
Appellate Court Legacy Project

PAULA R. BOCCIARDI*

“History,” said the late U.S. Supreme Court Justice Lewis F. Powell, “balances the frustration of ‘how far we have to go’ with the satisfaction of ‘how far we have come.’”

How far the California judicial system has evolved is revealed in the wisdom and experiences shared by the more than 80 retired and active justices of the state Courts of Appeal who have been interviewed for the California Appellate Court Legacy Project.

The Legacy Project is an oral history endeavor that evolved from statewide efforts undertaken to commemorate the 100th anniversary of the California Courts of Appeal in 2005. Overseeing this ambitious venture is the Appellate Court Legacy Project Committee, chaired by Associate Justice Judith L. Haller of the Fourth District Court of Appeal, Division One. Committee members are Hon. Timothy A. Reardon (First District); Hon. Laurence D. Rubin (Second District); Hon. George W. Nicholson (Third District); Hon. Rebecca A. Wiseman (Fifth District) [former member Hon. Steven M. Vartebedian retired May 31, 2010]; Hon. Richard J. McAdams (Sixth District); and Frances M. Jones, Judicial Center Law Librarian.

To date, all available retired state Court of Appeal justices have been interviewed (as well as active senior justices who may be nearing retirement), and the committee will continue ensuring that interviews are conducted with justices soon after they retire from the bench. Because the California Supreme Court Historical Society has undertaken the project of interviewing retired state Supreme Court justices, the committee is focusing only on the Courts of Appeal.

The videotaped interviews — averaging from one to two hours in length — are typically conducted by active or retired justices from the same court as the interview subject. Questions are tailored to the interviewee but generally cover the justice’s childhood, education, military service, family, judicial career, notable decisions, colleagues, judicial philosophy, community activities, and life in retirement. The footage is transferred directly to DVD and stored along with a transcript and a binder of biographical materials in the California Judicial Center Law Library (CJCL) in San Francisco. Costs of the project have been minimal because the bulk of the work has been accomplished by sitting appellate court justices and Administrative Office of the Courts staff.

*Staff to the Appellate Court Legacy Project Committee, Administrative Office of the Courts.

Access to the materials is provided to CJCL users in accordance with library policy. Remote users are able to request electronic versions of the transcripts via e-mail through the CJCL website (<http://library.courtinfo.ca.gov>). Each appellate district library also houses a collection of the DVDs.

To ensure that the Legacy Project continues to meet its fundamental objectives of facilitating research and educating the community about the history and role of the appellate courts, the committee is evaluating ways of expanding direct public access to the Legacy materials.

The committee has selected, for publication in this article, interview excerpts that highlight just a few of the many topics covered in the Legacy interviews. We hope that the excerpts will adequately reflect the countless compelling observations and anecdotes captured in this collection. For more information, or to see compilation videos of interview clips, visit the Legacy Project page on the California Courts public website at <http://www.courtinfo.ca.gov/courts/courtsofappeal/>.

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FROM THE CHIEF JUSTICE:

Six years ago, I appointed a statewide committee — comprising representatives from each of the six appellate court districts — to work with Administrative Office of the Courts staff on ways to commemorate the centennial of the California Courts of Appeal. As an expansion of that effort, I was especially pleased to approve the inception of the Appellate Court Legacy Project, which has resulted in one of the most ambitious and expansive judicial oral history collections in the country.

I have had the privilege of serving the state courts for more than 38 years, and during that time I have worked with many remarkable and dedicated men and women throughout the branch. All of them have stories to tell, and we are fortunate that the Legacy Project has been able to capture and preserve many of their perspectives about service on the bench, significant cases they have decided, and ways in which their personal experiences have shaped their judicial careers. The Legacy Project is a unique and inspiring endeavor, and I am very proud that we have had this opportunity to honor those who have served so ably before us and to preserve their recollections for the future.

— Hon. Ronald M. George, Chief Justice of California

FROM ASSOCIATE JUSTICE JUDITH HALLER,
CHAIR, APPELLATE COURT LEGACY
PROJECT COMMITTEE:

As a former graduate student working on a master's thesis in history, I recall hours spent poring over microfilm reels searching for details about President Lincoln's role in a piece of compromise legislation proffered shortly before the outbreak of the Civil War. If only I had had access to a videotape interview in which this topic was discussed.

When we launched the Legacy Project five years ago, we set out to capture a slice of California history as revealed in the lives of appellate court justices who influenced this state's legal landscape over the past 50 years. In doing so, we hoped to provide resource information for educators and research scholars, enhance the public's understanding of the judicial branch, and offer insight to those men and women who will serve our state in the future.

The personal stories captured in these video interviews range from those that are informative, touching, and inspirational to those that are funny, candid and some even unexpected. For me, this has been a labor of love. I am grateful to my fellow committee members and AOC staff members whose leadership and follow-through have made this project a reality. And, of course, our thanks go out to those retired justices who graciously shared their time and personal memories.

— *Hon. Judith L. Haller*

FROM LEGACY COMMITTEE MEMBERS:

Conducting the interviews of my former colleagues was a very enjoyable and informative experience for me. I had not seen some of the justices since their retirements, and thus the interviews presented an opportunity for me to get caught up. Many of the retired justices were sitting by assignment in the trial court; others were involved in private judging; some were teaching; some were traveling; and others were enjoying time with their families and friends. All seemed content and productive in retirement, and all seemed interested in giving back by sharing the experiences they had gained as attorneys and judges.

The interviews, as will be seen, covered a variety of relevant subjects, including childhood and upbringing, law school experiences, experiences as a practicing attorney, the judicial appointments process, life on the bench, notable cases, judicial philosophy, and extracurricular activities. These subjects and others were can-

didly discussed by the interviewees and provide a real insight into the justices' background, character, and accomplishments, and the work of the court.

It has been a real privilege and honor to have served as a member of the Appellate Court Legacy Project and to have the opportunity to create and preserve, through these interviews, an oral history of the California Courts of Appeal. I commend our Chairperson, Justice Judith Haller, and thank all who have participated in this Project.

— *Hon. Timothy A. Reardon*

Interviewing retired justices for the Legacy Project provided me with some of the most enjoyable experiences I have had in years. I suppose my participation was made easier by the fact that I knew all eight of the persons fairly well long before this process started. While asking about matters such as the justice's work experiences, judicial philosophy, and post-retirement activities all proved to be fruitful subjects, I personally found discussions about each interviewee's pre-bench life most intriguing.

I thought I had prepared well for each interview. I reviewed the biographical data provided by fellow committee member Fran Jones, as well as the information I obtained from other justices and court staff, and I had my own personal contacts with each interviewee, both from the past and in preparation for the interview. Nonetheless, once the camera and microphone were turned on, I heard many responses I did not necessarily expect to hear. And this spontaneity was not a bad thing.

Others have and will hear what I heard about such matters as childhood hardships that were overcome, persons and events that strongly influenced the interviewee's career path, and other personal-life matters that underscore the interviewee's public persona.

I will always cherish the time I spent with the fellow justices I interviewed and treasure that the Legacy Project preserves their stories.

