

The seal of the Superior Court of Pennsylvania is a circular emblem with a rope-like border. Inside the border, the words "SEAL OF THE SUPERIOR COURT OF PENNSYLVANIA" are written in a circular path. At the bottom of the seal, the year "1895" is inscribed. The center of the seal features the coat of arms of the Commonwealth of Pennsylvania, which includes a shield with a ship, a plow, and a sheaf of wheat, flanked by two figures holding a scroll with the motto "DEBET SEQUITUR LIBERTATI QUI PROBAT".

Pennsylvania Superior Court Ceremonial Sessions

**Commissioned Judges
One through Sixty-Seven**

Edited by The Honorable John T. Bender

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This book is dedicated to my past, present and future colleagues who have enjoyed and will enjoy the privilege of service on the Pennsylvania Superior Court.

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Foreword

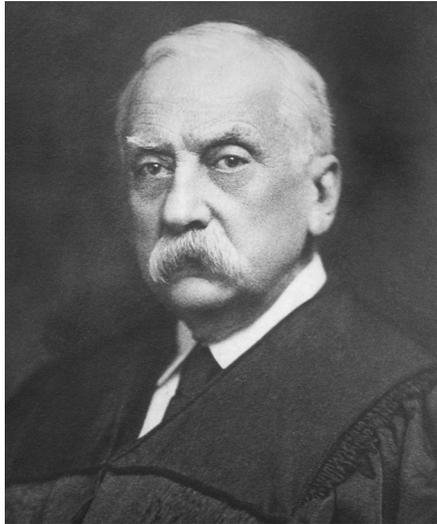
This project began in 2002 when then President Judge Joseph A. Del Sole asked me, as chairman of the Archives Committee, to compile the induction ceremonies of the Judges of the Superior Court of Pennsylvania. During the process of gathering the induction ceremonies, it became obvious that once collected, we would need a method to preserve and to present the ceremonies. As progress was made, the project expanded to include photographs, other ceremonies and, in some cases, biographies of some of our Judges. The publishing of the accumulated material in this volume completes the task for the first sixty-seven judges of our Court.

In this volume we have included photographs, biographies and all known ceremonial sessions relevant to our first sixty-seven commissioned judges.

While we have attempted to be all inclusive, we were unable to find ceremonies for all Judges. In cases where a ceremony could not be found, we have used other appropriate writings or a biography highlighting that particular Judge's career.

The Honorable John T. Bender
87th Commissioned Judge of the
Superior Court of Pennsylvania
June 2008

THE HONORABLE CHARLES EDMUND RICE



September 15, 1846 – May 16, 1919

Assumed Office Date: June 28, 1895

President Judge 1895-1915

County: Luzerne

MEMORIAL SERVICE

And now, to wit: July 17, 1919, it is ordered, that, this statement, expressive of our sense of loss and appreciation of the life and character of the late President Judge CHARLES E. RICE, be spread at length on the records of the court.

BY THE COURT.

HONORABLE CHARLES EDMUND RICE died at Wilkes-Barre, May 16, 1919. He was born at Fairfield, Herkimer County, New York, September 15, 1846. His early years were spent as a country boy interested in all of the things that make youth of such a boy; gifted with a healthy body and an alert, receptive mind, charmed with sports and school service, and giving promise of a useful career in the world of men. He matured early, was graduated from Hamilton College in 1867, from the Albany Law School in 1869, and was admitted to the bar of Luzerne County the same year; serving as its district attorney from

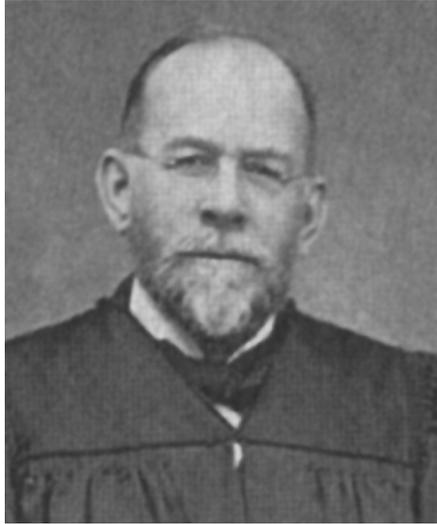
1877 to January 1, 1880. From that date to 1895, he was president judge of the courts of that judicial district.

The Superior Court of Pennsylvania was constituted by an Act of June 24, 1895, P.L. 212. Judge RICE was commissioned as its president judge by Governor Daniel H. Hastings, to serve from July 1, 1895, until the first Monday in January, 1896. He was elected for the full term and commissioned to serve for ten years from the first Monday of January, 1896. He was again elected in 1905, and commissioned to serve for a period of ten years from the first Monday of January, 1906. He declined re-election, which was tendered to him open-handed by all the political parties of the State, accompanied by the unanimous request of the profession.

It is impossible to put into words his service to the profession. He was never engaged in or identified with any business undertaking. The law was his mistress, and to her he rendered assiduous and loyal service. Guided by the simplest and kindest ideals, with an entire absence of pretence he combined with the highest standard of clean living, a thorough and accurate knowledge of the law, and the ability to use it effectively in dealing with all complicated, legal problems. Neither public clamor nor personal friendship ever swerved him from the straight, clear line of official duty. His courage and loyalty to service were always consistent. As a fair illustration: When he was district attorney of Luzerne County, at the conclusion of a trial he stated to the court, "There should be no conviction." Despite his protest, a conviction was secured. He refused to move for sentence, and on review by the Supreme Court, he appeared at its bar and stated, "That he was obliged to say under his oath of office, that there should have been no conviction." The judgment was reversed in a scathing opinion by PAXSON, C.J., in which he said: "There was no evidence to justify the jury in rendering a verdict of guilty or the court in sustaining it. The jury were not only erroneously instructed upon the law, but were palpably misled by the comments of the court upon the evidence." The record of such abuse of judicial power, and the courage of a conscientious district attorney is preserved for the profession in *Pauli v. Commonwealth*, 89 Pa. 432. He was regarded by the profession not only as an able jurist and honest man, but a firm, fair, and courtly administrator of the law. He believed in and exemplified the highest standards of private and public rectitude, and all who were brought

within the zone of his influence measured him as foremost of all their associates. His written language was a transcript of his mind, and he was studious that all things should be done uprightly, deliberately and resolutely. The names of the parties, of counsel, the court from which the appeal was taken, were irrelevant and immaterial matters in forming his conclusion. He was a tenacious advocate of the proposition that it was better to be governed by right principle than by a wrong decision, and he would not hesitate to amend, modify or reverse a judgment of his own court if it conflicted with the law on a subsequent investigation. He held that the decisions of the Supreme Court were the absolute law of the land, which should be followed even without the provision of the statute that they should be "As of binding authority." As president judge, there was never any controversy with his colleagues. During his administration, 10,823 appeals were disposed of. He filed 617 per curiam and 1,169 individual opinions; affirming 1,272, reversing 364, and quashing 150 appeals. He dissented in 82 judgments and filed 42 dissenting opinions.

To those who were closely identified with him in consultation-room life, his loss cannot be measured. We bow to the inevitable decree that all men must die, but for him who endeared himself to us by the graces and virtues of a noble manhood, we mourn as our friend and fellow laborer.

THE HONORABLE JAMES ADDAMS BEAVER

October 21, 1837 – January 31, 1914

Assumed Office: June 28, 1895

County: Perry/Centre

MEMORIAL CEREMONY

At the opening of the March Session of the Superior Court at Williamsport on February 24, 1914, the president judge said:

“Since our last session JAMES ADDAMS BEAVER, an honored and distinguished judge of this court from the time of its organization in 1895, has died. A minute in which all the judges of the court concur, expressive of our sense of loss and of our appreciation of Judge BEAVER’S high character and distinguished services to the Commonwealth, the nation, and his fellow men, has been prepared by our Brother ORLADY and will now be read by him and be spread at length on the records of the court.” Thereupon Judge ORLADY read the following minute:

HON. JAMES ADDAMS BEAVER

JAMES ADDAMS BEAVER was born at Millerstown, Pennsylvania, October 21, 1837, and died at Bellefonte, Pennsylvania,

January 31, 1914.

Between these dates is the record of a remarkable man. No Pennsylvanian has filled so many prominent places of honor and trust. Graduating from college at 19 years of age, admitted to the Centre County Bar at 21, enlisting as a volunteer soldier at 24, and remaining in active service for three years and eight months; four times dangerously wounded, once so seriously as to necessitate the amputation of the right leg at the hip joint; promoted for valiant conduct in battle, from Lieutenant to Lieutenant Colonel, then to Colonel of a regiment and finally to the rank of Brevet Brigadier General, he was mustered out of service with honorable mention by reason of wounds received in battle.

Major General of the National Guard of Pennsylvania from 1870 to 1887, Governor of the Commonwealth from 1887 to 1891, a judge of the Superior Court from July 1, 1895 to the date of his death, President of the Board of Trustees of Washington & Jefferson College, of the Pennsylvania State College, and of the Philadelphia College of Dental Surgery. A member of the President's Commission to investigate a government department at the close of the Spanish-American war, a delegate to republican national conventions, many times a delegate to the Presbyterian General Assembly, and twice the vice moderator of its sessions. A delegate to the General Missionary Conference at Edinburgh, Scotland, actively identified with church and Young Men's Christian Associations, and with general industrial enterprises at his home town.

Such a record is a fair index to the character of JAMES ADDAMS BEAVER. Energetic, popular, and an enthusiastic optimist, he was a natural leader of men and was actively identified with all the works of home and church and state.

A proper record of his political and religious work is preserved on the records of the Court of Common Pleas of Centre county, by a minute of a meeting of the Bar held on the day of his funeral.

We follow a sacred custom in making this minute, for the records of the court of which he was an honored member.

When it was created on July 1, 1895, Judge BEAVER was better known to the people of the Commonwealth than any other appointee. He had been in every city and county of the state as a political speaker or religious lecturer. On the rostrum he was an imposing and effective

contestant. Of splendid physical presence, with a voice of remarkable volume, he combined the charm of his eloquence with the inspiration of a maimed soldier. He reveled in the excitement of the public hustings as he did in the intensity of the war. His selection as a member of the court due was to the loyal friendship of Governor Daniel H. Hastings, who was his life long friend, and who ignored political and professional endorsements of other candidates to name his old commander.

His knowledge of the state was specially helpful in dividing it into convenient districts, and in formulating the rules for our work. To those of us who have been identified with him since the constitution of the court, Judge BEAVER'S traits of character were highly appreciated. He always wanted his full share of the court's work, and his knowledge of men and the affairs of the world specially equipped him for judicial discrimination. While he had intense convictions on many subjects, they were always put aside in disposing of the question involved. He regarded justice as a cardinal virtue, and while he highly esteemed the world's favor, and prized his Legion of Honor Button above his commission as a judge, he was steadfastly true to the traditions of the profession, and ever zealous in defense of every prerogative of the court. He was as intellectually insistent in support of the law as he was physically brave.

He was never moved by the title of the parties to the action, or the fame of counsel.

He was never affected by the popular will, and never feared public criticism.

His vote on every question represented an honest man's best judgment of the law applied to the proven facts.

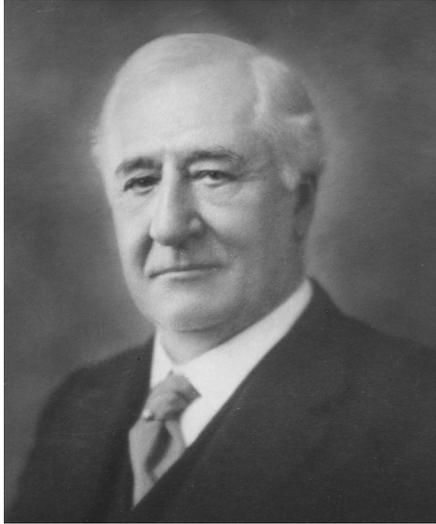
His analysis of disputed propositions was keen and quick, and first impressions were frequently confirmed by his colleagues.

His personal relations to the members of the court were always marked by a consistent regard for the rights of others, and a kindly interest in each, to the end that judges, attorneys and suitors would all feel that the work of the court was fairly, honestly and promptly disposed of.

In the discharge of his judicial duties he was impelled by the same energy which gave him fame as a soldier.

He fought a good fight, he has finished his course and kept the faith. May he rest in peace.

As a mark of respect to the memory of our deceased brother, it is ordered that this statement, expressive of our sense of loss and appreciative of his character, be spread at length on the records of this court.

THE HONORABLE GEORGE B. ORLADY

February 22, 1850 - September 10, 1926

Assumed Office: June 1895

President Judge 1915-1925

County: Huntingdon

BIOGRAPHY

George Boal Orlady served 30 years on the Pennsylvania Superior Court; the last ten of those years he was president judge of the court. He was one of the original seven members appointed to the Pennsylvania Superior Court by Governor Daniel Hastings in June 1895. Orlady was district attorney of Huntingdon County and served as a vice president and president of the Pennsylvania Bar Association.

Orlady was born on February 22, 1850 in Petersburg, Pennsylvania, to Dr. Henry Orlady and Martha Caldwell Boal Orlady. His ancestors were French and had immigrated to Pennsylvania to join the fight against the British during the American Revolution. His father was a “prominent physician” in Huntingdon County, and in that tradition, Orlady took a course of study to prepare him to enter the field of medicine. At the age of 14, Orlady studied for a year at the Pennsylvania State College and he also attended the Bellwood

Academy; ultimately, he graduated from Washington and Jefferson College with his bachelor of science degree in 1870. Orlady moved to Philadelphia to pursue his medical degree at Jefferson Medical College, which he received in March 1871. That year Orlady returned to Petersburg to begin his practice, but rather quickly he decided he was dissatisfied with the career. One source contends that “personal health concerns’ prompted him to rethink a career as a doctor.¹

Orlady instead chose to enter the law profession. “The resultant good secured from furious legal combat, the honor of enforcing the rights of man, or assuring rights of property and of fixing a professional standard of manly worth,” were all “sufficient incentives” to enter the practice, according to Orlady. From 1873 to 1875, he studied law in the office of Samuel Steel Blair in Holidaysburg, Pennsylvania, and in February 1875 he was admitted to the Blair County Bar. Orlady returned to Huntingdon County the following years and was admitted to his home county’s bar on March 23, 1876. He practiced law in the borough of Huntingdon,² and in 1878 entered public office as district attorney of Huntingdon County, a position that he held for the next three years.³

Prior to his appointment and subsequent election to the Pennsylvania Superior Court, Orlady began to acquire a reputation outside of Huntingdon County. Orlady was also twice mentioned as a possible candidate for the office of Pennsylvania Attorney General. “[H]is forcefulness while a practitioner at the Bar,” noted one contemporary, “made him well known throughout the entire State, his popularity being largely added to by the deep interest he has always taken in Masonic matters.” Orlady had two passions in life: The law and the Masonic Order. He was a “noted advocate” in both civil and criminal law. He was a member of the Huntingdon Bar Association, representing that organization at annual meetings of the Pennsylvania Bar Association, of which he was also a member. While he was a Superior Court Judge, he maintained his close connection with the bar, and became vice president of the Pennsylvania Bar Association in 1908 and its president in 1913. Orlady was a 33rd degree member of the Masons and dedicated himself to helping both distressed members and orphaned children. He was affiliated with Mount Moriah Lodge No. 300 in Huntingdon and in 1903 served as Right Worshipful Grand Master of Pennsylvania. “His great personal work in the completion of

the Mason Home at Elizabethtown,” noted one of Orlady’s memorialists, “is alone a monument to his memory.”⁴

While his experience as a lawyer and his dedication to the Masons certainly were factors leading to his appointment to the Superior Court, Orlady had extensive political connections as leader of the Republican Party in Huntingdon County, which in a state dominated by the Republican machine surely helped secure his elevation to the bench. In 1890, Orlady actively campaigned for Daniel Hastings to be governor of Pennsylvania. “Huntingdon County, and indeed all the counties in the Juniata Valley,” declared Orlady, “were strong for Hastings.” He guaranteed the election of “Hastings delegates,” whose only instruction would be to vote for Hastings “all the time.” Hastings, however, failed to receive the Republican nomination. Orlady’s efforts to gather support for Hastings in central Pennsylvania, surely contributed to Hastings’ campaign four years later, and in November 1894 Hastings was elected governor of Pennsylvania.⁵

In June 1895, then Governor Hastings appointed Orlady to the newly established Pennsylvania Superior Court. Orlady was one of six Republican appointees to the seven member court. That November, with the backing of state Republicans, Orlady retained his seat on the court. “While on the Bench,” remembered one contemporary, “he was a most useful, industrious, capable and conscientious judge.” Orlady was re-elected to full 10-year terms in 1905 and again in 1915. In January 1916, he became president judge of the Pennsylvania Superior Court, when President Judge Charles E. Rice (The court’s first and longest-serving president judge) retired. Orlady declined to be a candidate in the 1925 election and was replaced on the court by Judge Jesse E.B. Cunningham.⁶

Orlady participated in various social and civic organizations including the Art Club, the Union League, the Historical Society of Pennsylvania, and the Pennsylvania Society of New York. He was most comfortable in Huntingdon, however, and enjoyed spending time at his stately home; “[w]hen the Judge enters the grounds he beats his legal spears into pruning hooks and finds recreation and much pleasure in keeping the vegetation in order,” noted one visitor. Orlady was a noted orator and also received honorary degrees from Juniata College (L.L.D., 1919), Pennsylvania State College (M.A., 1911; M.S.; 1918), Temple University (L.L.D., 1918), Washington and Jefferson College

(L.L.D., 1898), and the University of Pennsylvania (L.L.D., 1920).⁷

Orlady died suddenly in his sleep on September 10, 1926 at his home in Huntingdon. His health was already weakened due to a heart condition, and the day before his death he probably overexerted himself when he entertained a group of local Masonic leaders at his home. The members of the Huntingdon County Bar Association expressed their great “personal loss” at his death.⁸

On February 21, 1877, Orlady married Mary Irvin Thompson of Curwensville, Clearfield County, Pennsylvania; she was the daughter of Dr. Hardman Phillips Thompson. Mary Orlady was described as “a hospitable and intelligent lady, with the grace and dignity of a queen.” In 1917, she served as president of the Women’s Suffrage Association of Pennsylvania. They had three children: Edith, Frederick, and George Phillips.⁹

¹ Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 3:794, 4:4-5; Charles F. Warwick, *Warwick’s Keystone Commonwealth* (Philadelphia, Pa., 1913), 327; “Judge Orlady,” 83 *Legal Intelligencer* (17 Sept. 1926): 836; Career Summary, Huntingdon County Bar Association; “Ex-Judge of Superior Court Passes Peacefully Away in Sleep Early this Morning; Found Dead by Mrs. Orlady,” *Huntingdon Daily News*, 10 Sep. 1926; “A House of Many Stories,” *Common Ground* (Spring 2004): 21.

