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# In Memoriam

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## HONORABLE PHIL S. GIBSON

Associate Justice of the Supreme Court of the State of California 1939-1940;

Chief Justice of the Supreme Court of the State of California 1940-1964.

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The Supreme Court of California met in its courtroom, State Building, San Francisco, California, June 7, 1984.

Present: Chief Justice Bird, presiding; Associate Justices Mosk, Kaus, Broussard, Reynoso and Grodin; Retired Associate Justice of the Court of Appeal Devine. Gill, Clerk; Williams, Rodgers and Stohler, Bailiffs.

**CHIEF JUSTICE BIRD:** We meet this afternoon to pay tribute to the memory of Phil S. Gibson, who served with great distinction as an Associate Justice of this court from August of 1939 to June of 1940 and as Chief Justice from that time until his retirement on August 31, 1964.

It is now my pleasure to introduce the members of the court. Starting at my far right, Justice Grodin, Justice Broussard, and Justice Mosk. To my left, Justice Kaus, Justice Reynoso, and in place of Justice Lucas, who cannot be present this afternoon, I am pleased to welcome retired Presiding Justice Preston Devine of the Court of Appeal, who will offer some remarks later in these proceedings.

On behalf of the court, I welcome Justice Gibson's widow, Victoria, and his son, Blaine.

Phil Gibson was a person of great strength, but it was a strength marked by restraint, by grace, by charm, and by wit. He had that rare gift for making the difficult appear easy. He combined a tough mind and a resolute will with a gentle spirit. And always, there was that twinkle in his eye.

I first had the pleasure of meeting Chief Justice Gibson in 1977, shortly after my nomination to this court was announced. At that initial meeting, I was at once struck by the warmth and forcefulness of his personality. I found myself wondering why in the world he had retired, since he seemed to be as familiar with the current work of the Supreme Court and the Judicial Council as if he were still on the bench.

I think he set some sort of precedent when he said goodbye to me that day. I am sure that it was the first time one Chief Justice ever referred to another Chief Justice as "darlin'."

Phil Sheridan Gibson was born on November 28, 1888, in Grant City, Missouri, and was named after a general with whom his father had served dur-

ing the Civil War. His father was an attorney and later a judge. Along the way, he also edited a weekly newspaper. Perhaps this helped instill in Chief Justice Gibson the respect for freedom of the press that was later to manifest itself so eloquently in his dissent in *Times-Mirror Co. v. Superior Court*—a dissent which ultimately was adopted by the United States Supreme Court on First Amendment grounds.

The future Chief Justice worked his way through the University of Missouri, in part by pressing pants, and received his A.B. and LL.B. degrees in 1914. After a brief stint as a trial lawyer and a successful campaign for prosecuting attorney of Worth County, Chief Justice Gibson went to Europe to serve in World War I.

After the war, he studied at the Inns of Court in England before returning to the United States. He homesteaded some land in Wyoming for a few years and then journeyed to California to join his brother, who was the editor of a newspaper in Anaheim. Chief Justice Gibson passed the California bar in 1923 and practiced law while also teaching at Southwestern University School of Law. It is interesting to note that a current member of our court, Justice Stanley Mosk, was one of his students.

In 1939, Governor Culbert Olson named Phil Gibson as the Director of the Department of Finance. Shortly thereafter, he was appointed as Associate Justice of the California Supreme Court. He did such a good job that a few months later he was made Chief Justice.

Just five months after that appointment, his name appeared on the ballot for the voters to decide whether or not he should be retained in office. Apparently, there was some controversy over his appointment centering on his qualifications. It was argued that Chief Justice Gibson was relatively young for the position and might serve as long as 30 years. Further, he came directly out of a cabinet post in the executive branch of government without any prior judicial experience. His election chances also were complicated by the fact that he joined the majority in what was perceived as a pro-labor opinion only a few weeks before he faced the voters.

This led several groups to mount a brief campaign against Chief Justice Gibson. In fact, an agricultural group undertook to raise thousands of dollars to bring about his defeat, describing him pejoratively as a “humanitarian” judge. Despite these efforts, he was retained and proved his critics correct in at least one respect—he remained on the bench for the next quarter century.