— *Hon. Steven M. Vartebedian [former committee member]*

The California Judicial Center Library (CJCL)** provides support to the Appellate Court Legacy Project through research and by online access to information about the oral history interviews.

Before each interview, CJCL's research staff identifies biographical, decisional, and bibliographic data about the justice to be interviewed and compiles the results in background notebooks. Biographical data

**The California Judicial Center Library serves the California Supreme Court and the Court of Appeal, First Appellate District.

are retrieved from standard sources — e.g., *California Courts and Judges*. Searches in legal databases identify all of the cases for which the justice wrote a majority, concurring, or dissenting opinion. Bibliographic data are taken from library catalogs and legal periodical indexes. Copies of the background notebooks are delivered to the justice to be interviewed and to the interviewer, with one copy retained in the library's collection.

CJCL receives DVDs of all of the interviews [as do each of the California Courts of Appeal]. Descriptive entries in the library's catalog identify the background notebooks and DVDs. Access to the library's catalog is available via the library website, <http://library.courtinfo.ca.gov>.

CJCL's Special Collections & Archives staff index interview transcripts. Index terms appear in descriptive entries in the California Supreme Court and Courts of Appeal Database (Courts Database), also available via the website from a link on the homepage. Index entries provide a means of finding topics covered in one or more of the interviews by searching the Court Database.

Researchers interested in information about a retired justice can search the library catalog or the Courts Database using a surname as a keyword. For example, a search for information about Justice John G. Gabbert in the library catalog, using Gabbert as a keyword, retrieves identifying data for the background notebook and the DVD of his oral history interview. The same search in the Courts Database retrieves the descriptive entry for his interview, as well as an entry describing his term of service on the Court of Appeal, Fourth Appellate District.

Transcripts of the interviews are not yet available online, but digital copies can be obtained by contacting Research & Reference Services by email to reference@jud.ca.gov or by phone to 415-865-7178. Additional information is available in Special Collections & Archives by email to archives@jud.ca.gov or by phone to 415-865-4383.

— Frances M. Jones, Director, California Judicial Center Library

FROM THE VIDEOGRAPHER:

I have the unique distinction of having been present for every one of the more than 80 Legacy Project interviews — as well as the one that inspired the project: the interview of the late Justice Robert Puglia (Third Appellate District) in early 2005 for the centennial of the California Courts of Appeal.

As Senior Media Production Specialist with the AOC's Education Division, I handle the technical aspects of the videotaping. For this project we are sim-

ply interested in an audio and video document. We tape the interviews at a location convenient for the justice, typically in a courtroom or at the justice's home. There are no editing changes or other enhancements made.

While each interview is unique, a few stand out. Particularly moving for me are the stories of obstacles and challenges that many of the justices had to overcome, and how many of these individuals were shaped by — and occasionally in spite of — strong family figures.

I consider myself fortunate to have recorded them all, and I look forward to attending many more in the future.

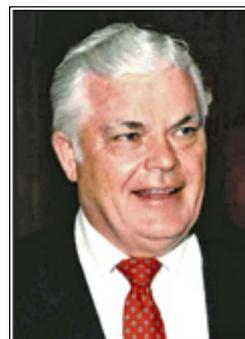
— David Knight, Senior Media Production Specialist, AOC

EDITOR'S NOTE: Appreciation is hereby expressed to all of the justices, their family members, and clerks who assisted in providing the photographs requested for this article.

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CHILDHOOD/UPBRINGING

Justice Kane responding to Senator Howard Metzenbaum's inquiry about poverty during the Labor and Human Resources Committee's hearing regarding his nomination to the Legal Services board:



Hon. Robert F. Kane

I said, "Senator, my first vivid recollection of childhood is standing in a line with my sister and a couple of my brothers and my dad around the courthouse, I think it was, in Denver. I was about eight years old, seven, eight years old. That was a relief line for shoes. We had no water, no heat, electricity at home; we had no food, dad didn't have a job. We'd planted rutabagas and tomatoes out in the backyard and potatoes to try to get something to grow."

And I said, "That wasn't just one day—that was quite a while." I said, "So I think I have a pretty good idea, as much as anybody in this room, as to what it means to be poor."

And he just looked at me and quit. And I just felt good, and I felt good because I thought, maybe this will make it easier for the others when they come along.

— Hon. Robert F. Kane, First District, Div. Two

In 1941, December 7th, I remember what I was doing when Pearl Harbor was bombed; you know, rushing home. I'm 10 years of age. And the environment changed dramatically. People rushed off to join the service. It was a scary and anxious time. I remember at school you'd have planning for what happened if there were bombings, and so there were drills — bomb drills and things of that sort.



Hon. Howard B. Wiener

So it was a nervous time for four or five years: rationing of food, rationing of gasoline. I was a kid, and of course news was more carefully censored, shall I say; so you didn't see the horrors that you see today.

— Hon. Howard B. Wiener, Fourth District, Div. One

Justice Davis speaking about his mother, Pauline Davis, who served for 24 years in the California state Assembly after her husband, Assemblyman Lester Davis, died unexpectedly at the age of 47:



Hon. Rodney Davis

You have to realize that when I was growing up, Mom's opponents . . . would check on me to see what sort of dirt they could come up with. Anything to suggest — at that time, especially during the 1950s — that this mother, who was an assemblywoman, was neglecting her children was political dynamite. So they would come to my schools — my elementary schools — and ask questions of teachers and the principal. It was nasty times. I can remember, as a kid, my mother being involved in this nasty dispute involving labor unions and management up in Shasta County. And she had . . . one of the drive components of her vehicle manipulated so she lost the steering of her vehicle . . . after a meeting and skidded off the road. Another time, when we were going on Highway 36, they chased us. I can remember my mom . . . turning off the headlights on 36 and then cutting off onto this logging road and going behind these trees. And there we are in the pitch black while these two cars that were chasing her went back and forth, back and forth . . . looking for her. You know, I was just a young child, just scared to death.

— Hon. Rodney Davis, Third District

Justice Cooper reflecting upon events in the 1960s:



Hon. Candace D. Cooper

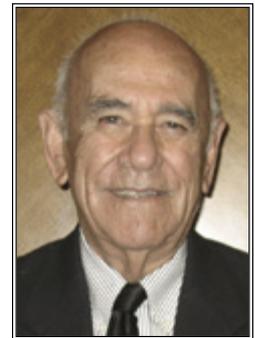
[T]hings have changed dramatically since I was a child. It's not like this was something my parents told me about. . . . I remember watching the civil rights movement on black and white TV, and the Montgomery march, and Martin Luther King. . . . The Watts riots were right in my neighborhood. My dad was on LAPD at that time. And I can remember we were kind of in a hilly area, and I can remember looking out our window and seeing L.A. burning. And not being able to cross Crenshaw, 'cause that was the curfew line at that time.

