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A Man to Match My Mountains

Janice Rogers Brown*

Justice Robert K. Puglia was described—not too long ago—as “a treasure” of Sacramento’s legal community. It is no exaggeration to say that his wit and wisdom will be irreplaceable. Justice Puglia once referred to himself—with the self-deprecating humor that was so characteristic—as “a dinosaur.” At his retirement dinner, I ventured to say that he was “not so much a dinosaur as an ancient artifact. Like the Rosetta Stone. A text from which we could decipher the best of our past and—if we are lucky—find our way back to the future.”

We are here today, much too soon, to celebrate his life, his legacy to us.

The Library and Courts Building was his home for nearly 30 years. He worked there as a newly minted lawyer during a brief stint as a deputy attorney general in 1958 and 1959, and returned in 1974 when he became a member of the Third District Court of Appeal, a court where he served as the presiding justice from 1974 until November 1998. In 1994, after a reception welcoming me to the court, we stood on the steps of the court building and looked across the circle toward Office Building 1 at the words carved on the pediment: “Men to Match My Mountains,” a fragment from a poem by Samuel Walter Foss called “The Coming American.” Justice Puglia gave me the sidelong, sardonic glance, which I already recognized as a sure prelude to some outrageous comment. Giving an exaggerated sigh, he said: “I suppose we will have to sandblast those words and come up with something more politically correct. Perhaps—People to Parallel my Promontories.” We both laughed. In its fuller exposition, the poem is a paean to the westward expansion of the country:

Bring me men to match my mountains,
Bring me men to match my plains;
Men to chart a starry empire,
Men to make celestial claims.
Men to sail beyond my oceans,
Reaching for the galaxies.
These are men to build a nation,
Join the mountains to the sky;
Men of faith and inspiration . . . ¹

* Judge, United States Court of Appeals for the District of Columbia Circuit. Memorial Service for Presiding Justice Robert K. Puglia, Sacramento Memorial Auditorium, Monday, March 21, 2005.

1. Samuel Walter Foss, *The Coming American*, in *THE BEST LOVED POEMS OF THE AMERICAN PEOPLE* 107 (Hazel Felleman ed., 1936).

In retrospect, it occurs to me that although Justice Puglia was inordinately proud of his Buckeye roots, like Norton Parker Chipman, the first Chief Justice of the Third Appellate District, he was also a citizen of California who filled a larger-than-life role. He was one of those men who matched her mountains.

As a young lawyer who did appellate work, I quickly came to admire Justice Puglia's jurisprudence. His opinions were intelligent, wise, witty, clear and completely accessible. He did not write in the dry, dull, bureaucratic style of most modern judges. His thoughts, clearly and eloquently expressed, were sometimes impassioned. Indeed, he made passion respectable. His opinions exude the rare sense of style and unique voice that Posner tells us is "inseparable from the idea of a great judge in [the common law] tradition."

Justice Puglia deserves a place in the pantheon of great American judges. He completely understood the role and relished it. He exhibited the classical judicial virtues: impartiality, prudence, practical wisdom, persuasiveness, and candor. He demonstrated complete mastery of his craft. He had a keen awareness of the ebb and flow of history, and of the need for consistent jurisprudence, and, above all, self-restraint. It may sound odd to describe a judge as both passionate and restrained, but it is precisely this apparent paradox—passionate devotion to the rule of law and humility in the judicial role—that allows freedom to prevail in a democratic republic.

The generation that fought in World War II has been labeled "The Greatest Generation" for its courage and selflessness, but that sobriquet belongs as well to that generation's younger brothers who fought in Korea. Their attitudes were shaped by many of the same pivotal moments in American history, and Bob Puglia exemplified the best of his generation. He was born on the cusp of the Great Depression and came of age during World War II. He became a devoted student of history, and perhaps that is why he seems to have had an instinctive appreciation of valor, duty, and sacrifice.

He scorned political correctness, but he treated every human being with dignity and respect. Whether he was dealing with the janitor or the Governor, he never saw people as abstractions, proxies, or means to an end. He saw them as individuals and took them as he found them; expected the best of them; and never demanded more of anyone than he demanded of himself. His sense of fairness and justice applied to everyone, but his sense of humor was irrepressible. In one memorable case where a defendant filed an appeal quibbling over the deprivation of a single day of credit, Justice Puglia agreed with the inmate in a brief unpublished opinion. He found the court had miscalculated, and ended the opinion with the cheery admonition to "have a nice day!"