It did not take long for Chief Justice Gibson’s prodigious administrative talents to demonstrate themselves. In 1941, he successfully led a movement to create a new division of the badly overworked Court of Appeal in Los Angeles. At the same time, he tackled the backlog of 600 cases facing the Supreme

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Court, and within 2 years the logjam had been reduced to some 24 uncalendared cases. His sense of humor was evident in his handling of this difficult problem. He transferred a large number of cases to the Court of Appeal to resolve.

Also in 1941, Chief Justice Gibson was instrumental in getting the Legislature to transfer to the Judicial Council the power to make rules of appellate procedure. By 1943, new California Rules of Court had been drafted, and in 1944 the Administrative Procedures Act was promulgated.

This act, which provided for uniform rules of practice and procedure for state regulatory agencies that grant and revoke licenses and similar rights and privileges, has served as a model for other states throughout this nation.

Ten years after he became Chief Justice, Phil Gibson achieved a remarkable feat—the reorganization of the courts below the superior court level from a confusing morass of 768 courts of 8 different types into the present-day municipal and justice court system.

Uniform rules of jurisdiction, venue, and procedure were proposed to end the confusion that had reigned under the old system. Chief Justice Gibson tirelessly stumped the state to gain support for this constitutional amendment, and his efforts were regarded as the key element in securing the voters' approval for this particular measure.

In 1957, the Gibson-led Judicial Council established rules for pretrial conference procedures to assist in the settlement of civil cases and in the clarification of issues should those cases go on to trial. In 1960, article VI of the California Constitution was revised, expanding the membership of the Judicial Council to include representatives of the State Bar and the Legislature. The Administrative Office of the Courts was established, and the State Bar of California was made a public corporation with perpetual existence and succession. The Commission on Judicial Performance, which plays the vital role of investigating and acting upon complaints against judges for alleged misconduct or wrongdoing, was also created under his direction.

Judging from this impressive list of accomplishments, one might readily conclude that Chief Justice Gibson contented himself with discharging his administrative duties as Chairperson of the Judicial Council and decided to leave opinion writing to others. Far from it. He simply devised one more procedural innovation known as the "night shift," and the problem was solved. He wrote some 670 majority opinions during a career that saw unprecedented growth and change in California.

Phil Gibson led the Supreme Court through this period by utilizing the blend of practical wisdom and quiet leadership with which he was gifted. A series of

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his opinions in areas such as civil rights, labor law, water law, administrative procedure, appellate review, legislative apportionment, and separation of powers bears lasting testimony to the progressive achievements of the court during the Gibson era.

Time and again, Chief Justice Gibson's opinions placed California in the forefront of the law and presaged similar rulings on the national level. From his dissent in the *Times-Mirror* case in 1940 through his majority opinion regarding the elimination of racial imbalance in schools in *Jackson v. Pasadena City School District* in 1963, he was a vigorous and courageous protector of the individual liberties guaranteed us by the Bill of Rights. This dedication to liberty was strongly ingrained in Phil Gibson. During World War II, he was the only California state official to speak out in opposition to the imprisonment of Japanese-Americans in internment camps.

His own words put his love of liberty well. "To enjoy liberty, it is sufficient that it be in one's soul; but to defend and preserve it is a task for the mind." If ever anyone exemplified a commitment, mind and soul, to liberty and to the principles of justice, that individual was Phil Gibson.

He was a person of conviction, of principle, of action, and, above all, of great human warmth and compassion. When we honor Chief Justice Gibson today, we surely honor all that is best within each of us.

It is now my pleasure to introduce my colleague, Justice Stanley Mosk.

ASSOCIATE JUSTICE MOSK: Thank you, Chief Justice Bird, and colleagues, Vicki, Blaine, Chief Judge Peckham, members of the bench and bar and friends of Phil Gibson.

From his modest origins in Missouri, or Missoura, as he put it, Phil Sheridan Gibson received a splendid legal education at Lincoln's Inn, London, began the practice of law by himself in the old Loew's State Building in downtown Los Angeles. There were some great lawyers in those days. He was always deemed to be among the best. In addition, as the Chief Justice mentioned, he taught at Southwestern University School of Law. That's where I first met him. I had just come out from the University of Chicago Law School and wanted to learn some California law before tackling the bar examination. I learned my code pleading from Professor Gibson. Thereafter, on occasions, he would refer to me as his protégé. To him it was a flippant remark but to me it was a badge of honor.