— Hon. Candace D. Cooper, Second District, Div. Eight

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PROFESSIONAL EXPERIENCE

Justice Alarcon on his being asked to be Governor Edmund G. "Pat" Brown's legal advisor on clemency and pardons:



Hon. Arthur L. Alarcon

I went back to the DA's office, and about three months later the Governor called me, and he said, "I would like you to be part of my staff and be my legal advisor, clemency and pardons secretary." And I said, "Governor, number one, I'm a Republican; and number two, I don't agree with a lot of your political positions, and while you're vehemently opposed to capital punishment, I am not opposed to capital punishment."

And he said, "I'm not selecting you for your political views; I'm selecting you because I think you would give me honest legal advice, and I have studied your background and I know your work." And I said, "Well, I really like what I'm doing." He said, "You know, it's not polite to turn the Governor down on the telephone. I want you to come to Sacramento." And I said, "I don't have the money to fly to Sacramento."

So he sent me the tickets and I went to Sacramento, and he charmed me into accepting the position.

— Hon. Arthur L. Alarcon, Second District, Div. Four

I was the principal co-author of the Agricultural Labor Relations Act; and that was really an interesting fight because, you know, trying to put everybody together. And I succeeded in putting the growers together with the production people and the farm-labor people and what-have-you and got the bill to the Governor's Office. I'll never forget that negotiation. We were all in the Governor's Office putting this whole thing together, and there was only one group that decided at the last minute to oppose us. And that was the lettuce industry, or a portion of the lettuce industry, I forget. . . . [B]ut the Agricultural Labor Relations Act became law, and it's the first act in the country, frankly, on labor relations. And I remember our congressman at that time . . . had a bunch of congressmen out here visiting him from all over the country, and he brought this item up; and I'll never forget this congressman from Mississippi, he says, "You'll never get a vote out of me, Mr. Sisk, over my dead body, for an Agricultural Labor Relations Act."

— Hon. George N. Zenovich, Fifth District



Hon. George N. Zenovich

I think that different types of law require different kinds of lawyers. I think trial lawyers are a different breed than, say, a corporate attorney would be. . . . [S]ome phases of law, like appellate work, are completely related to legal issues and the legal thought process; and trial work is related to people and the ability to convey ideas to all kinds of people — not just lawyers, but average people. So they take different kinds of skill sets, I think. And then when you get to the appellate level, then you add another complexity, and that is the ability to write. Because it's surprising that although some people can think clearly enough, they can't write clearly.

— Hon. Keith F. Sparks, Third District



Hon. Keith F. Sparks

Justice Deal describing an experience in one of her first trials:

And back in those days you had to put the surviving witnesses on the stand . . . and get all that testimony taken care of. . . . I'd gotten through that fine, and then I froze and I stood there, thinking, God! What am I supposed to do next? And Judge Curler, who was a very sympathetic man — had known me for years since I was a kid — looked down and he said, "Counsel may present the will now." Ah, that's what I'm supposed to do! . . . So I've always remembered that when I was a judge; that when young lawyers froze and needed some help, do it in such a way that it looks like it was their idea, save their face with their client. So that was a good lesson.

— Hon. Betty Barry Deal, First District, Div. Three



Hon. Betty Barry Deal

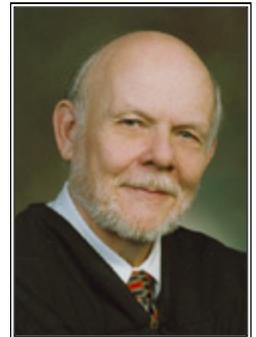
Justice Johnson recounting his experiences as deputy director of the then-new Neighborhood Legal Services Project in Washington, D.C., in 1964:

[W]e recruited some very good people [who] had ties in the community. . . . And so I got a lot of calls from judges. I remember one from landlord-tenant court who called up to say, "You know, this job used to be easy. Now my desk is stacked full of responsive papers from the tenants and so forth." He says, "They're trying to take every \$15 case to the Supreme Court!". . .

Laurie Zelton: In other words, the tenants were asserting their rights.

Earl Johnson: They were asserting their rights. And they were winning more often than not. . . . Simultaneously while this was happening, the War on Poverty was starting. And in fact, very early in the game, we got — in addition to the Ford funding that we had — we got a grant from OEO.

— Hon. Earl Johnson, Jr., Second District, Div. Seven



Hon. Earl Johnson, Jr.

Supreme Court Justice Carol Corrigan and Justice Parrilli reflecting on their days in the Alameda County D.A.'s Office:



Hon. Joanne C. Parrilli

Oh yes, my dear friend Martin Pulich. He was a mentor in a different way. He gave me confidence as a lawyer, first of all, because he treated us just the way he treated the guys. He gave us wild nicknames like he gave the guys. My nickname was “Piranha.” That was the nickname he gave me — a man-eating fish. He gave you “Barracuda,” as I recall.

CAROL CORRIGAN: He was in a fish phase at the time.

JOANNE PARRILLI: Yeah, he was in a fish phase at the time, and ultimately he I think nicknamed you Torquemada’s Handmaiden.

CAROL CORRIGAN: Oh, I want to thank you for putting that down on the historical record.

JOANNE PARRILLI: Oh, as a DA I think that was a wonderful moniker to have. And you know, he was so fair in what he did. I always felt that Judge Pulich set an example about how you had to do what the law required whether you liked it or not, and I admired that in him. And of course he was funny as the day is long.

— Hon. Joanne C. Parrilli, First District, Div. Three

On Justice Brauer’s nomination to the appellate court:



Hon. Harry F. Brauer

I had had some moments of anxiety about the confirmation process, because in my application to the Governor, I had written that my appellate opinions would be pithy and informed denunciations of the Supreme Court’s excesses.

And by some error in the Governor’s Office that was sent to the Chief. *[laughing]* But she was in a good mood, I think, or generous, and didn’t give me any trouble — except after the vote of confirmation, she told me pointedly that she was looking forward to my trenchant and pithy opinions. *[laughing]*

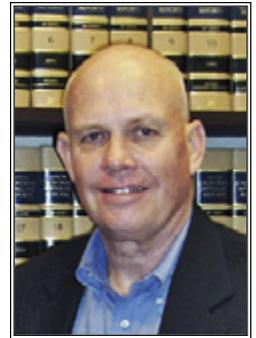
— Hon. Harry F. Brauer, Sixth District

NOTABLE CASES

I did have the first DNA case in Alameda County, *People v. Barney*, and we had a lengthy hearing — a Kelly-Frye hearing — before the trial on that one. The interesting thing about *Barney* was that the DNA evidence wasn’t dispositive. Mr. Barney dropped his wallet at the scene. . . . Which, of course, is how they found him and made the arrest. But it was pivotal in the sense that this was going to be the first DNA case, and very good lawyers on both sides. So it was that kind of excitement that I found as a trial judge that made the job worthwhile.

— Hon. Joanne C. Parrilli, First District, Div. Three

The first was *Boeken v. Philip Morris*, which was involving a person that died during trial from smoking cigarettes because of cancer. It was the first Southern California case where a multibillion dollar award was made against Philip Morris for fraud—\$3 billion, in fact, for punitive damages. . . .