² In June 1882, Orlady began building his magnificent home in Huntingdon. Touted as Huntingdon’s “finest residence,” the mansion still stands today on Warm Springs Avenue (“A House of many Stories,” 21-22).

³ Eastman, *Courts and Lawyers*, 3:794, 4:5; Warwick, *Warwick’s Keystone Commonwealth*, 327; “Judge Orlady,” 83:836; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 51; Career Summary, Huntingdon County Bar Association: “President’s Address, George B. Orlady,” in *The 19th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1913), 8.

⁴ Resolution of the Huntingdon County Bar Association, 13 Sept. 1926; “Judge Orlady,” 83:836; “George B. Orlady,” Report of the Committee of Legal Biography and History, in *The 33rd Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1927), 113-14; “Ex-Judge of Superior Court Passes Peacefully Away,” *Huntingdon Daily News*, 10 Sept. 1926; www.pagrاندlodge.org; “Bar Associations,” 3 *The American Lawyer* (Feb. 1895): 63; “Items of Professional Interest,” 76 *The Central Law Journal* (14 March 1913): 193; “Middle States,” 3 *The American Lawyer* (Aug. 1895): 355.

⁵ Tamilya and Hare, *Keystone of Justice*, 46, 48; "Opposed to Delemater," *New York Times*, 3 Feb. 1890; "Matt Quay's Grim Fight," *New York Times*, 26 Aug. 1895.

⁶ Tamilya and Hare, *Keystone of Justice*, 49, 51, 98; George B. Orlady, Oath of Office, 24 Dec. 1895, 1 January 1906; "Middle States," 3:355; "Judge Orlady," 83:836; "Senator Quay has Won," *New York Times*, 28 August 1895; "Senator Penrose Declines," *New York Times*, 27 April 1905; "State Upsets," *New York Times*, 8 Nov. 1905.

⁷ Warwick, *Warwick's Keystone Commonwealth*, 327; "A House of Many Stories," 22; "Judge Orlady," 83:836, Eastman, *Courts and Lawyers*, 4:5.

⁸ "Judge Orlady," 83:836; Resolution of the Huntingdon County Bar Association, 13 Sept. 1926.

⁹ Warwick, *Warwick's Keystone Commonwealth*, 327; "Ex-Judge of Superior Court Passes Peacefully Away," *Huntingdon Daily News*, 10 Sept. 1926; "A House of Many Stories," 22-23.

THE HONORABLE JOHN J. WICKHAM



May 14, 1844 – June 18, 1898

Assumed Office: June 28, 1895

County: Beaver

MEMORIAL SERVICE

MINUTE OF THE COURT

JULY 26, 1898

“At the opening of the court the president judge announced the death of Judge WICKHAM and said: After a very brief illness, the Honorable John Jervis WICKHAM, one of the judges of this court, died at his home in Beaver, on June 18, 1898. Judge WICKHAM was born in 1844, in county Meath, Ireland, and came to this country with his parents when he was but five years of age. He attended the common schools of Beaver, and afterwards the Beaver Academy, and in the late War of the Rebellion served his country in the United States Military Telegraph Corps. During this service he was captured and for several months held as a prisoner of war. After peace was declared he was recommended by General George H. Thomas for appointment in the regular army for faithful service and bravery. In 1867, he began the study of law at his home, and was admitted to the bar in 1869.

“Excepting a short period spent in the State of Iowa, he practiced his profession in the courts of Beaver and neighboring counties until his election in 1884, as President Judge of the thirty-sixth judicial district, composed of Beaver county. The high standard set by his distinguished predecessors on the bench of that district was not lowered during Judge WICKHAM’S administration of the office, and upon the expiration of his term there was paid him the well deserved tribute of re-election, without partisan contest, and upon the practically unanimous request of the members of the bar. Upon the establishment of the Superior Court by the act of the legislature, approved June 24, 1895, he was appointed by Governor Daniel H. Hastings one of the seven judges constituting the court, and in the following fall was elected for the full term beginning on the first Monday of January, 1896.

“From the organization of the court until its adjournment on May 17 last there was no member more regular in attendance upon its sessions or in consultation, and when we parted it was with the full expectation, although we knew he had had a brief illness before our Pittsburgh session, that he would meet with us at this midsummer session. But within a little less than three years from the date of his first commission as a judge of this court death came suddenly and ended his work. This short record which we have made of his birth, his schooling, his service as a soldier, his admission to the bar, his election to the bench, his service there, and his death, presents no adequate view of his career, even in outline; it is like a frame without the picture it once enclosed.

“We have spoken of his education, but it was evident that not all, nor even the greater part was obtained in the schools he attended. No one could be with him without becoming convinced that, however obtained, whether in the schools or by wide reading of the best books, close and accurate study of nature and of men, and thoughtful investigation of the great problems of life, he had acquired that education which broadens, elevates, and adorns intellectual character, and not merely converts the mind into a storehouse of dry facts.

Few men have opportunity to serve the state more usefully than a judge of the common pleas under our judicial system. All the elements which go to make up the best character, as well as learning, industry, and a judicial temperament, are called into exercise in the faithful performance of the varied duties devolving upon him. Possibly he may

not, like the soldier or the orator, hope for wide fame, and conscious effort to attain it is more likely than otherwise to end in disappointment. The esteem of the lawyers and laity of his own district is surer proof of his qualifications for the high office of and his fidelity to duty than any outside fame he may acquire. And what greater reward, humanly speaking, is to be desired, than that, when his mortal career is ended and his lifework comes to be reviewed as a whole, it can be said of him, as it can be truly said of our brother, that he is held in memory by the lawyers of his district as one who correctly expounded and conscientiously administered the law, and by the laity, whose disputes he decided, as a judge who loved justice and dealt righteously?

“The public must form their first, if not their final, estimate of the qualifications of a judge of an appellate court almost altogether from his written opinions. Although this court has been in existence but three years, yet we have confidence that Judge WICKHAM’S reputation will stand this test and be lasting. His opinions reveal a well trained mind, clearly apprehending the questions to be decided, familiar with the adjudicated cases and the underlying principles of law applicable to those questions, resolute and fearless, but free from self-conceit and capable of taking a broad view. His reasoning and his conclusions are expressed in a diction marked by originality, whilst unmarred by any appearance of ‘straining after effect.’ One might differ with him in his conclusions, but could not fail to understand what they were or the processes by which he reached them, or doubt the sincerity of his convictions. But, except after long service, the outside public have no such opportunity to learn the qualifications and real character of an appellate judge as have his brethren. No men can be thrown together as we have been since the organization of this court and not find out each other’s best as well as least admirable qualities. Fortunate for them is it indeed if the former grow more prominent and the latter seem to dwindle as time develops acquaintanceship into knowledge of real character.

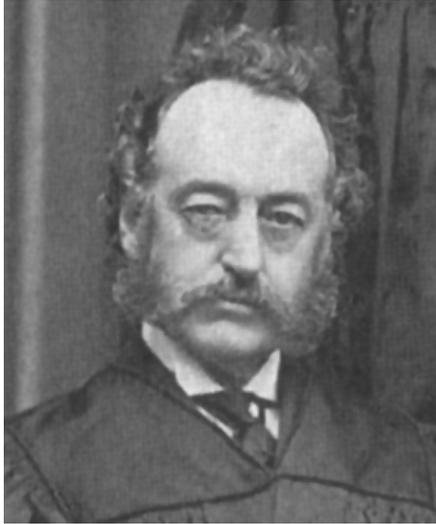
“So it was in our estimate of Judge WICKHAM. Our regard for him grew with better acquaintance, and finally ripened into an affectionate esteem, which only noble natures can call into life. We learned that he was no self-seeker. He disdained to practice any of the arts which might, to the possible detriment of the office, make fame for himself, but dignified it by dedicating the energies of his nature and all

his acquirements to the performance of his duties. Of all this he believed the office to be worthy. From the organization of the court until the day of his death his highest, if not only, ambition, was that the court, as such, might realize the expectations of all who were interested in establishing and promoting its usefulness. We all bear grateful testimony to the fact that not one of our number contributed more to that end.

“He was truly learned in the law, and a retentive memory and a faculty for clear, exact and comprehensive statement of legal principles made him a most useful member of the court in consultation. He sought to preserve the precedents on the one hand and to so apply them on the other that real principle should not be sacrificed. He took a deep interest in every case that came before us, whether assigned to him to write the opinion or not, and this did not abate until final judgment was entered. His intellectual processes were free from bias. He was a man of independent judgment and earnest and fearless in the expression of his opinion, but no matter how strong his first impressions might be, or how vigorously he might give utterance to them, no mere pride of opinion prevented him from receding from his position when convinced that it was erroneous. And this he would do with a graciousness that is rare. As he was not obstinate nor opinionated, neither was he vacillating. He was willing to continue the investigation until the last argument, whether based on reason or authority, was presented and considered, and to accord to it all the weight to which it was entitled. But when final judgment was reached, there was no lack of positiveness to weaken its effect. Conscious, like every thoughtful man, of the defects and imperfections of the system whereby justice is administered in the courts, he was, nevertheless, a firm believer in the majesty and dignity of the law and the purity of its administration. He revered the ancient rules of the common law as the sages have stated them, but did not blindly suppose that there was no room for the further development of new principles as new conditions arose. He lived not in the past alone and had not reached that point when he assumed that there was no more to be learned or had grown weary of the study. While sufficiently conservative, he was also progressive, and all legislative measures for law reform that had real merit received his active support. He was a growing man; he was on the upward, not the downward course, when death cut short his career.

“This does not pretend to be a review of the life or an analysis of the character of our lamented brother. But it is proper that at this first meeting of the court, after his death, we should put on record a statement, inadequate though it be, of our appreciation of his worth. We esteemed him for his learning, for his judicial qualities, for his fidelity, for his conscientiousness, and for his loyalty to the law whose minister he was. He had ‘clear ideas of right and wrong, and fixed integrity of purpose, but was charitable and tolerant; he was commanding in stature and bearing, but possessed the kindest and most generous nature, quickly responsive to the best impulses and sympathies; he was truly a noble man, in whom one could trust and upon whom one could lean in trouble. The Commonwealth has lost a learned, able, conscientious and useful judge, and in his death we have, in addition, lost a friend, whose genial companionship and wise counsel we shall miss greatly.

“As a mark of respect to the memory of our deceased brother, it is ordered that this brief statement, expressive of our deep senses of loss, be entered on the records of the court.”

THE HONORABLE EDWARD N. WILLARD

April 2, 1835 – March 3, 1910

Assumed Office: June 1895

County: Lackawana

BIOGRAPHY

Edward Newell Willard served two years on the Pennsylvania Superior Court. He was one of the original seven members appointed to the Pennsylvania Superior Court by Governor Daniel Hastings in June 1895. Willard was a Civil War veteran and a prominent attorney in Scranton.

Willard's ancestors were of English heritage and settled in Boston upon their arrival in the Massachusetts Bay Colony in May 1634. His great-grandfather Simon Willard was a prominent Puritan and a merchant in the colony. At some point, his grandfather Jehiel Willard removed to Connecticut, settling in Madison, a small town situated on the Long Island South, where he married Eunice Blatchley.¹

Edward N. Willard was born April 2, 1835 in Madison, Connecticut, to James Willard and Susan Clanning Willard. His mother was the daughter of Edward Clanning of Newport, Rhode Island. Willard was educated in local public schools and also attended

Lee's Academy (a Private school in Madison). He began his legal studies in the law office of Ralph D. Smith in Guilford, Connecticut, only a short distance from both Madison and New Haven. Probably before he turned 20, Willard entered Yale Law School, where he "spent some time," although he left school in 1857 before graduating. In September 1857, he was admitted to the New Haven Bar.²

A New Englander with deep roots, it is unclear why Willard moved to Scranton, Pennsylvania, in the fall of 1857. Nevertheless, he settled in Luzerne County and was admitted to the county bar on the 17th of November. By the end of the year he entered into a law partnership with prominent Luzerne County attorney and businessman George Sanderson, Sr. While Sanderson was the senior partner, Willard "from the beginning of his professional career won the esteem and confidence of a large clientele." The partnership of Sanderson and Willard lasted until 1864 when Willard joined the Union Army.³

On September 1, 1864, the day Union forces took Atlanta and eighteen days before Sheridan's devastating campaign in the Shenandoah Valley, Willard enlisted as a captain in the 127th Regiment of United States Colored Troops. It is unclear if Willard saw any action, but black soldiers did participate in the campaigns in Nashville, Charleston, and Richmond. By the end of his enlistment on December 1, 1865, Willard was serving as judge advocate of the Second Division of the 5th Army Corps.⁴

After the Civil War, Willard returned to Scranton where he opened his own law practice. Although he received a federal appointment in 1867 as register in bankruptcy for the 12th Congressional District of Pennsylvania, a position in which he diligently served, his dedication to his community was also unflagging. In 1866, he was instrumental in helping to incorporate the city of Scranton; he had acted for four years as the borough's solicitor and secretary and after incorporation, he continued in both those positions for another four years. Still under the jurisdiction of Luzerne County, residents of Scranton had been involved in a "thirty years' county war" to establish their city as the county seat of a new county. Willard and Edward Merrifield took over the management of this campaign and through their tireless efforts, specifically incorporating Scranton and continually pursuing the issue at the state level, Lackawanna County was founded in 1878. Contemporaries credited their "indomitable pluck, energy and zeal."

Willard's growing business interests in Scranton, however, certainly prompted his persistent efforts to strengthen the local community. He was president of Scranton Savings Bank and Trust Company, Stowers Pork Packing and Provision Company, and Bridge Coal Company. Willard was also a director and part owner of the Lackawanna Coal Company.⁵

In June 1895, Governor Daniel Hastings appointed Willard to the newly established Pennsylvania Superior Court. At the age of 60, Willard had years of legal experience and his corporate law background was a much needed addition in the new industrial age. All six Republican appointees to the Superior Court bench, including Willard (who received the second highest number of votes) were elected to their positions in November 1895.⁶

Two years later in September 1897, Willard resigned from the Pennsylvania Superior Court "to resume his labors at the law as an advocate and counsel." Prior to his appointment, his law practice in Scranton was booming. Willard's clientele included the Delaware, Lackawanna & Western Railroad Company; The Pennsylvania Coal Company; Hillside Coal & Iron Company; the Pennsylvania Anthracite Coal Company; the Lackawanna Iron & Coal Company; The Scranton Steel Company; the Scranton Gas & Water Company; and the New York, Susquehanna, & Western Railroad Company. He was "regularly retained" by many of these companies. He continued practicing as senior partner of Willard, Warren, and Knapp until his death. "Mr. Willard's professional career," commented one contemporary, "has been marked by great ability as an advocate, untiring zeal for his clients, and the most sterling integrity of character."⁷

Willard "died suddenly" on March 3, 1910. "As a citizen, soldier, lawyer and Judge, he has left an enviable record," one memorialist recalled. "[A]s a friend, husband and father, the recollections of his life are fragrant with those virtues which adorn an elevated and refined manhood."⁸

Willard married Ellen Hower of Lock Haven, Pennsylvania, on June 4, 1860. They had one daughter, Nellie Willard, who married Everett Warren, a member of the Lackawanna County Bar; their son Edward Willard Warren continued the family law practice founded in 1857 by his grandfather, the subject of this essay.⁹

¹ George B. Kulp, *Families of the Wyoming Valley* (Wilkes-Barre, PA, 1889), 2:862.

² Kulp, *Families of the Wyoming Valley*, 2:862; “Middle States,” 3 *The American Lawyer* (Aug. 1895): 355. Most sources state that Willard graduated from Yale Law in 1857, but his obituary in the Yale Law Journal indicates that he left school before he graduated (“Edward N. Willard, Ex-’57,” 19 *Yale Law Journal* [1910]: 676).

³ Kulp, *Families of the Wyoming Valley*, 2:862; Admissions Record, Luzerne County, 1857; Frederick L. Hitchcock, *History of Scranton and Its People* (Lewis Historical Publishing, New York, NJ 1914), 253-54; “Edward Newell Willard,” Report of the Committee of Legal Biography and History, in *The 16th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1910), 101. Willard was an early member of and in 1888 president of the New England Society of Northeastern Pennsylvania (Hitchcock, *History of Scranton*, 475).

⁴ “Middle States,” 3:355; Kulp, *Families of the Wyoming Valley*, 2:863; Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 3:794.

