



From the Ballfield to the Courthouse: The Life and Times of Judge Robert M. Gibson, Sr.

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ABSTRACT

In 1922, President Warren G. Harding selected Pittsburgh's Robert M. Gibson, Sr. to fill an open seat on the U.S. District Court for the Western District of Pennsylvania. Although many major league baseball players also have been lawyers, to date Gibson is the only one to ever become a federal judge. This essay provides the first detailed look at Gibson's remarkable life.

I INTRODUCTION

This year (2022) marks the 100th anniversary of the investiture of Robert M. Gibson, Sr. as a U.S. District Judge for the Western District of Pennsylvania.¹ For most observers, this is a minor event. For baseball fans,

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¹ See *infra* notes 34-36 and accompanying text. A full-length biography of Gibson does not exist. A truncated one can be found at the website of the U.S. District Court for the Western District of Pennsylvania. See *infra* note 8.

Just why Gibson, who served on the court for 27 years and was its first chief judge, see *infra* notes 64-66 and accompanying text, has been overlooked is hard to explain. Gibson does have a Wikipedia page, see *Robert Murray Gibson*, WIKIPEDIA: THE FREE ENCYCLOPEDIA, https://en.wikipedia.org/wiki/Robert_Murray_Gibson [<https://perma.cc/EJ48-T344>], and is included in the Federal Judicial Center's *Biographical Directory of Federal Judges. Gibson, Robert Murray*, FEDERAL JUDICIAL CENTER, <https://www.fjc.gov/node/1381201> [<https://perma.cc/Y7EL-C9T5>]. He also has a short entry on the website *Baseball-Reference*. See *Robert Gibson*, BASEBALL-REFERENCE.COM, https://www.baseball-reference.com/bullpen/Robert_Gibson

however, it is a banner occasion. In the sport's long history,² there have been many major league players who also have been lawyers.³ But to date, only one — Gibson — has served as a federal judge.⁴

[<https://perma.cc/5LAY-L4WR>]. The Society for American Baseball Research has requested a volunteer to write a profile of Gibson but to date has found no takers. *Robert Gibson*, SABR BIOGRAPHY PROJECT, <https://sabr.org/bioproj/person/robert-gibson/> [<https://perma.cc/BS5R-Q8SZ>].

² When and how baseball was invented remains a subject of much debate — most sources, however, agree that it evolved from British folk games (one, called “stoolball,” has been traced back to the 11th century). See DAVID BLOCK, *BASEBALL BEFORE WE KNEW IT: A SEARCH FOR THE ROOTS OF THE GAME* (2005). The earliest known reference to baseball appears in John Newberry's *A Little Pretty Pocket-Book*, printed in London in 1744. The earliest American reference is a 1778 diary entry penned by George Ewing, a Revolutionary War soldier stationed at Valley Forge. See JOHN THORN, *BASEBALL IN THE GARDEN OF EDEN: THE SECRET HISTORY OF THE EARLY GAME* (2011).

³ Unfortunately, a complete list of such players does not exist. Various partial lists, however, can be located. See, e.g., JONATHAN FRASER LIGHT, *THE CULTURAL ENCYCLOPEDIA OF BASEBALL* 54-55 (2d ed. 2005) (under “Attorneys”); *Post-Playing Careers*, SABR RESEARCH JOURNALS ARCHIVES, <http://research.sabr.org/journals/post-playing-careers> [<https://perma.cc/3JYF-YPAC>].

Other professional leagues have their own legal fraternity members. Infielder John G. Shackelford, for example, played for various teams in the Eastern Colored League and the Negro National League between 1924 and 1930 (Birmingham Black Barons, Chicago American Giants, Cleveland Browns, and Harrisburg Giants) and then earned a law degree from the University of Michigan (1931). See Caleb Hardwick, *John Shackelford*, ARKANSAS BASEBALL ENCYCLOPEDIA, <http://arkbaseball.com/tiki-index.php?page=John+Shackelford> [<https://perma.cc/EQ5H-84G6>]. Similarly, after her playing days in the All-American Girls Professional Baseball League ended, pitcher Patricia I. Brown (Chicago Colleens, 1950; Battle Creek Belles, 1951) earned a law degree at Suffolk University (1965). See KAT D. WILLIAMS, *THE ALL-AMERICAN GIRLS AFTER THE AAGPBL: HOW PLAYING PRO BALL SHAPED THEIR LIVES* 112 (2017).

Additionally, as has been explained elsewhere, many of the original players on the Cincinnati Reds, baseball's first professional team, were “Cincinnati-area attorneys.” ED EDMONDS & FRANK G. HOUEK, *BASEBALL MEETS THE LAW: A CHRONOLOGY OF DECISIONS, STATUTES AND OTHER LEGAL EVENTS* 19 (2017).

⁴ Gibson does have a counterpart at the state level: Harry L. Taylor (1866-1955). Primarily a first baseman, but used at all positions except pitcher, Taylor played in the American Association and the National League for the Louisville Colonels (1890-92) and the Baltimore Orioles (1893). See *Harry Taylor*, BASEBALL-REFERENCE.COM, <https://www.baseball-reference.com/players/t/tayloha01.shtml> (last visited Oct. 16, 2022). In 1893, with his playing days behind him, Taylor earned a law degree from Cornell University. After graduating, Taylor established a law practice in Buffalo, New York. In 1906, Taylor was elevated to the New York Supreme Court, where he first spent 18 years in the trial division and then 12 years in the appellate division. See *Harry L. Taylor*, HISTORICAL SOCIETY OF THE NEW