Hon. J. Gary Hastings

A number of issues were raised on appeal, but the most significant one was punitive damages. The award in the trial court for compensatory damages was \$5.5 million. The punitive was \$3 billion. The trial court, Charles McCoy, an excellent judge, reduced it to \$100 million, and it came up to us and we reversed it to \$50 million.

We then had a rehearing because more cases from the United States Supreme Court had come out and we wanted to rehear it in light of those. We again held to our \$50 million, and ultimately the Supreme Court of California and the United States Supreme Court never took it, and that stands today.

The reason it was so significant in my mind is that that gave the factual background of what had happened since the early 1950s all the way up to the present with regard to how tobacco companies packaged their product, advertised their product; and if you ever read the decision, you will find out that we upheld the jury’s verdict for fraud.

— Hon. J. Gary Hastings, Second District, Div. Four

I must tell you that the single most rewarding moment that I ever had on the Court of Appeal occurred on a weekend with Bob Puglia. And the situation was one in which an initiative was headed for the ballot that would have created no-fault insurance in California. And the initiative was about 128 pages — typewritten pages — long, and a group brought a lawsuit to knock the initiative off the ballot on the ground that it violated the single-subject rule of the California Constitution that says an initiative can only embrace one subject. . . . [I]t was Bob Puglia’s case. And he and I got into this case, and it turned out that what had happened was that in the 128 pages, it did indeed set up a system of no-fault insurance. . . . And right in the middle of the 128 pages, in a paragraph, was a provision that said something like, “Notwithstanding any other provision of law, no law shall require any insurance company to report any political contributions that it makes in the state of California.” Well, well, well, would you ever think that by voting for a no-fault insurance initiative that you would insulate the insurance industry from FPPC reporting requirements? Would anyone ever think that? . . . And we worked Saturday and Sunday, and by Sunday afternoon we had an opinion. And I forget who the third judge was on the case, but it was a unanimous opinion, and we filed the thing, kicked the thing off the ballot. So it’s a published opinion — one of the few opinions in the state of California that actually kicks an initiative off the ballot, and a leading case, still, on the single-subject rule.

— Hon. Richard Sims III, Third District



Hon. Richard
Sims III

The other case, *Rosen-
crantz*, is a parole case. Rosen-
crantz was a murderer
who killed a kid when he was
18 — killed his buddy’s boy-
friend for outing him to his
father. He was . . . He is gay.
And it was a terrible crime;
there’s no two ways about it.
It was a horrendous crime.
He was sentenced to 25 years
to life. And the Parole Board
kept denying parole, and kept



Hon. Miriam A. Vogel

denying parole, on a record that suggested that they were denying parole in large part because he was gay. And they were refusing to consider a lot of other factors. He was *the* model prisoner. He was everything we hope prisoners will be about behaving themselves while incarcerated and learning new skills. He got a college degree in computer science, he set up a whole system for the prison, he worked with other prisoners, and the Parole Board just wouldn’t pay any attention to him. So the first *Rosen-
crantz* case, we ordered the Parole Board to hold a new hearing — which it did, and then it did the same thing all over again. So we ordered the Parole Board to release him. And the Supreme Court left both of those alone, but then it went to the Governor, and the Governor vacated the release and we ordered the Governor to vacate his decision. And that’s when the Supreme Court stepped in and said no, there is some evidence here to support the Governor’s decision. Now, the “some evidence” in *Rosen-
crantz* was the commitment offense, which, although I haven’t followed this area of the law for the last year or so, I think the courts seemed to have backed off a bit. I think it was *Dannen-
berg*, where the Supreme Court said there really has to be a little more than just the unchanging facts of the commitment offense. . . . [T]he Parole Board was transforming a sentence of life with the possibility of parole into a sentence of life without the possibility of parole. . . . And I think that was a place where judicial intervention was warranted, to see that a fairness principle was imposed throughout this process. And I do think that it is up to the parole boards to make these decisions and not to the courts. But I do think that the court’s involvement is necessary to make sure that the Parole Board and the Governor [are] playing by the rules.

— Hon. Miriam A. Vogel, Second District, Div. One

I remember the facts as being: neighboring prop-
erties had she-goats and a
male goat, a billy goat.

PATRICIA MANOUKIAN:
Yes. Yes. The billy goat!
That’s it.

WILLIAM WUNDERLICH:
And I think the females are
called she-goats, or ewes.
I don’t know what they’re
called, but they’re female
goats. And it had been their
habit and custom — these
two adjoining neighbors — that when it was time for



Hon. William M.
Wunderlich

the she-goats to be bred, they would open a little hole in the fence so that the billy goat could get to the females. And this particular year, the owner of the billy goat had said he wasn't going to do that. "If you're going to If you want my billy goat, you have to come over and get him." And it was in the process of getting him and taking him back that the guy was injured. So one of his theories of liability was, if you had let me cut the hole in the fence as you always had in the past, we would never have had this problem So my question to them was, "Did you feel some risk in not cutting open the hole in the fence?" He says, "Oh, I'm not sure I understand what you're saying." I said, "Weren't you worried about making the billy goat gruff?" [laughs] So, bad humor!

PATRICIA MANOUKIAN: And that's my memory of that question also. And the rest of us were up there trying to control ourselves during the rest of the . . .

WILLIAM WUNDERLICH: Well, there are so few

PATRICIA MANOUKIAN: oral argument.

WILLIAM WUNDERLICH: . . . so few opportunities for humor at the appellate level. And I truly believe — I'm not trying to be, wax rhapsodic here or anything — I'm just saying I think there isn't a judge in this state that can survive — certainly at the trial level — without a very sophisticated and well-tuned sense of humor. And I've carried that into this courtroom. And of course up here in Yosemite you *have* to have a sense of humor to just survive, you know.

— *Hon. William M. Wunderlich, Sixth District*

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JUDICIAL PHILOSOPHY

[Y]ou must not be ideologically stiff; you must be open-minded. I think that you should, to the very best of your ability, put out of your mind any preconceived ideas. It's impossible [to] do it, of course, really to when you get down to absolute bedrock. But you've got to do your best to be as close to neutral as you can as you review things . . .



Hon. John G. Gabbert

I think that one of the most important things is also to try and make up your mind after you review everything, but do it within the limits

and not let things back up on you—and to decide the matter and then go ahead on other things. You have to do it; and sometimes it's awfully difficult, you know, and that's true in the trial courts too.

— *Hon. John G. Gabbert, Fourth District, Div. Two*

It's a very simple judicial philosophy. It's fairness, bottom-line fairness. If the court system is a system of laws, the rule of law has to prevail. There has to be a separation of the various powers here, the three main: legislative, judicial, executive. There has to be that separation, which has to stay in place.

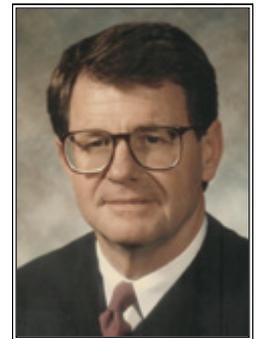


Hon. Joan Dempsey Klein

— *Hon. Joan Dempsey Klein, Second District, Div. Three*

[M]y great-grandfather was a judge back in Illinois, and he wrote something at the end when he retired. I read that recently; I was very impressed with it.