⁵ Patrick R. Tamlia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 51; Kulp, *Families of the Wyoming Valley*, 2:862-63; Hitchcock, *History of Scranton*, 334, 364, 366.

⁶ “Middle States,” 3:355; Tamlia and Hare, *Keystone of Justice*, 55n.

⁷ Tamlia and Hare, *Keystone of Justice*, 58; “In Memoriam: Hon. Henry J. McCarthy,” 60 *Legal Intelligencer* (9 Oct. 1903): 411; “Edward N. Willard Ex-’57,” 19:676; Kulp, *Families of the Wyoming Valley*, 2:863. Willard was a director of the Lackawanna Law and Library Association and a member of the Pennsylvania Bar Association (“Bar Associations,” 2 *The American Lawyer* [May 1894]: 206; “Edward Newell Willard,” Report of the Committee of Legal Biography and History, In *The 16th Annual Report*, 100-102).

⁸ “Edward N. Willard, Ex-’57,” 19:676; Tamlia and Hare, *Keystone of Justice*, 58 “Current Topics,” 45 *American Law Review* (1911): 100; “Edward Newell Willard,” Report of the Committee of Legal Biography and History, in *The 16th Annual Report*, 102.

⁹ Kulp, *Families of the Wyoming Valley*, 2:863; “Edward W. Warren”, *New York Times*, 27 April 1974. Known in 1974 as Warren, Henkelman, McMenamin, and Kreder, It was the oldest law firm in Scranton.

THE HONORABLE HOWARD J. REEDER

December 11, 1943 - December 28, 1898

Assumed Office: June 29, 1895

County: Northampton

MEMORIAL SERVICE

At the opening of the session of the Superior Court, at Scranton, January 9, 1899, President Judge RICE made the following announcement:

Gentlemen of the bar: It is my painful duty to announce that on the morning of December 18th last the HON. HOWARD J. REEDER, one of the judges of this court, died at his home in Easton, just as he had entered upon the fifty-sixth year of his life. Russell C. Stewart, Esq., has been deputed by the bar of Northampton County, where Judge REEDER was born and died, where he practiced his profession, and where he presided as a judge of the common pleas, to present the tribute of respect and affection of those who knew him best. Before adding further to the formal announcement we have made, we will first hear him.

R. C. STEWART, Esq., then addressed the Court as follows:
May it please the court, I have been selected by the bar of Northampton

County to pay its tribute to the memory of the HON. HOWARD J. REEDER. No one could be more conscious of my inability to properly present my feelings on this occasion, and those of my fellow members of the bar, than I am.

Judge REEDER inherited those qualities of mind and of heart which distinguished him in his profession and which endeared him to all who knew him. From his father, Governor Andrew H. Reeder, he inherited that strong and vigorous mentality that gave him mastery over men, that logical and forceful habit of dissecting an intricate problem, that clear judicial method which he pursued in deciding all questions propounded to him. From his mother, a woman of rare natural intellectual powers, coupled with strong charitable instincts, he derived that kindness of heart and that genial manner that attracted and charmed all with whom he came in contact.

In his youth, he had the advantages of careful training at excellent preparatory schools, and afterwards he attended Princeton College. Those who knew him at college and when he was studying law testify that he was a good student and early gave promise of attaining distinction in his after career.

His preparatory studies were twice interrupted by his ready response to his country's call to arms; and the opportunity for leadership, thus presented early, developed in him that capacity to lead and direct men that he possessed to such a marked degree, while again those kindly traits of his nature cemented bonds of friendship formed on the tented field which lasted until his death.

No more loyal and devoted comrade lived than he. In all his political battles, he received the unsolicited aid of his army friends, and their loyal esteem and hearty testimony to his bravery in action, to his kindness and consideration towards the men under him, aided him much in securing support from those who honored him for the friends he had made in the service, and yet no one was more modest and unassuming about this period of his life than he. He never traded on what he regarded the simple performance of a soldier's duty.

After his return home, he was occupied in the study of the law, and in 1867 he was admitted to the bar of Northampton County. The exciting events of the times naturally attracted a mind ever interested in the current history of the day, and to a large degree, he took an active interest in municipal, state and national politics, which he kept up until

he went on the bench.

As an organizer and leader in politics, he had few equals. The resources of his mind were so great and varied, the natural faculty which he possessed of winning friends and of holding them by his own personality, his undaunted courage and keen political instincts, all made him a master in this fascinating game, and in a few years he became a power in his party.

In the profession of law he steadily grew, both in the ability to handle his cases and in obtaining a reputation of winning them. He was in many important civil and criminal cases. Judge REEDER never neglected any branch of his case. He delighted equally in getting the facts and in solving the legal problems involved. When interested in a case, he never spared himself. He never showed any annoyance in talking during business hours to his clients and witnesses, and he would frequently work until late at night over the legal questions of a case. His interest in these cases was all-absorbing, and so thorough was his understanding of them that ever afterwards he remembered all the facts and the law of his cases. He made more and better use of the cases he had tried at the bar when on the bench than any man I ever knew. When he was appointed additional law judge of our county in 1881, he surprised and delighted us all. His experience on the bench paved the way to his election in 1884 for a full term.

I think Judge REEDER was at his best as a nisi prius judge. His manner was always dignified and courteous. He was always cool and self-possessed. His mind was alert and active. His courage was boundless. No legal problem could stagger him, and with the aid of counsel he could assimilate legal principles and apply them to the facts of a case tried before him as quickly as any judge ever did.

He made a wonderful record for himself, and the state reports show that almost universally his cases were affirmed by the Supreme Court. When he was a candidate for re-election, a tabulation of the results of his cases in the Supreme Court was made that showed him to rank with any common pleas judge in the state.

And what a good friend he was. No one ever doubted his loyalty. No one ever asked his aid to have it denied. No one had to appeal for his sympathy or his charity. To state a need was to receive it.

He never judged his fellow-men or misjudged their motives. Liberal, charitable to a fault, kindly affectioned, he knew not how to

hate. No man had more or firmer friends than he, no man was quicker to both forgive and to forget.

Great as he was in intellectual abilities, his heart was still larger. No matter how much he may be honored as a judge and as a lawyer, the true measure of his character will set forth his boundless love for his friends, his unlimited charity for his fellow-men, and as time moves by, while you may regret his loss as a judge of your bench, yet judges, lawyers and lay-men alike, we all will mourn the loss of his friendship and kindly companionship.

The last summons came to him not suddenly. He was not spared the anguish and pain of a long sickness, but the reward was in the opportunity it gave him for preparation, and he who had, throughout his entire life, delighted "to do justice and to move mercy" learned to walk humbly before his God.

At the conclusion of Mr. Stewart's address, the President Judge, speaking on behalf of the court, said:

We have listened with deep and sympathetic interest to the eloquent and appreciative tribute which has been paid by Mr. Stewart, on behalf of the bar of Northampton County, to the memory of our deceased brother. We might well adopt it as our estimate of his character and attainments without adding any words of our own. It is fitting, however, that at the first meeting of the court after this sad event, we should make a statement, brief and inadequate though it must necessarily be, of the regard in which we held Judge REEDER in life, and of our sense of the loss we have sustained in his death.

By reason of the name he bore, his education, his services to the state, both in peace and in war, and his possession of those qualities which endear their possessor to his fellows and give him influence, Judge REEDER was a man of mark. Amongst the generation of lawyers who preceded him, there was none better known or more highly respected, in all of the courts of this section of the state, than his father, Andrew H. Reeder. His name, moreover, is indissolubly and most honorably associated with the history that "irrepressible conflict" which, in the Providence of God, resulted in the abolition of human slavery in the United States. From him, Judge REEDER inherited not only an honored name, but, as has been truly stated, those strong mental qualities which gave him great capacity for leadership.

Judge REEDER was an educated man—using those terms in their

best sense, for he added to the intellectual training which he received at college the culture which close observation and independent thought and reading give. He read, not to be able to make a show of learning, but inspired by a love of learning, a literary taste and an investigating mind; and what he read, he remembered well.

It was his high privilege to serve his country as a soldier in the war for the preservation of the Union, and he received honorable wounds in that service.

He was admitted to the bar in 1867, and rose to prominence in the practices of his profession. In 1881, he was appointed by Governor Hoyt to the bench of the Third Judicial District, and in the fall of 1884, was elected to the same position for the full term of ten years. It is high praise to say that he rendered no more valuable service to the state than as a judge of the common pleas. The duties of that high and most responsible office were congenial to his tastes and habits of mind, and the performance of them was characterized by learning, fearlessness and good judgment. This is sufficiently attested by the printed reports of the cases he tried and decided. But of the great proportion of the most useful work of a common pleas judge no written record is made, except in the musty files and dockets of his court. The real record which lasts, and by which his work will be judged, is written in the recollections of the lawyers who practiced before him, and of the people whose rights he adjudicated. No friend of our departed brother who has listened to the appreciative and discriminating estimate of his service as a common pleas judge that has just been given, need fear to have him judged by that record.

Judge REEDER was one of the seven men appointed as the first judges of this court upon its organization, three and one half years ago, and it is a forcible reminder of the vicissitudes and uncertainties of life that since his death but three of the original members of the court remain upon this bench. He brought to its duties an exceptionally broad and vigorous intellect. He was well grounded in the fundamental principles of the law, and his knowledge of them was always at his command. What he learned well once had not to be learned again. His retentive memory made him sure of his grounds, so far as that knowledge was concerned, whenever the occasion arose to apply it. He was independent and fearless of judgment. In consultation he showed conspicuous ability to single out and state the controlling questions of

a case, and he was always ready to defend his conclusions with suggestive, forcible and earnest reasoning, yet without asperity. His courteous bearing was not a mere veneer, but was the outward expression of a most sunny, gentle, sympathetic and kindly nature, which won for him the affection of all who knew him best. In their hearts his memory will rest secure.

Let us not question the dispensation that cut short his career in the prime of his life; let us rather rest content in the hope that the faith in which he serenely and calmly passed away has not been extinguished by death, but has simply given way to blessed knowledge.

And now, to wit: January 9, 1899, it is ordered, that, as a mark of respect to the memory of our deceased brother, the Prothonotary enter a proper minute of these proceedings upon the records of the court.

THE HONORABLE HENRY J. McCARTHY

October 11, 1845 – July 21, 1903

Assumed Office: June 1895

County: Philadelphia

BIOGRAPHY

Henry Jefferson McCarthy served six months on the Pennsylvania Superior Court. He was one of the original seven members appointed to the Pennsylvania Superior Court by Governor Daniel Hastings in June 1895. McCarthy was a prominent Philadelphia lawyer and judge of the Philadelphia County Court of Common Pleas No. 3.

McCarthy was born in the city of Philadelphia on October 11, 1845. He attended local public schools and graduated from Central High School on February 13, 1863. Although the city presented numerous opportunities to a young man, McCarthy chose the law and immediately entered into its study under the preceptorship of eminent Philadelphia lawyer and former Pennsylvania Supreme Court Justice William A. Porter. After three years, McCarthy was admitted to the Philadelphia Bar, and he continued to practice in the city as an associate for Porter's firm. Porter's son, William W. Porter remembered that his father had great respect for McCarthy. "In the twenty odd years of our

association.” The younger Porter remembered his father saying, “that man has forgotten nothing.”¹

In 1875, McCarthy established a law partnership with William Nelson West, who was then solicitor for the city of Philadelphia. Within a few years, McCarthy became a well-known Philadelphia attorney and “attained great success in the practice of law.” McCarthy and West practiced together until the latter’s death in 1891, and in that year McCarthy began a new partnership with attorneys Milton C. Work and Alexander M. DeHaven (McCarthy, Work, and DeHaven). McCarthy was affiliated with this firm until he was appointed to the Pennsylvania Superior Court bench.²

In June 1895, Governor Daniel Hastings appointed McCarthy to the newly established Pennsylvania Superior Court. McCarthy was both the lone Democrat and lone Philadelphian on the bench, two characteristics that certainly influenced his appointment. The seven judges, who were as Judge George B. Orlady noted “professional strangers,” met at Harrisburg that month to create rules and procedures for the operation of the court and determined which county’s cases would be heard at the five regional meeting sites: Harrisburg, Philadelphia, Pittsburgh, Scranton, and Williamsport. On November 4th, the court opened its first session in Philadelphia. “[T]he scene was an impressive one,” when McCarthy and his colleagues entered the court at City Hall; “[o]n the desks before each of the new Judges were huge baskets of flowers sent by the Five O’clock Club as a token of the respect in which it held Judge Henry J. McCarthy.” McCarthy served the court “with credit,” and even though he knew at that first session in Philadelphia that he was not his party’s nominee to succeed himself, he diligently attended the court and participated in the argument of 40 cases.³

Many Democrats were wary of lending their support for McCarthy in the 1895 November retention election. He was suspected of being too Republican, as he “seemed to have extensive contacts in the state’s Republican hierarchy.” Although the Democratic Societies of Pennsylvania endorsed McCarthy at their annual meeting in Lancaster on September 5, 1895, just six days later at the Democratic State Convention in Williamsport, McCarthy did not make the ballot. Ultimately in the ensuing election, Judge Peter P. Smith defeated two other Democrats by a small majority.⁴

Colleagues and friends later remembered McCarthy's work on the Pennsylvania Superior Court, asserting that he was "a faithful and capable Judge." Superior Court President Judge George B. Orlady asserted: "I speak advisedly for his living and dead colleagues in saying that in all things pertaining to the court's affairs, he was an able, fearless and conscientious judge." Others commented on McCarthy's fairness and courtesy to his colleagues and those who stood before the bench. "When he became a Judge, he did not forget that he had been a lawyer," declared Thomas K. Finletter, president judge of the Philadelphia County Court of Common Pleas No. 3, "and he remembered the vicissitudes and anxieties which beset the young practitioner." Finletter continued: "he lent a patient ear, and gave all the aid he possibly could to those who needed his advice and assistance."⁵

McCarthy returned to Philadelphia to practice law, but two years later on November 25, 1898, he was returned to the bench as an association judge of the Philadelphia County Court of Common Pleas No. 3, upon the resignation of Judge James G. Gordon. "We knew well when Henry J. McCarthy was appointed," noted his colleague Judge Charles B. McMichael, "that he was neither apprentice nor journeyman, but master workman in the profession of the law." In November 1899, he was elected to a full 10 year term on the court. McCarthy diligently served the common pleas court and also sat on the Court of Oyer and Terminer. His work on the court was "ever impartial and careful" and he was especially noted for his work on equity cases. During his over five years on the court, McCarthy "approved himself to the Bar and community, by his integrity, learning and painstaking performance of duty."⁶

McCarthy was a director of the Diamond Electric Company and a member of the Five O'clock Club. "As a scholar, his culture was broad, if not deep," noted one friend, "and no one better appreciated the finer beauties of English letters than he." McCarthy was a respected orator, a member of the Pennsylvania Bar, an active Mason, and a member of the Penn and Columbia clubs.⁷

It was ultimately McCarthy's dedication to his profession that led to his death. His colleague on the Common Pleas Court No. 3, Judge Charles B. McMichael warned him in May 1903 "to cease work and to take a much needed rest." The overwhelming pressure of McCarthy's job caused "complete nervous exhaustion." He traveled to Atlantic City,

New Jersey, to recuperate, but three weeks after his return to the city of Philadelphia, he died of a heart attack on July 21, 1903. His obituary perhaps best celebrates McCarthy's legacy: "He was a good judge, intelligent, careful and painstaking."⁸

McCarthy married shortly before his death, as his friend and colleague Judge William W. Porter expressed his condolences "to her who knew him as a husband but for so short a time, that there will remain the thought that, although the happiness was short, the memory will be long and sweet." McCarthy's friend Charles F. Warwick noted: "As a husband, he was faithful, true and loving."⁹

¹ Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 2:579, 3:794; "Judge McCarthy," 60 *Legal Intelligencer* (24 July 1903): 314; "In Memoriam: Hon. Henry J. McCarthy," 60 *Legal Intelligencer* (9 Oct. 1903): 411; "Hon. Henry J. McCarthy," Report of the Committee of Legal Biography and History, in *The 10th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1904), 78.

² "Judge McCarthy," 60:314; "In Memoriam: Hon. Henry J. McCarthy," 60:410.

³ Patrick R. Tamilya and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 52-54; "Middle States," 3 *The American Lawyer* (Aug. 1895): 355; "In Memoriam: Hon. Henry J. McCarthy," 60:411.

⁴ Tamilya and Hare, *Keystone of Justice*, 58n; "The President Indorsed," *New York Times*, 6 September 1895; "Free Coinage Opposed," *New York Times*, 12 Sept. 1895.

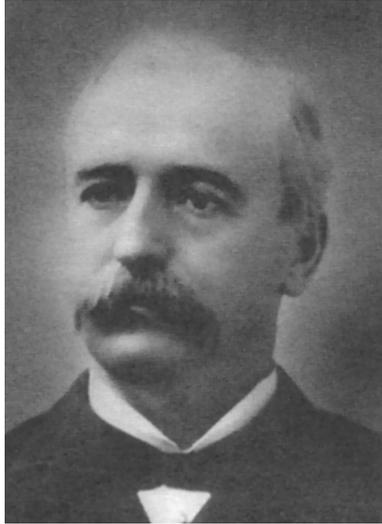
⁵ "In Memoriam: Hon. Henry J. McCarthy," 60:410-11.

⁶ Eastman, *Courts and Lawyers*, 2:579, 3:794; "Hon. Henry J. McCarthy," Report of the Committee of Legal Biography and History, in *The 10th Annual Report*, 78; "In Memoriam: Hon. Henry J. McCarthy," 60:410-11.

