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Phil Gibson and I began our public careers at the same time: in 1939 in the administration of Governor Culbert L. Olson. Gibson was Finance Director and I served as Executive Secretary to the Governor. Through our work, and our respective 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 appointment as Assistant Finance Director—which would have meant in those days a munificent increase in salary from my $5,000 per year to $7,500. I declined the offer because I found the legal work in the Governor's office to be challenging and I never was proficient in finance and math. Perhaps if they had computers in those days . . . .

We took slightly different professional paths—he directly to the appellate scene, I to a trial court and to the office of Attorney General—before going on to 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 these 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. These feelings not only remain undiminished now that he has been taken from our midst, but will be enhanced by the perspective of history.

After submitting and obtaining passage of the first Olson budget by a hostile legislature in 1939, Gibson was appointed to the supreme court as an associate justice in August of that year. Ten months later he succeeded Chief Justice Waste, who died in June 1940.

As Chief Justice, Gibson is properly credited with bringing the archaic administrative system of justice in California into the twentieth century. The chaotic and overlapping jurisdictions of police courts, city courts, justice courts, and municipal courts were eliminated and our present two-tier trial court system was firmly established, over the vehement objections of entrenched incumbents and powerful local political interests. Regardless of their influence they were no match for

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a Phil Gibson bent on reform. In legislative halls he was often respectfully referred to as "The Little Giant."

In sum, he 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, for he will always be recognized as having one of the most perceptive legal minds California has produced.

To single out a few of his noteworthy opinions does an injustice to the nearly 700 opinions he wrote in his quarter of a century on the court. Nevertheless it is inevitable that several landmark decisions immediately come to mind whenever the name of Gibson is mentioned.

From his first day on the supreme court as an associate justice, Gibson demonstrated a devotion to constitutional principles. He came to the court late in 1939, after a majority had already held labor leader Harry Bridges in contempt for publicly expressing criticism of a trial court decision.[1] Gibson arrived in time to act on a petition for rehearing and joined Justices Edmonds and Carter by casting his first vote to grant the petition.[2] They were on the losing end of a 4-3 determination.

Gibson's first published opinion revealed a sympathetic concern for individual dignity. In *In re Guardianship of Waite*,[3] the trial judge had refused to listen to testimony from an alleged incompetent in a guardianship proceeding; only medical testimony was permitted. Justice Gibson wrote, in reversing the trial court:

> It is difficult to conceive of a situation in which a party has a greater right to, or need for, his own testimony than in the type of proceeding considered here. The right to control her own person and affairs was taken from appellant upon 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.[4]

The Gibson dissenting opinion in *The Times-Mirror Co. v. Superior Court*[5] has been deemed a classic on the issue of free press versus judicial authority. Declaring that the earlier *Bridges* case "sacrificed a substantial part of our cherished freedom of speech and press,"[6] he insisted that protection must be afforded to the "fundamental need of fearless comment on all activities affecting the public welfare, including the op-

1. Bridges v. Superior Court, 14 Cal. 2d 464, 94 P.2d 983 (1939).
2. *Id.* at 510, 94 P.2d at 985.
3. 14 Cal. 2d 727, 97 P.2d 238 (1939).
4. *Id.* at 730, 97 P.2d at 239.
5. 15 Cal. 2d 99, 122, 98 P.2d 1029, 1041 (1940) (Gibson, J., dissenting).
6. *Id.* at 129, 98 P.2d at 1045 (Gibson, J., dissenting).

erations of the courts."[7] Nevertheless only he and Justice Edmonds dissented from a majority opinion that found a newspaper guilty of contempt for editorials critical of a court and its proceedings.

In 1952 a direct challenge was made to California's alien land law, passed two decades earlier in an atmosphere of xenophobia. Chief Justice Gibson's majority opinion in *Sei Fujii v. State*[8] was significant not only because of its just result, but for the first time in California jurisprudence the applicability of international human rights was considered. He devoted pages of discussion to the effect of the laudable purposes of the United Nations charter. While he found the charter to be a treaty, its provisions were not self-executing and therefore did not supersede inconsistent local laws. Yet he cut right to the bone of the statute: "It is generally recognized, however, that the real purpose of the legislation was the elimination of competition by alien Japanese in farming California land."[9] The law was "obviously designed and administered as an instrument for effectuating racial discrimination."[10]

Thus, three Olson appointees to the supreme court—Gibson, Carter and Traynor, on occasion joined by a fourth, Schauer—had by 1952 transformed a traditionally conservative, generally considered mediocre, court into a tribunal acutely alert to the festering problems of modern society, particularly racial discrimination.

A blow against racial discrimination in public schools was struck by Gibson in *Jackson v. Pasadena City School District*.[11] He recognized that racial housing patterns inevitably affect neighborhood school patterns, but that did not justify perpetuation of school segregation. He wrote, for a unanimous court:

> Residential segregation is in itself an evil which tends to frustrate the youth in the area and to cause antisocial attitudes and behavior. Where such segregation exists it is not enough for a school board to refrain from affirmative discriminatory conduct. The harmful influence on the children will be reflected and intensified in the classroom if school attendance is determined on a geographic basis without corrective measures. The right to an equal opportunity for education and the harmful consequences of segregation require that school boards take steps, insofar as reasonably feasible, to alleviate racial imbalance in schools regardless of its cause.[12]

There were no sacred cows to Phil Gibson; wrong was wrong, no matter how influential the perpetrator. Thus, a war-time labor union

7. *Id.* at 122, 98 P.2d at 1041 (Gibson, J., dissenting).
8. 38 Cal. 2d 718, 242 P.2d 617 (1952).
9. *Id.* at 735, 242 P.2d at 628.
10. *Id.* at 737-38, 242 P.2d at 630.
11. 59 Cal. 2d 876, 382 P.2d 878, 31 Cal. Rptr. 606 (1963).
12. *Id.* at 881, 382 P.2d at 881-82, 31 Cal. Rptr. at 609-10.

that barred blacks from membership was enjoined from continuing discriminatory practices in *James v. Marinship Corp*.[13] He wrote, again for a unanimous court:

> In our opinion, an arbitrarily closed or partially closed union is incompatible with a closed shop. Where a union has, as in this case, attained a monopoly of the supply of labor by means of closed shop agreements and other forms of collective action, such a union occupies a quasi public position similar to that of a public service business and it has certain corresponding obligations. It may no longer claim the same freedom from legal restraint enjoyed by golf clubs of fraternal associations. Its asserted right to choose its own members does not merely relate to social relations; it affects the fundamental right to work for a living.[14]

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.

His contributions to California jurisprudence will forever be a monument to Phil Gibson.

13. 25 Cal. 2d 721, 155 P.2d 329 (1944).
14. *Id.* at 731, 155 P.2d at 335.