that his main concern was "the methods of repression available to the government, the ways in which it can clamp down on those it decides to punish."

Like the list of Michael Tigar's clients, the bric-a-brac that line the walls and corridors of Tigar and Buffone suggests conflicts, incongruities, and unutterable partnerships.

In Tigar's office, there are photos of young Michael Tigar at work, inscribed by "his godfather" Edward Bennett Williams, pillar of the Washington establishment. A picture of SDS students at George Washington University also occupies wall space, as does a testament to a less rebellious pupil—a certificate of perfect public school attendance awarded to Michael Tigar for the month of January 1951.

Out in the corridor, it's the same. A framed Scott Tissue advertisement from years ago that asks, "Is Your Washroom Breeding Bolsheviks?" decorates the walls along with inscribed photos from "saddle pal" Gene Autry and Roy Rogers and Trigger. It makes you wonder whether there could even be one in the attic from that old cowhand who's running for president.

"I arrived at U.C.L.A. the same time as Angela Davis," says Tigar, recalling his brief employment there as a law professor in the '60s, a period that saw

him bring in Tommy Smothers to lecture to an administrative law class and the Guerrilla Theater for "some didactic purpose" he no longer remembers.

"Fred Dutton (a member of the Board of Regents) used to tell me that every month at the Regents meeting, Ronald Reagan would have only three things he wanted to talk about—how many dirty magazines were being sold in the student unions on the campus of the university system, how to fire Angela Davis, and how to fire me."

In Tigar's case, strategy wasn't needed. When Tigar started representing Davis and the Seattle 8 as well as teaching, signals were sent out that led to his resignation.

It was not the first time that Tigar's political activity had cost him.

His loss of the Brennan clerkship in 1966 followed attacks by conservative



Michael Tigar: he is indignant when talking about Murphy's indictment.



H. Rap Brown



Pat Cunningham



Angela Davis



John Connally

spokesmen on the appointment. Former Rep. William Tuck of Virginia, then a member of the House Un-American Activities Committee, called it "horrible and shocking." Tigar's feelings about the episode remain complicated by his general admiration for Brennan.

**'B**RENNAN HAS never said a word in public on this subject and I don't think he ever will," he comments. "I don't think I'd ask him to. What the hell would he say?"

Tigar won't describe what happened when he and Brennan met just before the withdrawal, but he quickly volunteers file copies of correspondence with Brennan to show that the job had definitely been offered and accepted before it slipped away that summer. The fullest account of the incident, one Tigar will neither confirm nor deny, appeared in an article written at the time by Andrew Kopkind for The New Republic. According to Kopkind, Brennan asked Tigar for a statement about his political activities. Tigar supplied it, but bridled at Brennan's request that the Justice be free to share and discuss the information with others. While Tigar was still mulling whether to concede on that point, according to Kopkind, Brennan called him and told him that he had lost the job whatever he decided.

Talking about the episode now, Tigar's tone swings from blithe unconcern to plain bitterness.

"I didn't have to sit up there at night and read 'cert' petitions for a year," he says at one point with a bored expression. "Instead I got to practice with Ed Williams." But pressed on the matter, Tigar reveals that it bothered him then. "It was a considerable personal inconvenience. I had two children, a lease on a house, \$20, and no job. Literally, I had 20 bucks."

Yet he also had a reputation as one of the most brilliant law students to go through Berkeley in years, so Tigar, the son of a machinists' union official

in Los Angeles, landed on his feet at Williams and Connally. From that fast-action spot—he made partner in 1976 before leaving to form Tigar and Buffone—he continued to consolidate the reputation that makes Michael Tigar the only person around who claims to be less than hugely impressed by Michael Tigar.

"I reject adjectives like 'brilliant' as self-characterization," he says of the word others often use about him. His own explanation of his school record is succinct: "Somebody told me that if you spend an hour more a day studying than everyone else in the class, then you'll do better than they will." Tigar says he shunned the study groups and canned course outlines that many law students depend on in favor of typing his notes every day and summarizing, or "briefing," as lawyers say, every case assigned to him his first two years.

Today, no matter what the subject—the mathematics of running a 35% pro bono firm, the radicals who thought they could control the courtroom as a forum, his third marriage to an associate at Fulbright and Jaworski and their life in a 1754 country house in Waterford, Va.—Michael Tigar sounds very little like the radical lawyer many purport to find missing-in-action.

He makes a case in person—and his book supports it—that he never believed in the "apocalyptic vision of sudden, dramatic social change" that some accepted as inevitable in the '60s and that many still associate as readily with him as they do with some of his clients. Ten years after Time magazine described Tigar as "determined to perform as a lawyer, not a polemicist," he is making similar-sounds.

"It would be a terrible conceit for me to think I could tear down the system," he says. "Everybody who's thought that he could as an individual has either been a nut or has become some kind of intolerable tyrant. All I want to do is understand the process of which I'm a part and have some honorable role in moving it forward." ■

*Tigar's services have been available to a cross section of political types, including the four shown above.*

# Michael Tigar: out of left field

By CARLIN ROMANO

*"The law is not an end in itself, nor does it provide ends. It is preeminently a means to serve what we think is right. —Justice William J. Brennan, Roth v. United States, 354, U.S. 476 (1957)*

**S**CENE FROM A summer morning. Attorney Michael Tigar rises from the roll-top desk in his Washington office. He excuses himself to grab a cigarette outside, ambling past the Giorgio Armani jacket in an open box by the door.