⁷ *Outlook*, 52 (3 Aug. 1895): 165; Tamilya and Hare, *Keystone of Justice*, 58n; "In Memoriam: Hon. Henry J. McCarthy," 60:411; "Judge McCarthy," 60:314.

⁸ "Judge McCarthy," 60:314; Tamilya and Hare, *Keystone of Justice*, 52; "In Memoriam: Hon. Henry J. McCarthy," 60:411.

⁹ "In Memoriam: Hon. Henry J. McCarthy," 60:411.

THE HONORABLE PETER P. SMITH

1851-1909

Assumed Office: January 1896

County: Lackawanna

BIOGRAPHY

Peter Paul Smith served ten years on the Pennsylvania Superior Court, although for the last five years while he legally held the judicial position, he rarely (if ever) attended the court. Smith was district attorney of Wayne County and an additional law judge of Lackawanna County.

Little is known about Smith's early life. He was born in 1851 probably in Honesdale, Pennsylvania. Smith was admitted to the bar in 1874 and a year later at the age of 24, he became district attorney of Wayne County. He served in that position for three years. In April 1880, Smith was appointed by President Rutherford B. Hayes as supervisor of the census for the 5th District of Pennsylvania. The United States Senate approved his appointment the following month.¹

Sometime between 1880 and 1882, Smith removed to Scranton, Lackawanna County, where he "at once took a leading position." He probably practiced law for a short time in that city, before being

appointed additional law judge of the 45th Judicial District (which at the time encompassed Luzerne and Lackawanna Counties) on 24 December 1892. He continued in that position until January 1894 and subsequently returned to private practice becoming a “leader of the Lackawanna bar.” Smith was also a member of the Pennsylvania Bar Association.²

Smith was in an ideal position when Pennsylvania, after long debate, finally established the Superior Court in 1895. Smith was a Democrat, and while that was quite a detriment in a state dominated by the Republican Party machine, the structure of voting for the members of the Superior Court guaranteed one seat for the minority party. Smith lived in Scranton, the county seat and largest city in Lackawanna County; Scranton would also be one of the five locations the Superior Court would sit (Harrisburg, Philadelphia, and Pittsburgh, and Williamsport being the other four). Smith also had judicial experience on the court of common pleas, and although not necessarily a requirement for a position on the intermediate appellate bench, it certainly was an advantage.³

In June 1895, Governor Daniel Hastings made the first appointments to the Pennsylvania Superior Court; the six Republicans and one Democrat, however, did not include Smith. That fall, all the appointees were required to stand for election if they wanted to retain their seats, or more appropriately given party politics, if their party wanted them to retain their seats. In September 1895, the Democrats decided not to continue their support for Judge Henry J. McCarthy, the current Superior Court minority judge. At the Democratic State Convention in Williamsport, the party after “a great deal of time” nominated six judges for the Pennsylvania Superior Court and Smith was among the nominees on the first ballot.⁴

On election day, November 5, 1895, six of the seven Superior Court seats were easily won by the six original Republican appointees to the court. The winner of the minority seat, however, was unclear as results trickled in from throughout Pennsylvania. The competition among Democrats was between three nominees: Smith, William Yerkes, and Patrick Magee. While returns on the following day indicated that Yerkes was leading the race, ultimately it was Smith, who on November 7th was named as the winner by about 2,500 votes. Fraud allegations emerged in the days after the election, however, and Smith was in the

center of the controversy surrounding the vote totals from the home counties of the three contending Democratic nominees (Smith-Luzerne and Lackawanna: Yerkes – Bucks and Philadelphia; and Magee-Allegheny). “Smith voters are charged,” fumed the Philadelphia Inquirer, “with cutting the other Democratic candidates to the extent of 3,300 votes [in Luzerne and Lackawanna counties].” No formal complaints were brought forward, and Smith took his seat on the Pennsylvania Superior Court in January 1896.⁵

In 1899, Democrats twice mentioned Smith as a possible candidate for other political positions. During the debates surrounding the reelection of United States Senator Matthew Quay in the Pennsylvania House and Senate in January, a Lackawanna County Democratic state representative submitted his vote for Smith; that vote was relatively insignificant, however, as it was one of 22 votes in the Pennsylvania House scattered between various candidates. In June, Smith was one of at least twelve possible Democratic nominees for the Pennsylvania Supreme Court, and survived at least ten ballots, but whether he received a formal endorsement is unclear.⁶

After serving nearly five years on the Superior Court bench, Smith stopped appearing at the sessions of the court. In 1902, pursuant to the Act of 1901 that provided for the compulsory retirement of judges who were mentally or physically unable to preside over the court, the governor appointed a commission of “eminent medical men” to inquire into the health of Smith, who had been in court only once in two years. It is unclear what prevented Smith from attending the court, or if he ever attended again between 1902 and 1905. He was suffering from financial difficulties, as in January 1901 creditors filed a petition seeking repayment of outstanding debts. Had Smith retired from the bench, he would have received half of his salary as a judge until the expiration of his term (January 1906); what is clear is that he legally held his seat on the Pennsylvania Superior Court until January 1906 presumably receiving his full salary. Smith may have been considered as a candidate to retain his seat, although there was “some opposition to him in his party.” But in November 1905, Democrats elected Judge John B. Head to replace Smith on the court.⁷

Smith died sometime before June 29, 1909, when the Pennsylvania Bar Association’s committee of legal biography and history reported his death and listed brief statistics of his career at the annual meeting

of the organization.⁸

Smith wife's name is unknown., He had at least one daughter Mother Florence Smith, who was active in the covenant of the Sacred Heart.⁹

¹ "Peter P. Smith," Report of the Committee of Legal Biography and History, in *The 15th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA 1909), 118; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA 2000), 58; "Nominations by the President," *New York Times*, 27 Apr. 1880; "Nominations and Confirmations," *New York Times*, 5 May 1880.

² Frederick L. Hitchcock, *History of Scranton and Its People* (Lewis Historical Publishing, New York, NJ, 1914), 336; Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 3:758, 794; Peter P. Smith" Report of the Committee of Legal Biography and History, in *The 15th Annual Report*. 118.

³ Tamilia and Hare, *Keystone of Justice*, 46,48,55,58

⁴ "Free Coinage opposed," *New York Times*, 12 Sept. 1895; Tamilia and Hare, *Keystone of Justice*, 55.

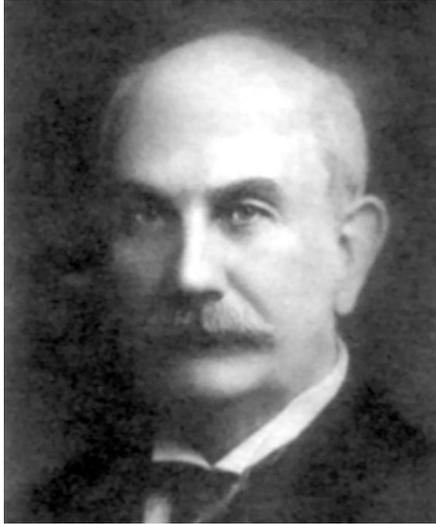
⁵ Tamilia and Hare, *Keystone of Justice*, 55-58; Eastman, *Courts and Lawyers*, 3:794-95

⁶ "Quay's Fight in Progress," *New York Times*, 18 Jan. 1899; "Pennsylvania Democrats," *New York Times*, 15 June 1899.

⁷ Tamilia and Hare, *Keystone of Justice*, 58,60; "Compulsory Retirement of Judges," 2 *Canadian Law Review* (1902): 264; "Lawyers in Trouble," *The American Lawyer* (Jan.1901): 31; "Brought Quay's Power in State for \$500,000," *New York Times*, Jan. 11 Jan. 1905.

⁸ "Peter P. Smith" Report of the Committee of Legal Biography and History, in *The 15th Annual Report*, 118.

⁹ "Mother Florence Smith," *New York Times*, July 30, 1951.

THE HONORABLE WILLIAM W. PORTER

May 15, 1856 – November 16, 1928

Assumed Office: September 1897

County: Philadelphia

BIOGRAPHY

William Wagener Porter¹ served five years on the Pennsylvania Superior Court. He was a prominent Philadelphia attorney, a long-time director of the Real Estate Trust Company, and author of two important legal tracts *A Treatise on the Law of Bills of Lading* and *The Legal Responsibility of Clergymen Solemnizing Marriages in Pennsylvania*.

Among Porter's ancestors were prominent men in Pennsylvania history. His great-grandfather was General Andrew Porter, who served on George Washington's staff during the American Revolution, and his grandfather was David Rittenhouse Porter, who served in numerous important legal posts in the city of Philadelphia, including sheriff, district attorney, and city solicitor; he was subsequently a Pennsylvania Supreme Court Justice and a judge on the Federal Court of Alabama Claims in Washington, D.C.²

William W. Porter was born on May 5, 1856. His father instilled in him a respect for the law and ultimately prepared him for a career in

the law. Porter attended the University of Pennsylvania, where he was secretary of the Philomathean Society, member of the baseball, cricket, and rowing teams, an editor of the senior yearbook, and a second tenor in the glee club. He graduated in 1875 at the age of 22 and was described in those traditional, often humorous “class statistics,” as “too small” with a “desire for elevation,” and having a habit of “playing the fool.”³

After graduation, Porter studied law at his father’s office in Philadelphia and was admitted to the bar in 1877. The following year he received a master of arts from his alma mater. Porter specialized in corporation and estate law, and became a well-known practitioner in the Philadelphia Orphans’ Court, where he handled many valuable and large estates. “In his own practice of the law,” remarked one tribute to Porter, “he endeavored to maintain the highest ideals of the profession.” He took advantage of the opportunities offered to him and grew his practice within the city over the next 20 years. Porter also created a reputation for himself in learned law circles authoring “two books of substantial merit.” One of these, *A Treatise on the Law of Bills of Lading*, was the first American work on the subject. “Mr. Porter has made an intelligent exposition of all the common law rules bearing upon the subject,” commented one reviewer, “and has not neglected to note all the statutory modifications.” Porter participated in various professional organizations and became a member of the Law Association of Philadelphia and the Lawyer’s Club. He was appointed in 1892 to a committee established by the National Reform Association to promote reforms in divorce law.⁴

On September 14, 1897, Porter developed such an unassailable standing as a prominent Philadelphia attorney, that he received an appointment as a judge of the recently established Pennsylvania Superior Court. Governor Daniel Hastings appointed him to fill the vacancy caused by the resignation of an original court member Judge Edward N. Willard. Porter excelled in the position, which was later recorded as being “but an interval in an active career at the bar.” He was subsequently elected to a full 10-year term on the Superior Court, but only served until January 27, 1903 when he resigned from the appellate bench to return to private practice.⁵

When Porter resigned, he tried to convince at least one member of the Superior Court, President Judge Charles E. Rice, to also leave the

bench. “Judge Porter appreciated the added prestige that service in the appellate tribunal had given him,” and he intended to capitalize on it. He attempted to convince Judge Rice that a legal partnership would quickly generate financial success, specifically because of Porter’s connections in the city and Rice’s status in central Pennsylvania. Rice admitted he was “a victim of the salary habit,” however, and he declined Porter’s invitation and ultimately served on the Superior Court for over twenty years.⁶

Porter instead entered into partnership with two prominent Philadelphia attorneys, John J. Foulkrod, Jr. and Alexander Kerr McCullagh, establishing the firm of Porter, Foulkrod and McCullagh in 1903. Their partnership lasted for the next 24 years, during which time Porter began to become more of a consulting attorney. “The senior lawyer’s attitude toward younger members of the bar was always kindly, considerate and helpful,” remembered one contemporary, “unalloyed by any suggestion of patronage.”⁷

Porter was well established in Philadelphia and devoted his time to numerous civic and social organizations within the city. He was a member of the Union League, Rittenhouse Club, Merion Cricket Club, Sons of the American Revolution, the Society of the Cincinnati, and the Scotch Irish Society. Porter was also a dedicated humanitarian, who worshipped at the Second Presbyterian Church in Philadelphia. He was a manager of the Union Benevolent Society, the Pennsylvania Society to Protect Children from Cruelty, the Midnight Mission, and the Philadelphia Tract and Mission Society. He was an exceptional orator: “his voice was mellow and there was a rhythmic quality in his diction.” Porter’s greatest moment as an orator was perhaps at the unveiling of the monument to George Washington in Fairmont Park in May 1897; numerous dignitaries, including President William McKinley were present for Porter’s oration on the subject of Washington as a statesman, a soldier, and a man.⁸

In 1909, Porter’s life was described as one of “plain sailing in the sea of professional success.” That year, however, he almost lost everything when the Real Estate Trust Company suddenly faced a severe financial crisis caused by Frank K. Hipple’s (the president of the company) misappropriation of funds. Porter had been a director of the company since at least 1895, and at the prompting of the receiver George H. Earle, Jr., Porter “divested himself of his whole fortune,” even

mortgaging his house to help save the company. Fortunately, with hard work and skillful management by Earle, Porter recouped his losses within five years.⁹

In June 1927, Porter left the firm of Porter, Foulkrod, and McCullagh to begin his own consulting and advising practice. The firm became known as Foulkrod, Sheppard, Porter and Alexander, as his son W. Hobart Porter joined the practice (with John J. Foulkrod, Jr., Walter L. Sheppard, and William C. Alexander, Jr.).¹⁰

On November 16, 1928 at the age of 72, Porter died of heart disease at his home "Porter Farms" in Valley Forge, Pennsylvania. He had practiced at his office on Walnut Street in Philadelphia until three weeks prior to his death when he suffered a heart attack. Porter's death, noted one contemporary, "removed from our midst a lawyer who had attained prominence in his profession and ever so bore himself as to command the confidence of the court and the respect of his brethren."¹¹

Porter married Mary Augusta Hobart of Brookings, New York, on April 27, 1882. His wife survived him by over twelve years; they had three children. As mentioned, W. Hobart Porter was a Philadelphia attorney, and their other son Andrew W. Porter was a banker. Their daughter Anita Porter married William J. Clothier, a son of one of the founders of the Strawbridge & Clothier.¹² She was a prominent Philadelphia clubwoman, who contributed in numerous ways to the war effort (for both WWI and WWII) and was a recipient of the Philadelphia Gimbel Award and Pennsylvania's Meritorious Service Medal.¹³

¹ His middle name also appears as Wagner.

² "W.W. Porter Dies, Once State Judge," *Philadelphia Bulletin*, 16 Nov. 1928; "William W. Porter, Noted Lawyer Dies," *New York Times*, 17 Nov. 1928; "Hon. William W. Porter," *85 Legal Intelligencer* (23 Nov. 1928: 1128.)

³ Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 3:795; University Record, University of Pennsylvania, June 26, 1873, June 24, 1875.

⁴ Eastman, *Courts and Lawyers*, 3:795; "W.W. Porter Dies," *Philadelphia Bulletin*, Nov. 16, 1928; "Judge William W. Porter," *Philadelphia Bulletin*, Nov. 19, 1928; "Hon. William W. Porter," 85:1128, "Review of A Treatise on the Law of Bills of Lading," *1 The Counsellor* (1891): 61; "The Divorce Evil," *New York Times*, Nov. 12, 1892.

⁵ Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 58; "A New Judge in Philadelphia," *New York*

Times, September 15, 1897; "Judge William W. Porter," *Philadelphia Bulletin*, Nov. 19, 1928; "Topics of the Times," *New York Times*, Aug. 8, 1900; "W. W. Porter Dies," *Philadelphia Bulletin*, Nov. 16, 1928.

⁶ "Judge William W. Porter," *Philadelphia Bulletin*, Nov. 19, 1928; Tamilia and Hare, *Keystone of Justice*, 49.

⁷ Hon. William W. Porter," 85:1128; "W.W. Porter Dies," *Philadelphia Bulletin*, Nov. 16, 1928; "Judge William W. Porter," *Philadelphia Bulletin*, Nov. 19, 1928.

⁸ "Town & Country Life," *Town & Country*, Dec. 24, 1904, p. 20; "Hon. William W. Porter," 85:1128; "William W. Porter," *New York Times*, Nov. 17, 1928, "Pennsylvania Alumni Dine," *New York Times*, Jan. 21, 1900; "A Philadelphia Lawyer," 63 *Albany Law Journal* (Feb. 1901): 72; "Society of Cincinnati," *American Historical Register ...* (June 1896): 423, "Judge William W. Porter," *Philadelphia Bulletin*, Nov. 19, 1928; State Society of the Cincinnati of Pennsylvania, Ceremonies Attending the Unveiling of the Washington Monument, May 15, 1897.

⁹ "W.W. Porter Dies," *Philadelphia Bulletin*, Nov. 16, 1928; "Judge William W. Porter," *Philadelphia Bulletin*, Nov. 19, 1928; "Advertisement," *American Historical Register ...* (Aug. 1895): 1519; "Advertisement," *Lippincott's Monthly Magazine* (May 1900): 35.

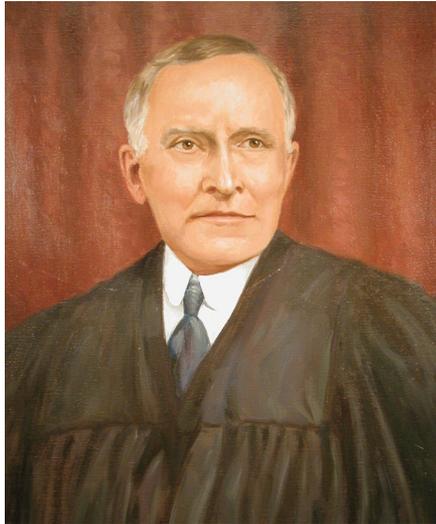
¹⁰ Hon. William W. Porter," 85:1128.