II EARLY LIFE

Robert Murray Gibson, Sr. was born on August 20, 1869, in Duncanville, Blair County, Pennsylvania (just outside Altoona), the oldest child of Elizabeth M. (née Murray) (1837-1900) and the Reverend William J. Gibson, D.D. (1807-83).⁵ The pair had wed in 1867, two years after William, a Presbyterian minister, lost his first wife (Cassandra O. Jameson, 1795-1865).⁶ Although William already had fathered six children — Horatio G.J. (1834-35); Katherine R. (1834-1928); Mary Jane (1836-36); Cassandra J. (1838-79); Dr. Robert L. (1839-65); and William J. (1840-70) — he and Elizabeth had three children of their own: Robert (hereinafter “Gibson”) (1869-1949); Murray (1871-71); and William J. (1875-1958).⁷

After attending the Blair County public schools, Gibson briefly enrolled in Pennsylvania State College (now Pennsylvania State University) but then transferred to Washington & Jefferson College in Washington, Pennsylvania (just outside Pittsburgh), where he earned an A.B. degree in 1889.⁸

In 1890, Gibson, who by now stood 6’3” and weighed 185 pounds, joined the Wheeling (West Virginia) Nailers.⁹ The Nailers were one of eight teams in the unclassified Tri-State League (so named because its clubs

YORK COURTS, <https://history.nycourts.gov/biography/harry-l-taylor/> (last visited Oct. 16, 2022). For a detailed biography of Taylor, see Charlie Bevis, *Harry Taylor, SOC’Y FOR AM. BASEBALL RESEARCH*, <https://sabr.org/bioproj/person/harry-taylor-3/> [<https://perma.cc/6FNE-JENZ>].

⁵ See Corezfam, *Robert Murray Gibson Sr.*, ANCESTRY.COM, <https://www.ancestry.com/family-tree/person/tree/36479335/person/19487650796/facts> (last visited Oct. 16, 2022) [hereinafter *Gibson Family Tree*].

⁶ *Id.*

⁷ *Id.*

⁸ See U.S. District Court — Western District of Pennsylvania, *Robert Murray Gibson*, <https://www.pawd.uscourts.gov/robert-murray-gibson> [<https://perma.cc/X374-8ZRW>] [hereinafter *Gibson Court Biography*]. This source includes a photograph of Gibson. Gibson’s graduation from Washington and Jefferson is confirmed by the school’s alumni directory. See BIOGRAPHICAL AND HISTORICAL CATALOGUE OF WASHINGTON AND JEFFERSON COLLEGE, 1802-1902, at 507 (1902) (listing Gibson as an 1889 graduate).

⁹ See *1890 Wheeling National Citys/Nailers*, BASEBALL-REFERENCE.COM, <https://www.baseball-reference.com/register/team.cgi?id=A6d0fad2> (last visited Oct. 16, 2022) (listing Gibson as a member of the Nailers and giving his height and weight). For the history of the various team names cited throughout this essay, see RICHARD WORTH, *BASEBALL TEAM NAMES: A WORLDWIDE DICTIONARY, 1869-2011* (2013).

played in various cities in Michigan, Ohio, and West Virginia).¹⁰ Due to a lack of records, it is not known how either Gibson or the Nailers performed.

On June 4, 1890, Gibson got his chance to break into the major leagues when the visiting Chicago Colts (now Cubs) found themselves in need of a pitcher for a game against the Pittsburgh Alleghenys (now Pirates) at Recreation Park.¹¹ In a sparkling debut, Gibson led the Colts to a 5-1 victory over the Alleghenys. The next day, the *Pittsburgh Dispatch* wrote:

A young pitcher named Gibson, from the Washington and Jefferson College, was tried by the Chicagos, and he proved a veritable puzzle for the local men, only six hits being secured, and they so scattered that they did no good. The young man is very modest, and, although he has been defeating everything that comes his way, doesn't much fancy trying professional ball. [Pittsburgh baseball executive] Al Pratt at last convinced him that he would be all right and [Colts manager Cap] Anson took him up.¹²

Despite Gibson's impressive performance, the Colts did not keep him.¹³ In August 1890, Gibson signed with the Alleghenys and got into three contests (on August 1, 4, and 7). None went well.

After Gibson's first game, a 20-1 loss to the Brooklyn Bridegrooms (now Dodgers), the *Dispatch* reported:

Gibson [was] in the box [to start the game], but one inning was sufficient to cause his retirement. . . In the first inning the Brooklyns scored 11 runs, two earned. Fifteen men went to the bat; five hits were made, including a couple of two-baggers, but then Gibson gave three men bases on balls, had three wild pitches, and with the dropped flys and fumbles the spectators evidently experienced a great relief when the inning closed.¹⁴

¹⁰ *1890 Tri-State League*, BASEBALL-REFERENCE.COM, <https://www.baseball-reference.com/register/league.cgi?id=C16b027f> (last visited Oct. 16, 2022).

¹¹ Recreation Park (originally called Union Park) served as the Alleghenys' home field from 1883 to 1890. In 1891, the team moved to Exposition Park. See DAN ROONEY & CAROL PETERSON, ALLEGHENY CITY: A HISTORY OF PITTSBURGH'S NORTH SIDE 163-64 (2013).

¹² *A College Pitcher — Anson Gets a Washington-Jefferson Man to Defeat the Pittsburghs — But Six Scattering Hits — A Young Fellow Who Will Develop into a Good Ball Player — Baker's Good Work in the Box — Not a Run was Earned by Either Team in Yesterday's Game at Recreation (Park)*, PITT. DISPATCH, June 5, 1890, at 6.

¹³ As there is no public reporting on the Colts' decision, it is not known why the team did not keep Gibson.