Basically what he focused on more than anything else was how important it was to our system to maintain the independence of the courts, to do everything we possibly can to get good people on the courts who are independent of however the wind is blowing at a particular time . . .



Hon. Christopher C. Cottle

— *Hon. Christopher C. Cottle, Sixth District*

I'm a firm believer in the separation of powers. I think that has to be . . . I would jealously guard that as best I could as a judge, even though I would disagree with the legislative opinion. If it's not subject to a constitutional attack, it's legally justified.

So I think my only review as a judge would be in whether or not it measures up to constitutional standards, not to second-guess the Legislature or try to modify it in some way by virtue of my own personal beliefs. So I guess you'd say that's a strict constructionist.

— *Hon. Robert F. Kane, First District, Div. Two*

[T]his is a society, ours, that's held together certainly not by race—we are incredibly diverse—not by religion, not even by language anymore. It's held together by the uncommon boast that we are a people; and it's a boast and a claim laid out in our constitutive law, the Constitution. It's a republic of a concept of ideas. And the job of attorneys is to work out that boast in very broad terms, very broad sweep sometimes, but equally important in the day-to-day matters of contracting, marrying, divorcing, adopting, forming and dissolving businesses. Those are the matters that one needs a lawyer in, because we are a nation of laws.

— Hon. Daniel J. Kremer, Fourth District, Div. One



Hon. Daniel J. Kremer

I'm very concerned at the Supreme Court level with this debate that's going on as to whether or not you should humanize the judiciary. And I wouldn't want to be in a country where there wasn't an element of humanization of the judiciary. It doesn't mean that you're going to abort your knowledge of the law or your commitment to following the law. But the fact that you're human enough to say "Separate but equal isn't equal" is not a distortion of the law. And there's so many facets of our society that wouldn't make any advance at all if it weren't for judges that, first of all, recognize the problems, and then were willing to address them.

— Hon. Arleigh Woods, Second District, Div. Four



Hon. Arleigh Woods

I talked to our colleague now gone, Don Work, about that—who was just really the conscience of the court; he was a wonderful justice—and asked him what decisions he thought were important.

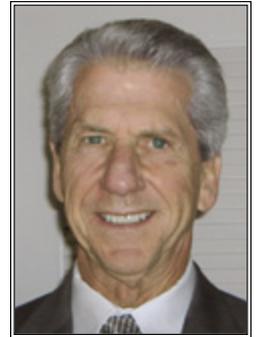
And he said, "It was important to remember that those decisions were supremely important to the people involved with them." It was very likely, very likely—unless it was a big corporate case—that that was one of the most significant events of the lives of the people who were involved in those cases and that any justice worth his or her salt had to keep that in mind. And I tried to

do that, remembering that the smallest property or family—certainly criminal—case was vitally important to the people handling it; so all of them were important in that sense.

— Hon. Daniel J. Kremer, Fourth District, Div. One

[W]e're not at liberty, if there's a statute right on point, to refuse to apply the statute; so we do. But that doesn't prevent us railing against the statute and its effects, and urging the Legislature to change it. But no, we don't have the right to simply say, "Well, it may say this, but I'm not going to follow it."

— Hon. Timothy S. Buckley, Fifth District



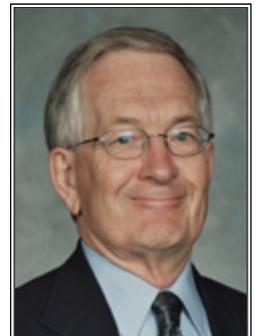
Hon. Timothy S. Buckley

I never had a death penalty case, either as a lawyer or a judge. And I guess I consider that a blessing, because I don't know how that would have rubbed up against my faith on that. On the other hand, I think if judges take an oath to defend the Constitution and apply the law of the state, that's their job. And personal beliefs or concerns have to be set aside.

— Hon. Joanne C. Parrilli, First District, Div. Three

Never lose sight of the fact that the decision you're making is going to affect real human beings and real lives, and take it seriously. . . . [F]ind out what the law is and apply it to the facts of the particular case.

— Hon. James F. Thaxter, Fifth District



Hon. James F. Thaxter

[M]ore than anything I wanted to get it right in that case. . . . [I]t wasn't enough for people to feel like they had been treated fairly. . . . I wanted the right result to happen. . . . And so that was always very, very important. . . . [E]veryone that comes into my court has the same status. . . . in terms of the respect that they're warranted out of the box. So if it's a pro per, a homeless person, a police officer, a very prominent lawyer, I mean the homeless guy

is going to get respect from me just like the prominent lawyer. And then I'm going to try to get the right result for everybody. And so I think people appreciate that.

— *Hon. Candace D. Cooper, Second District, Div. Eight*

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DECISION MAKING

You've got to carve up a case into its important parts and discard the rest of it, and then write about what's significant in an intelligent way so that when someone reads it, they know what the case is about and they know why you decided the way it is.

— *Hon. Charles S. Vogel, Second District, Div. Four*



Hon. Charles S. Vogel

[W]e had a wonderful, vigorous discussion amongst us, which was again something on the Court of Appeal I really loved. We had . . . if we were undecided on something or we had some differences, it was wonderful having those discussions. They were never heated; they were never ones where anybody walked away mad or wasn't talking. It was just a wonderful experience to engage in those kinds of discussions. I thought in many ways it was the best part of the job.

— *Hon. Donald B. King, First District, Div. Five*



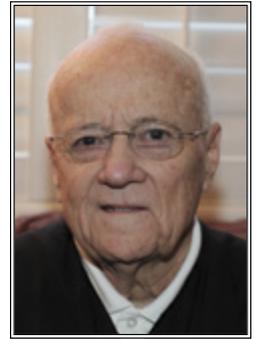
Hon. Donald B. King

I didn't dissent that often, because I feel very strongly about dissents—not an ego trip—is there a way of working out the problem, is there another solution to the problem? I feel very strongly that dissents are . . . unless you feel very strongly, they shouldn't be there, because the party should think there is a unanimous decision by a court.

— *Hon. Howard B. Wiener, Fourth District, Div. One*

I enjoyed oral argument, and I found that oral argument really affected the way I voted on a number of cases and also affected the final product. . . . It's important that lawyers walk away from this process thinking that the judges really did understand their case.

— *Hon. Marcel B. Poché, First District, Div. Four*



Hon. Marcel B. Poché

[T]he chief talent of a good attorney is being a quick study—certainly a good appellate attorney, and it is very definitely the talent of a good judge, is to be a quick study. And so I tried to achieve that by going to the sources, learning what you have to learn, and learning from the lawyers who are in front of you.

— *Hon. Daniel J. Kremer, Fourth District, Div. One*

[T]he reason for writing a full dissent is because you're trying to persuade somebody up the line to — or, in some cases, future courts — to go the way you think is the proper way. And you can't do that in a paragraph. You've got to really lay it out, the full case. . . . And there's actually, in my view, more reason for someone to dissent if they're on an intermediate Court of Appeal like we are than if you are on a Supreme Court because a Supreme Court, your audience really is . . . only future Supreme Courts. But with us you've got the California Supreme Court that might be persuaded by your dissent. I had one year in which I wrote a bunch of dissents, but six of them were taken by the Supreme Court and they reversed the majority in all six of those cases.