In my youth, I admired and respected him and wanted to emulate him. As I grew older and had more opportunities to get to know him, to become first an acquaintance, then a colleague and a friend, I came to love him. I do not think there is one person within his orbit who was not the beneficiary of his wisdom, encouragement, and generosity. He gave us his "Rules to Live By" to amuse us. But, the way he lived his life inspired us. He was devoted to his wife Ingrid and

endearingly proud of his children. Indeed, he had a disconcerting tendency to adopt any of us when he felt we needed guidance.

He taught us that character counts and integrity is personal. He never allowed cruelty or deception or hypocrisy to go unchallenged. He did the right thing even when he would have benefited from doing the expedient thing. Freedom is not free he would often remind us, but, in Justice Puglia's view, it was worth the price—however dear.

His life experience and his understanding of history produced in him a certain toughness—the power of facing the difficult and unpleasant without flinching; discipline and intellectual rigor; physical courage; and, even more importantly, the courage to be different. Never one to follow the herd of independent minds, his was a unique voice. As California's Chief Justice has ruefully acknowledged, Justice Puglia was “a strong personality. . . not shy of stating his beliefs, nor about challenging others to justify theirs” but surprisingly willing to listen and modify his views. He was, as his long-time colleague Justice Blease noted, “formidable” and “intimidating,” but he had a “heart of gold.”

There are so many themes and threads that run through Justice Puglia's life and the history of the Third District Court of Appeal that I do not think it can be mere coincidence. Norton Parker Chipman stood on the battlefield at Gettysburg when Lincoln gave that memorable speech. Justice Puglia was a student of history—especially the Civil War era. He could speak of Andersonville and Robert E. Lee and the battles of that terrible war as easily as other people recite the latest baseball scores. There are similarities in the descriptions of Justice Puglia and President Lincoln that are striking.

In a speech in 1906, Norton Parker Chipman recalled that his friend Abraham Lincoln was “firm as the granite hills,” yet capable of great patience and forbearance. Carl Sandburg described Lincoln as “both steel and velvet . . . hard as rock and soft as the drifting fog.” Reading these words caused a shock of recognition, for I had been seeing exactly this sort of apparent paradox and contradiction in the life of Justice Puglia.

Seeing these parallels, I have come to understand that this flexibility is neither paradox nor accommodation. It is just the opposite—a sense of sure-footedness and balance that is often the defining trait of people of great character and impeccable integrity. It is precisely this quality which makes the honest public intellectual, a man like Bob Puglia, so extraordinary.

In his first message to Congress in 1862, Lincoln warned that we might “nobly save, or meanly lose, the last best hope of earth.” Lincoln, of course, was referring to the Union. Justice Puglia felt that same sense of fierce commitment to the rule of law. The preservation of the rule of law and of the equality of all people under that rule was, in his view, the core principle of liberty and the only reason America might qualify for such a grand epithet.