¹⁴ See *Two Defeats East — The Brooklyns Bunched Their Hits and Fielded Finely, Winning Both Games Against the Pittsburgh League Team*, PITT. DISPATCH, Aug. 2, 1890, at 6 (explaining that the Pirates lost the first game of the doubleheader by the more respectable score of 7-3).

After Gibson's second game, a 16-6 loss to the Bridegrooms, the *Dispatch* observed:

Manager [Guy] Hecker, of the Pittsburgh (N.L.) Club, gave Gibson another chance in the box today in the game played with the Brooklyns. He was hit quite freely, [and] his wild delivery was responsible for five runs, four being charged to bases on balls and one to a wild pitch[, in the first inning alone].¹⁵

After Gibson's third game, a 23-17 loss to the Cincinnati Reds, the *Pittsburgh Post* exclaimed: "It would be too tedious to rehearse the history of the 40 runs made. Gibson went in to pitch for the Alleghenys [at the beginning of the game], but retired in the fourth, [by which time Cincinnati had scored 11 runs]."¹⁶

In these three outings, Gibson had gone a combined 0-3 with a 17.25 earned run average.¹⁷ At the plate, he had gone 3-for-13, with three singles and one run batted in, for a .231 batting average.¹⁸ Having seen enough, the Alleghenys released Gibson, marking the end of his major league career.¹⁹

Reflecting on Gibson's time in the majors, noted baseball commentator David Nemeč has asked: "Was Gibson simply inordinately lucky in his inaugural game? Was he hurt afterwards? Was the Pittsburgh NL team really so dreadful in 1890 that a pitcher could compile a 0.00 ERA against them and a 17.25 ERA when they performed in his behalf?"²⁰ While the answers to Nemeč's first two questions are unknowable, one can give an unequivocal "yes" to the third one. In 1890, the Alleghenys finished in last place in the eight team National League. Their 23-113-2 record (a .169 winning percentage) put them 66½ games behind the first-place Bridegrooms.²¹ Historically, only the 1899 Cleveland Spiders (20-134, .130 winning percentage,

¹⁵ *A Want of Support — Gibson Could Pitch Better if He was Supported by the Team — His Wildness Gave the Brooklyns Five Runs*, PITT. DISPATCH, Aug. 5, 1890, at 6.

¹⁶ *Slugging at Cincinnati — Runs are Piled Up Steeple High — The Alleghenys Too Weary to Win the Game — They Hit the Ball and Field Well, but Lose All the Same*, PITT. POST, Aug. 8, 1890, at 6.

¹⁷ See *Robert Gibson*, BASEBALL-REFERENCE.COM, <https://www.baseball-reference.com/players/g/gibso01.shtml> (last visited Oct. 16, 2022).

¹⁸ *Id.*

¹⁹ There is no public reporting on the Alleghenys' decision to release Gibson.

²⁰ DAVID NEMEČ, *THE RANK AND FILE OF 19TH CENTURY MAJOR LEAGUE BASEBALL: BIOGRAPHIES OF 1,084 PLAYERS, OWNERS, MANAGERS AND UMPIRES* 38 (2012).

²¹ See *1890 National League Team Statistics*, BASEBALL-REFERENCE.COM, <https://www.baseball-reference.com/leagues/NL/1890.shtml> (last visited Oct. 16, 2022).

84½ games behind the first-place Brooklyn Superbas, later Dodgers) own a worse season record based on 100 or more games played.²²

III AT THE BAR

Having failed to make it as a major leaguer,²³ Gibson read law under various local attorneys and in 1894 was admitted to the Pennsylvania bar.²⁴ In 1897, he married Lorena G. Core (1872-1928), a resident of Washington, Pennsylvania.²⁵ Like Gibson, Lorena had grown up in a religious household — her parents were Sarah K. (née Heiner) (1848-1930) and the Reverend Jesse F. Core, Jr., D.D. (1846-98), the presiding elder of the Washington, Pennsylvania, district of the Methodist Episcopal Church.²⁶ Together, Gibson and Lorena had seven children: four sons (William H., 1900-64; Daniel H., 1901-70; Robert M., Jr., 1903-76; and John M., 1911-

²² See 1899 *National League Team Statistics*, BASEBALL-REFERENCE.COM, <https://www.baseball-reference.com/leagues/NL/1899.shtml> (last visited Oct. 16, 2022). See DAVID L. FLEITZ, *ROWDY PATSY TEBEAU AND THE CLEVELAND SPIDERS: FIGHTING TO THE BOTTOM OF BASEBALL, 1887-1899* (2017).

²³ Despite his less than stellar statistics, Gibson later insisted he could have had a career in baseball: “I had to choose between playing ball and studying law—and I took law.” Chester Potter, *Federal Judge Ending 27-Year Service: Move to Drive Him from Bench Led Gibson to Delay Retirement*, PITT. PRESS, Jan. 16, 1949, at 1.

²⁴ See *Gibson Court Biography*, *supra* note 8. Until the early 20th century, “reading law” (also known as the apprentice system) was the method used by most Americans to become lawyers. See Brian J. Moline, *Early American Legal Education*, 42 WASHBURN L.J. 775, 801 (2004) (“As of 1900, more than half of American lawyers had not attended law school or even college.”). Had he been born just a few years later, Gibson likely would have attended the University of Pittsburgh’s law school, which was founded in 1895. See W. EDWARD SELL, *THE LAW DOWN: A CENTURY REMEMBERED — A 100 YEAR HISTORY OF THE UNIVERSITY OF PITTSBURGH SCHOOL OF LAW* (1995).