Phil Gibson and I began our public careers at the same time, in 1939 in the administration of Governor Culbert L. Olson. Gibson was the Finance Director and I served as Executive Secretary to the Governor. Through our work and our mutual respect and admiration for the lofty and uncompromising ideals of Governor Olson, we became personal friends as well as associates. Indeed, at

one time he invited me to accept an appointment as Assistant Finance Director, which would have meant in those days a munificent increase in salary from my \$5,000 to \$7,500. But I declined because I never was very good in finance and mathematics. If they only had computers in those days things might have been different.

We took slightly different professional paths. He went directly to the appellate scene and I to a trial court and to the office of Attorney General before going on the Supreme Court, but our close friendship continued. In our salad days, after some staid bar association functions, we closed many a North Beach bar while happily musing about law, politics and life generally. Theodore Roosevelt could have had a Phil Gibson in mind when he once wrote that lawyers are more fun to work with, fight with and play with than anyone else.

For every one of the succeeding forty-five years, my respect and admiration for Phil Gibson as a sensitive human being, public servant and scholar in the law has grown. It not only remains undiminished now that he's been taken from our midst, but it will be enhanced by the perspective of history.

After Phil Gibson obtained passage of the first Olson budget by a hostile Legislature in 1939, he was appointed to the Supreme Court as an Associate Justice first, and ten months later he succeeded Chief Justice Waste, who passed away in June of 1940. And, as Chief Justice Bird has mentioned, he is properly credited with bringing the archaic administrative system of justice in California into the 20th Century. He had to do this by legislative arm-twisting. Regardless of the influence of entrenched incumbents and powerful local political interests, he was able to get passage of his reform measures. In legislative halls at that time he was often respectfully referred to as "The Little Giant."

In sum, Phil Gibson was a superb administrator, undoubtedly the best in the history of California and perhaps the best in the country. However, his innovative work in that area should not obscure his simultaneous distinguished career as a jurist. I think he will always be recognized as having had one of the most perceptive legal minds California has produced.

It is perhaps unfair to pick out any one or two or three of his opinions, but nevertheless whenever you mention the name of Phil Gibson several landmark decisions immediately come to mind. From his very first day on the court, as an Associate Justice, he demonstrated his devotion to constitutional principles. The *Harry Bridges* case had been decided before Phil Gibson ascended the court. The trial court had held this labor leader in contempt for publicly criticizing a trial court decision. The Supreme Court had upheld that contempt citation. But Justice Gibson arrived in time to hear the motion for the petition for a rehearing and he voted, along with Justices Edmonds and Carter, and cast his first vote on this court to grant the petition for rehearing. But it was rejected four to three.

His first published decision revealed a sympathetic concern for individual dignity. It appeared to be a simple guardianship matter but the trial court had refused to listen to testimony from an alleged incompetent in a guardianship proceeding and held only medical testimony was permitted. In reversing, Justice Gibson wrote: "It is difficult to conceive of a situation in which a party has a greater right to or need for his own testimony in the type of proceeding considered here. The right to control her own person and affairs was taken from this appellant on the testimony of two strangers, whose conclusions were based upon acts and circumstances she was not permitted to explain or controvert, and she was denied the opportunity to show by testimony her capacity for rational thought and intelligent action."

As the Chief Justice mentioned, he became well-known for his dissenting opinion in the *Times-Mirror* case, which many people deem to be a classic on the issue of free press versus judicial authority. One of my favorite Gibson opinions was the 1952 challenge to California's infamous Alien Land Law, which had been passed two decades earlier in an atmosphere of xenophobia. His majority opinion in *Sei Fuji v. California* was significant because for the first time in California jurisprudence the applicability of international human rights was considered. He devoted pages to the effect of the laudable purposes of the United Nations Charter and international human rights norm. But he cut right to the bone when he held that the Alien Land Law's real purpose was the elimination of competition by alien Japanese in farming California land. . . obviously designed and administered as an instrument for effectuating racial discrimination.

