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## A Tribute to Professor Daniel G. Gibbens

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## DANIEL G. GIBBENS

After thirty-four years of distinguished service, Professor Daniel Gibbens retired from the University of Oklahoma College of Law in May 2005. Professor Gibbens received his B.A. from Yale in 1954 and his J.D. from the University of Oklahoma in 1959. During law school, Professor Gibbens was Editor-in-Chief of the *Oklahoma Law Review*, where he supervised two symposia, "Law and Christianity" and "Statute of Limitations in Oklahoma." Upon graduation, Professor Gibbens was awarded the Order of the Coif. He earned his LL.M. in 1965 from Columbia, where he served as a Cardozo Fellow.

Before joining the faculty at the University of Oklahoma, Professor Gibbens served as a law clerk to Tenth Circuit Chief Judge Alfred P. Murrah from 1959 to 1960. He also practiced law in Oklahoma City with Fuller, Smith, Mosburg & Davis from 1960 to 1962, where he was made partner in 1962, and served as an Assistant Attorney General in Oklahoma during the summer of 1969. Professor Gibbens joined the faculty at the University of Oklahoma College of Law in 1962, leaving to serve as a Visiting Professor and Bailey Lecturer at Louisiana State University in 1977. Professor Gibbens served as First Assistant Dean from 1962 to 1964 and was awarded the position of Regents' Professor in 1988.

Professor Gibbens has focused his scholarship and teaching on Criminal Procedure, Sports Law, and First Amendment Church-State Relations. He taught Criminal Procedure courses annually from 1962 to 2002, which included thirty-one law-student field trips to the Oklahoma State Penitentiary. Professor Gibbens also taught a Sports Law course from 1983 to 2002 and a First Amendment Church-State Relations Seminar from 1983 through the present.

Professor Gibbens has also been a leader in the Bar and other community organizations. He worked on the Massad Commission in advising the Cherokee Nation Council during their constitutional crisis of 1997, for which he received the Oklahoma Bar Association Presidential Citation for "Distinguished Pro Bono Service to the Cherokee Nation." Professor Gibbens has served on the Oklahoma Bar Association Strategic Planning Committee from 1996 to 2005, as the Project Director of the American Bar Association Empirical Investigation on Omnibus Hearing Effects on State Criminal Processes from 1975 to 1977, and as President of the Cleveland County Bar Association from 1975 to 1976. Professor Gibbens was the University Faculty Athletics Representative to the NCAA and Big Eight and Big Twelve Conferences from 1975 to 2005, for which he received the All-American Football Foundation Outstanding Faculty Athletics Representative Award in 2001, and is a member of the OU Speakers Service, for which he has given talks on First Amendment Religious Freedom issues in nineteen Oklahoma counties.

Outside of the legal arena, Professor Gibbens was a member of the U.S. Naval Reserve, from which he retired in 1991 with the rank of Commander. He has also been a member of the Board of Directors and Executive Committee of the Norman Alcohol Information Center since its founding in 1972. Professor Gibbens served as a Senior Warden at St. John's Episcopal Church, as a founding member and Senior Warden of St. Michael's Episcopal Church, and a member of the Oklahoma Episcopal Diocesan Ecclesiastical Court. Professor Gibbens was born in 1933, married Carol Pemberton of Oklahoma City in 1954, and has two sons, Michael and Robert.

A partial listing of Professor Gibbens numerous publications include:

Books:

- *Cases and Materials on Oklahoma Criminal Procedure*, Vol. 1, *Evidence Acquisition* (eleven editions from 1970 to 1994)
- *Cases and Materials on Oklahoma Criminal Procedure*, Vol. 2, *The Adjudication Process* (eighteen editions from 1973 to 2001)
- *Course Materials for Church-State Relations* (revised annually since 1984)

Articles:

- *Public School Education About Beginnings: Creationism, No! Truth About Science, Yes!*, 55 OKLA. L. REV. 613 (2002).

## GENTLEMAN DAN

*William J. McNichols\**

It is my pleasure and privilege to speak of my friend and colleague, Dan Gibbens.

Joe Castiglione will tell you of Dan's contributions to OU athletics. I will speak of Dan the person and of his other outstanding contributions to the University, to the law school, and to the greater community.

Nicknames have a way of capturing the essence of a person in the eyes of others. I asked Dan what he thought his nickname was at the law school. He said he didn't think he had one, except that Mark Gillett calls him "Dapper Dan." Dapper Dan fits because it is true that Dan simply reeks of *savoir-faire*, and all he does has a touch of style.