While reading law, Gibson played minor league baseball, going 2-7 for the Jamestown Champions of the unclassified New York-Pennsylvania League (1891) and 0-1 for the Memphis Giants of the Class B Southern Association (1892). See *Robert Gibson*, BASEBALL-REFERENCE.COM, <https://www.baseball-reference.com/register/player.fcgi?id=Gibson006rob> (last visited Oct. 16, 2022).

²⁵ See *Wedding at Washington*, DAILY REPUBLICAN (Monongahela, PA), Oct. 1, 1897, at 4. This article describes Lorena as “an accomplished young lady, well and favorably known in Washington, where her abilities as a soprano singer are recognized. Mr. Gibson is a young attorney at the Washington bar, also well and favorably known.” *Id.*

²⁶ *Id.*; See also *Gibson Family Tree*, *supra* note 5.

87) and three daughters (Ruth C., 1898-1968; Mary L., 1905-87; and Sarah E., 1907-88).²⁷

From 1894 to 1902, Gibson had his own law practice in Washington, Pennsylvania. In 1902, he moved to Pittsburgh, where he continued his practice.²⁸ Two years later, he became an assistant U.S. attorney for the Western District of Pennsylvania.²⁹ In 1912, Gibson served as a special assistant to the U.S. Attorney General and spent much of the year in Valdez, Alaska, where he helped prosecute the officers of the failed Washington-Alaska Bank of Fairbanks.³⁰

In 1914, Gibson resigned from the U.S. Attorney's Office and became Allegheny County's second assistant district attorney.³¹ In 1918, upon Harry H. Rowand's election as district attorney, Gibson was promoted to first assistant district attorney.³² In this position, Gibson oversaw the office's trials and extradition proceedings.³³

²⁷ *Gibson Family Tree*, *supra* note 5.

²⁸ See *Turning Out Lawyers Fast — Thirty New Applications for Admission to the Local Bar — Now Ready for Examination — Growth of Allegheny Bar Keeping Up — Gossip of the Courthouse*, PITT. PRESS, Mar. 9, 1902, at 8 (reporting that Gibson, although already “a member of the Bar of Washington County, Pa.,” had to “go before the [Allegheny County] board [of bar examiners] before gaining admission”).

²⁹ See *Langham Leaves; Promotions Made*, PITT. PRESS, Feb. 1, 1904, at 2 (“Robert M. Gibson, who has been clerk to the district attorney, and who has assisted greatly in the preparation of some important cases, has been promoted by District Attorney James S. Young, to the place vacated by [Assistant U.S. Attorney Jonathan N.] Langham.”). Oddly, Gibson's only reported case while at the U.S. Attorney's Office involved the attempted robbery of a grave. See *Franklin v. United States*, 193 F. 334 (3d Cir. 1912).

³⁰ See *Alaska Bankers' Trial Begins at Valdez Today*, SACRAMENTO DAILY UNION, Dec. 2, 1912, at 2. See also *Gibson Back from Alaska: Assistant United States Attorney Ends Work on Banking Cases*, PITT. GAZETTE TIMES, Jan. 28, 1913, at 3 (“[Gibson was] sent to Alaska by Attorney General George W. Wickersham because of his knowledge of banking laws and his long experience in trying cases.”).

³¹ See *Mackrell May Get Civil Service Job — R.M. Gibson Named Second Assistant District Attorney*, PITT. POST, Jan. 1, 1914, at 17.

³² See *Gibson Selected as Rowand's Chief Aide*, PITT. PRESS, Jan. 4, 1918, at 1.

³³ See Robert M. Ginter, *Gibson Selected for U.S. Judge in this District — Recommendation of Pepper and Reed Acceptable to Attorney General — Member of Local Bar*, PITT. GAZETTE TIMES, July 15, 1922, at 1. See also *Man Accused in Fatal Crash to be Extradited*, PITT. PRESS, Oct. 2, 1921, at 1 (“International extradition proceedings have been instituted by Assistant District Attorney Robert M. Gibson to secure the return to this country of Arthur L. Campbell, who was convicted April 4, 1921, of involuntary manslaughter, and, free on bail, failed to appear when called for sentence. Campbell has been arrested at Kingston, Jamaica, British West Indies, the district attorney's office has been informed.”).

IV ON THE BENCH

On July 18, 1922, Gibson, a Republican, was nominated by President Warren G. Harding to a seat on the U.S. District Court for the Western District of Pennsylvania.³⁴ On July 24, 1922, the U.S. Senate confirmed Gibson by a voice vote.³⁵ Five days later, Gibson was sworn in.³⁶ Years later, Gibson explained how he got the job:

Senator David A. Reed called me in and told me I was one of those under consideration. He told me to go see [Circuit] Judge Joseph Buffington and [District] Judge W.H. Seward Thomson and see if I would be acceptable to them. I would never have gone unless I had been sent. . . .³⁷

During his time on the bench, Gibson authored 364 published opinions,³⁸ many of which dealt with bankruptcy law. Near the end of his life, when asked which case had interested him the most, “Judge Gibson said he couldn’t recall any particular case which was of the greatest interest to him during his long judicial career. ‘But the kind that cost me the most blood

³⁴ See *Gibson Nominated for Federal Bench*, PITT. PRESS, July 19, 1922, at 11. The seat had become vacant due to the death of Judge Charles P. Orr. See *Judge C.P. Orr of U.S. District Court Here Dies — Senior Member of Federal Bench Succumbs to Heart Trouble — Born in Pittsburgh — Twice Vice President of State Bar Association — Prominent Club Man — Appointed by Taft in 1909*, PITT. GAZETTE TIMES, May 17, 1922, at 1. Given his Republican ties and prior federal service, Gibson was an easy choice to take Orr’s place. See *Bench Nominee May Be Gibson — Washington Hears Rowand’s Assistant is to be U.S. Judge Here*, PITT. GAZETTE TIMES, July 13, 1922, at 1 (“The attorney selected is known in Department of Justice circles, having been connected with the department as an assistant United States attorney at Pittsburgh during a Republican administration previous to the regime of President Woodrow Wilson.”).