A secretary informs him that Pat Cunningham, New York's former state Democratic chairman, had called earlier, seeking advice on a possible conflict of interest faced by former New York City Council President Paul O'Dwyer. Tigar gets on the phone, suggests that there's nothing to worry about, and advises the person on the line to "tell them to f— themselves" if they don't like it.

"We don't take ethics lessons from the government," he grumbles, returning to his swivel chair and a hands-behind-the-head, cowboy-boots-on-the-table effort at self-examination.

All of Michael Tigar's clients have wings. Most of the time, they're left wings. But recently the 39-year old Washington lawyer, known for his expertise in "political" cases, has been handling the Abscam defense of Rep. John Murphy (D-Staten Island/Lower Manhattan)—a staunch conservative,



Rep. John Murphy: friends recommended Tigar as best lawyer for his defense.

friend and supporter of assassinated Nicaraguan strongman Anastasio Somoza, and an all-round leftist dart-board. Murphy's long-delayed trial in Federal Court in Brooklyn begins on November 5th and some Movement people think that Michael Tigar may be losing his stripes.

"I think Michael is going to lose his instincts if he continues to take clients like Murphy," says one Washington attorney and friend of Tigar who feels that representing Murphy "just goes too far."

Yet the author of "Law and the Rise of Capitalism," a book Tigar wrote during a year's hiatus in the south of France, has always been available to a cross section of political types. Angela Davis, H. Rap Brown, the Chicago Seven, Isabel Letelier, John Connally, Bobby Baker, Cesar Chavez's son, two of Malcolm X's assassins—all have entrusted their legal fates at one time or another to the leftist whiz from Berkeley, once a protege of superlawyer Edward Bennett Williams and now a founding partner of Tigar and Buffone, a five-member "35% pro bono firm" with offices in Washington's Dupo. Circle area.

Tigar himself acknowledges one of the reasons why.

"I have a reputation for going to the mat for anybody I represent," he asserts. "If we've decided that we are taking a case, then we're in the trenches. We're 100% for winning."

That's just the attitude that has the left worried about its one-time legal boy wonder. Some think that the competitive, ambitious Michael Tigar—number one in his law school class all three years at Berkeley and editor in chief of the law review—is edging out the politically active Michael Tigar who lost a Supreme Court clerkship with Justice Brennan after conservative outcry and went on to lead the antidraft legal battles of the '60s as editor of the Selective Service Law Reporter.

Because Tigar has done heavy spade work for leftist causes over the years—a commitment that continues through his firm's unusually high percentage of pro bono work—few of his traditional allies wish to criticize him publicly. William Kunstler, probably the left's most flamboyant counsel and the subject of some ideological scrutiny himself these days, nonetheless did. He called Tigar's defense of Murphy "a horror, just a horror," in a recent issue of *The American Lawyer*. (Kunstler later turned up in federal court to assist in the legal effort to get videotapes of Murphy released to the public.) One Washington lawyer familiar with Tigar and his career thinks he's doing it out of "a need for publicity." The more common response of

those politically sympathetic to Tigar is that he's "just paying the bills."

But Tigar quickly rejects such rationales—in regard to Murphy or any other client.

"The paying cases that we take, Murphy among them, we select after some discussion of what those cases mean or might mean," he says, choosing his words slowly. "We make a decision that this case is right to be in because, on the whole, it sits well with us and does not disserve, in any way that we find unacceptable, the values that we have."

"Murphy knows what our politics are," continues Tigar in his polite yet tough-guy style. "He knows the other cases we've had, who we represent. We didn't call him up."

Yet Murphy didn't call Tigar out of the blue. According to the congressman's Washington office, Tigar has represented Murphy on unrelated matters for several years. Friends of the congressman, said an aide at the office, recommended Tigar as the best lawyer to handle Murphy's Abscam problems. One of those friends was Pat Cunningham, a former client of Tigar's (Cunningham's son works on Murphy's staff in Washington). Tigar denies that he has ever handled routine legal matters for Murphy, but he acknowledges that he represented Murphy in regard to legal problems related to the Koreagate investigation.

**W**HATEVER THE case, Murphy's friends needn't worry about his enthusiasm for the fight. Tigar bristles with indignation in talking about Murphy's indictment. Moreover, he has vigorously led Murphy's shift in tactics from clamoring for a speedy trial to resisting possible trial dates before the primary and the November election.

During the summer, Tigar claimed that the timing of the indictments had been "manipulated." He attributed to "credible sources" the information that Thomas Puccio, the Abscam trial prosecutor, "said the day this thing broke that if he couldn't get Murphy in the court, he'd get him in the ballot box." At the time, Tigar noted that the public accusation against Murphy had stood since February 2nd and spoke heatedly of how the "fountainhead" of the Sixth Amendment right to a speedy trial dates back to the 1166 Assize of Clarendon, which "makes it clear," according to Tigar, that the right attaches at the time of public suspicion. He even mentioned that the ACLU had joined his original request for a speedy trial, adding, "You might ask them if they're just paying the rent by being on Murphy's side too."

Now the thinking seems to be that a trial so close to the election can only



Bobby Baker, left, and Tigar, in April 1967, after Baker's sentencing on fraud and tax evasion.



William Kunstler, right, called Tigar's defense of Murphy 'a horror.'