And so by 1952, three Olson appointees to the Supreme Court, Gibson, Carter and Traynor—on occasion joined by a fourth, Schauer—had transformed a traditionally conservative, generally considered mediocre, court into a tribunal acutely alert to the festering problems of modern society, particularly racial discrimination. And as the Chief Justice mentioned in *Jackson v. Pasadena* he struck a blow to eliminate racial discrimination in the public schools.

There were no sacred cows to Phil Gibson. Wrong was wrong, no matter how influential the perpetrator. Thus a wartime labor union that barred blacks from membership was enjoined from continuing discriminatory practices in *James v. Marinship*.

Phil Sheridan Gibson was one of the great men in California history. He was intelligent, energetic, innovative. On a personal basis he was warm and charming, possessing that Southern courtesy characteristic of his Missouri background, deferential to those with contrary views, convivial, modest, but not fanatically so, and I think we can say with confidence that his contributions to California jurisprudence will forever be a monument to Phil Gibson.

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CHIEF JUSTICE BIRD: Thank you, Justice Mosk. Next, we are very pleased to have with us, from the First Appellate District of the Court of Appeal, retired Presiding Justice Preston Devine, a long-time friend of Justice Gibson's.

RETIRED PRESIDING JUSTICE DEVINE: The passing of Chief Justice Phil S. Gibson was the departure of a man of surpassing character. He was a man of dignity, always mindful of the eminent office which he held. In this courtroom, he presided with befitting firmness but with courtesy to all. His demeanor was always consonant with his position. It was a medley of strength with gentleness. To judges, lawyers, and the citizenry, he left a legacy of law, sagely interpreted and effectively administered. His fearlessness is demonstrated by the vigor of his decisions and his logic by their cogency. Sometimes he displayed a quiet but engaging bit of humor and wit in his public appearances and in his private conversations. Thus in arguing to the State Bar many years ago against the multiplication of opinions by the Courts of Appeal, he pointed out that many of these are of little precedential value and are a burden upon the lawyers and have no use except to tell the losers why they lost the case and he doubted that even that was appreciated.

At a convention in Monterey, when we and our wives were at a restaurant with the learned Bernard Witkin, the two men engaged in a scholarly discussion about their favorite wines. Each was a connoisseur. The Chief then remarked that despite the discussion his friend was not ordering any wine, whereupon Mr. Witkin signalled the waiter. The three went into a huddle, and soon a vintage was produced which we were given to understand had been bottled at the time of the landing of Columbus.

The Chief gave example of industry to judges and lawyers by his own activity. He was the author of a remarkable number of opinions year after year, despite the enormous burden he had as Chief Justice and as Chairman of the Judicial Council in administrative work. Besides all of this, he was a campaigner, seeking support for measures which would facilitate the procedure of judicial tasks. A large portion of his persuasive effort was given to improvement in the lower courts, to which the poorer people often must come. The judges of California must be grateful to this eminent jurist, even those who have taken office after his departure from the bench, because of the tremendous improvement in the judicial system for which he was responsible.

When he had served about 25 years on this court, he retired, appropriately to a place of serenity and beauty, a hilltop home overlooking the Carmel Valley. Here he cultivated the flowers that he cherished. Here he lived in the bright companionship of his lovely wife, Victoria. Here he spoke with pride and affection of their son, Blaine. The name of Phil S. Gibson will always remain luminous in the annals of the State of California, the state which he loved and served so well.

CHIEF JUSTICE BIRD: Thank you, Justice Devine. Next, we are pleased to welcome Mr. Ralph Gampell, the Administrative Director of the Courts.

MR. GAMPELL: Chief Justice, Associate Justices, Mrs. Gibson and Blaine, and distinguished guests. Others have spoken to the monumental contribution that Chief Justice Gibson made to the jurisprudence of our state. But if I might, I would like, from the position I have, to focus on the awesome contribution that Chief Justice Gibson made to the administration of justice in this state and to acknowledge the enormous and uncommon foresight he possessed in this area.