³⁵ See *Gibson Confirmed as U.S. Judge Here — Tentative Plans Made to Induct Judge Orr’s Successor into Office*, PITT. GAZETTE TIMES, July 25, 1922, at 1.

³⁶ See *Gibson Takes Seat on Bench — Former Assistant District Attorney Sworn in as Federal Court Judge — Friends Attend*, PITT. GAZETTE TIMES, July 30, 1922, at 7.

³⁷ Potter, *supra* note 23, at 1. In 1922, the Western District of Pennsylvania had two seats, one created in 1818, Act of Apr. 20, 1818, ch. 108, 3 Stat. 462, and the other created in 1909, Act of Feb. 26, 1909, ch. 215. See 35 Stat. 656. Judge Buffington had been appointed to the 1818 seat in 1892. When he was elevated to the Third Circuit in 1906, he was succeeded first by Nathaniel Ewing (appointed 1906, died in office 1908); then by James S. Young (appointed 1908, died in office 1914); and then by Thomson (appointed 1914). Judge Orr was the first holder of the 1909 seat; thus, Gibson was seeking to become the seat’s second holder. Today, the district has 10 seats. See 28 U.S.C. § 133(a).

³⁸ An official tally of Gibson’s opinions does not exist. This figure is based on a Westlaw search conducted by the author on Aug. 1, 2022.

and tears — and which I liked — were the [bankruptcy] reorganization cases.’”³⁹

On May 14, 1937, Gibson issued his best-known ruling, a preliminary injunction prohibiting the federal government from proceeding with its plan to bring an antitrust action in New York against Pittsburgh’s Aluminum Company of America (“ALCOA”).⁴⁰ The Third Circuit, sitting as a three-judge district court under the Expediting Act,⁴¹ quickly vacated Gibson’s decision,⁴² one of the few times Gibson was reversed.⁴³

In 1941, Gibson decided *Metcalf v. Pittsburgh Athletic Company*,⁴⁴ the first of his two baseball-related opinions. William Metcalf, Jr.⁴⁵ and a friend went to a game at Forbes Field on August 13, 1938,⁴⁶ and saw the visiting Chicago Cubs beat the Pittsburgh Pirates 11-5.⁴⁷ Shortly before the game

³⁹ Potter, *supra* note 23, at 6.

⁴⁰ See *United States v. Aluminum Co. of Am.*, 19 F. Supp. 374 (W.D. Pa.), *vacated*, 20 F. Supp. 608 (W.D. Pa.), *probable juris. noted*, 58 S. Ct. 40, *aff’d*, 302 U.S. 230 (1937).

⁴¹ Expediting Act, 15 U.S.C. §§ 28-29 (1903) (authorizing the convening of a three-judge district court to hear antitrust actions brought by the government). The Act was triggered by the U.S. attorney general filing a certificate with the district court stating that the case was one of “general public importance” that required expeditious treatment. Under the Act, appeals went directly to the U.S. Supreme Court. Section 28 was repealed in 1984; section 29 was amended in 1974 to require appeals to be heard by the circuit courts.

⁴² *Aluminum Co. of Am.*, 20 F. Supp. 608.

⁴³ The vacating of Gibson’s injunction allowed the government to proceed with its plan. In 1945, Judge Learned Hand decided that ALCOA was a monopolist. See *United States v. Aluminum Co. of Am.*, 148 F.2d 416 (2d Cir. 1945). On remand, however, the district court decided not to take any action against ALCOA after finding that the end of the war, and the demobilization of the nation’s defense plants, had created sufficient competition in the aluminum market to protect the public. *United States v. Aluminum Co. of Am.*, 91 F. Supp. 333 (S.D.N.Y. 1950).

⁴⁴ 39 F. Supp. 115 (W.D. Pa.), *aff’d*, 120 F.2d 328 (3d Cir. 1941).

⁴⁵ Metcalf (1870-1956) was a 1901 graduate of Cornell University’s law school. After practicing law in Pittsburgh for nearly a decade (1901-08), he became a steel company executive. See *Wm. Metcalf Dies, Retired Steel Official — Industrialist Dies at 86 in Sewickley*, PITT. PRESS, Aug. 31, 1956, at 28.

⁴⁶ In the *Federal Supplement*, the date of the game is incorrectly given as August 13, 1939. See *Metcalf*, 39 F. Supp. at 115. Forbes Field served as the Pirates’ home throughout Gibson’s time on the bench. FORBES FIELD: ESSAYS AND MEMORIES OF THE PIRATES’ HISTORIC BALLPARK, 1909-1971 (David Cicotello & Angelo J. Louisa eds., 2007).