For me, though, the name that best captures the essence of Dan Gibbens is Gentleman Dan. Dan is a model and the epitome of what it means to be a gentleman. I mean a gentleman in the old-fashioned and classic sense. So, I draw your attention to those characteristics of the classic gentleman, which Dan has demonstrated in full measure among us. As a person and as a professional, the essence of Dan Gibbens is:

- \* integrity,
- \* loyalty,
- \* trustworthiness,
- \* civility,
- \* fairness,
- \* openness to all views,
- \* prudent judgment, and
- \* peacemaker (the ability to contribute to peaceful and positive solutions in the midst of partisan strife).

Dan's accomplishments have been many — but those virtues of a perfect gentleman, in my judgment, underscore why Dan Gibbens has been such an important contributor to the good of the law school and to the quality of the life we lead together as colleagues.

Dan's journey to the study of law was natural for a member of the Gibbens family. He comes from a long line of lawyers. His grandfather, his father, his brother Jim, and his son Mike — all were and are Oklahoma lawyers. Son Bob is the exception. Bob decided that healing cats and dogs as a veterinarian might be a better life than fighting like cats and dogs on behalf of one's clients as a lawyer.

Dan earned his BA from Yale, his J.D. from OU, and an LL.M. from Columbia. He compiled an outstanding record as a law student at OU,

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\* Welcome D. and W. DeVier Pierson Professor of Law, University of Oklahoma.

including his selection as Editor-in-Chief of the Law Review and to membership in the Order of the Coif.

After law school, Dan clerked for the pre-eminent federal jurist, Judge Murrah, and then joined the OKC firm of Fuller, Smith, Mosburg & Davis, where he made partner within two short years. Dan took a year's leave of absence from the firm in 1962, as he says: "to check out life as a law teacher." He never went back.

Dan also served as the College's first assistant dean for his first three years of teaching on our faculty. He has taught Criminal Procedure annually for three decades, a Church-State Relations seminar for over two decades, and since 1993 has offered a course or seminar in Sports Law, the area of his major activities and contributions to the University, to the state, and to the nation. He was the Reporter for the ABA Standards for Criminal Justice's publication on Discovery Before Trial and served on the OBA's Strategic Planning Committee, for ten years, ending in 2005.

In the space I have left, I want to share with you two anecdotes and list of memories of and for Dan.

The first tale goes back to Dan's law prof beginnings — it's entitled "Daniel in the Tiger's Den."

When Dan joined the faculty in 1962 it was a very different world for Law Profs than that facing our new faculty. Gentleman Dan walked into the lair of the likes of George (the Tiger) Fraser and Roaring Joe Rarick. Those were the days when the famous Fifth Floor of Senior Faculty in Monnet Hall pretty much ran the place, as Dean Coats and President Boren will remember. Dan's first two courses, as he tells it, were in areas in which he had no background whatsoever. The Tiger and his cohorts assigned him Practice Court and Commercial Transactions. His main court experience had been running to the courthouse to get probate documents signed. Not only did Dan have no experience in commercial law at his law firm, he hadn't even taken the course in law school. But Dean Sneed told him: not to worry; no problem. The Uniform Commercial Code had just been passed. (That's how long ago this was). Dan could learn what was in the UCC, said the Dean; that was the only law that mattered anymore. Early on, however, Gentleman Dan, with his inimitable style and grace, must have worked his way into the favor of the Gods of the Fifth Floor because, as I told you before, Dan somehow got to teach Criminal Procedure for over thirty years in a row.

The second saga is of Dan the Quiet Man — or "I Never Met a Secret I Couldn't Keep."

In all seriousness — this is at the heart of why Dan has had such success in the athletics world and as a counselor at law and as mentor to his students. In all my years I've never met anyone who was better at keeping confidences. Dan and I played racket ball or tennis at least once a week for more than 20 years, until my knees gave out. Back then we played racket ball early in the morning in courts buried deep in the bowels of Owen stadium. In a setting

that had all the privacy and the ambience of the garage where Bob Woodward met Deep Throat, I would press Dan for a tidbit or two of “Insider Stuff.” And I got what I wanted I thought, only to discover over the breakfast table that it was in the morning paper. In all those years and still, I never got anything from Dan that wasn’t in today’s paper or yesterday’s and I had missed it.

As a teacher, Dan has impacted countless students in many positive ways, none perhaps more important than by being a model for them of what it means to be a professional in law.

(Of course, there is the minority view on this, which has it that the reason that Dan is so good at keeping secrets is that he has a tendency to forget what the secret was in the first place).

Dan, in your retirement years, there will be much to remember. Here is a list of ten important memories that I think will remain with you and by which you will be remembered.