As an aside, I note that I have a very personal reason for respecting and honoring the memory of Chief Justice Gibson. Largely through his efforts the position which I now hold was established in the revision of the judicial article of the California Constitution in 1960. The power to fill the position was vested in the Chief Justice. Had there not been that power, there would not have been an appointment. Had there not been an appointment, there would not have been an incumbent, and in that circumstance, I assume I would be engaged in some other endeavor.

Some years ago, I had the honor to be admitted to the acquaintanceship of Chief Justice Gibson. His verbal resume at that time of the evolution that had occurred in judicial administration here in California from the 30's until the late 70's was a detailed oral history of the field during that era.

What is particularly heartwarming is we all look back on those days as being halcyon. No problems? Nothing of the sort! The Chief explained how he had won some and lost some, but over a twenty-four-year period he remembered the names of each of the players and who'd been on which side and he remembers these events as if they had occurred only yesterday. And what I took away from hearing that kind of personalized report was that the problems were much the same then and that one should take heart from the fact that a great fighter like Chief Justice Gibson had not won every contest.

But what a mark he made and what a number he did win. Let me mention a victory or two not referred to by Chief Justice Bird, Justice Mosk or Justice Devine. In the important 1960 revision of article VI of the California Constitution dealing with the judiciary, brought about largely through the Chief's initiative, provision was made for a Commission on Judicial Qualifications, which is now the Commission on Judicial Performance. I cannot think of any single act of Chief Justice Gibson's which has more redounded to the position of esteem which our judiciary now holds, both in this state and throughout the United States. I believe because of that far-sightedness we have a judiciary which is not only beyond reproach but which is also perceived by the public as being beyond reproach and with no mark of venality or corruption. Those of us who have occasion to observe other jurisdictions within the United States

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realize that the Chief's mark on the judiciary of our state not only exists now but also will carry forward into the future, and that mark will be on that whole schema of an independent constitutional body, away from the Supreme Court, away from external pressures—a system that stands as a landmark continually testifying to the Chief's foresight.

Let me single out one other area of administrative achievement. In the early 1940's, as part of a court administration revision program which he fathered and shepherded, the Chief assigned the then very small Judicial Council the task of developing acceptable and workable Rules on Appeal. In furtherance of the Chief's plan, allowed by the revision of article VI of the Constitution in 1960, the Judicial Council was enlarged. The Administrative Office of the California Courts was revitalized and the rule-making power, which in so many other jurisdictions bedevils their Supreme Courts, was placed with the Judicial Council thereby alleviating our Supreme Court of the substantial tasks involved in the exercise of that power. Supreme Courts of other states must find time in their heavy work schedules to deal with such matters as how a practice form should be worded and where commas and periods are best placed in court rules. In a profound jurisdictional change, the Administrative Office of the Courts was given the responsibility to carryout the day-to-day work of the Judicial Council as its permanent support staff—a development, as far as I can tell from the literature, that has become a prototype system of judicial administration envied throughout the United States.

It is not so much that the shifting of administrative burdens away from the Supreme Court is a good idea, which it is, but that the Chief thirty years back in time had the vision to see that, in a burgeoning state with an expanding population, steps had to be taken to relieve the mounting administrative pressures on a seven-person Supreme Court to allow it to cope with its heavy case load. Chief Justice Gibson became the primary architect of an effective judicial system that centers the Supreme Court's attention on the determination of cases and not the content of forms or the formulation of rules on appeal and standards of judicial administration and the rest.

I have been profoundly influenced, personally, by having known Chief Justice Gibson. I am sure that everyone else who came personally or professionally to know the Chief Justice must have been similarly touched and similarly warmed and similarly guided and similarly helped. If I might paraphrase, now is the time to praise a famous man.

CHIEF JUSTICE BIRD: Thank you, Mr. Gampell. Mr. Bonifacio Yturvide, a member of the State Bar of California who clerked for Chief Justice Gibson, will speak next.

MR. YTURVIDE: I offer these remarks under the title: "In Warm Remembrance of a Great Samaritan."

Reviving poignantly in my thoughts following the death of the Honorable Phil S. Gibson were the words inscribed, some twenty-five years ago, by members and former members of his own staff upon a presentation made on the twentieth anniversary of his appointment as Chief Justice. The Chief was characterized on that occasion as a man of lofty station with mind and heart to match. Fitting sentiments then, but even more so now with the sharpened perspective imparted by the intervening quarter of a century, a span sufficient to enhance fuller appreciation of the then close-at-hand, the day-to-day, the taken-for-granted, and begin transforming it into cherished history.

