
DEDICATION
to
The Honorable John J. Gibbons

*Michael R. Griffinger*¹

Of course it is impossible to summarize fifty-five years of time spent with someone who was my mentor, my role model, my colleague, and my friend in a few minutes, but I'll try.

My earliest acquaintance with John Gibbons came in 1964 when I was clerking for a trial judge in Essex County and John tried a medical malpractice case in our courtroom. I watched as he cross-examined an expert witness who was both an M.D. and a J.D., a doctor and a lawyer. I didn't know much about John Gibbons at the time. As many of us know, John spoke a bit haltingly from time to time. I quickly realized after a few sessions with him that the hesitation in his speech just meant that his mind was sorting through multiple thoughts on different planes and with various connotations until he came up with just the right words—*les mots juste*—and not any innate speech problem.

However, in the trial before my judge, there was no hesitancy. His examination was fluid and compelling. The expert witness must have thought he just met Zorro—zip zip zip. I said to myself—this lawyer's pretty good.

I did a few legal memos for my judge during that trial which the judge used from the bench and then John appeared on another matter—I think it was a summary judgment motion, and I had helped the judge with the opinion in that case as well. That was it.

Then, one day, my judge called me into chambers and said a fellow named Andrew Crummy had stopped in, talked to him about me, and the judge told me that he thought I might get an offer from the firm of Crummy, Gibbons & O'Neill, and that I should take it. I was floored and flattered. Well, I did take the offer, and I joined the firm as its eighth lawyer. John had joined the firm about fourteen or fifteen years earlier and he was only the fifth lawyer. When I joined the firm, six of the seven attorneys in the firm were Irish Catholics and the seventh, Ralph Del Deo, was an Italian Catholic.

¹ Director, Commercial & Criminal Litigation Department, Gibbons P.C.

Ethnic groups tended to stay together in those days, including in law firms. Diversity was hardly a watch word. The fact that I was Jewish and the firm was so monolithically Catholic never really crossed my mind, especially since Andrew Crummy, who worked as a delivery boy for a kosher butcher in Bayonne as a kid, could reel off more Yiddish phrases than Gaelic curses.

I noted that John had once said that he started at an annual salary of \$4,000 a year in the early 1950's. My salary in 1965 was \$150 a week, or \$7,800 a year, almost double of what John received in his first year or two. Yet, those were the going rates not only in New Jersey but also in New York at the time and we were very proud to be earning that much money.

I got to work very closely with John from the start. The whole firm was very close-knit and very family-oriented, a culture that has remained over the years and that persists to this day under Patrick Dunican's leadership. In the early years, we all worked evenings and on Saturdays and the intellectual exchange was extraordinary, with John Gibbons as our most respected legal scholar. We all ate lunch together at the Downtown Club, and often had drinks after work together at Kings Tavern. John liked a "perfect Manhattan," whatever that is, and I believe he stuck with that for most of the rest of his life.

So the relationship of all of us was more than just a bunch of lawyers plying their trade. It was fun to go to work and, as a young lawyer, I received encouragement and responsibility from John.

Most of you knew John as a judge and a towering intellect, somewhat alone at the top of an ivory tower in his judicial years. However, John Gibbons as a practicing lawyer in the 1960's was a very real, very feisty advocate. More than once he got his Irish up. I remember being in bankruptcy court with him when we were representing a Greek ship-owner who got into a dispute with Todd Shipyards, a major creditor. When we left the courtroom, things got a little noisy and heated between them in the corridor on our way out. I had to intercede as best I could to keep the spat from becoming physical. I don't remember who was the bigger attorney, but John was never built like a superhero. However, that did not cause him any concern. Another close call was a family feud over ownership of a gas station in Bergen County where tempers flared in and out of the courtroom. There was no backing off by John. Perhaps it was this "no fear" mentality that contributed to some of his most able trial work and his successful arguments in the United States Supreme Court.

John was also an excellent business getter. When Volkswagen in Germany wanted to come to the United States and establish a beachhead and a subsidiary in New Jersey, John, through contacts he had with New York lawyers, got the call. John incorporated Volkswagen of America and we did their work for many years, including product liability cases. Those cases in

those days involved the rollover of those big clumsy Volkswagen vans. But guess what John Gibbons drove—you're right—a Volkswagen van. Of course, he had seven children, so it was also a necessity.

As I said, it was a close-knit firm. We were all social guests at the Gibbons home on Grosvenor Road in Short Hills, or we all attended State Bar conventions in Atlantic City together, which the firm encouraged. Of course, John was active with the State Bar and rose through the chairs to ultimately become the President in 1967. More about that in a minute.

At that time, the firm was strongly behind the concept of pro bono contributions by lawyers, as well as bar activities. We took that ethic seriously. Which takes me to 1967, which is a very important year for three reasons. First of all, that was when John required everyone in the firm to fill out computerized timesheets. We will never forgive him. Secondly, as I said, John rose to be President of the State Bar. And finally, 1967 was the year of the Newark riots.