1. Leadership. There were the twenty-five or so trips to the OU/Texas game on the Law Profs’ bus, to sing Dallas Ditties songs and cheer on the Sooners, which you organized and led so brilliantly. One of your major secrets is how each year you pulled off leading a bus load of Sooners to our reserved tables for fifty, past a hundred Longhorn fans waiting in line outside the San Francisco Steak House. There’s a future for you in retirement in the Tour Director business.

2. Going the Extra Mile. The high point of their law school experience, say many of your students, was going on one of the more than thirty student field trips to the State Penitentiary in McAlester, which you led in your Crim. Pro. course. Johnny Cash in Folsom Prison, perhaps you weren’t. I don’t know if you sang songs and accompanied yourself on the zither as you did on the Law Profs’ bus. But the impact of that trip on your students, who came away with renewed commitment and appreciation for the defense of a client, was extraordinary.

3. Total Commitment. There is your seminar on Church and State Relations which has really been your labor of love. It all started with the Symposium in “Law and Christianity” which you put together as Editor-in-Chief of the *Oklahoma Law Review* and which sold more copies than any other single issue in the history of the review. It continued over the years in the countless number of talks on the First Amendment and Religious Freedom which you have given in twenty-one communities across Oklahoma, through the OU Speakers Program, and otherwise.

4. Your neat and tidy office at the law school.

5. Your service in 1977 on the Massad Commission advising the Cherokee Nation Council during its constitutional crisis in the writing of its tribal constitution. For that work and others, you earned the Oklahoma Bar Association’s Presidential Citation in 1997 for “Distinguished Pro Bono Service to the Cherokee Indian Nation.”

6. Your leadership roles as senior warden at both St. John's and St. Michael's Churches in Norman, your service as a lay member of the Diocesan Ecclesiastical Court, and your participation in the cutting-edge work your church is now doing in its ecumenical effort at "Dialogue" among the Christian, Muslim, and Jewish religious communities.

7. Your work with Rev. Dick Virtue in founding the Norman Alcohol Information Center and as member of its first Board of Directors, on which you continue to serve. As it has grown, scores of persons have been helped to overcome alcohol and drug addiction through the Center's many programs.

8. Your neat and tidy office at the law school.

9. Your appointment in 1988 as an OU Regents' Professor — a high honor, richly deserved, that Joe, I'm sure, will tell us more about

10. Everybody Loves Raymond a/k/a Dan Gibbens. There are the memories from all those friendships you and Carol have made, both among us, and on your many journeys in your work for the Big 12 and the NCAA.

Dan, it's not only been a privilege to speak about you. As my colleagues would agree, it's been a privilege to serve with you at the law school. And so, to you and your family (for you have also been our model as Dan the Family Man), and especially to Carol, co-contributor to many of your accomplishments and the one who has fought the long and arduous fight to make your office the clean and tidy place it is, we wish you the very, very best in the years ahead.

## DAN THE MAN

*Joe Castiglione\**

It is my privilege to provide some of my thoughts about a wonderful man and leader, Mr. Dan Gibbens.

In my career as Athletic Director at two different universities, I've had the experience to be on the opposite side of Dan Gibbens and the same side of the table as Dan. I can tell you from experience, I'd rather be on the same side. There is no stronger advocate or friend to the people or issues he represents or defends than Professor Gibbens.

OU Regents Professor of Law Dan Gibbens provided outstanding leadership to the University of Oklahoma and its Intercollegiate Athletics Department for nearly thirty years as the Faculty Athletics Representative to the NCAA and the Big 8 *and* Big 12 Conferences until June 30, 2005. During his career, he has been a leader, advocate, and champion of the welfare of all student-athletes.

Since 1976, his leadership has positively influenced a highly successful athletics program which has won eleven (11) national championships and sixty-six conference titles while also strengthening its commitment to academic success. While officially representing the President's office and the University of Oklahoma, Dan exquisitely advised five different Athletics Directors, scores of faculty councils, and Faculty Senate Executive Committee members.

In 1983 Professor Gibbens played a significant role in changing the face of intercollegiate athletics through his leadership in the University of Oklahoma and the University of Georgia's lawsuit against the NCAA challenging their right to a monopoly in controlling television rights of all institutions. The U.S. Supreme Court ruled in the favor of the schools, which forever changed the way college football games were broadcast on television (current Law School Dean, Andrew Coats, also had a significant impact on this case).

He served as one of the founding members of the College Football Association and served on its Board of Directors from 1982 through 1985.

Dan was an instrumental member of the University of Oklahoma's successful transition from the Big 8 to the Big 12 Conference, including the restructuring of *all* conference administrative policies and procedures.

Dan is a nationally recognized leader among academic and faculty representatives of intercollegiate athletics, having served on seven NCAA Peer Review Teams. He has also held a long-standing leadership position with the NCAA Governance Structure Committee and is the recipient of the 2000 National Football Foundation's "Outstanding Faculty Representative Award."