¹¹ "W.W. Porter Dies," *Philadelphia Bulletin*, Nov. 16, 1928; "William W. Porter," *New York Times*, Nov. 17, 1928; "Hon. William W. Porter," 85:1128.

¹² Interestingly her formal wedding ceremony, for which the porters had mailed 1,000 invitations, had to be cancelled when he fiancé was hurt in a riding accident. The couple was subsequently married in the groom's bedroom, with Anita Porter wearing all her wedding finery ("Clothier to Wed on Feb. 21," *New York Times*, Feb. 13, 1906; "Clothier Married in Bed," *New York Times*, Feb. 22, 1906).

¹³ W.W. Porter Dies," *Philadelphia Bulletin*, Nov. 16, 1928; "Pickering Hunt Race to be Held Saturday," *New York Times*, Oct. 26, 1941; "Anita P. Clothier, Clubwoman, Dies," *New York Times*, Aug. 7, 1955.

THE HONORABLE WILLIAM DAVID PORTER



January 3, 1848 – February 9, 1930

Assumed Office: July 1898

President Judge 1925-1930

County: Allegheny

MEMORIAL SERVICE

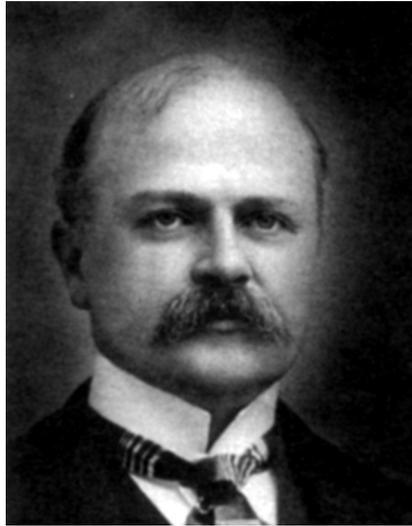
William David Porter, for over thirty-one years a member of this Court and its President Judge since the first Monday in January, 1926, died at Pittsburgh on February 9, 1930. He was born at Porter's Landing, Hancock County, West Virginia, on January 3, 1848, the son of James S. and Elizabeth McCandless Porter. He attended school at Pittsburgh, Beaver (Pa.) Academy, Mantua Academy, Philadelphia, and the Law School of the University of Pennsylvania. He was admitted to the bar of Allegheny County in 1872 and elected district attorney of the County in 1883, serving two terms. He was appointed Judge of the Court of Common Pleas of Allegheny County in 1890 and elected that fall without opposition, having been nominated by both parties. On July 6, 1898 Governor Hastings appointed him Judge of the Superior Court to succeed Judge Wickham (deceased), and he was elected that year and re-elected in 1908, 1918 and 1928.

Judge Porter was of Scotch-Irish descent on both sides of his family, and he had the strong traits of his ancestry. His probity, justness and impartiality were unquestioned and his conduct as a judge without a blemish. He was notable for his keenness of mind, honesty of thinking, clearness of judgment, vigor of expression and the exactness of his legal knowledge. His opinions are found in 89 volumes of reports and they are the best monument of his service as an appellate judge. As district attorney and *nisi prius* judge he went deep into the sources of the English Criminal Law, and what he learned he knew. In the field of criminal law and procedure he had no superior anywhere.

He served on the Superior Court very nearly from its inception and with his long-time colleagues, Judge Rice, Judge Orlady and Judge Henderson, did much to transform it from an experiment into an established tribunal. He paid his debt to the profession and deserved well of the Commonwealth.

He was devoted to this Court, and jealous for its good name. He gave the best years of his life to it, and will live in the grateful and affectionate remembrance of his associates.

THE HONORABLE DIMNER BEEBER



March 8, 1854 – June 28, 1930

Assumed Office: January 1899

County: Lycoming/Philadelphia

BIOGRAPHY

Dimner Beeber served one year on the Pennsylvania Superior Court. He was a prominent Philadelphia Attorney and served as a member of the Philadelphia Board of Public Education for 20 years.

Beeber's ancestors were of German heritage and settled in Berks County upon their arrival in Pennsylvania in 1768. John Bieber, Dimner Beeber's great-grandfather, was a soldier in the American Revolution. After the war, his military service to Pennsylvania was rewarded with a land grant in the western part of the state. He subsequently settled in Muncy Valley, married Mary J. Dimner, and helped found the Immanuel Lutheran Church in Muncy. In the early nineteenth century, one of their four sons Jacob Bieber (Grandfather of Dimner Beeber) changed the spelling of the family name to Beeber.¹

Dimner Beeber was born on March 8, 1854 in Muncy, Lycoming County, to Peter Dimm Beeber² and Mary Jane Artley Beeber. His father was a farmer, blacksmith, and coal dealer; politically he was a

strong advocate of the temperance movement and he ultimately became a Republican in politics. He also garnered some status within Muncy serving one year as commissioner of Lycoming County. Beeber's mother was the daughter of John and Christina Artly.³

Beeber attended local public schools in Muncy, before receiving a preparatory education at Selinsgrove Academy. After graduation, he entered Pennsylvania College at Gettysburg (now Gettysburg College), where he studied English classics, and was especially interested in the history and biography of "great lawyers and public men." He received his Bachelor of Arts degree in 1874 at the age of 20, and began the study of law in Williamsport, Pennsylvania, at the law office of his brother John Artley Beeber. Two years later, Beeber was admitted to both the Lycoming and Philadelphia county bar, and almost immediately he moved to the city of Philadelphia.⁴

It was in the bustling city where Beeber fulfilled his dream of becoming a lawyer and began building his reputation as "one of the best-known and most widely respected lawyers in Philadelphia." He became junior partner in the firm of Jones, Carson, and Beeber in 1884. His partners were prominent Philadelphia attorney: J. Levering Jones who became a well-known jurist and Hampton L. Carson afterwards Attorney General of Pennsylvania. This partnership continued until 1903 when it dissolved because of Carson's appointment as attorney general. Beeber subsequently began his own practice and continued appearing in "many important cases" both in state and federal courts. "In his private practice," noted one contemporary, "he was never hurried and always ready with his work and prompt at his engagements."⁵

Over 700 members of the Philadelphia bar in a "remarkable expression of esteem," recognized Beeber in 1898 when they signed a petition urging his nomination as district attorney of the city of Philadelphia. Although an "aggressive campaigner: and involved in many presidential campaigns, for reasons that are unclear, the Republican Beeber declined the nomination. Friends boasted, "he always placed principle above party loyalty: and would not hesitate to vote independently if he thought "such a course would best serve the public good."⁶

The following year on January 2, 1899, Beeber accepted an appointment from Governor Daniel Hastings to the Pennsylvania Superior Court to fill a vacancy on that bench caused by the death of

Judge Harry J. Reeder. Beeber's legal experience and the "unqualified confidence" of many members of the bar were instrumental in his appointment. Beeber had "an ideal judicial temperament, patience, firmness, capacity, and disposition first to listen and then to decide." One report asserted: "[h]is appointment ... has been everywhere received with unmixed satisfaction and enthusiasm even to an unusual degree." On January 9, 1899, Beeber sat for the first time on the court at Scranton. "I have just finished my first day's listening on the bench and must confess I have not yet seized the knack of grasping instantly the point of the case as it is presented to the court," Beeber mused. "I hope to do better in the hereafter."⁷

Beeber served on the appellate court over the course of 1899 and either refused to seek election to his seat or was declined the Republican nomination for his seat. That fall state Republicans nominated and campaigned to elect John I. Mitchell, who ultimately replaced Beeber on the Superior Court.⁸

Beeber returned to his law practice in the city of Philadelphia, where he continued his professional activities. An active member of the Philadelphia and American Bar associations, Beeber was elected to the Philadelphia Bar's library committee in January 1900. He served as vice provost of the Law Academy of Philadelphia, a post to which he was re-elected just three days before his death. Beeber was an "eloquent public speaker and spoke to law school graduates at Temple University, to guests at Founder's Day activities at Lafayette College, and to young bankers at the Quaker City Chapter of the American Institute of Banking. He was honored with a Master of Arts degree from Princeton University in 1900, a doctor of laws degree from Gettysburg College in 1915, and a membership in the elite honor society Phi Beta Kappa. "In his professional activities," remarked one account of his life, "Judge Beeber represented always the highest traditions of law, both in character and learning."⁹

A long term resident of Philadelphia, Beeber was also involved in numerous business activities as well as civic and social organizations within the city. "[W]hether he be considered a lawyer, jurist, business man or citizen," one contemporary remarked, "he stands as a man who has met every demand made upon him, and compiled a record which he can review with satisfaction." Beeber was Chairman of the Board of the Commonwealth Title Insurance and Trust Company, and a

Director of the Tradesmens National Bank, the Victor Insurance Company, the Bureau of Municipal Research, and the Fire Association of Philadelphia. From 1910 until his death he was a member of the Philadelphia Board of Public Education “to which he devoted much of his time and ability.” Moreover, he supported the women’s suffrage movement serving for at least one year as President of the Men’s League for Woman Suffrage. Beeber was also active in the Union League, serving as its President from 1906 to 1908, and was a member of the Philadelphia Club, the Rittenhouse and Penn Clubs, and the Philadelphia Country Club.¹⁰

In 1911, Beeber was one of four Republican candidates for the office of mayor of Philadelphia. The primary election was controversial and an unusual number of voters registered due to restructuring within the Republican Party, as well as bickering between competing local factions. During the campaign, Beeber and his faction questioned the right of another Republican’s candidacy because that candidate lived outside of the city limits. The Independent Republicans or Keystone Party candidate Rudolph Blankenburg ultimately emerged victorious.¹¹

Beeber died suddenly of a heart attack on June 28, 1930 at the age of 76. That afternoon he had played 18 holes of golf with well-known Philadelphia attorneys W. Horace Hepburn and A. H. Wintersteen at the Philadelphia Country Club. One frank account of his death recorded that Beeber returned home, greeted his wife, sat down in an armchair, and was dead five minutes later. “There was no warning,” noted Beeber’s obituary. He reportedly was “in great spirits” on the course and “shot a good score.” His death “came as a great shock to many of his friends at the bar and was a severe loss to the profession and to the many public activities with which he was identified.”¹²

One June 6, 1906, Beeber married Blanch McGovney Gray of Ironton, Ohio.¹³

¹ Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 4:34; Charles F. Warwick, *Warwick’s Keystone Commonwealth* (Philadelphia, Pa., 1913), 327.

² Sometimes appears as Teter Beeber.

³ Eastman, *Courts and Lawyers of Pennsylvania*, 3:795,4:34.

⁴ Warwick, *Warwick’s Keystone Commonwealth*, 327. Two sources incorrectly state that Beeber moved to Philadelphia eight years after he was admitted to the bar (“Dimner

Beeber,” Report of the Committee of Legal Biography and History, in *The 36th Annual Report of the Pennsylvania Bar Association* [George H. Buchanan: Philadelphia, PA, 1930], 71; “Judge Beeber,” *87 Legal Intelligencer* [July 4, 1930]: 756).

⁵ Warwick, *Warwick’s Keystone Commonwealth*, 327; “Judge Beeber Dies from A Heart Attack After Playing Golf,” *Record Sun*, June 29, 1930; Dimner Beeber,” Report of the Committee of Legal Biography and History, in *The 36th Annual Report*, 71; “Judge Beeber,” *56 Legal Intelligencer* (Jan. 13, 1899): 18.

⁶ “Judge Beeber Dies from Heart Attack After Playing Golf,” *Record Sun*, June 29, 1930; “Judge Beeber,” 87:756; Warwick, *Warwick’s Keystone Commonwealth*, 327.

⁷ Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 59; “Judge Beeber,” 56:18.

⁸ “Dimner Beeber Dies,” *New York Times*, June 29, 1930; “Judge Beeber,” 87:756; Tamilia and Hare, *Keystone of Justice*, 59; *Tioga County Centennial Celebration, 1804-1904*, (Tioga County, 1905), 119.

⁹ “Judge Beeber,” 87:756; Dimner Beeber,” Report of the Committee of Legal Biography and History, in *The 36th Annual Report*, 71; “Bar Associations,” 8 *The American Lawyer* (Jan. 1900): 22; Warwick, *Warwick’s Keystone Commonwealth*, 327; Eastman, *Courts and Lawyers*, 4:35; “Educational,” *New York Observer and Chronicle*, Nov. 2, 1899; “Publications,” 27 *Temple Law Quarterly* (1953): 418-19; “Philadelphia Chapter,” 78 *Banker’s Magazine* (Apr. 1909): 701; “Graduates at Princeton,” *New York Times*, June 14, 1900.

¹⁰ Eastman, *Courts and Lawyers*, 4:33-35; “Bond Notes,” *Wall Street Journal*, February 24, 1915; “Dimner Beeber,” Report of the Committee of Legal Biography and History, in *The 36th Annual Report*, 71; Warwick, *Warwick’s Keystone Commonwealth*, 327; *History of Woman Suffrage vol. 6, 1900-1920* (New York, NY 1922), 552-53.

¹¹ “Dimner Beeber Dies,” *New York Times*, June 29, 1930; “Various Items,” *the Independent*, September 21, 1911.

¹² “Judge Beeber Dies From Heart Attack After Playing Golf,” *Record Sun*, June 29, 1930; “Judge Beeber,” 87:756.

¹³ Eastman, *Courts and Lawyers*, 4:35.

THE HONORABLE JOHN I. MITCHELL

July 28, 1838 – August 20, 1907

Assumed Office: January 1900

County: Tioga

BIOGRAPHY

John Inscho Mitchell sat for only one session of the Pennsylvania Superior Court, although he legally held a judicial position on the court for almost three years. He was a Civil War veteran, a state representative, a United States Congressman, and a United States Senator. Mitchell also served as President Judge of the Tioga County Court of Common Pleas.

Mitchell was born on July 28, 1838 in Tioga Township, Tioga County. His father was Thomas K. Mitchell, and may have had some claim to land in Tioga due to the settlement made in the late 1700s between Pennsylvania and the Connecticut claimants. His mother's name was Elizabeth Roe Mitchell; she may have been born in New York. His father became a successful farmer in Western Pennsylvania and as a young boy Mitchell worked on the family farm while he received an education at local common schools. At the age of 19, he traveled to Lewisburg, Pennsylvania, to attend the University of

Lewisburg (later Bucknell University). Mitchell studied there for two years, before returning home, where he began to teach at a local school as well as devote his time to the study of law at the office of Frederick E. Smith in Tioga Township. Mitchell's career plans were interrupted, however, in April 1861 when the Confederates took Fort Sumter and the Civil War began.¹

Responding to the Union's call for volunteers, Mitchell joined the 136th Pennsylvania Volunteer Infantry; he was a second lieutenant in Company A. Most likely, he marched with other volunteers from Western Pennsylvania to the Union camps at Philadelphia, where the troops received military training and supplies before they headed south to the front lines. Mitchell's regiment fought the Confederates at Fredericksburg in December 1862 and at Chancellorsville in May 1863. He survived both bloody battles (in which over 29,000 Union soldiers were killed or wounded) and he was rewarded with a promotion to captain. Mitchell was discharged at the end of the war and returned to Tioga County.²

Mitchell settled in Wellsboro, the county seat, and after continued study in the law. He was admitted to the bar in September 1864. For the next four years Mitchell conducted his law practice in Wellsboro and in 1868, he was elected to his first public office: District Attorney of Tioga County. Building his reputation throughout the county as a strong Republican, with a sound and independent mind, Mitchell soon became a favorite among local Republicans.³

In 1871, after serving three years as District Attorney, Mitchell campaigned for a seat in the state legislature. He was elected that November and subsequently reelected, serving in the Pennsylvania House for five years. He was appointed to numerous committees throughout these years, and served as Chairman of the General, Judiciary and Ways and Means Committees. In 1875, Mitchell was the Republican Party candidate for Speaker of the House, but since control rested with the Democrats he was defeated in this bid. Of his career in the state legislature, Mitchell later wrote: "It is not a paying business, except in the knowledge acquired. It is, however, the most inspiring of all professions, if it were freed from electioneering scrambles and factious squabbles within one's own party." His opinion resonated with many Republicans in Pennsylvania and during the tumultuous Reconstruction years, Mitchell became recognized in Republican Party

circles as a compromise candidate and “a sound, safe, legislator.”⁴

Tioga County residents strongly supported Mitchell in the November 1876 United States congressional election, and with the support of the Republican nomination he easily defeated his Democratic challenger by 1,500 votes what some reports called “a handsome majority.” He took his seat in the 45th Congress and immediately began to earn a favorable reputation among fellow congressmen. “He at once took rank in Congress as a hard worker and a man of unusual ability,” noted one contemporary of the freshman congressman. Mitchell was reelected in 1878 and continued to be a stalwart Republican; he advocated for voting rights, a strong American economy, and in the wake of the Civil War, continued monitoring of “Confederate bulldozing.” While some contemporary accounts claimed Mitchell was a “fair speaker” and “not distinguished for prominence in debate,” others asserted that he was “a speaker of great power and eloquence.” Regardless of the varied perspective of his oration skills, he certainly delivered his opinions with frankness. “In the face of frauds perpetuated by Democrats in the past, in Northern cities, and the force and fraud used by their allies in the South, to nullify the right of the colored Republicans to vote, “Mitchell asserted in an 1879 speech, “I shall not consent to the removal of any safeguards thrown around the ballot box, intended to prevent such frauds or force anywhere.”⁵