Attempting to capture in commemorative capsule the essence and impact of such a person, of such a dynamic and illustrious lifetime, is something like wrestling a risen, richly leavened dough back into its pan. You press it here, and it erupts there, and, even when something approaching compaction is achieved, the success is at best fleeting because the amalgam, too vibrant to be contained, is destined to burst forth anew and attain, if allowed, even more succulent and unmanageable dimensions. At some point, the only sensible alternative is to bake it, even though, sadly enough, so much richness must thus untasted go.

So, of necessity, my tribute to the Chief today has been guided by a rather pinpointed beacon. However regretfully, I leave untasted not only the enormous influence he exerted on his legal staff as superb teacher of our profession, but also his achievement as incisive, farsighted, and ground-breaking jurist, as the singularly innovative and successful administrative head of our judicial system in general, and as leader of this court in particular and zealous builder and guardian of its statute and dignity. Those achievements have been rightly hailed here today and by many others in the past and will surely be again in the future and often.

My focus here is on those elements of personality of the Chief's which, though obviously known to my predecessors here today, are not all perhaps so well known to the world at large but which were so much part and parcel of him and so captivating to us. Admirers have been wont to say that the Chief seemed to embody everything a Chief Justice should be. Indeed, with obvious nostalgic recall of when a train whistle in the distance hinted adventure and luxury and bred excited dreams, one such admirer suggested that the Chief actually qualified as "The Super Chief."

Slang supplies expressions suited to the Chief, such as "style," "oomph," "class," "the goods." To attempt something more formal is to speak of infectious vitality; of a marvelous blend of directness with graciousness and perceptive tact; of a down-to-earth, no-nonsense approach to problems befitting one initially shaped in our "Show Me" state, yet coupled with a breadth of vision and imagination ranging far beyond the here and now; is to speak too of intense commitment and hard work but enlivened abundantly by a winsome charm, joy

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of living, sense of humor and fun, and love of a good story finding genesis, I suppose, somewhere in leprechaun land; and is to speak above all, yet cementing all, of that active solicitude, that readiness to see, understand and get involved in the concerns and problems of others, low or high, near or afar, that compassionate spirit winging the few, relatively few, true samaritans to that rare perch occupied by those who not only care about, but search for and do battle with, the unjust, the unfair, the unkind.

Still, all that is a collection of mere words, abstractions falling short of the reality. Sometimes, where words fail, concrete incidents can serve, and I will recall a few which at least help paint some of the picture.

There was the time, for example, that the fan had rather been hit. The project was important enough that two or three of us had been working on it, and, when we were called in by the Chief about the mess, some self-defensive finger-pointing began to emerge among us, causing the Chief to scold, "I don't care whose fault it is. I just want it right."

And the time I was working with a woman (to remain anonymous in view of present proximity) who had a lot of steam as a day progressed but was not inclined to greet the morning with much zest. That wasn't any big worry for her because the Chief typically attended to other business first, unlikely to call any of the legal staff in before 10 to 10:30. But, one morning, he was champing at the bit to get a difficult problem behind us and called me and my said colleague in at what for her was the crack of dawn. He champed away while she struggled to stifle yawns, none too successfully. Suddenly, in midsentence, he paused and enjoined, "Darlin', next time you have such a hot date, tell me and I'll let you off early."

And the time he was asking me for my assessment of someone, interested obviously in anything negative with the rest. Just as obviously, particularly because the person was a friend, I waffled, causing the Chief to exclaim, "I know you're friends, but don't you know yet that the kindest thing you can do for your friends is to be aware of their weaknesses!"

And the time that the bailiff, then a frolicsome youth, ultimately to become a judge and, presumably, less frolicsome, was late again to pick up the Chief in the morning notwithstanding the stress the evening before on the special importance of promptitude that morning. Finally, the car roared around the corner with a squeal of brakes and plummeted to a stop where the Chief was impatiently pacing. He got in, confirmed the bleary-eyed condition he expected, looked in the back of the car and espied a woman's shoe or even more telltale item of apparel, and cried, "Son, I'd fire you, but nobody else would hire you!"