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\* Director of Athletics, University of Oklahoma.

Professor Gibbens has served the University of Oklahoma and the College of Law (of which he is also a graduate) as a law professor since 1962 and still maintains a teaching load within the College of Law, which includes the development of new courses and programs, all of which garner praise, respect, and appreciation from students and colleagues alike.

Dan Gibbens' extraordinary service to the University of Oklahoma has been distinguished by his strong leadership and communication skills, his honesty, dignity, humility and compassion.

It has been my privilege to work with Dan Gibbens, and I would like to express profound appreciation to him for his significant and indelible impact on the intercollegiate athletics program at OU, his outstanding leadership, and the incredible integrity and dedication he brought to the role of Faculty Athletics Representative.

Dan, you deserve all of the accolades which have been conveyed. Congratulations on your outstanding career!

## A TRIBUTE TO DAN GIBBENS

*Dean Andrew M. Coats\**

I first became acquainted with Professor Dan Gibbens in Oklahoma City during the summer of 1961. He was practicing law with a firm that had offices on the same floor as a firm with which I was a summer clerk. He impressed me as a bright and energetic young lawyer, and we became friends. He had been a law clerk for Judge A.P. Murrah, the Chief Judge of the United States Court of Appeals for the Tenth Circuit, before joining the firm of Fuller, Smith, Mosburg & Davis.

The next year, after the death of Professor Bill Bandy, Dan stepped in and taught our Criminal Law class. It became obvious that Dan was going to be an excellent teacher. He had a great grasp of the subject matter and an effective way of communicating the essence of the course.

Later that year, Dan joined the Law School faculty as Associate Professor of Law. Over the years, he became a tenured, full Professor of Law, teaching courses in Criminal Procedure, Constitutional Law, Sports Law, and Church-State Relations. As a part of his Criminal Procedures classes, he always took his students on a tour of the Oklahoma State Penitentiary at McAlester (thirty-two trips). His students always reported this was indeed a highly educational experience.

I was privileged to work with him over the ensuing years, as I represented the University Athletics Department on several important matters. In 1996 Dan was appointed the NCAA Faculty Athletics Representative and continued in that capacity until his retirement in 2005. He did a splendid job as an advisor to the athletics staff and in representing the University in the Big Eight/Twelve Conference and in the NCAA. His knowledge, his insights, and his ability to articulate the University's position on important issues were of enormous benefit in shaping the direction of our intercollegiate athletics programs. He developed the respect and affection of many persons involved in intercollegiate athletics, including the faculty representatives from other universities, athletics coaches, members of the news media, et al. They came to rely upon his honesty and his judgment. In 2001, he received the All-American Football Foundation Outstanding Faculty Athletics Representative Award.

He was a fine law teacher and scholar. When I returned to the College of Law as Dean, Dan became one of my faculty colleagues. I knew I could rely on his advice and counsel, and he was most helpful to me as I embarked upon my career in the groves of academe. He always enjoyed the respect and affections of his faculty colleagues. He gave much of himself to this fine

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\* Dean of the College of Law, Director of the Law Center, Fenelon Boesche Chair in Law, and Professor of Law, University of Oklahoma.

institution and to the hundreds of our graduates who benefitted from his teaching, his guidance, and his friendship. I know I did.

In addition to his Law School and University work, his bar activities included six years on the Oklahoma Bar's Long-Range Planning Committee, and with two other lawyers (Anthony M. Massad and Robert A. Layden) he worked with the Cherokee Nation government at a time when they were having a constitutional crisis, for which each received Oklahoma Bar Association Presidential Citation for "Distinguished Pro Bono Service to the Cherokee Indian Nation" (1997). Their work is reported at 23 Am. Indian L. Rev. 375 (1998/99). Also included in Dan's service: member of the Board of Directors of the Norman Alcohol Information Center from its founding in 1972 to the present; church activities, including serving as a justice on the Episcopal Diocese of the Oklahoma Ecclesiastical Court; more than twenty years in the Navy Reserve, including serving as commanding officer of his Norman unit; giving a talk captioned "Are We a Christian Nation" in twenty of Oklahoma's counties (in several, more than once) — formally presented in "Are We a Christian Nation? The U.S. Supreme Court Response" in *International Perspectives on Church and State* (Menachem Mor ed., 1993).

In recognition of his multi-faceted service to his community, the law school, and the university, in 1988 he was named Regents' Professor of Law.

Dan invariably and emphatically includes among his most important activities his now fifty-plus-year marriage with Carol — about which each says of the other, "You're sure not perfect, but you're very good" — and their children and their families.

Dan's list of activities does have one serious omission, i.e., he didn't and doesn't play golf.