With an intention to return to his law practice in Tioga County, Mitchell emphatically declined to be considered for reelection to his seat in Congress in June 1880; his decision was also probably influenced by the upcoming senatorial election. To his constituents he wrote: “I have learned that the public service is a science, which, to be acquired, must be long and laboriously studied, and an art which, to be skillfully applied, must be long practiced.” He understood that his congressional experience could not be transferred to his successor and hoped that neither “local ambition” nor “personal preference” would interfere with the selection of a new congressman. “If truly devoted to his work, a member of Congress can find no time for private business. His vacations must be wholly given to study The vast field of political science lies open before him, “ Mitchell asserted, “and to succeed he must never tire of exploring it.” In fact, Mitchell was commended for his dedication to the public and his integrity as a congressman. “During his service in the Legislature he displayed conspicuous ability, leading

that body with a clearness of head and steadiness of hand unequaled since the days when Thaddeus Stevens occupied a seat therein," noted one laudatory review of Mitchell's congressional career.⁶

Mitchell received the unanimous nomination for Pennsylvania's senatorial seat in February 1881 in a late night session of the Republican caucus, which in its meetings had been bitterly divided between Republican contenders Henry W. Oliver and Galusha A. Grow. One witness reported that with the success of the compromise vote for Mitchell, "a cheer loud and long rang through rent the air, and the most frantic demonstrations of joy were made, the members grasping each other by the hand and yelling until they were red in the face." Mitchell, who "always held aloof from the quarrels in the party," was returned to Washington on the first ballot of the 254 Pennsylvania State Senators defeating his closest opponent by over 50 votes. Even after his election, controversy continued however, as some speculated that Mitchell was hand selected by the incumbent Pennsylvania Senator J. Don Cameron, and others believed Mitchell did not have certain qualifications necessary to become a strong senator. Many supporters cited Mitchell's "strength of character and unassailable private and public record" as a convincing reason for Mitchell's election. Moreover, others noted that in his professional relationships he continually remained uninfluenced by such special interests as railroad and telegraph corporations.⁷

Mitchell served a full 6-year term (1881-1887) as Pennsylvania's "second" senator and was described as "a man of accurate scholarship, extensive reading, and fine legal talent." Another more personal description noted: "He is six feet in height, and of magnificent physique, a pure Saxon type, and will be one of the handsomest men in the Senate." Mitchell supported civil service reform as indicated by an 1882 piece he wrote for the *North American Review* criticizing the current patronage system and stressing the need for the will of the people to trump the will of the political machine. He ultimately complained to Pennsylvania Republican leaders that political patronage in the state was gravely mismanaged. During his tenure as a senator, Mitchell served as Chairman of the Committee on the Mississippi [River] and its Tributaries for the 47th Congress and he was also Chairman of the Committee of Pensions (a position that he held throughout his senatorial career).⁸

At the expiration of his senate term, Mitchell returned to his law practice in Wellsboro. He was a private citizen for the next year and a half, although in August 1887 he was considered as a possible candidate for an appointment as judge of the Tioga County Court of Common Pleas. Mitchell faced some criticism, however, for being both submissive to the Republican Party machine and a “monument of departed greatness.” It was not until over a year later, in November, 1888, when Mitchell campaigned for and won the position of President Judge of the Tioga County Court of Common Pleas. He was the first native of Tioga County to preside over the court, and ironically may have received the support of Pennsylvania Republicans because many believe he was occasionally “indolent” and “recalcitrant,” and as a judge he could not “decently meddle with party actions.” Regardless of the reasons for his election, Mitchell became a well-respected jurist within Tioga County. “He was exceptionally well versed in elementary law,” noted one local contemporary, “and he had supplemented his knowledge by a thorough study and analysis of Pennsylvania statutes.” He was reelected to a second 10-year term on the court in 1898.⁹

In October 1899, Mitchell received the nomination as the Republican candidate for the Pennsylvania Superior Court, when state Republicans decided not to nominate the incumbent Republican appointee Judge Dimmer Beeber. Although not the Republican’s first choice, many supporters cited Mitchell’s “recognized integrity” and “high character” as the reasons for his nomination. He won the election to a full 10-year term and began his tenure on the Pennsylvania Superior Court in January 1900. Mitchell sat for one session of the court, which at the time was meeting in Scranton. He returned to his home in Wellsboro on January 24, 1900 and was stricken by paralysis; he did not return to the bench. On November 28, 1902, because of his disability, Mitchell voluntarily resigned from the Pennsylvania Superior Court under the Act of 1901. The act allowed Mitchell to receive half of his salary as a judge until the expiration of his term (January, 1910).¹⁰

Mitchell died on August 20, 1907 in Wellsboro at the age of 69. He was buried in the Wellsboro Cemetery. Mitchell was a member of the Pennsylvania Bar Association, and was also active in the Wellsboro community serving for one year as an editor of the *Agitator* (the local weekly newspaper) and as secretary of the Wellsboro Agricultural Society.¹¹

He married Jeanette Baldwin, a daughter of Buel Baldwin on October 3, 1860; she died on November 4, 1869. They had three children. He married a second time on February 18, 1871 to Mary Alice Archer of Wellsboro. They had five children.¹²

¹ “Congressman John I. Mitchell, *Harper’s Weekly*, March 12, 1881, p. 174; 1880 U.S. Federal Census, www.ancestry.com; “John Inscho Mitchell,” <http://bioguide.congress.gov>; “John T. [sic] Mitchell,” Report of the Committee of Legal Biography and History, in *The 14th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan; Philadelphia, PA, 1908), 118; Henry Goodrich, “Tioga Township and Borough,” www.parootsweb.com/~srgp/1883/tiogahs2.htm.

² “A Long Dead-Lock Broken,” *New York Times*, Feb. 23, 1881; Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 3:615.

³ Eastman, *Courts and Lawyers*, 3:615; *Tioga County Centennial Celebration, 1804-1904*, (Tioga County, 1905), 119.

⁴ “Congressman John I. Mitchell,” *Harper’s Weekly*, March 12, 1881, p. 174; Eastman, *Courts and Lawyers*, 3:615; “A Long Dead-Lock Broken,” *New York Times*, Feb. 23, 1881.

⁵ Eastman, *Courts and Lawyers*, 3:615; “John Inscho Mitchell,” <http://bioguide.congress.gov>; *Tioga County Centennial Celebration*, 118; “Congressman John I. Mitchell,” *Harper’s Weekly*, March 12, 1881, p. 174; “A Long Dead-Lock Broken,” *New York Times*, Feb. 23, 1881; John I. Mitchell, speech given April 17, 1879.

⁶ “A Statesman’s Qualifications,” *New York Times*, June 3, 1880; “A Long Dead-Lock Broken,” *New York Times*, Feb. 23, 1881.

⁷ “A Long Dead-Lock Broken,” *New York Times*, Feb. 23, 1881; “Pennsylvania’s New Senator,” *New York Times*, Feb. 24, 1881; “Mr. Cameron’s New Colleague,” *New York Times*, Feb. 25, 1881; *Tioga County Centennial Celebration*, 119. Like many congressmen and senators in Washington, D.C. in the nineteenth century, Mitchell was a border, he boarded with Ephraim and Mettie Story (1880 U.S. Federal Census, www.ancestry.com).

⁸ John I. Mitchell, “Political Bosses,” *North American Review*, 135 (Oct. 1882): 363-73; “Prescribing For Cameron,” *New York Times*, June 24, 1882; “John Inscho Mitchell,” <http://bioguide.congress.gov>; *Tioga County Centennial Celebration*, 119; 1880 U.S. Federal Census, www.ancestry.com; “Congressman John I. Mitchell,” *Harper’s Weekly*, March 12, 1881, p. 174; “Quay’s Fight for Power,” *New York Times*, July 25, 1891.

⁹ Eastman, *Courts and Lawyers*, 3:615; *Tioga County Centennial Celebration*, 118-119; “Echoes from Harrisburg,” *New York Times*, Aug. 19, 1887.

¹⁰ “Nominees in various States,” *New York Times*, Oct. 22, 1899; *Tioga County Centennial Celebration*, 119; Eastman, *Courts and Lawyers*, 3:615; “John T. [sic] Mitchell,” Report of the Committee of Legal Biography and History, in *The 14th Annual Report*, 118; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The*

Pennsylvania Superior Court, (PHMC: Harrisburg, PA, 2000), 59; “Compulsory Retirement of Judges,” 2 *Canadian Law Review* (1902-1903): 264. Republicans initially nominated Josiah R. Adams, but criminal allegations tainted his candidacy and he withdrew from the race (“Prominent Clubman a Suicide,” *New York Times*, Sept. 29, 1900).

¹¹ “John T. [sic] Mitchell,” Report of the Committee of Legal Biography and History, in *The 14th Annual Report*, 118; Tamilia and Hare, *Keystone of Justice*, 59; Eastman, *Courts and Lawyers*, 3:615; “John Inscho Mitchell,” <http://bioguide.congress.gov>; “Congressman John I. Mitchell,” *Harper’s Weekly*, March 12, 1881, p. 174; www.tiogacountyfair.com.

¹² Goodrich, “Tioga Township and Borough,” www.parootsweb.com/~srgp/1883/tiogahs2.htm; *History of Tioga County, Pennsylvania* (R.C. Brown & Co., PA, 1897), www.parootsweb.com/~srgp/1897.

THE HONORABLE THOMAS A. MORRISON



May 4, 1840 – August 26, 1916
Assumed Office: December 1902
County: McKean

BIOGRAPHY

Thomas Anderson Morrison served 11 years on the Pennsylvania Superior Court. He was a Civil War veteran and President Judge of the McKean County Court of Common Pleas.

Morrison was born in Pleasantville, Pennsylvania, on May 4, 1840 to William Morrison and Elizabeth McMaster Morrison. He received his early education in the Venango County common schools, the Pleasantville Academy, and the Pennsylvania State Normal College in Edinboro. One source claims he also received some schooling in Poughkeepsie, New York. “He became a very learned man, his lifetime being devoted to study,” a genealogical account notes: “to this habit more than any institution of learning his later successful career may be ascribed.” Morrison, at the age of 18, returned to Pleasantville, where when he was not working diligently on the family farm, he taught local schoolchildren.¹

Morrison was just 21 years old when the Civil War began in April

1861. A little over a year later he answered President Abraham Lincoln's call for 600,000 Pennsylvania volunteers and enlisted in the Union Army. Initially Morrison and his fellow Venango County volunteers were to be part of the 125th Pennsylvania Regiment, but with the success of the recruitment campaign that regiment filled fast, and Morrison instead became a soldier in the 121st Pennsylvania Regiment. He served with many other Venango County volunteers in what became Company A of that regiment, and by the end of August 1862 he had traveled across Pennsylvania (with his company) arriving in an Union Army camp in Manayunk, where the company began to train to be front line soldiers. In early September, the regiment boarded railcars in Philadelphia and headed south to join the Army of the Potomac in Maryland. Part of General George Meade's Division, the 121st Pennsylvania Regiment, began marching further south towards Sharpsburg in October 1861.

Inexperienced and unseasoned soldiers, Morrison and his comrades had been involved in minor skirmishes with the Confederates as they moved through Virginia, but they were thrust into the front line campaign at the Battle of Fredericksburg on December 13, 1862. They valiantly charged Prospect Hill with the Union Army, but neither Morrison nor many of the 121st Volunteer Regiment escaped unscathed from the bloody conflict in the town and the surrounding hills along the Rappahannock River. Morrison was severely wounded in the battle, having his left arm shot off at the shoulder and taking a bullet to his left knee. He was brought to a Union Army Hospital in Washington, D.C., where after a four-month recovery period, "youth and a strong constitution triumphed" and he was discharged in April 1863.²

Returning to Pleasantville, Morrison continued his recovery and became involved in public service. He was a justice of the peace in 1864 and in 1867 he was elected treasurer of Venango County, a position he held until 1869. Two years later Morrison was appointed United States Deputy Collector of internal revenue and lived for a short time in Oil City.³

During the 1870s, Morrison began to study law at the Office of M.C. Beebe in Pleasantville. Already in his thirties Morrison was admitted to the Venango County bar in 1875 and began his career in the law. Practicing in Pleasantville until 1879, Morrison moved to Smethport, McKean County, Pennsylvania, where he "established a

successful law practice and gained so favorable a reputation” that within ten years he was appointed additional law judge of the 48th judicial district (encompassing McKean and Potter counties). In November 1887, he was elected to that bench for a term of 10 years and reelected in 1897. On September 10, 1901, he became President Judge of that district, elevating his status throughout the county and state.

A Republican in politics, Morrison’s personal and judicial experience made him a desirable candidate for a state position in the early twentieth century. He received a coveted appointment in December 1902 from Pennsylvania Governor William H. Stone to the Pennsylvania Superior Court, when a vacancy occurred on the bench due to the resignation of Judge John I. Mitchell. In 1908, some controversy surrounding Morrison’s appointment surfaced when he was accused of using the influence of a certain vice-president of the Standard Oil Company to court consideration from Governor Stone. “I never knew that Mr. Archbold wrote such a letter or that he favored my appointment,” Morrison responded in his defense. “A giant corporation can do much, but it cannot control the appointment of the judiciary of the country,” one editorial lashed out, “nor can it buy the independent press with all its money.”⁴

Nevertheless, in May 1903, in advance of the primary election, Pennsylvania Republicans nominated Morrison for a full 10-year term on the Superior Court. “The convention was remarkable for the unanimity with which it disposed of the business,” remarked one newspaper account of the statewide nominations at the Pennsylvania Republican Convention in Harrisburg. Morrison and other Republicans were easily elected the following November and in January 1904, Morrison began serving a full 10-year term on the court. “The record Judge Morrison has made as a jurist has won him the high regard of the members of the Pennsylvania bar,” noted one contemporary, “and especially those of McKean and Potter counties.”⁵

Morrison did not run for reelection in 1913 and Judge John W. Kephart was elected in his stead. Upon leaving the Superior Court bench, Morrison returned to Smethport where he continued his involvement in numerous legal and civic societies. He was also an active member of the Grand Army of the Republic, an influential Union army veterans’ organization.⁶

Morrison died on August 26, 1916.⁷

On March 31, 1870, Morrison married Helen S. Gardner in Oil City, Pennsylvania. After living briefly in Oil City, they settled in Pleasantville, Pennsylvania (Morrison's hometown), where they had two children. In 1879, the family moved to Smethport. Their daughter Mary Elizabeth Morrison married Samuel Bell, an oil producer, while their son Thomas H. Morrison became a lawyer.⁸

¹ John W. Jordan, *Genealogical and personal History of the Allegheny Valley*, (New York: Lewis Historical Publishing Co., 1913), 1:163; Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 3:795.

² Alan S. Wilder, "Company A, 121st Regiment," www.rootsweb.com/~pavenang/alanstory.htm: Jordan, *Genealogical and Personal History*, 1:163.

³ Jordan, *Genealogical and Personal History*, 1:163-64, Eastman, *Courts and Lawyers*, 3:796; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 59.

⁴ Jordan, *Genealogical and Personal History*, 1:163-64; Eastman, *Courts and Lawyers*, 3:767, 796.

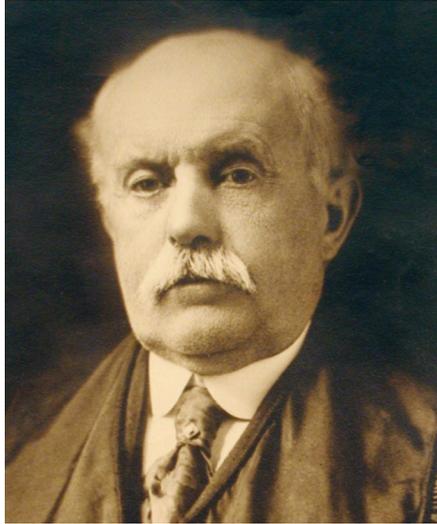
⁵ "Names Roosevelt for 1904," *New York Times*, May 28, 1903; "Pennsylvania: Republicans Expect 150,000," *New York Times*, Nov. 1, 1903; Jordan, *Genealogical and Personal History*, 1:164.

⁶ 350 PA State Reports xxix; Jordan, *Genealogical and Personal History*, 1:164.

⁷ Tamilia and Hare, *Keystone of Justice*, 59.

⁸ Jordan, *Genealogical and Personal History*, 1:164.

THE HONORABLE JOHN J. HENDERSON



September 23, 1843 – December 12, 1928

Assumed Office: March 11, 1903

County: Allegheny

IN MEMORIAM

Judge John J. Henderson, was born in Allegheny County, September 23, 1843, the son of Rev. William C. and Eliza F. Henderson. In 1856, the family moved to Meadville where he attended the Meadville Academy and Allegheny College, graduating from the latter institution at the age of eighteen.

Immediately thereafter, he enlisted in the Union Army and served during the Civil War as a private in Co. K, 150th Regiment, Pennsylvania Volunteer Infantry. He was mustered out of the service in June, 1865, was admitted to the Bar in 1867 and in 1872 was elected District Attorney of Crawford County and became Judge of the Crawford County Court in 1887 in which office he served until January, 1898. He was a member of this Court from March 11, 1903, to the day of his death, December 12, 1928.

The most prominent characteristic of Judge Henderson was his self-control. A man of strong sympathies and firm convictions, he

nevertheless ruled his own spirit, and never gave way to anger or resorted to intemperate expression. He was uniformly gentle, charitable in his criticism of his fellowman and his tongue where it could not praise was chained. And with his gentleness he was strong in the simple faith in which he was reared and which was an anchor to his soul. A man of good judgment and understanding with a mind of unusual keenness and a remarkable memory, he was unusually qualified for the office of Judge. His opinions, as they appear in these reports bear testimony to his ability; his facility of expression and his wide knowledge of the principles of the law. His brethren in the Court will bear in happy memory his unfailing courtesy and helpfulness.