LAURIE ZELON: Right. But were you ever writing for sister Courts of Appeal, because of course we're not bound by each other . . . and you might persuade another panel in another district or even in this district to see your point of view?

EARL JOHNSON: Yes, . . . [p]articularly when there's a kind of issue that's being written about all over the place, like whether trial courts had discretion to strike a strike. . . . I was writing dissents in those cases, saying that they should have discretion or did have discretion. And there was one other court up north that was . . . writing that way. All the rest were saying, "No discretion." And the California Supreme Court finally

took the case and they said there *was* discretion. . . . But I was aiming those at other Courts of Appeal. . . . [S]o yes, you do try to persuade whoever is persuadable.

— *Hon. Earl Johnson, Jr., Second District, Div. Seven*

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DIVERSITY ISSUES

[W]ith the exception of two Ninth Circuit judges of Chinese ancestry, Thomas Tang and Hiram Fong of the Ninth Circuit, I may have been the only state appellate judge appointed at that time who was Chinese American. I don't know of anybody outside of Hawaii in the 50 states that had that position before me.

— *Hon. Elwood G. Lui, Second District, Div. Three*



*Hon. Elwood
G. Lui*

[A]t that time it was very difficult for people who belonged to minorities to get into the big law firms. There weren't any Hispanics, there weren't any blacks in the big firms or the middle firms. . . .

When I went to the DA's office, after, the DA called me in and said, "You're number one on the list; I'd like to appoint you, but I want to find out something. Are you going to have us spend a fortune training you to be a good trial lawyer and then leave us to go make money?" And I said, "I have to be honest with you, Mr. Roll," who was the DA. "I intend to stay three years and then make up my mind whether I want to make it a career or whether I do want to leave." And he said, "Thank you for an honest answer," and he hired me.

At the end of three years, I was so happy doing what I was doing that I decided to stay in public law, and I'm still in public law.

— *Hon. Arthur L. Alarcon, Second District, Div. Four*

Certainly what's been accomplished by the court in the past 100 years — from a very personal standpoint as a black woman — I am very conscious of the fact that the playing field has been evened very much over what it was 100 years ago. And the integration of the court — not only

the jurors, but the justices, the lawyers, and at every level of the court now you can look around and see someone who has a face like yours. And I think that means a great deal to the community in general. It means a great deal to the prestige of the court that we have accomplished this. And of course I also . . . from a personal standpoint, I am extremely pleased with the number of women that are on the bench and the quality of service that they're rendering. So on a very personal level, that's the first thing that comes to mind for me when I think of what's happened to the courts in the past 100 years.

— *Hon. Arleigh Woods, Second District, Div. Four*

And at the time that I was going to law school, there were less than 10 women in my law school class; so it was a very different type of environment than what I see with law students now. And so we even actually had, one of my professors . . . this is something you would never get away with now. He used to have what he'd call Ladies Day. He'd just come in and say, "It's Ladies Day," and he'd only call on the women that day. And so you just didn't know whether to, you know, run out of the classroom at that particular time. And I know that you would never get anywhere with doing that at this particular time.

— *Hon. Connie M. Callahan, Third District*



*Hon. Connie M.
Callahan*

Justice Klein discussing a case in which a male lawyer wanted to take control of the proceedings:

And I finally had to haul him up and say, "Listen, one more reference to the court as anything other than 'Your Honor' and you'll be held in contempt, because this is a court. It doesn't make any difference who is sitting here as a judge, but it's the court, and it has to have your respect."

— *Hon. Joan Dempsey Klein, Second District, Div. Three*

The quota system for the bar was three African-Americans in each bar. And I gave a speech, right after I'd been admitted, and I was at the Athletic Club, where they did not accept black members. But I was invited there as a speaker for some group — I don't remember exactly which. And I had no idea there was any press in the room. And in my remarks, I com-

mented on the fact that — I was being nasty, really — but I commented on the fact that it was a privilege to be in the Athletic Club because . . . the only way I could get in there was as a guest of someone else. And they were asking me about the bar, and I said, well, that the usual quota had been imposed, and there were three persons who had passed the bar but that I hoped that that was something that was going to be corrected in the future. . . . Well, it turned out it wound up on the front page of the *L.A. Times*. And the bar was denouncing me and my comments and the fact that it wasn't true. And the next bar, 15 black candidates passed.

— *Hon. Arleigh Woods, Second District, Div. Four*

I always felt, especially at the municipal court level as a trial lawyer in that era, that I had the advantage. I mean, it was so new to be a woman, the juries just were enthralled. And the judges at the municipal court level seemed to be very taken by having women in their courtrooms for the first time, and very respectful. When I got to superior court, some of the older judges, I think, took a dimmer view of it, but again, even with the juries, there was never a doubt. I felt that I had the advantage and the guys didn't know what to do with me. I mean, I weighed about 95 pounds in those days and they couldn't beat up on me like they would their male opponents, and so they were kind of fumbling around for how to handle this new person in the courtroom.

— *Hon. Joanne C. Parrilli, First District, Div. Three*

And then I was appointed as Presiding Justice to replace And I was a little concerned about Kingsley. And I remember going into his chambers — because I was told in advance what was going to happen — and I said, “It looks like I'm going to become PJ.” He says, “Oh, I think that's wonderful.” He says, “You know, the first words I learned in English were ‘yes, ma'am.’” And it was such a nice way for him to tell me . . . that it was perfectly all right.

— *Hon. Arleigh Woods, Second District, Div. Four*

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ROLE OF THE APPELLATE COURT

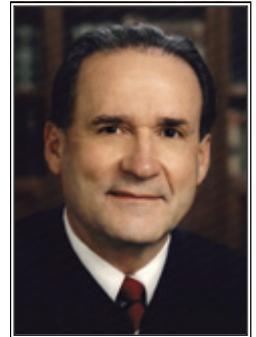
The Courts of Appeal benefit the citizens of the state of California because we have to have a method for correcting error. And without in any way disparaging

the trial courts, you cannot have the largest trial court in the world and the most litigious society and not have error as a consequence in some cases.

— *Hon. Arleigh Woods, Second District, Div. Four*

And as a matter of fact, a great deal of the law in California is actually made by the Court of Appeal. If it's important and trend setting, the Supreme Court inevitably will pick up on it, and expand upon it, and speak to it. But initially, much of the law is made by the Court of Appeal.

— *Hon. Robert K. Puglia, Third District*



Hon. Robert K. Puglia

As I say, the Courts of Appeal are the backbone of the justice system in California, because without a system which afforded meaningful review, it wouldn't be much of a justice system. And that's the function and the office of the Court of Appeal.

