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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF INYO

COUNTY OF INYO,

Plaintiff,

v.

SAM YORTY, et al.,

Defendants.

) Case No. 9365  
)  
)  
)  
)  
) MEMORIAL TO L. H. "BUCK" GIBBONS  
)  
) DISTRICT ATTORNEY  
)  
)  
)  
) Date: 20 September 2001  
)  
) Time: 1:30 p.m.  
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)

First this afternoon I am honored to convey a message from Dean Kathleen Sullivan and Professor Barton Thompson of the Stanford Law School. Since Buck Gibbons left us in May, the law school has been assessing the form of memorial to leave to their distinguished graduate. The decision has been made to honor Buck in the publication of a legal handbook on

1 land use law prepared by students in the Stanford Environmental Law Society, for the use of  
2 generalist attorneys, public officials, and nonprofit organizations. A similar volume will  
3 follow, if we can encourage future students at Stanford, on the subject of water resources law.  
4 Each volume will acknowledge that it forms a memorial to Buck, and will include a brief  
5 comment on Buck's contributions to the natural resources law of California. This memorial is  
6 most fitting, as it will serve future officials who stand exactly as Buck did when he became  
7 district attorney and assumed responsibility for the case of *Inyo v. Yorty*.  
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10 This afternoon we have a copy of the first volume in this series, devoted to the  
11 endangered species act. It will remain in the courtroom at the conclusion of these proceedings  
12 so that all of us can visualize this memorial to Buck. And looking at the cover of this volume,  
13 let us appreciate that the memorials to Buck will include another Inyo County connection. The  
14 photograph is one made by Galen Rowell, who last evening confirmed to me that he looks  
15 forward with great anticipation to selecting the appropriate photographs to grace the land use  
16 and water resources volumes to follow.  
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21 At Izaak Walton Park on 6 May, I attempted to sum up the life of Buck Gibbons by  
22 reference to the hymn of Ecclesiasticus in honor of our ancestors. (Sirach 44:1-15.) We are  
23 invited to "sing the praises of famous men ... those who gave counsel because they were  
24 intelligent; those who spoke in prophetic oracles; those who led the people by their counsels  
25 and by their knowledge of the people's lore; ... wise in the ways of their instruction"; but also

1 those who may "have perished as though they had never existed ... who were also godly men,  
2 whose righteous deeds have not been forgotten; [whose] wealth will remain with their  
3 descendants, and their inheritance with their children's children." Ecclesiasticus thus divided  
4 our ancestors into two camps: those who performed the great works of public service, and  
5 those whose legacy was simply to leave a family created by and following their worthy  
6 example (as if that were the lesser achievement).  
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9 My thesis then, which by leave of Court today I will restate, is that the life of Buck  
10 Gibbons did not force that choice. In his life concluded Buck now stands in the first rank of  
11 public figures in the history of Inyo County: Dehy, Chalfant, Watterson, Brown, Crowley,  
12 even Mulholland. But comparing what we know by historical account of his predecessors, to  
13 that to which we have borne personal witness in the life of Buck Gibbons, we can rightly  
14 conclude that we have been privileged to count as our friend and colleague *the greatest*  
15 ancestor to emerge from this county and its deepest valley.  
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18 My own witness began on 13 May 1976, when Buck and his deputy Pat Canfield  
19 walked into my one-month-old law office in Sacramento. A week or two earlier Buck had  
20 introduced himself on the telephone. With a name like Buck and an accent that seemed right  
21 off the ranch, I was expecting to see cowboy boots and a fringed jacket. It was no small  
22 surprise, then, not only to meet Buck in a dark suit and "regular" street shoes, but ultimately to  
23 learn that this "cowboy" had taken his undergraduate degree from Williams College and his  
24 law degree from Stanford.  
25

1 Right after my engagement by this county, Buck and I went to work. Our first  
2 appearances were not in the Third District Court of Appeal, where Buck's legal history is  
3 forever memorialized in the Official Reports, but instead before the Los Angeles Board of  
4 Water and Power Commissioners. I recall the second of those appearances in the summer of  
5 1976, when the two of us were seated next to Bob Jones, Los Angeles Times reporter, then  
6 young, perceptive, suspicious, even perhaps cynical about the county's motives in challenging  
7 Los Angeles. When called Buck spoke for not more than five minutes about the historical  
8 injustice that the Department of Water and Power had worked on this county, and the  
9 opportunity to start rewriting that history right there. The commissioners of course did not  
10 heed Buck's plea. But before Buck could sit down, Bob turned to me and said, "That is the  
11 most moving public statement I have ever heard." From that day forward, Inyo County never  
12 lacked a fair shake from the reporters of the Los Angeles Times (the editorial page is a  
13 different story, to which I will immediately turn). Bob Jones apprehended then, what all of us  
14 in this room either knew before or have come to know since: Buck Gibbons was the greatest  
15 lawyer with whom we have ever worked.  
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19 In time, even the editorial writers came to this view, of course. Buck forced them to.  
20 On 15 June 1977 the Times published a full length two-column editorial (*Water and Wisdom*)  
21 castigating the Sacramento Court of Appeal for imposing "restrictions" on LA's groundwater  
22 pumping, complaining about the city's costs of exercising its legal right to readily-available  
23 MWD supplies, and urging the Court to lift the "restrictions" in light of the city's voluntary  
24 conservation efforts. On the morning of 27 June 1977 the Times published Buck's response:  
25 the court's order "might more properly be labeled an entitlement rather than a restriction ...