⁴⁷ See Lester Biederman, *Cubs Win Second Straight from Bucs, 11-5 — Bruins Pound Four Hurlers for 17 Hits; Diz Fails to Finish — Blanton Routed in First Inning; Swift, Bowman Also Chased — Page Relieves Dean in Seventh*, PITT. PRESS, Aug. 14, 1938, at 1 (Sports).

ended, Metcalf and his friend decided to leave. While walking down a ramp, the 68-year-old Metcalf tripped and fractured his left knee. Claiming the ramp was unreasonably slippery, Metcalf sued the Pirates for \$20,000⁴⁸ — the equivalent today of \$398,860.43⁴⁹ — and was awarded \$4,013.70 by a jury.⁵⁰ Subsequently, the Pirates filed two post-trial motions, the first seeking a judgment notwithstanding the verdict and the second asking for a new trial. In denying both motions, Gibson wrote:

In connection with the plaintiff's testimony, several photographs were offered in evidence to show the ramp in question. At the same time the photographs were taken, a rubber mold was made of certain parts of the ramp, and later reproduced in plaster to show the condition of the surface. Objection was made to these when offered in evidence, on the ground that the surface of the ramp was not the same when the molds were made as at the time of the accident. . .

These casts were later used in connection with the testimony of several witnesses called by plaintiff. These witnesses were experienced in the construction of ramps, and were called to establish as a fact that the maintenance of a 15% concrete ramp in such a smooth condition as that alleged by plaintiff was hazardous. [While] testifying these witnesses had their attention called to parts of the casts which showed unroughened parts of the ramp, and applied their testimony to those parts. They testified that a 15% grade concrete ramp was in common use and within legal limits, but to render them safe they should not be allowed to become smooth. None of these witnesses saw the ramp prior to the re-roughening.

The court, after some doubt it must be confessed, is of [the] opinion that the case was one for submission to the jury, and that no vital error was made in the admission of testimony. It will therefore deny both defendant's motion for judgment upon the reserved point, and its motion for a new trial.⁵¹

On appeal, Gibson was affirmed in a one sentence *per curiam* opinion.⁵²

⁴⁸ See *Club Fights \$20,000 Suit — Fall at Forbes Field is Patron's Fault, Claim(s Club)*, PITT. POST-GAZETTE, Apr. 19, 1940, at 7. It is not clear how this routine slip-and-fall case ended up in federal court. The Pirates defended by arguing “that a man leaving the field has his choice of exits, and . . . the club is not responsible if he falls in the opening he picks.” *Id.*

⁴⁹ See Morgan Friedman, *The Inflation Calculator*, [https://westegg.com/inflation/\[https://perma.cc/ZEN2-AKQE\]](https://westegg.com/inflation/[https://perma.cc/ZEN2-AKQE]) (converting 1938 dollars into 2021 dollars).

⁵⁰ See *Pittsburgh Ball Club Loses \$4,013 Decision*, SCRANTON TRIB., May 9, 1940, at 17.

⁵¹ See *Metcalf*, 39 F. Supp. at 115-16 (paragraphing inserted to improve readability). See *\$4,013 Verdict Upheld*, PITT. POST-GAZETTE, Jan. 17, 1941, at 7.

⁵² *Metcalf v. Pittsburgh Athletic Co.*, 120 F.2d 328 (3d Cir. 1941).

Gibson's willingness to admit the evidence and send the case to the jury is quite telling. As an experienced trial lawyer, Gibson had been in front of many juries. Thus, it would have been easy for him to decide that Metcalf had failed to make out a *prima facie* case. That he chose instead to leave matters up to the jury suggests he took a cautious view of his role as a judge. Perhaps this is why he preferred bankruptcy reorganization cases,⁵³ which allowed him greater freedom to act.

In 1943, Gibson authored his only other baseball-related opinion: *Poydock v. Adams Transfer & Storage Co.*⁵⁴ On October 18, 1941, Richard J. Poydock, a 21-year-old pitcher with the Charlotte Hornets, a Piedmont League Class B affiliate of the Washington Senators, was killed when the car his brother Henry was driving crashed first into a truck and then into a trolley.⁵⁵ When his parents sued Adams, the truck's owner, it impleaded both Henry and the trolley company. A jury found Adams solely liable and awarded the Poydocks \$20,000⁵⁶—the equivalent today of \$324,765.85.⁵⁷ Deeming this amount excessive, Gibson vacated the judgment and ordered a new trial:

Plaintiffs, in addition to their direct expenses, claimed expected contributions had the life of the deceased continued. It will be noted that these contributions were 'expected,' and not required or certain. The parents were not dependent upon their son, and the deceased had reached the age

⁵³ See *supra* text accompanying note 39.

⁵⁴ 51 F. Supp. 373 (W.D. Pa. 1943); 51 F. Supp. 374 (W.D. Pa. 1943). Three separate cases — designated, respectively, Civil Actions “2100,” “2101,” and “2197” — were brought using this caption (although tried together, they were not consolidated). In 2100, Joseph and Mary Poydock sued the trucking company (Adams Transfer & Storage) they claimed was responsible for the death of their son Richard. In 2101, Henry Poydock, Richard's brother, filed his own suit against Adams. In 2197, Joseph, as the administrator of Richard's estate, filed yet another lawsuit against Adams. The 2100 lawsuit led to the decision reported at 51 F. Supp. 373. The 2101 lawsuit did not result in a published decision. The 2197 lawsuit led to the decision reported at 51 F. Supp. 374.

⁵⁵ See *Youth Killed, Nine Injured in Collision: Auto, En Route to Tech Football Game, Strikes Truck and Trolley*, PITT. POST-GAZETTE, Oct. 20, 1941, at 13 [hereinafter *Youth Killed*]. For Poydock's career statistics (compiled between 1937 and 1941 while playing in the Appalachian, Eastern, Piedmont, and South Atlantic Leagues), see *Richard Poydock*, BASEBALL-REFERENCE.COM, <https://www.baseball-reference.com/register/player.fcgi?id=Poydoc001ric> (last visited Oct. 16, 2022). As these records indicate, Poydock also played first base.

