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JUSTICE RAYMOND L. SULLIVAN

Mathew O. Tobriner†

As Thomas More was a man for all seasons Justice Sullivan is a justice for all phases of the law and for all the high qualities of human life. In a word he is a fulfilled man—fulfilled in his achievements in the field of law and fulfilled by the love of family, which he has earned by his own understanding and humanity.

When Ray Sullivan came from practice to the court of appeal in 1961 he at first plied me, as a veteran of 2 years more of service, with many questions about the practices and procedure of the court. Within weeks, however, it was *I* who was asking the questions of Ray when I discovered his fantastic knowledge of trial and appellate practice, garnered from years of experience in the state and federal courts.

Then after 1966 I served with Ray Sullivan for 10 years on the supreme court. He was, and is, an indefatigable and highly productive worker. We both worked every Saturday, to the dismay of our respective wives. For many years we ate lunch together, and then, because Ray was dieting or because his wife, Winnie, decided that this was one way to punish him; he came with a brown bag containing a banana or an apple. We never left on a Saturday without one or the other of us phoning to say goodbye and hoping that we would be hiking on Mt. Tamalpais the following day.

In his 10 years on the supreme court Justice Sullivan wrote 253 majority opinions, 29 concurring opinions, and 31 dissenting opinions—a galaxy of luminous decisions that have shed light over the state and the nation. There is *Serrano v. Priest* that guarantees to school children the constitutional right to equal educational opportunity; *Li v. Yellow Cab Co.* that abolished the harsh contributory negligence rule and replaced it with the more equitable comparative negligence rule; *Castro v. State* in which Justice Sullivan held invalid a provision of the California Constitution that disenfranchised California citizens who were literate in Spanish but not in the English language. I quote one sentence from that case as an example of Justice Sullivan's eloquent literary style: "We cannot refrain from observing that if a contrary conclusion were compelled, it would indeed be ironic that petitioners, who are the heirs of a great and gracious (Spanish) culture, identified with the birth of California and contributing in no small measure to its growth, should be disenfranchised in their ancestral land, despite their capacity to cast an informed vote."

† Associate Justice, Supreme Court of California.

As the court's most profound observer, Bernie Witkin, said at the 1973 Lawyer's Club Annual Supreme Court Luncheon: "Master of English style, prodigiously learned in the law, Justice Sullivan produces a steady flow of the best legal thinking and authoritative statement that can be found in the reports of American high courts."

But Justice Sullivan's performance has not only been brilliant in writing opinions; it has been outstanding in every department of the supreme court's work. At our conferences on petitions for hearings he has shown not only an amazing memory and knowledge of the cases, but also a searching analytical ability. In the words of Chief Justice Wright: "As I described the late Justice Raymond E. Peters as the conscience of our court, Justice Sullivan I would describe as our watchdog. After enduring listening to arguments by his colleagues, he will frequently and unerringly point out something overlooked by the rest of us, such as the fact that the petitioner did not have the right to appear before us in the first place."

Thus Justice Sullivan has contributed to the court his meticulous and precise knowledge of appellate and trial procedure and stripped away some of its mysteries; yet he is no prisoner of narrowly circumscribed expertise; avoiding the modern trend toward specialization, Justice Sullivan's judicial career reveals him as a humane justice and a superb generalist in the finest judicial tradition.

But dearer to the heart of Ray Sullivan than all of the opinions is his beautiful and understanding wife, Winnie, and his five spirited and charming children—Sheila, Larry, Pat, Mary, and Phil, and his eight grandchildren. I have personally been privileged to know that the Sullivans' home is a place of lively debate and discussion where the Justice sheds his robes and becomes the guiding father, not always treated with that diffidence a supreme court justice may exact of lawyers.

It seems that the Justice has always expected his children to consult with him before reaching important decisions. I'm told that they all do check with him, and do listen to him, and then, according to one daughter, "we do what we want."

I have found out that the Justice has a penchant for chocolate cookies and candy—a weakness from which Frank Richardson and I suffer. But I've learned that Ray picks up the sweets wherever he finds them. His children have a word for this—they call it "picking." They say this is the same way he picks at attorneys.

Ray Sullivan is apt to "pick" his way into the refrigerator. He claims, however, that when he studies at the dining room table he can tell by the footsteps coming down the stairs who is about to raid the icebox. But it is said, often there is heard the creaking and moving

of a chair in the dining room, and the next morning, the refrigerator will be depleted. Who has had his hand in the cookie jar? The venerable Justice.

And meticulous as the Justice is in drafting an opinion, so he is in purchasing a house. He will test the toilets by flushing them, test the structure by knocking at the beams in the basement, test the level of the living room floor by rolling marbles across it. So much so that when one of his married children recently told him that they had bought a house on the peninsula, his anguished inquiry was: "Don't tell me you bought it without rolling the marbles across the living room floor?"

When his children came for help on some school problem, such as an equation in algebra, they would receive a 2-hour lecture on the whole subject of algebra—its origin, history, and function. In similar fatherly fashion the Justice would expound a legal subject to his law clerks, who are his devoted and admiring disciples.

Thus the Sullivan home was, and is, a haven of humor, warmth, and fun—a reflection of Ray's own understanding and humaneness.

That warmth and understanding has come down through the years, beginning in the early days when the red-haired, blue-eyed boy played baseball on the hills of Castro Street with childhood companions who are still his friends. Then the friends of St. Ignatius and U.S.F.; the students he taught at the university; the friends of the days of law practice with Bill Malone; the friends of the court of appeal; and the friends of our court. All of this diversified group of friends have been the better and the happier because of his warmth, his empathy, his understanding, and the model of his disciplined life of unquestionable integrity, devotion, and dedication.

Ray Sullivan is, indeed, a man for all seasons and phases of the law; he now rightfully holds the St. Thomas More Award of the University of San Francisco, as well as its LL.D. degree. He is, indeed, a meticulous master of the law who has used his scholarship and creativity to make the legal system more responsive to human need. He is a fulfilled man, who gives, and has given, and in turn received, the love of family and friends. He has shown himself in his work and in his life to be a humble believer in humanity itself and in the Brotherhood of Man.

Will I miss his warm friendship, his contribution to the court, his Saturday companionship, his phone calls? Of course, but I have a mighty consolation. He will be serving as a pro tem. at our court. He will be teaching at a prominent law school, and imparting his high qualities to a new generation.

And he probably will be working on Saturdays.

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