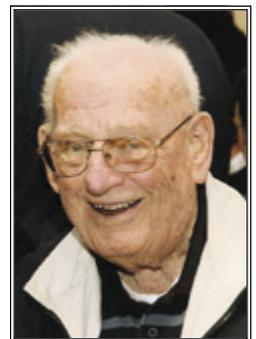
— *Hon. Robert K. Puglia, Third District*

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WORLD WAR II SERVICE

An experience common to nearly 25 percent of the Legacy interviewees was service in World War II. The three excerpts highlighted below are but a fraction of the compelling stories recounted by the justices.

Hon. Lynn D. Compton, portrayed in the book and television miniseries Band of Brothers; awarded the Silver Star, the Purple Heart, and a host of other medals and decorations:



Hon. Lynn D. Compton

PAUL TURNER: At the beginning of the book *Band of Brothers*, I'd like you to just give me a read on this:

“The men of Easy Company, 506 Parachute Infantry Regiment, 101st Airborne Division, U.S. Army, came from different backgrounds, different parts of the country. There were farmers and coal miners, mountain men and sons of the Deep South. Some were desperately poor, others from the middle class. One came from Harvard, one from Yale, a couple from UCLA. Only one was from the old Army, only a few came from the National Guard or the Reserves. They were citizen soldiers.”

[Does] that describe accurately what was going on, in your view?

LYNN COMPTON: Yeah, I’d say that’s pretty good; yeah, that’s . . . I mean, each thing is true, yeah. They ran the gamut and so forth.

Justice Compton describing his jump into Normandy:

PAUL TURNER: Where were you in the people coming out of the aircraft? Were you first, last, middle?

LYNN COMPTON: I was first. . . . [W]hen we went out the side of the C-47, we’re in the prop stream and we’re getting this prop blast. When your chute comes open, you get this tremendous jolt—opening shock, they call it. Well, because these guys weren’t, pilots weren’t, slowing down like they were supposed to, when I went out that door I got one hell of an opening shock; it was so bad that I had one of those cups on my helmet liner, my jaw flew open and broke the strap that was holding the helmet liner on. *[laughing]* My helmet stayed on, but the inside liner thing. . . . And that bag went off my leg like it wasn’t even strapped to it; it just went shhht, like that. And the rope was feeding out and burning my hand; I couldn’t hold it any longer, and I just let go and it snapped, and I haven’t seen it since, you know. . . .

When I hit the ground, I had a trench knife on my belt, a canteen, and some of those old D rations, those highly concentrated chocolate bars, in one of my pant legs. And that’s what I was sent to fight the war with: chocolate bars and a knife. *[laughing]*

Justice Compton describing preparations for the Battle of the Bulge:

PAUL TURNER: On the 15th of December 1944, the day before the Battle of the Bulge starts, what was your unit preparing to do?

LYNN COMPTON: We were preparing to have a football game at Rheims on Christmas Day, and I was coaching this team we had. I don’t know where the hell we got the uniforms; but anyway, we had uniforms and shoes and the whole bit, and we were getting ready to play a game against another unit—I forget what unit it was now—in Rheims called the Champagne Bowl or something. And we were out practicing in a field there outside the base in the morning, I remember, and word

came out that we were all to report to the headquarters, company headquarters, at noon or something like that.

Anyway, so practice broke up and we went back and got our gear together and went and reported to where we were supposed to report. They loaded us onto trucks, told us that there had been some kind of a breakthrough on the line someplace, and so that’s all we knew; we just headed out.

— *Hon. Lynn D. Compton, Second District, Div. Two*

Hon. M. O. Sabraw, on his experiences in Japan as a soldier during and after the War:

CARL ANDERSON: Okay. Do you recall where you were when the first atom bomb went off in Hiroshima?

M. O. SABRAW: My recollection is that we were on Okinawa at that point—and I know we were on Okinawa. And we actually had had a couple of jump exercises there, anticipating that we were heading for Japan, and later learned from operations material that that was the program: we and plus a large contingent was headed for southern Japan.

CARL ANDERSON: So what happened after the first atom bomb went off?

M. O. SABRAW: Well, the second atom bomb went off, and at that point we were with orders to go to Japan. And we didn’t know where we were headed; we just knew we were going to Japan. We were loaded with all our gear.

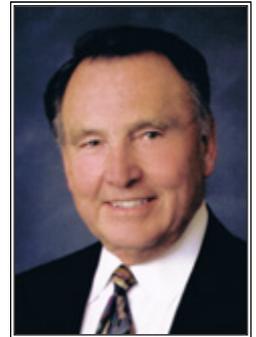
And we came to Atsugi airdrome, and we anticipated that we were going to jump on Atsugi airdrome; it’s an airdrome south of Yokohama 50 or 60 miles, something like that.

When we got there, the commanding general, General Swing, circled the airdrome and was suspicious that he didn’t see any activity there; so he sent a plane down to land, and the word came back that there appeared to be nobody there at the airdrome, that it had been abandoned at that time.

CARL ANDERSON: It was totally deserted?

M. O. SABRAW: Totally deserted. There was coffee on the tables, there was papers, there was supplies, there was everything, like somebody said, “Let’s exit now,” and that’s what happened.

— *Hon. M. O. Sabraw, First District, Div. Four*



Hon. M. O. Sabraw

Hon. Arthur L. Alarcon, describing his wartime leadership responsibilities at the age of 19; awarded the Purple Heart and the Bronze Star:

ARTHUR ALARCON: Well, I went overseas with the 94th Division, and we ended up near Germany near the Maginot Line, and we were part of the Bulge fighting in the Ardennes Forest battle.

And I was given a promotion by my captain from PFC to staff sergeant because of casualties; so at the age of 19, I had a group of 12 men under my care and responsibility.

Within a year I became the acting first sergeant of my company; then I had 200 people, and I had to be concerned about every aspect of their lives. So that forced me into a lot of maturity quickly.

JUDITH ASHMANN-GERST: I've always enjoyed talking to you about your World War II experiences. You had some just amazing events that occurred there. Is there anything you'd like to share with us?

ARTHUR ALARCON: Well, one thing that probably if you've talked to other former infantrymen or Marines, we don't usually talk about what happened on the battlefield. It's painful; I mean, we lost close friends.

I did have an interesting experience. I was a scout for my battalion, which meant I would go out in front whenever we'd go into a battle; and I was also the sniper, which meant that I stayed behind if we had to retreat. On one occasion the colonel of our battalion ordered me to go out into a valley, and it was covered with snow. And I said to him, "If I were the Germans, I would have a machine gun on the hill on the left and a machine gun on the hill on the right, and I would have crossfire where you're sending me." And he said, "I've given you a direct order; go for it."

I ran out, and sure enough, two machine guns started firing at me, and as I ran I could see the bullets between my legs, because they had bullets that you could . . . tracer bullets that you could see in the daytime.

I saw a large hole; it looked to be about a foot deep, looked like an old shell hole. I raced to that, jumped in it, and was covered with snow. And being a surfer from California, I had no idea about snow and ice.

What happened was, right under the snow was ice, and I cracked through that, and the machine gunners then lowered their guns; so the bullets were going right past my helmet, so I had to get down. And my captain, for whatever reason, choked. He didn't do anything to rescue me; he just sat there all day.