⁵⁶ See *Large Award for Death of Son*, BROCKWAY REC. (PA), Dec. 4, 1942, at 2.

⁵⁷ See Morgan Friedman, *The Inflation Calculator*, <https://westegg.com/inflation/> [https://perma.cc/B7FS-JJKU]. (converting 1943 dollars into 2021 dollars).

of twenty-one years. Under these circumstances no court . . . would require payments to the parents.

The basis of the claim of expectation of contributions was largely in imagination. The deceased had been a ball player in a small minor baseball league and, according to the not too satisfactory testimony of his family, had earned about \$140 per month for the five-month season, of which amount he had sent one-third home; but during the seven months interval between seasons he had lived with his parents at their expense without performance of any particular duties.

During two of the three seasons he had been a minor but [he] had reached his majority before the last season. With such an intangible foundation the contributions to be expected would amount to little or nothing. Deceased might have been taken from his parents' home by marriage, or by still more probable induction into the military service; but even if contributions were to be assumed for the natural duration of the parents' lives, about fifteen years, the amounts received would be far from the \$20,000 awarded.⁵⁸

Gibson's statement that Poydock had been "a ball player in a small minor baseball league" is interesting, given that Gibson himself had spent time in three different minor leagues.⁵⁹ Based on these experiences, one would have expected Gibson to be more sympathetic to Poydock's parents, who undoubtedly were underwriting their son's effort to become a major leaguer.

V LATER YEARS

On May 20, 1943, when he was 73, Gibson suffered a heart attack.⁶⁰ Although he recovered, his increasing absences from the bench soon became

⁵⁸ *Poydock*, 51 F. Supp. at 374 (paragraphing inserted to improve readability). Gibson's statement that "Deceased might have been taken from his parents' home by marriage, or by still more probable induction into the military service," *id.*, makes it clear that Gibson was unaware that "Young [Richard] Poydock, of Adrian, Pa., was en route to the Carnegie Tech-Notre Dame football game [at the time of his death], and in 10 days would have been inducted for military service." *Youth Killed*, *supra* note 55.

⁵⁹ See 1890 *Wheeling National Citys/Nailers*, *supra* note 9 and accompanying text; Robert Gibson, *supra* note 24 and accompanying text.

⁶⁰ See *Judge Gibson Rests After Heart Attack*, PITT. SUN-TEL., May 21, 1943, at 1; *Judge Gibson Improves Slowly*, PITT. SUN-TEL., May 22, 1943, at 1; *Judge Gibson Gains*, PITT. SUN-TEL., May 25, 1943, at 4.

the talk of the town, with many observers calling for his retirement.⁶¹ Gibson, however, held on,⁶² and when the position of chief judge of the Western District of Pennsylvania was created in June 1948,⁶³ Gibson, the court's most senior member, became its first occupant.⁶⁴

In November 1948, President Harry S. Truman, a Democrat, shockingly beat his Republican challenger, New York Governor Thomas E. Dewey.⁶⁵ As a result, on January 1, 1949, Gibson finally announced his

⁶¹ *OPA Denies Blame for Court Backlog: Attorney Say It's U.S. Judges' Fault*, PITT. PRESS, Aug. 5, 1946, at 1, 6 ("Judges Gibson and Nelson McVicar are past 70 and 'in poor health.' The two have been absent frequently from the bench in recent years because of illness but refuse to retire on a \$15,000-a-year pension.")

⁶² Gibson later insisted he had remained not because of politics but because of the whispering campaign against him:

Judge Robert M. Gibson will step down from the Federal bench on Jan. 31 after 27 years of service.

He's going to relax by reading Gibbon's "Decline and Fall of the Roman Empire."

He would have discarded the law books for that classic several years ago "if some people hadn't tried to drive me from the bench. . . I was going to retire some time ago," the tall, spare, white-mustached jurist said, "because I didn't want anyone saying that I had lost my grasp on things but was hanging on. But some people started the story that I wasn't doing my share of the work and couldn't. They didn't bother to check the records and get the facts. So I just stayed on to show them they couldn't drive me off the bench. I have enough Irish in me for that."

Potter, *supra* note 23, at 1. In fact, Gibson *did* have trouble keeping up during his final years on the bench. In a lengthy report prepared in 1960 for the Administrative Office of the United States Courts, a prominent court reform expert wrote: "Between 1945 and 1955, the work of this court [the Western District of Pennsylvania] was considerably hampered because of the advanced age of two of its three members . . . Judge Robert M. Gibson, appointed 1922, died 1949, [and] Judge Nelson McVicar, appointed 1928, retired February 1, 1951." FANNIE J. KLEIN, SURVEY OF THE U.S. DISTRICT COURT, WESTERN DISTRICT OF PENNSYLVANIA 60 (1960).

⁶³ See Act of June 25, 1948, ch. 646, 62 Stat. 897 (now codified as 28 U.S.C. § 136) (creating, in all district courts, the position of "chief judge").

⁶⁴ See *Gibson Court Biography*, *supra* note 8.