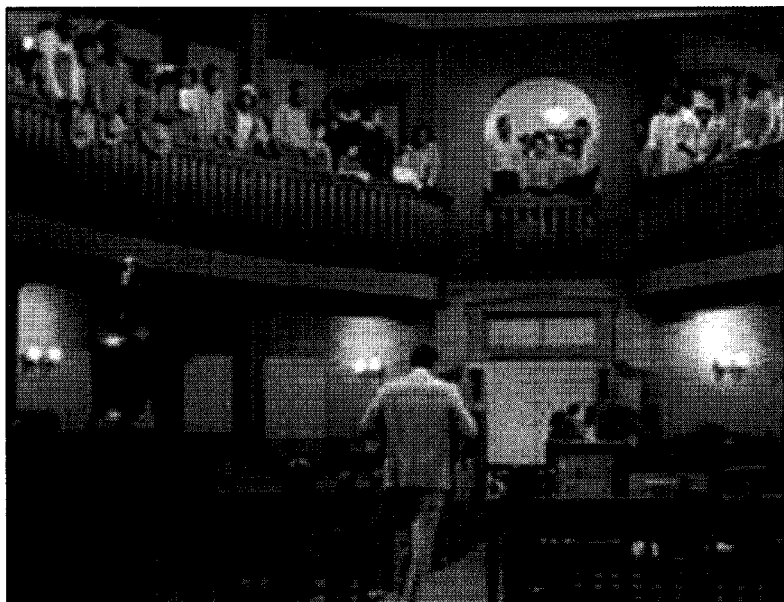


FIGURE 1. TO KILL A MOCKINGBIRD

My favorite movie scene is in “To Kill a Mockingbird.” It is the scene where Atticus Finch has argued brilliantly and raised much more than a reasonable doubt, virtually proving the innocence of the accused, but the jury still returns a guilty verdict. Most of the spectators file noisily into the street, gossiping and celebrating. Upstairs, relegated to the balcony, another audience has watched the proceedings and remains seated. As Atticus Finch gathers his papers and walks slowly from the courtroom, they rise silently in unison. The Black minister, Reverend Sykes, taps Scout on the shoulder and says: “Miss Jean Louise, stand up. Your father’s passin’.” To me, this silent homage to a good and courageous man, who respects and believes in the rule of law—and is willing to defend it even at great personal cost—is the most moving moment in the whole film.

Justice Puglia was just such a man. And he was not a fictional character. Most of us have risen to our feet many times to mark his passage because he was a judge. Court protocol required us to show respect for the robe and what it represented. But Justice Puglia was the kind of man who earned and could command our respect by virtue of his life and character. In a way, the robe was superfluous.

We have had the great good fortune to know this extraordinary man. We can remember what he taught us. We need not be fearless to have courage. We can be tough *and* tender. We can do the right thing—and face the bad that cannot be avoided unflinchingly. We can laugh. And we must sing—even when people frown at us and advise us to keep our day jobs. We can care for the people around us. We can be generous. We can make our way, against the tide, without

rancor or bitterness. And when we are tired and overburdened and feel we are not brave enough to go on, we will hear his voice in our ear. Hear him say in that quiet and steely tone: "Yes, you can. You can." And we will know that we are being true to his legacy. The legacy of one who loved liberty. We will know that we are standing up . . . because Justice Puglia is passin'.

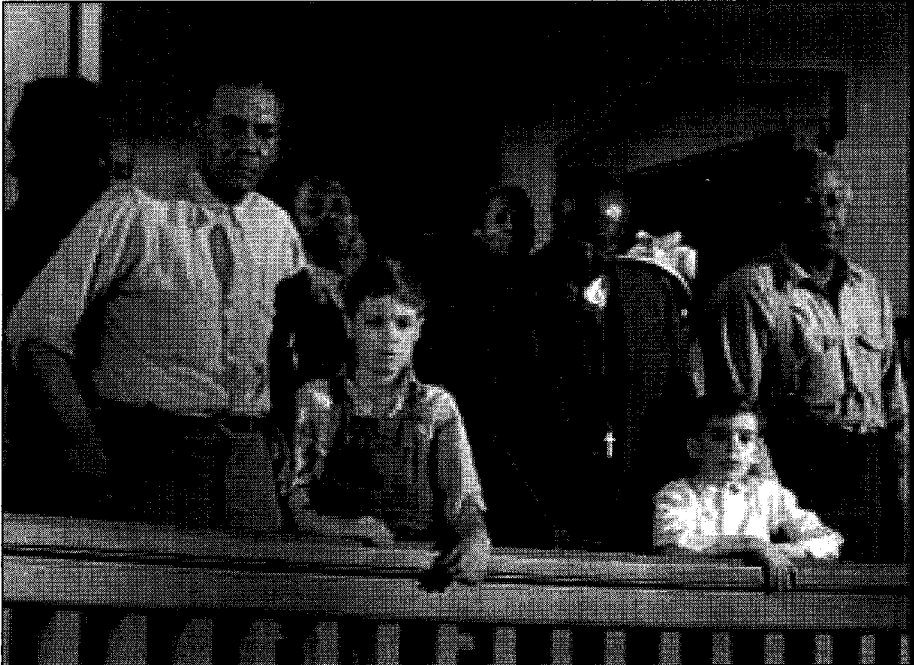


FIGURE 2. TO KILL A MOCKINGBIRD

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