1967. A hot July. The riots broke out in Newark. Armored vehicles rolling down Broad Street. As President of the State Bar, John was immediately involved. The assignment judge in Essex County was Judge Giuliano, a law and order fanatic, but fortunately he was on vacation and the acting assignment judge was the Honorable Lawrence A. Whipple, who went on to become an outstanding federal judge. Judge Whipple convened a meeting of public officials at the Essex County Courthouse at John's urging and John asked me to attend. It was quite a meeting. Brendan Byrne was then the Essex County Prosecutor and he attended, as well as senior representatives of the State Police, Essex County Freeholders, and the Essex County Bar Association (I believe Joe Hayden's father was there as its President). There was also a fellow named Herb Sturz, the head of VERA Foundation, which had developed a Release on Recognizance form to be used in situations such as this. As you can imagine, there were not just hundreds, but perhaps thousands, of people arrested during the several days of the riots, many for just walking out of a store that had been vandalized with a TV set or appliance, but many more serious crimes, including atrocious assault and battery, breaking and entering, and rape. The upshot of the conference was a recognition of the immediate need to process arrested individuals as quickly as possible to get them out of the jails, if appropriate, in order to make room for more individuals who were simultaneously being arrested.

In order to do that, I took a group of law students from Rutgers Law School and headed to the Newark Street Jail, the Sussex Armory, the Caldwell Penitentiary, and other sites where arrested individuals were being held over several days and nights. The teams asked the arrested individuals all the questions on the Release on Recognizance form and then took the

release application to judges who were going to be at the jails to process these individuals. It was John Gibbons who persuaded Judge Whipple to have the judges come to the jails rather than have the prisoners and lawyers who were processing the applications come to the courthouse with their clients, which would have been a logistical nightmare.

John stood tall through all of that period and he insisted that private attorneys take on the representation of the arrested individuals as pro bono clients. There was no such thing as a public defender then. Many of us did do this pro bono work and learned a lot about trial practice as a result.

As many of you know, John was a part of the Lilley Commission, which did a thorough investigation of the causes of the riots and issued a detailed report that still has relevance today.

As a result of the riots and the involvement of our office in the processing and defending of arrested individuals, we continued the legacy of public service and social consciousness that Andrew Crummy and John Gibbons had established. Many of us, today, are still heavily involved representing the underserved and supporting the organizations that do so, one of which I'll mention shortly.

In 1970, John got a call from Clifford Case. The first people outside of his family that he let know about the suggestion that he might become a judge on the United States Court of Appeals for the Third Circuit were his partners. John had not really been overly politically active, but because of his visibility to Senator Case and the ideals he represented, the nomination came his way. I asked him if he really wanted to do that because I knew he enjoyed practicing law and building the firm of Crummy, Gibbons & O'Neill. He summarized it in two sentences to me. He said, "Mike, the decision to take it is revocable. The decision not to take it is irrevocable." My partners and I understood that this was an opportunity to do even more in the way of public service than he had been doing and a way to put his intellect to good use. He certainly did, writing over eight hundred opinions, many of which are landmarks. Most of us have forgotten the second half of Barry Goldwater's infamous "extremism" quote, but it goes, "Moderation in the pursuit of justice is no virtue." I believe John subscribed to that credo in everything he did.

Fast forward twenty years. At a Third Circuit Judicial Conference in 1990, John pulled me aside and spoke to me about his plans. He said he was leaving his job as Chief Judge of the Third Circuit to come to Seton Hall Law School to teach Constitutional Law and Federal Practice. I asked him if he would have any other affiliation besides becoming a professor and he said he had made no plans. That started me thinking about enticing John to rejoin the firm and, knowing of his desire to continue to do good in any way possible, I suggested to him what has now become the Gibbons Fellowship.

It was a big deal at the time to suggest that we have two full time attorneys doing nothing but public interest and constitutional law at full salaries, which were then around \$100,000 each. The plan was to try out this experimental program for five years. In other words, the firm was going to commit \$1,000,000 in 1990 currency for non-billable public interest work. I'm happy to say that the firm was all in on this, as was John. That Fellowship has been doing fantastic work for the last twenty-eight years under the aegis of John Gibbons until recently, and with the wonderful stewardship of Larry Lustberg and the extraordinary Fellows we have had over the years. Larry will tell you more about that. Under the leadership of Patrick Dunican, the firm has not only embraced the work that the Fellowship does, but in so many other ways, has encouraged giving back to the community, professionally and personally.

Someone asked John a few years after the Fellowship had begun whether he was a rainmaker for the firm. He responded, "Most definitely, but it is acid rain." Well, we are all still here and we have a record to be proud of despite the purported acidity.

I would like to end this talk by saying something stirring and inspiring about a brilliant individual who has contributed so much to me, to the firm, and to society. John's life was the embodiment of the Aristotelian ethic of the pursuit of excellence and living up to one's fullest potential. If I were to try to define his legacy, I would need to use too many superlatives, and John, I know that would make you frown.

So how then should I conclude this talk? What is the legacy of John Gibbons? I believe the legacy he would prefer to think he transmitted is that all of us here, and all the people John has touched, directly or indirectly, would carry on his work in fighting for social justice for all.

Thus, we cannot *conclude* what his legacy is, but we can *continue* it.