THE HONORABLE JOHN B. HEAD



April 4, 1855 – April 1926
Assumed Office: January 1906
County: Westmoreland

BIOGRAPHY

John Benedict Head served 16 years on the Pennsylvania Superior Court. He was a member of a well-respected Westmoreland County family and early in life began a career as a banker before entering the practice of law.

Head was born in Latrobe, Pennsylvania, on April 4, 1855 to William Samuel Head and Sarah Coulter Head. In 1873, his father and uncle, Joseph Head, founded a private bank in Latrobe, which was eventually chartered as the First National Bank of Latrobe.¹

John B. Head may have studied in both local public and parochial schools in his hometown before he left for Maryland to attend Mt. St. Mary's College and Seminary in Emmitsburg. His father who had been born in Maryland, may have had connections to the school. Regardless, Head graduated with honors in 1873 and two years later received a Master of Arts degree from the college. He returned to Latrobe after college and upon the death of his uncle, joined in partnership with his

father in the banking industry under the corporation name W.S. Head & Son.²

Within a couple of years, Head may have either become indifferent to the family business, or he may have already determined that the law was the profession he preferred. In 1878, he entered the law office of A. A. Stewart in Greensburg, where he received his early legal training; two years later, Head was admitted to the Westmoreland County bar. He immediately established a law partnership with H. P. Laird, a respected member of the Westmoreland bar, and continued in that partnership until April 1, 1882. At only 27, Head was still building his reputation as a member of the bar, when he joined with James S. Moorehead, an experienced trial lawyer who “had a predilection for the unusual ability and success in the trial of cases.” They founded Moorehead & Head in Greensburg and practiced law together for the next 23 years. Their firm was well known in the 10th district and they represented many important clients throughout Westmoreland and the adjoining counties, serving as attorneys in district, county and state courts. Their partnership dissolved, not because of lack of success, but rather because Head garnered enough statewide recognition and support to earn a seat on the Pennsylvania Superior Court.³

Head was a Democrat, and was nominated at the 1905 Pennsylvania Democratic Convention as the party’s choice to fill the Superior Court seat vacated by the retirement of Democratic Judge Peter P. Smith. Because of the minority representation requirement of the early court, Head’s nomination was equivalent to his election to a full 10-year term on the court. In the November election, Head was the sole Democratic candidate in a field with three incumbent Republicans: Judge Charles E. Rice, James A. Beaver and George B. Orlady. Head received just over 300,000 in the election, enough to earn him fourth place (although his vote total was barely half of what each of the Republicans received) and a seat on the Superior Court. Democrats hoped to overthrow the Republican regime in the state as well as in the city of Philadelphia, but failed miserably on both counts. Head was the last Democrat elected to the Superior Court until 1934 when the impact of the Great Depression began to turn the political tide away from the Republicans.⁴

In 1915, Head’s attempt to retain his seat on the court was directly affected by two significant changes to the election of court members:

the passage of the Non-Partisan Ballot Law and the repeal of the minority representation requirement. Both actions were ironically political maneuvers taken by the legislature to try to diminish the impact of politics in the election of judges. Head, with his incumbent status, received enough primary votes to guarantee his placement on the general election ballot, which because of the new election procedures guaranteed his reelection to the bench.⁵

In April 1922, Head suddenly fell ill and resigned from the Superior Court. During a decade where the Republican Party dominated the political sphere, it was not surprising that the resulting appointment was given to a Republican; Judge Robert S. Gawthrop.⁶

Head lived in Greensburg, Pennsylvania, and was admired in Westmoreland County for “his fine personal qualities as a friend and companion” and “his well-rounded professional life.” He represented Mount St. Mary’s College at the Catholic Congress in 1889 and in 1906, the college honored Head with a doctor of literature degree. He was a member of the Duquesne Club of Pittsburgh and the Rittenhouse Club of Philadelphia. Head was also a member of the Westmoreland and Pennsylvania Bar Associations.⁷

Head probably died in early April 1926. An engagement announcement for his granddaughter on April 14, 1926 noted that due to his death her upcoming wedding would “not be elaborate.” That summer the Pennsylvania Bar Association’s committee of history and biography reported Head’s death at its annual meeting. “His literary trend of study ... gave a charm to his legal utterances and accomplishments,” the committee asserted. Head was “a scholarly and practical lawyer and judge” who “rendered fine service to the state and added luster to the Bar.”⁸

On May 2, 1877, Head married Naomi Jones, daughter of Morris and Margaret Jones of Pittsburgh. They had six children: Morris, Paul Jones, Stella, John Benedict, Elizabeth and Sarah.⁹

¹ “John Benedict Head, Family Tree,” www.ancestry.com; Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 4:197.

² Eastman, *Courts and Lawyers*, 3:796; 4:197; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 60; 1880 U.S. Federal Census, www.ancestry.com; “The Story of the Mountain,”

www.emmitsburg.net/archive.

³ Eastman, *Courts and Lawyers*, 4:197; "History of Westmoreland County," www.pa-roots.com/~westmoreland/history/project/vol1/chap23.html; Albert H. Bell, *Memoirs of the Bench and Bar of Westmoreland County, Pennsylvania* (Greensburg, PA, 1924), 76, 212; 1880 U.S. Federal Census, www.ancestry.com; "James S. Moorehead," *New York Times*, Dec. 4, 1929.

⁴ "Democrats on Gas Fight," *New York Times*, May 25, 1905; Tamilia and Hare, *Keystone of Justice*, 58, 60n.

⁵ Eastman, *Courts and Lawyers*, 3:796; Tamilia and Hare, *Keystone of Justice*, 129.

⁶ Tamilia and Hare, *Keystone of Justice*, 60, 97.

⁷ Eastman, *Courts and Lawyers*, 4:197; <http://archives.nd.edu/calendar/c188911.htm>; "Pennsylvania," 8 *American Lawyers* (1900):264; "John B. Head," Report of the Committee of Legal Biography and History, in *the 32nd Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1926), 95-96; 1880, 1900, 1910, 1920 U.S. Federal Census, www.ancestry.com.

⁸ "John B. Head," Report of the Committee of Legal Biography and History, in *The 32nd Annual Report*, 95-96; "Miss Allen to Wed John L. Leighton," *New York Times*, April 14, 1926. "John Benedict Head, Family Tree," (www.ancestry.com) incorrectly gives Head's death date as 1945.

⁹ Eastman, *Courts and Lawyers*, 4:197; "John Benedict Head, Family Tree," www.ancestry.com.

THE HONORABLE JOHN W. KEPHART



November 12, 1872 – August 6, 1944

Assumed Office: January 1914

County: Cambria

BIOGRAPHY

John William Kephart served five years on the Pennsylvania Superior Court. He campaigned for a seat on the Supreme Court bench and was elected for a full 21-year term, the last four years of which he served as Chief Justice of Pennsylvania.

Kephart was born on November 12, 1872 in Wilmore, Cambria County, to Samuel A. Kephart and Henrietta B. Wolfe Kephart. His father, a Civil War veteran (lieutenant, 125th Volunteer Pennsylvania Infantry), later described by Kephart's colleague as "a gallant soldier," was the proprietor of the local general store in Wilmore. When Kephart was only two years old, his father died; his mother was left a widow with five young children to support. She was "a woman of commanding presence, quiet dignity, a charming personality and of sublime courage," who "gave up her happiness" when she realized that to insure her children's survival, she had to send them away.

In 1877, Kephart and his siblings entered the Soldiers' Orphan

School in McAllisterville, Pennsylvania, a military school supported by the state. At the age of five, Kephart was one of the youngest students, but he quickly attained stature becoming colonel of the school battalion at the age of fourteen. In 1888, Kephart spoke at a ceremony welcoming Governor James A. Beaver to the school; he did not know that 26 years later he would have the honor of serving on the Superior Court Bench with then Judge Beaver. Kephart graduated as valedictorian of his class.¹

Determined to enter college, Kephart needed to earn the money to pursue his education, so he began working as a timekeeper on a construction gang that was rebuilding a bridge destroyed by the Johnstown Flood of 1889. Four months later, he entered the employment of the Pennsylvania Railroad as a telegraph operator (a trade taught to him by his brother). “He determined upon a legal career early in life,” noted one of the many tributes to Kephart. “[I]n this he was inspired and encouraged by his mother,” the writer continued, “to whom he has always attributed a full measure of responsibility for his advancement.” Kephart soon saved enough to enter Allegheny College in Meadville, Pennsylvania, but after two years he lacked the funds to continue and returned to work for the railroad. “Because of his natural aptitude and the faithful and efficient character of his service,” another tribute recorded, “the officials of the railroad so arranged his employment that he was able to enter Dickinson School of Law.” He graduated from law school in June 1894 and the dean of the college later recalled that as a student Kephart “was quick in apprehension, profound in penetration, and sound in conclusion.”²

The day after his graduation, Kephart was admitted to the Cumberland County Bar; he began to practice law in the office of W. Horace Rose (a former mayor of Johnstown) and in 1895 he was admitted to the Cambria County Bar. As a lawyer, Kephart soon met “with very gratifying success.” Although ostensibly involved in general practice, Kephart specialized in business and corporation law, and had legal dealings with many public utility companies as well as acting as counsel for Pennsylvania Railroad. By 1902, he was described as “forging to the front rank of the Cambria County Bar.”³

In 1907, Kephart entered public service when he became solicitor for Cambria County; his reputation throughout the county grew and friends recognized that even at only 35 years of age, Kephart had “a

great legal mind.” He continued as county solicitor for the next seven years. Although Kephart aspired to be the next judge of the Cambria County Court of Common Pleas, when he looked to fill a vacant seat on that bench, he failed to receive the necessary support of the Republican Party. That rejection, however, did not curb Kephart’s ambition, in fact it inspired him to look beyond local county politics, and in 1913, he entered the race for a seat on the Pennsylvania Superior Court. Kephart was one of 16 candidates in the election and he faced even more of a challenge because he did not have the support of either the Republican, Democratic or Bull Moose parties. He launched a unique postcard campaign to garner support throughout the state. “[W]ho was this man, Kephart, that had the audacity to run for the Superior Court,” a friend was asked. The reply: “the most resourceful man I ever knew.” Kephart won the election and took his seat on the Pennsylvania Superior Court in January 1914.⁴

On the Superior Court bench, Kephart soon distinguished himself through the “clarity of his judicial reasoning.” His name garnered national attention when his opinion in the *Ben Avon Borough* case⁵ although reversed in the Pennsylvania Supreme Court was upheld in the United States Supreme Court. That opinion, one contemporary noted was “the source and justification of the highest tribute that can be paid to him as a clear and original thinker.” Kephart served on the Superior Court bench for the next five years, when he decided to campaign for a seat on the Pennsylvania Supreme Court. He again used his postcard strategy, and that with the recognition of his work on the Superior Court, earned him election to a full 21-year term on the Pennsylvania Supreme Court in November 1918.⁶

On January 6, 1919, Kephart took his seat on the highest court in the commonwealth and for the next 17 years served as an associate justice. He heard thousands of cases while on the bench, but he was never “a dissentient judge,” writing only about 45 dissenting opinions, the majority of which he was supported by other members of the court. “His concept of the common law is never narrow,” one contemporary wrote, “and although he entertains sincere respect for precedent, he regards the law as a living and expanding organism which must keep pace with economic and social progress.”⁷

In 1936, Kephart became Chief Justice of Pennsylvania, when Chief Justice Robert S. Frazer retired. He received congratulations from

across the state. "I may be permitted to suggest that his association on the Superior Court in the formative period of his judicial career with a preeminent appellate court judge, such as President Judge Charles E. Rice, and with eminent judges such as Judge [George B.] Or lady, Judge [William D.] Porter, Judge [John J.] Henderson, Judge [John B.] Head, and Judge [Frank M.] Trexler," noted President Judge William H. Keller of the Pennsylvania Superior Court, "played some part in fitting him to become the great judge he is now." Others commented on the future of the Supreme Court with Kephart as its leader. "I make bold to state that so long as John W. Kephart is Chief Justice of the Commonwealth of Pennsylvania," remarked a fellow Dickinson Law alumnus, "his will be the guiding principle that the welfare of the State can never be higher than the liberty of the individual." Kephart assured the public that the Pennsylvania Supreme Court was not constituted to undermine the constitution or the legislative process, but rather to determine if a law "clearly, palpably and plainly" violates the document. "After all," he continued, "a judge is not super-human ... [but] a very ordinary individual placed in public office under a solemn oath to support, defend and obey the constitution."⁸

Kephart earned respect among his colleagues and throughout the state while serving as Chief Justice. He once considered leaving the court to run for governor of Pennsylvania and twice withdrew from the race for United State Senate choosing Republican Party solidarity in the primary elections over contested campaigns that would "retard, confuse or disrupt the continued progress of Republicanism." In 1937, Kephart was instrumental in lobbying for legislation that granted the Supreme Court the power to set the general rules for court proceedings throughout the Commonwealth and authorized the appointment of a Procedural Rules Committee.⁹

In January 1940, Kephart retired from the Supreme Court bench. During his 26 years of service on the appellate courts of Pennsylvania, Kephart heard over 13,000 cases and wrote more than 1,500 opinions "all characterized by liberalness of view, preciseness of arrangement, and lucidity of expression." More than 650 guests attended a Pennsylvania Bar Association testimonial dinner given in honor of Kephart upon his retirement. Kephart proudly noted that during his four years as chief justice "not a single line of the State or Federal Constitution has been erased by my hand, or by the hand of any of my

associates,” He congratulated his replacement Chief Justice William Schaffer and encouraged the court to “continue to be the foremost exponent of constitutional government.”¹⁰

After his retirement, Kephart, who had been admitted to the Philadelphia Bar in January 1938, reentered the practice of law in the city of Philadelphia. He established the firm of Kephart and Kephart with his sons, A. Evans Kephart and John W. Kephart, Jr. “He was in comfortable circumstances, master of his own time, [and] had an important and distinguishable clientele,” noted President Judge John H. McCann of Cambria County. “His sons were growing up with him,” McCann continued, “and the whole professional environment was ideal.” Although his law practice kept him busy, Kephart continued in his active role with the Pennsylvania Supreme Court’s Procedural Rules Committee, serving as its chairman from 1940 until his death in 1944.¹¹

Kephart was a member of the Cambria, Pennsylvania, and American Bar Associations and the American Law Institute. Kephart also encouraged students of law and lawyers alike to take a more active interest in continuing education and holding both themselves and their profession to moral, ethical and professional standards. He spoke to numerous law societies and graduating classes, and at numerous special events (many given in his honor) and professional meetings; always direct in his message, whether commenting on the importance of the judicial branch in constitutional history, discussing the responsibility lawyers have to the public in the honest practice of their profession, or pointing to the need for continued training and licensing of lawyers, Kephart not only “profoundly influenced the legal profession,” but also “brought to the public a better understanding of the province and work of the courts.”¹²

Although his primary residence after his retirement was Philadelphia, Kephart maintained his home in Ebensburg. His community service extended to his alma mater where he was an active member and former president of the Dickinson College Alumni Association and an associate advisor to the law school. He was also awarded honorary doctor of laws degrees from Dickinson College and Allegheny College. His memberships included the Art Club, the Union League, and the Ebensburg, Philadelphia and Whitemarsh Country Clubs. Kephart was a 33rd degree Mason affiliated with Cambria Lodge No. 278.¹³

On August 6, 1944, Kephart died tragically at his residence in the Warwick Hotel in Philadelphia. A week prior, he accidentally scalded himself with hot water while showering, inflicting severe burns on his head and body. While his family had been relieved that he had almost fully recovered from a distressing heart condition, the tragic accident ultimately took his life. Kephart was buried in Lloyd Cemetery in Ebensburg, Cambria County.¹⁴

In 1895, Kephart married Eva L. Shoemaker, adopted daughter of Johnstown resident Frank A. Shoemaker and his wife. She presumably died young, and on December 1, 1904, Kephart married a second time to Florence M. Evans, daughter of Alvine Evans, a former congressman and respected Cambria County lawyer. They had three children. Their daughter Henrietta married T. McDowell Anderson, Jr. of Bryn Mawr. As mentioned, Kephart's two sons in the "family tradition" were both members of the bar; A. Evans Kephart was also a state senator and John W. Kephart was a deputy attorney general of Pennsylvania.¹⁵

¹*Pennsylvania Manual*, (1925-26), 125; W.H. Hitchler, "An Orphan Became Pennsylvania's Chief Justice," 49 *Dickinson Law Review* (October 1944): 60; "John William Kephart," Report of the Committee of Legal Biography and History, in *The 50th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1945), 171-72; 350 PA State Reports xxiii-xxiv, xxvi, xxix. Kephart's brother Samuel went on to become an officer in the U.S. Army and his brother Harman became treasurer of Pennsylvania.

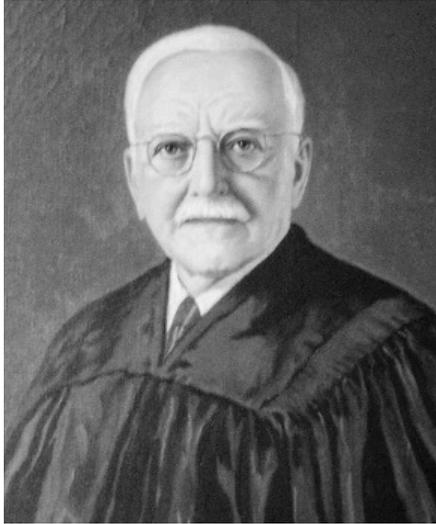
²"J.W. Kephart Dies: A Jurist 26 Years," *New York Times*, August 7, 1944; "John William Kephart," Report of the Committee of Legal Biography and History, in *The 50th Annual Report*, 171 Hitchler, "Orphan," 49:60-61; "Honorable John W. Kephart," 1 *The Shingle* (June 1938): 120.