1 because application of the Environmental Quality Act generally allows no implementation  
2 whatsoever of a project until the environmental impact report process is successfully  
3 completed." Moreover, water conservation in Los Angeles fell far short of the cutbacks DWP  
4 had forced on Owens Valley ranchers and homeowners. Finally, objected Buck, the Times  
5 had no business lobbying the Court, since "the cornerstone of [our system of justice] is that  
6 such decisions are made on the merits and not as a result of pressure or advice from the news  
7 media."  
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10 The Times could not really ignore Buck's counsel, for just a few hours after the paper  
11 published his letter in Los Angeles, the Court in Sacramento issued its long-awaited decision  
12 emphatically rejecting the city's EIR. (*Inyo v. Los Angeles* (1977) 71 Cal.App.3d 185.)  
13 Ultimately of course, the Times, as well as its city and state, embraced the values that Buck  
14 championed in behalf of Inyo County in the momentous years of 1976 and 1977. Looking  
15 back at them with a quarter century of perspective, I realize not just that the results we attained  
16 together have been unmatched in few if any lawyers' lifetimes, but more importantly that Buck  
17 Gibbons and I forged the most fruitful and satisfying professional association that any two  
18 lawyers could have shared. For our two law schools, which endeavored to graduate those who  
19 would "practice law in the grand manner," that path had meant Wall Street or Montgomery  
20 Street and the corporate battles for private wealth. To Buck Gibbons I owe the discovery that  
21 for our generation "law in the grand manner" was practiced in this building in modest offices  
22 inspired by their view of the Sierra crest, and in the elegant Court of Appeal on Capitol Mall,  
23 with California's water resources the stake.  
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1 The fruits of our collaboration, the briefs we wrote and the arguments we made  
2 together, are amply recorded at 61 Cal.App.3d 91, 71 Cal.App.3d 185, and the three *Inyo v.*  
3 *Los Angeles* decisions that followed those. In this the courtroom of Inyo County, however, the  
4 greatest product of Buck's civil practice must be remembered as neither of the two lengthy  
5 opinions just cited, but a brief and seemingly modest four-page memorandum that the Court  
6 issued in between. This memorandum, the county's original served copy of which is framed  
7 before us for the Superior Court in Buck's memory, we should call "Four Pages that Changed  
8 History" – the history of this valley and this county, the history of Los Angeles, and ultimately  
9 California and the West. These pages represent the Court of Appeal's response to DWP's  
10 motion that in the midst of the greatest drought in state history (1977) the Court's pumping  
11 rate that Buck had earned the previous summer be lifted – and the county's response that the  
12 State Constitution required first the conservation of water in Los Angeles.  
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16 Wrote the Court:

17 In relation to the state's current water crisis, the effort at voluntary conservation  
18 is inadequate to justify the requested relief. The California Constitution (art. X, § 2)  
19 abjures the waste of water and seeks its conservation in the interests of the state's entire  
20 population. When the state's water resources dwindle, the constitutional demands grow  
21 more stringent and compelling, to the extent that scarcity and personal sacrifice be  
22 shared as widely as possible among the state's inhabitants.

23 .... The likelihood that increased resort to MWD water may increase rates  
24 charged to customers of the Department of Water and Power is not sufficient reason to  
25 invoke the court's equity powers. The City appears to have an available supply of  
water sufficient to meet its needs in time of drought. Unless and until the municipal  
government of Los Angeles installs and implements methods which are predictably  
capable of achieving substantial water savings and demonstrates a need for water rather  
than rate preservation, its motion for leave to extract additional underground water from  
the Owens Valley is not likely to achieve success.