⁶⁵ See Kermit McFarland, *Truman is Elected! — GOP Loses Control of Congress — Pennsylvania Votes for New Yorker, GOP Wins 2 State Posts*, PITT. PRESS, Nov. 3, 1948, at 1. As is well known, Truman was expected to lose the election in a landslide. Indeed, the *Chicago Daily Tribune* was so sure of the outcome that it printed advance copies with the headline "Dewey Defeats Truman," which Truman later gleefully held up in a famous photograph. See Ben Cosgrove, *Behind the Picture: 'Dewey Defeats Truman,'* LIFE, <https://www.life.com/history/dewey-defeats-truman-the-story-be>

retirement (effective January 31, 1949) after 27 years.⁶⁶ This news quickly set off a vigorous lobbying effort by Pittsburgh Democrats for his seat.⁶⁷ On June 26, 1950, Westmoreland County (just outside Pittsburgh) assistant district attorney Rabe F. Marsh, Jr. was sworn in as Gibson's successor.⁶⁸

On December 19, 1949, Gibson died of cancer at the age of 80 at his home in Pittsburgh.⁶⁹ In its reporting, the *Pittsburgh Post-Gazette* described Gibson as "an institution in this area's judicial life"⁷⁰ and noted that he had been an avid boxing fan, an excellent chess player, and a skilled golfer.⁷¹ Two days later, Gibson was buried at Pittsburgh's Homewood Cemetery⁷² next to his wife Lorena.⁷³ A few steps away is the gravesite of Hall of Famer

hind-a-classic-political-photo/ [https://perma.cc/57RW-HTHN]. For a further discussion, see GARY A. DONALDSON, *TRUMAN DEFEATS DEWEY* (1999).

⁶⁶ See William Doak, *Gibson to Resign on Jan. 31*, PITT. SUN-TEL., Jan. 2, 1949, at 1.

⁶⁷ *Scramble for His Job Gives Gibson Big Kick: Federal Judge Sets January 31 as Definite Date for Retirement*, PITT. POST-GAZETTE, Jan. 3, 1949, at 15.

⁶⁸ See *Marsh Inducted Here as 4th Federal Judge*, PITT. POST-GAZETTE, June 27, 1950, at 13. Marsh was Truman's second choice to replace Gibson. His first choice — U.S. Representative Herman P. Eberharter (D-PA) — withdrew in January 1950 after the American Bar Association opposed his nomination due to his drinking. *Eberharter Gives Up Bid for Judgeship — President Agrees to Withdraw Nomination at Request of Pittsburgh Congressman*, PITT. POST-GAZETTE, Jan. 13, 1950, at 1.

⁶⁹ See Robert Murray Gibson in the Pennsylvania, U.S., *Death Certificates, 1906-1968*, ANCESTRY.COM, https://www.ancestry.com/imageviewer/collections/5164/images/42410_2421406271_0997-01565?treeid=&personid= (last visited Oct. 16, 2022).

⁷⁰ See *Judge R.M. Gibson*, PITT. POST-GAZETTE, Dec. 20, 1949, at 8 (editorial).

⁷¹ See *Veteran Jurist Taken by Death — Judge Gibson Dies, Aged 80, in His Home — U.S. Jurist Ill Since Retirement from Bench in January*, PITT. POST-GAZETTE, Dec. 20, 1949, at 5.

⁷² See *Hon[.] Robert Murray Gibson*, FIND A GRAVE, <https://www.findagrave.com/memorial/90910484/robert-murray-gibson> [https://perma.cc/NUA8-X5PQ]; *Court Services Laud Judge Gibson — Lawyers and Jurists Pay Final Tributes*, PITT. PRESS, Dec. 21, 1949, at 39 (describing Gibson's funeral and memorial services — Gibson's eulogists included Third Circuit Chief Judge John Biggs, Jr.; Common Pleas Court President Judge Harry H. Rowand (Gibson's former boss); Criminal Court Judge William H. McNaugher; and Pittsburgh attorneys William H. Eckert and Con F. McGregor).

⁷³ See *Lorena Gwendolyn Core Gibson*, FIND A GRAVE, <https://www.findagrave.com/memorial/90910476/lorena-gwendolyn-gibson> [https://perma.cc/U5DH-YL2X]. For Lorena's obituary, see *Lorena Core Gibson Dies in Pittsburgh — Daughter of Late Rev. Core of Washington*, DAILY NOTES (Canonsburg, PA), Mar. 14, 1928, at 1 (reporting that Lorena "died of heart's disease in her home"). Despite being only 58, Gibson did not remarry after Lorena's death.

Pie Traynor, the Pirates' legendary third baseman.⁷⁴

VI CONCLUSION

Baseball and the law have a long connection.⁷⁵ As such, it is not surprising that many major league players have had law degrees. But for a player to have become a federal judge is quite extraordinary — a unique feat that deserves both notice and praise.

⁷⁴ See *Pie Traynor*, FIND A GRAVE, <https://www.findagrave.com/memorial/3695/pie-traynor> [<https://perma.cc/2NYQ-YKB9>]. Harold J. Traynor played for the Pirates from 1920 to 1937; in 1948, he was inducted into the Baseball Hall of Fame. He died in 1972. For a look at Traynor's career, see JAMES FORR & DAVID PROCTOR, *PIE TRAYNOR: A BASEBALL BIOGRAPHY* (2010). As this source explains, "Pie Traynor was the face of Pittsburgh baseball during the twenties and thirties, when the Pirates were a perennial pennant contender." *Id.* at back cover. Given the overlap of their careers, it is likely that Gibson, while sitting on the bench, carefully followed Traynor's exploits on the field.

⁷⁵ See, e.g., Robert M. Jarvis & Phyllis G. Coleman, *Early Baseball Law*, 45 AM. J. LEGAL HIST. 117 (2001) (describing the relationship between baseball and the legal system in the 19th century). For more modern connections between the two subjects, see EDMONDS & HOUDEK, *supra* note 3; PATRICK K. THORNTON, *LEGAL DECISIONS THAT SHAPED MODERN BASEBALL* (2012); JOHN H. MINAN & KEVIN COLE, *THE LITTLE WHITE BOOK OF BASEBALL LAW* (2009).