And the time I asked his idea of what great Presidents were and he replied that greatness in Presidents wasn't a helluva lot different from greatness in

carpenters. It was a matter of caring, of knowing or finding out what had to be done, and going about getting it done as fast and painlessly as possible.

And the time all of us were in fear that we were in for one of those, shall we say, indications of displeasure which certainly were delivered in tones calculated to arrest attention and which, according to one wag, made even the pigeons outside tiptoe on the windowsill. We were concerned because he had been complaining in recent weeks about how cocky we were all getting and because he had called ahead that day to ask that all of his staff be assembled in his chambers by the time he got there. He rushed in, said he had something he wanted to show us, and unfurled a poster which read, "When all else fails, why not try what the boss suggests!"

And so many other times, but one more time, the most important time for me, the very first time, is so revealing that it must be mentioned today even though I have alluded to it rarely in any detail in the past because it evokes in me emotions threatening my embrace of the maudlin.

In the late morning after the bar exam and the ensuing revelries, I was awakened from stuporous but curative slumbers by the pounding of the landlady, who insisted that somebody very important was calling. I more or less walked out to the phone and heard that Chief Justice Gibson wanted to see me at 2 that afternoon if possible. I, of course, mumbled agreement, but, when the cobwebs began to clear, I was sure I was the target of a pranksome friend, so I called back a little later, pretending some confusion as to the time of the appointment. It was real, and, although not unperplexed, I came to San Francisco, driven by the woman I intended to and did marry within a few months. I couldn't guess what it was all about. My best guess was that it might be something about a job, although that seemed so unlikely. I had made no application to this court, and, from my experience in the recent months and notwithstanding genuine support from placement people at Boalt, I had learned, with no particular surprise, that those with job openings might be willing to heap glowing praise on a blind law graduate's academic achievements but not to hire one.

Sure enough, the Chief was different. As soon as we were seated, he told me Justice Peters (who judged a couple of my moot court efforts) had been saying some rather nice things about me and that the people at my law school thought I was pretty good, although, of course, one had to be a little careful there because it was Boalt after all. He asked me whether I would be interested in working for him, and I said I thought so but didn't know what the job might entail. He explained and asked could I handle that. Again, I said I thought so, and he characteristically shot back, "How?" I reckoned as how I didn't know just then but that I would like to try and was sure, with a little time, I could find a way. He said that was good enough for him and to show up Monday, adding (with that twinkle which was generally as audible as it was visible) that he was betting

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on me since I had managed to get such a pretty girl interested enough in me that she would drive me over on such short notice.

That's about all there was to it, and yet so much: the unsolicited, volunteered concern even for a stranger; the readiness to get involved and extend help in need; the willingness to lead the way, to take risks shunned by others in pursuit of the right as he saw it; and, withal the understanding, the kindness in execution, so unpatronizing, so free from the self-congratulation and condescension that, too often, peep through and taint the altruistic deed.

During the twelve years that I was to work for the Chief, I came to know that the kind of treatment I received at his hands that first time was by no means unusual but a commonplace experienced by many. He truly cared, and he knew or made it his business to find out what had to be done and went about doing it as fast and painlessly as possible—a memorable person, indeed, personage, a human being (in the popular lyric's language) “unforgettable” in every way.

So I say, personally and for the others who worked for the Chief over the years, a number of whom are present here today, that we count it a privilege to join in this commemoration of the grand life of a grand man and to give our testimony for all to hear (and especially, of course, Mrs. Gibson, Vicki, and Blaine) that, whether or not he too, “The Super Chief,” may now belong to the ages, he certainly belongs and will remain in our thoughts and our hearts, eminently and warmly.

**CHIEF JUSTICE BIRD:** Thank you, Mr. Yturvide. The Court is very pleased to welcome here today Chief Justice Gibson's son, Blaine, who will speak next.