1 For the generations that were raised in veneration of proprietary water rights, and the  
2 City of Los Angeles whose entire history of water and land purchases in this valley were so  
3 motivated, these forceful words bespoke a radical change of course. For this county, holding  
4 no water rights of its own, these passages created empowerment: environmental, legal, civic,  
5 and political. For Los Angeles, they became the engine of reform and the first mandatory  
6 water conservation in that proud city's history. For California and the West, they protected  
7 our resources from unnecessary destruction, and established that in time of hardship the State  
8 becomes a commons that must bear the burden collectively. For Buck Gibbons, two decades  
9 later, this mandate finally brought vindication, on the front page of the Los Angeles Times  
10 itself, reporting that while the city's population had increased by more than 30 percent since  
11 the 1970s, Los Angeles was using less water in 1999 than when Buck secured this judicial  
12 memorandum two decades earlier -- and doing so *because* of this memorandum. (*Water*  
13 *Conservation Efforts Paying Off in S. California*, 14 June 1999.)  
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17 Thus with merit and grace the Times in its final report on its former adversary  
18 concluded that Buck's efforts here recorded had forever "engraved his name in California  
19 jurisprudence." (*H.L. Gibbons; Inyo D.A. Fought DWP Over Owens Valley Water*, 5 May  
20 2001.)  
21

22 Before further attention to that obituary report, remembrance of the heady weekend that  
23 followed the Friday receipt of this preliminary memorandum recalls another side of Buck's  
24 talents: not merely great advocacy, but a great and mischievous sense of humor. Some in this  
25 room may remember that the Court's 24 March 1977 order came just as the Eastern Sierra

1 League of Women Voters were conducting their important conference on protecting the  
2 Owens Valley environment. Travelling from ABC News in Manhattan to cover that  
3 conference was Giraldo Rivera, who asked to meet with Buck and me and be shown an  
4 example of DWP's harm to the valley. After some reconnaissance on our own, we decided  
5 that a good spot convenient to Bishop lay on some desolate DWP acreage out by the airport.  
6 Walking around with his cameraman, however, Mr. Rivera's expression showed that we had  
7 not lived up to his New York expectations of desert destruction. "Can't we find a place with  
8 some cattle skulls and bones in the sand?" Without missing a beat, straight-faced, and looking  
9 Giraldo directly in the eye, Buck replied, "That would be kind of difficult. You see, the  
10 Department cleans them up right away."

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13 Now let me return to the Times obituary. It was a great tribute to Buck, but in one  
14 respect historically inaccurate. Buck did not lead the County's litigation for all the last 19  
15 years of its 21-year history, nor did he conduct the settlement negotiations with Los Angeles in  
16 the 1980s and 90s. That latter task, and the credit for its success, ultimately belonged to Greg  
17 James. Yet still Buck's influence was paramount. First, of course, we should remember that  
18 Greg James, like Your Honor, Judge Canfield, Phil McDowell, and myself, might never have  
19 come to this valley's service if Buck Gibbons had not hired us. Of equal importance, Buck the  
20 legal warrior always had his eye on the ultimate goal of peace with and respect from Los  
21 Angeles. After the California Supreme Court's unanimous decision to sustain the Court of  
22 Appeal's 1977 rejection of DWP's EIR, the LA Times published Buck's op-ed, entitled *Water:  
23 Los Angeles and Inyo Can Get Along*, 18 Oct. 1977. The original published version is framed  
24 before us. Of the Supreme Court's decision to deny LA's petition, Buck wrote:  
25



1 we view [it] not as a victory in war but as an opportunity for peace. Inyo County and  
2 the city of Los Angeles ... now have a chance to work together toward a water-  
3 management plan that not only preserves the valley's environment once and for all but  
also assures water for the Southland's biggest city.

4 .... Neither party should press its theoretical position too far. Rather we should  
5 begin working to determine the exact amount of groundwater pumping that is best for  
6 the Owens Valley while still providing maximum benefit to water users in Los Angeles.

7 Until his 1997 retirement when Buck's vision was realized precisely as he called for 20  
8 years before, Buck dedicated himself to that vision. In his final year as the County's civil  
9 lawyer, he oversaw the collaboration between the Board of Supervisors and our office in  
10 drafting the groundwater ordinance that became the model on which county groundwater  
11 regulation was ultimately validated. (See *Baldwin v. Tehama* (1994) 31 Cal.App.4th 166.)  
12 After the legal duties passed to the newly-created office of county counsel, Buck continued to  
13 provide his critical advice privately – critical in both senses of the word: indispensable to our  
14 efforts, and honest in calling us on our shortcomings. The ultimate accord with Los Angeles  
15 did not come cheaply; the valley was divided to the extreme of a campaign for supervisorial  
16 recall. I do not believe that without Buck's personal advice and immense standing in this  
17 community, this county could have endured the decade and a half of effort to secure peace  
18 both within Inyo and with Los Angeles.  
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21 The county's decision to take civil litigation from Buck's office represents one of the  
22 more unfortunate in Inyo's otherwise brilliant history. From the record presented here we  
23 know it could not have been because Buck did not excel in the civil arena. To the contrary, the  
24 board of supervisors made its decision because Buck was too good a lawyer – too good to just  
25 give the board the advice it wanted to hear rather than the advice it needed to hear. Buck's

