

*Mathew O. Tobriner**

Chief Justice Donald Wright brought to the Supreme Court of California a unique combination of contrasting qualities. When you looked at his gentle, expressive, somewhat whimsical face, you had no idea what different and unexpected characteristics lay behind it. As Chief Justice, Donald Wright linked a unique administrative talent with an unusual knowledge of case law and legal principle. Appointed by Governor Earl Warren to the Municipal Court in 1953, elected to the Superior Court of Los Angeles County in 1960, later assigned as the presiding judge of the Los Angeles Superior Court for the years 1967 and 1968, appointed as associated justice of the Court of Appeal on December 23, 1968, his was a magnificent record that gave him unusual knowledge of the judicial system and its personnel. This background led to singular leadership at the Judicial Council level and excellent administration at the court level. But Don Wright contributed more: a rich knowledge of the law, a fine memory, and a bright, quick analysis of the cases.

The Chief Justice managed to lead his colleagues to a consensus in most instances, yet retained the lone courage to articulate a new approach in the law when the situation called for it. Proof of the first quality lies in the multitude of unanimous decisions filed during his term and his comparatively few dissents. Instances of the second quality find reflection in the many decisions Justice Raymond Sullivan noted in this issue of the *Hastings Constitutional Law Quarterly*; I cannot resist naming two such landmark cases. In *People v. Anderson*,¹ Donald Wright wrote the first major opinion in the United States to strike down the death penalty as an unconstitutional infliction of cruel and unusual punishment—a decision of profound effect upon the entire country and upon the later adjudication of the United States Supreme Court. *Vesely v. Sager*² imposed liability “upon a vendor of alcoholic beverages for providing alcoholic drinks to a customer who, as a result of intoxication, injures a third person.”³ Pointing out that “the traditional common law rule would deny recovery,” he concluded that “this rule is patently unsound.”⁴

* Associate Justice, Supreme Court of California.

1. 6 Cal. 3d 628, 493 P.2d 880, 100 Cal. Rptr. 152 (1972).

2. 5 Cal. 3d 153, 486 P.2d 151, 95 Cal. Rptr. 623 (1971).

3. *Id.* at 157, 486 P.2d at 153, 95 Cal. Rptr. at 625.

4. *Id.*

But the contrasting shades of this man's personality were not confined to his workmanship on the cases that have gone into the bound volumes. His personal qualities were dramatized in his past and daily life. Looking for a moment into the past, I am told that Don Wright was somewhat of a bon vivant as a student, a hearty consumer of beer, and a drinker of strange concoctions during the days of Prohibition; yet, he graduated cum laude from Stanford and won a law degree from the formidable Harvard Law School; and when he matured a bit he had the excellent judgment and good sense to win and marry a gracious and most refined lady, Margo.

The Chief was a classicist in his taste in music and came to our chambers on many a morning jauntily whistling Mozart's Don Giovanni, but he was a modernist in his knowledge of the German expressionists and French impressionists. Once in my home, on seeing a Jawlinsky picture on the wall of the living room, he gave me an excellent run-down of the painter and hazarded the worth of the painting. Later, when I sold it, I received the price he had named. On another occasion, when I made reference to the French Fauvist school of painting in one of my opinions he politely told me I had literally got my colors mixed; I amended my metaphor. Don Wright was conversant with the major events of history, particularly American history and even more specifically the battles of the Civil War, in which his forbears served in both the Union and the Confederate forces. He was also the repository of a most amazing miscellany of history, and one day he called off the first names of all the wives of the American presidents! And, finally, Don Wright dressed meticulously in expensive clothes but prided himself in discovering and purchasing Sulko ties and shirts on sale.

Obviously this versatile man of divergent characteristics was a delightful colleague and companion. Hardly a week went by that I did not have lunch with him two or three times at one of those places of the court's frequency: Knights' Cafeteria and the Embassy. He delighted in teasing me and I think I enjoyed receiving his gentle barbs as much as he did in delivering them. Of course we miss him. I can assure you there was never a dull moment when you were in the company of Don Wright.