**MR. GIBSON:** Chief Justice Bird, Honorable members of the court, friends of my father and friends of mine. You knew Phil Gibson, the Judge, the Chief Justice, the colleague, from working with him or through his opinions. So I'd like to take the time to tell you a little about the Phil Gibson I knew, Phil Gibson the father, and start by saying that they were very much the same man. The thing about Phil Gibson is that he always took the time to be a father. He used to always bring me to the court, I remember this room well, seems a lot smaller now, probably because I'm a lot bigger. He used to take me to the Governor's office. Whenever he was having dinner with friends or colleagues he included me. I remember when the Tobriners used to come down to Carmel, we would always get together with them. I was always included. When I was only five, six or seven years old, we used to work together, very closely in the garden, while he was Chief Justice and after he retired. I remember one time when I was in about the first grade, I got a call from the principal's office and they told me to come down to the office immediately. I thought I was in trouble. When I got down there I found that, no, my father had taken off his robes and driven down to pull me out of school to take me to a baseball game. I remember very well the day he retired, coming up here, and going through those ceremonies.

He said he retired because he wanted to spend more time with me and with my mother and he *did* spend that time with us. Even though after he left the court he went on as Chairman of the National Food Marketing Commission and with the Rosenstiel Foundation, he always found that time for us.

My father loved and respected this court. His career was marked with a strong desire for justice and fairness. He always believed that everyone deserved a fair chance. He showed this in his work on the bench, as many of you have mentioned. He expressed this feeling in his opinion that Japanese alien residents should have the right to own land, and that minorities should be able to join labor unions and get jobs to support their families. The rights of any child, regardless of his race, to attend a good school and receive a good education, rather than be bussed or gerrymandered into segregation. He didn't always win. I'm especially proud of one time when he stood up as the only public official in California and denounced the internment of the Japanese-Americans. He was also a practical man from a Missouri farming town who believed that you must make things work, and thus we have the reorganization of the courts.

You all know more about these cases than I do and can add many more to the list. What I can tell you is that he practiced these same principles at home as well as on the bench. Fairness was very much a part of him, and he did everything he could to instill these principles in me. I saw it in the way he dealt with the gardener, the carpenters, the delivery man, people he did business with, and my friends whenever they came to the house. He never pushed me to go to law school or pressured me into it. He always said, "Do what you want." He also told me, "Always try to understand where the other guy is coming from." When I'd ask him why he was so successful, he'd say, "Anyone could do what I did. I was just lucky." Well, I don't believe it was just luck, but it does show a certain humility that was very real.

In the line of fairness that he followed very closely, I would like to share with you a wish that he had that he repeated many, many times to me and my mother in his last few years. Very often after watching something on television, reading the newspaper, listening to radio or talking with people about the court, he would walk off and say to us, "I wish that everyone, *everyone*, would stop comparing the court of my time to the court of today." Anyone who lived as long as my father knows that you can never remove people and institutions from the time in which they live. My father lives on in my mother, in me and in those he worked with closely. He always believed that the workplace should not be impersonal, that friendship was important. I see so many of you here today, people I remember when I was five, six or seven years old and he'd bring me around. Charles Bushong, Bonny Yturbide, Olga Murray, Justice Mosk, Tom Caldwell, Justice Devine, Justice Newman, Gwen Davis, Elliot Williams, and I don't want to leave anybody out but I don't want to take all afternoon either. And then there were so many people so important to him who are not with us. Alice Hogan, Justice Tobriner, and Justice Traynor. He also lives on through

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the principles and laws that he worked for, and the opinions he wrote in the state, many of which were carried on to the national level. Laws of fairness, laws of equal opportunity, may they always endure. My father died peacefully at home, at the age of 95, and he didn't want a funeral because he didn't believe in them. But I truly believe that all that he wanted was the simple and beautiful acknowledgement of his friends and colleagues that we have seen in this hearing today, and I want, on behalf of him, to thank the court and everyone here for this memorial.

CHIEF JUSTICE BIRD: Thank you, Mr. Gibson. I know that your father would be very proud of you. I would like to thank all of the speakers for their remarks today. In accordance with our custom, it is ordered that this memorial be spread in full upon the minutes of the court and published in the Official Reports, and that a copy of these proceedings be sent to Mrs. Phil Gibson and her son, Blaine.

The court will be adjourned in the memory of Chief Justice Gibson.