1 resolve to ensure that in the environmental arena the county live up to the standards we  
2 expected of Los Angeles necessarily impinged on the board's prerogative to approve  
3 unjustified land use and development proposals. As the elected district attorney, Buck was  
4 answerable ultimately to the people of Inyo and his own impeccable ethical standards; he had  
5 the professional prerogative of being able to call them as he saw them. The only way to  
6 confine Buck's professionalism in the county's civil practice was to take it away from him,  
7 which the board elected to do through the creation of the office of county counsel.  
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10         Bearing witness to and being affected by this unfortunate clash among the best minds in  
11 this valley, in retrospect I cannot assign blame or charge Buck's opponents with less than  
12 honest conviction that they, like Buck, believed they were serving the best interests of Inyo  
13 County. The intervening years have seen Inyo well served by competent county counsel,  
14 among whose achievements stands the successful conclusion of *Inyo v. Los Angeles*.  
15 Nonetheless, now that Buck's life, devoted to the pursuit of justice, has with tragic irony ended  
16 unjustly soon, we can rightfully pause long enough to ask what might have been -- if Buck had  
17 continued as the county's civil lawyer, and if Governor Jerry Brown had upon the retirement  
18 of Judge Summers followed the recommendation of four of his cabinet secretaries to appoint  
19 Buck to this Court.  
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22         To Buck's credit he did not pause long himself on that question of what might have  
23 been. With respect to the judgeship, once the Governor made clear he would not appoint but  
24 leave the result to an election, Buck said to me, "Don really wants the judgeship; I love being  
25 D.A.; let it be." The county of course thereby preserved two worthy servants. Buck took the

1 opportunity that had been entrusted to him as the county's chief law enforcement officer,  
2 relishing and flourishing in the prosecutor's calling, building a legacy distinguished not only  
3 by length of service, but also quality, unblemished by appellate reversal.  
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6 Our friendship, too, flourished in the advantages of becoming unbound from the co-  
7 counsels' role. In the 20 years since 1979, I came often to this valley, working for a series of  
8 county counsels and water directors. I worked for others but always stayed with Buck. Those  
9 were important if difficult years for both of us, each of us having had our first marriages  
10 recently end. We shared the joys and frustrations in our respective practices and personal  
11 lives, we tested each other's visions for the future of Inyo County and California, we hiked and  
12 skied many trails, and consumed innumerable Chicken Sierra dinners at the old Whiskey  
13 Creek. I particularly remember the anticipation with which Buck awaited each summer, and  
14 the return to this valley of his daughters Melissa and Michele.  
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17 Our friendship endured through these bachelor years, and of course beyond that bright  
18 moment at Mammoth Mountain on a September day 16 years ago when Sybil came into  
19 Buck's life. It was my misfortune to be teaching in Tokyo at the exact moment when Buck  
20 and Sybil celebrated their marriage, but my great fortune to have witnessed the happy fruits of  
21 their partnership in the years that followed. Again let us correct the formal obituaries; they  
22 listed Erin and Devon as his step children, but from the record we should strike the adjective,  
23 for indeed no family I have known blended so completely as the one headed by Buck and  
24 Sybil. The most compelling words spoken at Izaak Walton Park were those of Devon and  
25 Erin: Devon thanking his mother for ignoring his prayer as a five year old that Sybil never

1 remarry, and Erin reading her birth father's message that he could not have chosen a better  
2 second father for Erin and Devon than Buck. One cannot add words to this testament to Buck  
3 as family leader, except "Amen."  
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6 And in concluding this, the final pleading in *Inyo v. Yorty*, let me return to the venue in  
7 which Buck and I prosecuted that case, and return to the thesis with which this memorial was  
8 introduced. Across the Capitol Mall from the Court of Appeal, emerging from that courtroom  
9 one faces the companion State Office Building One, and the poet's command engraved across  
10 its entablature: "Bring me men to match my mountains." (S. W. Foss, *The Coming*  
11 *American*.) The noblest mountains in California rise in this county, the noblest of men came to  
12 match them, and first in their rank stands Buck Gibbons.  
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15 Dated: 20 September 2001

Respectfully submitted,

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17 Special Counsel to the County of Inyo, 1976-1997  
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