When it got dark, I was able to leave that place; but during that exposure, my legs were frozen up to my hips. The next day I was sent to a hospital in Luxembourg, and the doctor who treated me said, "I'm going to try some experiments with you, because we've had to amputate a lot of people, and I don't want to do that." He said, "Do

you drink?" And I said, "No." And he said, "Well, you're going to drink now," and he gave me an ounce of bourbon every hour for several hours and moved my bed over to the window and opened the window so that I wouldn't change my body temperature in a way that he didn't want. My legs were saved by this wonderful doctor.

When I came back, I went to the captain and I said, "You know that my legs were frozen under fire. Am I entitled to a Purple Heart? I don't want one if I'm not entitled to it." He said, "No, it has to be shellfire or fragments from a bomb or something." I said, "Okay."

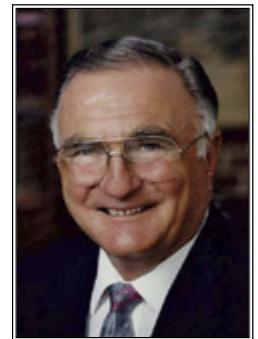
About four years ago, I told this story to one of my granddaughters, who insisted I talk about it. I told her what happened, and she said, "That's not fair"—she was about 10 or 11 — "and you've got to do something." I said, "What do you want me to do?" She said, "I want you to write to the Secretary of the Army and tell him that you were cheated by that captain, and I want to see the letter."

I wrote a letter to the Secretary of the Army, and they wrote back to me — now, I was about 77 at the time — and they said, "We're about three years behind in checking this kind of a request." I wrote back and I said, "You know, I'm 77. I was in World War II, and three years from now I can't guarantee you that I'll be here if I'm entitled to it; but don't award me the medal if I'm not entitled." Well, they wrote back and said, "You were entitled to it." And I also found out that I had not ever been told I was entitled to the Bronze Star.

Three years ago, thanks to my granddaughter, I was awarded the Purple Heart — and it's right here — and the Bronze Star.

— *Hon. Arthur L. Alarcon, Second District, Div. Four*

HUGH ARTHUR EVANS: When I went over, I had to fly five missions as a copilot for a seasoned pilot so that you could see what it was all about and see how terrified you were going to be. The first time you see all that flak in the sky it's frightening as hell. And on my first mission the airplane on the right wing of the lead plane that we were flying on the left wing of had one of my classmates flying as the copilot, and I'd just looked over at him a minute ago or a minute before and looked away. I was watching where we were going, and I felt the airplane go up. They took a direct hit and the bomb bay just vaporized. So those kinds of things you had to get used to experiencing and seeing; and luckily, I didn't have any of those happen to me.



Hon. Hugh A. Evans

ARTHUR G. SCOTLAND: You actually got a special flying award, did you not?

HUGH ARTHUR EVANS: Yeah, I had a few, and I got the Distinguished Flying Cross in October. The citation says “Extraordinary Achievement,” and that’s really what it is. It takes a full set of brass ones, I’ll tell you, sometimes. And we had been on a mission over near Mersberg, outside of Berlin, and they knocked off two engines on one side. Luckily, we didn’t burn, and so I started dropping back as we got off the target, and let down and let them . . . finally flew that sucker all the way back across the channel and landed it at our base. I wasn’t sure I was going to make it, but we made it. So I think the survival was the extraordinary achievement.

ARTHUR G. SCOTLAND: How long were you flying in combat during the war?

HUGH ARTHUR EVANS: About from June until November, 35 missions. Some of the worst ones were the low-level stuff we did. We had to help the troops out in France; and there were three cities where they got bottled up and we’d go in at 10,000 feet. And the B-17’s a very slow aircraft, so we’d indicate 150 miles an hour — go plodding along and bomb on a smoke marker. In the meantime, the Germans would just crank their 88 Apache and bang, bang, bang. That would raise a very high pucker factor. *[laughing]*

ARTHUR G. SCOTLAND: No kidding.

HUGH ARTHUR EVANS: I’d come home with 100, 150 holes in the airplane, sometimes with an engine out. We only had to do that three times, and I was very thankful for that. *[laughing]*

ARTHUR G. SCOTLAND: Was there ever any sense of hesitation when you recall that — to fly on a mission?

HUGH ARTHUR EVANS: No. It was my turn to go, so we’d go.

England was a strange place to be flying out of where we were because I’ve . . . Maybe a year ago I looked at my old forum five and all the missions, and of the 35 takeoffs I made, I think 22 of them were on instruments — zero, zero. There was no, just no, visibility. And we had lights along the room where you could see, so you just set all your navigation needs for the headings you wanted, unset them, and then took off down the runway; and your copilot would watch and make sure you didn’t veer. And you watched your headings, and took off and climbed up through the stuff. Because it always broke in England in the afternoon and then would give you a ceiling of maybe 800 to 1,000 feet, and you could come in under it and get home. This is why in those days this was for young people — it wasn’t for old people. And I realized that more and more as I got older.

— Hon. Hugh A. Evans, Third District

PUTTING IT ALL IN PERSPECTIVE

George Brown was a grand man, probably the epitome of what and who a judge should be: intelligent, capable, gracious, thoughtful, wise. . . . He was sitting pro tem on the first panels that I was on as an appellate court justice and we tended to talk and then we had lunch. Anyway, after a few days during that first stint, he comes into my chambers after lunch. He said something to the effect, “How do you like it? Are you enjoying it?” “Yeah,” I said, “it’s a little isolating and I’m still not getting used to this monastery that the Court of Appeal is.” He said, “Let me give you some advice.” He pointed me to the Cal.App. volumes of the official reports in my chambers; I still had them in those days. He said, “Pick one, about 100 years ago.” This was 1989, so I picked one about 1889 and I pulled that and he said, “Open it to a case.” “What case?” “Any case.”



Hon. Nickolas J. Dibiaso

So I opened it and we . . . found the first page. “What was the name of the judge on that case?”

“The justice?” I said. I don’t know, “Smith, John P. Smith.”

He said, “Do you know who John P. Smith was?” I said, “No.” “Do you think anybody today knows who John P. Smith was?” I said, “Unlikely, unless he’s got grandchildren.”

And he said, “Let that be a lesson to you. A hundred years from now nobody’s going to know who you were either.” I take that — that was a lesson in humility. And George was a humble man.

— Hon. Nickolas J. Dibiaso, Fifth District

I was in practice nine years, and one of the judges of that court was Judge Brownsberger. . . . I appeared in front of him a number of times. And one day . . . he said, “Chuck, do you want to be a judge? I’m retiring and they’ll appoint anyone I want.” Of course, this is before JNE. And I said, “Gee, I don’t know. What does it pay?” And he said, “\$42,500 a year.” I said, “That’s exactly what I made this last year. Let me think about that.” So I went and I spoke to Agee Shelton. I said, “Brownie’s leaving the court and he said he can get me appointed. What do you think?” He said, “Chuck, the good lawyers never become judges.” So I applied.

— Hon. Charles S. Vogel, Second District, Div. Four ★