³Hitchler, "Orphan," 49:60; "John William Kephart," Report of the Committee of Legal Biography and History, in *The 50th Annual Report*, 172, "The Alumni," 3 *The Forum* (1898-99):76; "The Alumni," 7 *The Forum* (1902-1903): 51; *Pennsylvania Manual*, (1925-26), 125; Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 4:3.

⁴350 PA State Reports xxvii; "J. W. Kephart Dies," *New York Times*, August 7, 1944; "Hon. John W. Kephart," 111 *Legal Intelligencer* (August 8, 1944); 119.

⁵For details of the case see 68 Pa. Super 561 (1917); 260 PA State Reports 289 (1918); 253 U.S. 287 (1920).

- ⁶ “Hon. John W. Kephart,” 111:119; Ruby R. Vale, “The Contribution of Chief Justice Kephart to the Law,” 40 *Dickinson Law Review* (October 1935): 208.
- ⁷ “Honorable John W. Kephart,” 1:121; Vale, “Contribution,” 40:206, 210.
- ⁸ “Kephart Sworn in as Chief Justice of the Supreme Court,” 94 *Legal Intelligencer* (Jan. 7, 1936) 47; Vale, “Contribution,” 43:213; Hon. William H. Keller, “Greetings from the Superior Court to Chief Justice Kephart,” 40 *Dickinson Law Review* (October 1935): 214; Hon. John W. Kephart, “Appellate Court decisions on Constitutional Issues,” 40 *Dickinson Law Review* (October 1935): 217-19.
- ⁹ “Chief Justice Kephart Declares he is not a Senate Candidate,” 98 *Legal Intelligencer* (March 26, 1938): 677, “Jay Cooke Enters Race for Senator,” *New York Times*, Jan. 20, 1940; 350 PA State Reports xxx; “Pennsylvania,” 23 *Journal of American Judicature Society* (1939-40): 107; Albert S. Faught, “Revision of Equity Rules Added to Scope of Pennsylvania Rules Committee,” 24 *Journal of the American Judicature Society* (1940-41): 26-27.
- ¹⁰ Hitchler, “Orphan,” 49:61; “J. W. Kephart Dies,” *New York Times*, Aug. 7, 1944; “Retiring Chief Justice is Honored by Pennsylvania Bar,” 102 *Legal Intelligencer* (Jan. 4, 1940): 17.
- ¹¹ “Chief Justice Admitted to Practice in Philadelphia,” 98 *Legal Intelligencer* (Jan. 31, 1938): 235; “Hon. John W. Kephart,” 111; 119; 350 PA State Reports xxv; “Chief Justice Kephart Issues Report on Conditions in Courts,” 98 *Legal Intelligencer* (Feb. 8, 1938): 299, 306; “Chief Justice Kephart to Practice Law in Philadelphia,” 100 *Legal Intelligencer* (March 20, 1939): 573; “John William Kephart,” Report of the Committee of Legal Biography and History, in *The 50th Annual Report*, 172.
- ¹² 350 PA State Reports, xxiv-xxv; “John Kephart, Lawyer with many Avocations,” *The Philadelphia Inquirer*, July 17, 1990; John W. Kephart, “A Story,” 33 *Dickinson Law Review* (October 1928): 109; “150 Years Under the Constitution,” 98 *Legal Intelligencer* (May 4, 1938): 996; John W. Kephart, “The Law Schools’ Part in Excluding the Unfit from the Bar,” 40 *Dickinson Law Review* (October 1935): 220-224; John W. Kephart, “Unauthorized Practice of Law,” 40 *Dickinson Law Review*, (October 1935): 225-230; “Honorable John W. Kephart,” 1:121.
- ¹³ Tamilia and Hare, *Keystone of Justice*, 95; “Hon. John W. Kephart,” 111:119; “J.W. Kephart Dies,” *New York Times*, Aug. 7, 1944; *Pennsylvania Manual*, (1925-26), 125.
- ¹⁴ “Hon. John W. Kephart,” 111:119; “J. W. Kephart Dies,” *New York Times*, Aug. 7, 1944; *Pennsylvania Manual*, (1925-26), 125.
- ¹⁵ “Middle States,” *The American Lawyer*, (Dec. 1895): 551; Eastman, *Courts and Lawyers*, 4:3; 350 PA State Reports xxiv; “J. W. Kephart Dies,” *New York Times*, Aug. 7, 1944; “John Kephart,” *The Philadelphia Inquirer*, July 17, 1990.

THE HONORABLE FRANK M. TREXLER

January 9, 1861 – February 22, 1947

Assumed Office: February 1914

President Judge 1930 - 1935

County: Lehigh

BIOGRAPHY

Frank M. Trexler served twenty years on the Pennsylvania Superior Court.; for four of those years he was President Judge of the court. He was solicitor of the city of Allentown and President Judge of the Lehigh County Court of Common Pleas.

Trexler was born in Allentown, Pennsylvania, on January 9, 1861 to Edwin M. Trexler and Matilda Sauerbeck Trexler. His father was a prominent lumber dealer in the Lehigh Valley Community, proprietor of E. W. Trexler & Son (the son being Harry Clay Trexler). The Trexler family attended the First Presbyterian Church in Allentown and while still a youth, Frank M. Trexler spoke at the rededication ceremony of the church in 1874.¹

Trexler attended local public schools, and in 1876, he graduated from Allentown High School. He furthered his education at Muhlenberg College,² graduating summa cum laude in 1879. Not yet

twenty years old, Trexler began studying law under Thomas B. Metzgar. He also continued his education at Muhlenberg receiving a Master of Arts degree in 1882. That same year, Trexler was admitted to the Lehigh County Bar and he began practicing law in his hometown.³

A scant three years later, Trexler entered into public service when he was named solicitor of Allentown. He continued in this post for the next eleven years. In 1895, Trexler was listed as an associate attorney affiliated with the American Collecting and Reporting Association, an organization that assured customers: “we believe every attorney herein named is a *reliable and trustworthy* correspondent.” The description was apt for Trexler, who built his reputation as a lawyer of merit both locally and within Pennsylvania. In 1902, Trexler was appointed to the Lehigh County Court of Common Pleas to fill the vacancy caused by the death of Judge Edwin Albright. As the only judge for the 31st District, Trexler was President Judge of the Lehigh court; the following year he was elected to a full ten-year term on the bench, due in part to disaffection among the Democratic ranks which caused some defection to the Republicans. He was the “last man to serve a complete term under the system that gave Lehigh county only one judge.”⁴

On February 6, 1914, the Republican Trexler was appointed to the Pennsylvania Superior Court to replace the late Judge James A. Beaver. Trexler was elected that November to a full 10-year term on the bench, during which years the court was continually challenged with decisions concerning progressivism, prohibition, and the Great War. He was associate judge of the court until February 10, 1930, when upon the death of Judge William D. Porter, Trexler was named President Judge.⁵ Amid party restructuring and realignments, state Republicans backed Trexler’s nomination for a third 10-year term on the court in November 1934. He campaigned throughout the year, but a “tidal wave of enthusiasm for Roosevelt administration policies,” meant Democrats swept the statewide ticket; Trexler was soundly defeated by Wayne County Democrat Charles H. Rhodes. Trexler returned to Allentown, and although he ostensibly had retired from an active legal career, he kept his law office open and spent much of his time there.⁶

While Trexler devoted himself to his profession, he was a member of the American and Pennsylvania Bar Associations, “his great interest throughout his life was in his community and church.” His devotion was exemplified by his service to three local organizations: the First

Presbyterian Church of Allentown, the Lehigh County Historical Society (LCHS), and the Young Men's Christian Association (YMCA). Trexler was a devout Presbyterian and faithfully attended church, where he organized the Men's Bible Study in 1905 and taught Sunday School classes for almost forty years. He was president of the LCHS for thirteen years and even through its lean times "held that organization together through high ideals and very definite objectives." By 1944, with his continued trusted leadership, the LCHS was "building membership and interest as a rapid rate." Trexler had the longest association with the local YMCA. He was a member of the board of directors of the organization as early as 1882 and in 1890 he was elected president, a position in which he served for over 50 years. In 1943, the Pennsylvania YMCA honored Trexler with the Master of Men award.⁷

Trexler was a member of numerous other organizations as well including the Historical Society of Pennsylvania and the Allentown Rotary Club. He was also an active Mason and Odd Fellow, associated with the Barger Lodge No. 333, the Lehigh Consistory 32nd Degree, the Lehigh Lodge of Odd Fellows, and the Unity Encampment of the Odd Fellows. Trexler was President of the Pennsylvania Federation of Historical Societies, a member of the Board of Trustees of Cedar Crest College, and a founder of the Pennsylvania Conservation Society. In 1910, he was presented with an honorary doctor of laws from Muhlenberg College.⁸ "To mention all of his activities becomes almost encyclopedic in volume," commented one editorial remembering Trexler. "The important point," the writer continued, "is that in all those activities he was a leader and an inspiration to his associates, and, above all, that he was the intimate and personal friend of his associates therein."⁹

Trexler died peacefully in his sleep after a prolonged illness on February 22, 1947. He was 86. Described as an "untiring community and church worker," Trexler was Allentown's "leading citizen" and "noted throughout his life for his association with and promotion of activities pertaining to the welfare and uplift of this community." Trexler often commented: "No man can ask a finer tribute than to have placed on his grave as an epitaph the words 'He was kind.'" That was how friends and neighbors in Allentown remembered Trexler, as a man who never forgot his roots and "centered his activities in his native city

and county even when he was associated closely with those who were the leaders of the Commonwealth.”¹⁰

Trexler married Jennie R. Shelling on November 7, 1889. She died in 1928. They had 5 children: Edwin, Dorothy, Frances, Marion and Robert.¹¹

¹ *Pennsylvania Manual* (1929), 216; “Gen. Trexler Dies of Auto Injuries,” *New York Times*, Nov. 18 1933; “Frank M. Trexler, Retired Superior Court Judge, Untiring Community and Church Worker, Dies at His Home Here, Aged 86,” *The Morning Call*, February 23, 1947. It is significant to note that Trexler’s brother was General Harry Clay Trexler, whose business interests in cement manufacturing and public utilities, as well as his land speculation and pioneering work in developing the apple and peach growing possibilities of Pennsylvania, earned him a large estate; a tragic automobile accident took his life in 1933, and one of his individual bequests was \$150,000 to his brother, the subject of this essay (“Gen. Trexler Dies of Auto Injuries,” *New York Times*, Nov. 18, 1933; \$5,716,866 Divided in Trexler Estate,” *New York Times*, Jan. 13, 1936).

² Misidentified as Unionburg College by Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923), 3:797.

³ “Frank M. Trexler,” *The Morning Call*, Feb. 23, 1947; *Pennsylvania Manual* (1929), 216.

⁴ Allentown, Pennsylvania, Directories, 1887, 1889-90, www.ancestry.com; “American Collecting and Reporting Association,” *The American Magazine of Civics* (June 1895): 3; *Pennsylvania Manual* (1929), 216; “Frank M. Trexler,” *The Morning Call*, Feb. 23, 1947; “Pennsylvania: Republicans Expect 150,000,” *New York Times*, Nov. 1, 1903.

⁵ Tamilia and Hare, *Keystone of Justice*, 95.

⁶ “On Pennsylvania Ticket,” *New York Times*, February 11, 1934; “Seek Republican Peace,” *New York Times*, March 28, 1934; “Reed in the Lead in Race for Senate,” *New York Times*, May 16, 1934; “Pennsylvania Won: Democrats Elect Guffy Senator in a Close Vote,” *New York Times*, November 7, 1934; Tamilia and Hare, *Keystone of Justice*, 139; “Frank M. Trexler,” *The Morning Call*, February 23, 1947.

⁷ “Frank M. Trexler,” *The Morning Call*, February 23, 1947; *Pennsylvania Manual* (1925-26), 126; S. K. Stevens, “News and Comment,” 11 *Pennsylvania History* (April 1944): 131; *ibid.*, “Of Men and Many Things,” 14 *Pennsylvania History* (April 1947): 147; “A Good Life, A Good Example,” *The Morning Call*, February 24, 1947.

⁸ “Frank M. Trexler,” *The Morning Call*, February 24, 1947.

⁹ “A Good Life, A Good Example,” *The Morning Call*, February 24, 1947.

¹⁰ “Frank M. Trexler,” *The Morning Call*, February 23, 1947; “A Good Life; A Good Example,” *The Morning Call*, February 23, 1947; “Frank M. Trexler,” Report of the Committee of Legal Biography and History, in *The 52nd Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1947), 192.

¹¹ Eastman, *Courts and Lawyers of Pennsylvania*, 4:6; *Pennsylvania Manual* (1929), 216; 1900 U.S. Federal Census, www.ancestry.com.

THE HONORABLE J. HENRY WILLIAMS

October 13, 1856 – October 24, 1919

Assumed Office: January 1916

County: Philadelphia

BIOGRAPHY

Joseph Henry Williams served almost four years on the Pennsylvania Superior Court. He was a well-known Philadelphia attorney and an assistant editor and contributor to the *American and English Encyclopedia of Law*.

Extant records differ on Williams' birthplace, some indicating that he was born in Staffordshire, England, while others claim he was born in Philadelphia. Several accounts agree, however, that he was born in 1856, one specifically stating October 13, 1856.¹ His parents' names are unknown as is their residence or occupations. Williams probably attended primary public schools in Philadelphia; he graduated from Central High School in 1871. He furthered his education taking a "complete course" at the Bryant and Stratton Commercial College. Williams decided to study law in October 1874, but it is unclear if he entered a college or read law with a mentor. He was admitted to the bar at the age of 21 on October 13, 1877.²

Williams began a promising career in the city of Philadelphia. He was many times a trustee and executor of estates, a referee in many cases, and while he practiced principally in local common pleas and orphans' courts, he was admitted to practice in the Pennsylvania Supreme Court on January 5, 1889. "He early attained an excellent reputation," commented one contemporary, "as a diligent student and a careful and accurate practitioner."³

Williams was a Democrat, and by 1894, he had gained enough prominence within Philadelphia that he was nominated for a local judgeship on the Court of Common Pleas, No. 4. He was defeated in the general election. That defeat coupled with the Democrats' nomination of William Jennings Bryan for United States President two years later, ended Williams' relationship with that party, and he subsequently joined the Republicans.⁴

Williams continued to earn the respect of prominent Philadelphians, however, this time Philadelphia Republicans, and in 1915 they campaigned to elect Williams to the Pennsylvania Superior Court. They especially wanted Williams to win the election, because they believed the City of Philadelphia needed a presence on the bench. Moreover, he received much needed support from the Philadelphia Bar garnered through his years of diligent work in the legal profession. Williams won the statewide election and began his tenure on the Pennsylvania Superior Court in January 1916. Contemporaries found that Williams "brought to the discharge of his judicial duties the same care, promptness and attention to detail which had distinguished his career as a practitioner." He last sat in the Superior Court chambers in July 1919, when illness forced him to stop attending the sessions of the court.⁵

Williams was a well-respected Mason. From 1913 to 1915, he served as Right Worshipful Grand Master of the Pennsylvania Masons. His primary affiliation was Washington Lodge, No. 59 in the city of Philadelphia, where he was a past master; Williams was also associated with the Harmony Royal Arch Chapter, No. 52, the Philadelphia Counsel, No. 11, and the Corinthian Chasseur Commandery, Knights Templar. He was a 33rd Degree member of the Scottish Rite Masons and helped that organization construct its temple in the city of Philadelphia at Broad and Race streets. During the 125th anniversary celebration of Pennsylvania's independence in 1901, Williams acted as

the historian of the Pennsylvania Grand Lodge of Masons.⁶

The Masonic Order was only one prominent organization of which Williams was an active member. He served on the vestry of St. Timothy's Protestant Episcopal Church and was supreme secretary of the Sons of St. George. Early in his career, he was also associated with James L. Hall as an editor of *The Sunday Dispatch*, but was better known for his editorial work on the *American and English Encyclopedia of Law*. Williams was also a member of numerous community organizations in the city of Philadelphia including the Art Club, the Union League, the Young Republicans, the Pen and Pencil Club, and the West Philadelphia Club. Professionally, Williams was a member of the Lawyer's Club, the Law Association, the Lincoln Club, and the American and Pennsylvania Bar Associations.⁷

On October 24, 1919, Williams died at the age of 63; he had been ill for months. Six weeks before his death, he had surgery at the Women's Homeopathic Hospital to treat "an affection of the stomach." Complications developed and Williams had further surgery, but although he rallied, he failed to recover from the ailment. "Mr. Williams was a cultivated gentlemen of a kindly, pleasing, genial personality," noted one legal publication, "and his death will be mourned by a wide circle of friends." William B. Linn, a Philadelphia resident, was appointed to the Superior Court to fill the vacancy caused by Williams' death.⁸

Williams was married, but his wife's name is unknown. She survived him; no children are mentioned in his obituaries.⁹

¹ "J. Henry Williams," Report of the Committee of Legal Biography and History, in *The 26th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1920), 143; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000); 95; "Judge J. Henry Williams," *New York Times*, October 25, 1919, "Judge Williams Dies in Hospital," *Philadelphia Inquirer*, October 25, 1919; "Judge Williams of Superior Court Dies in Hospital," *The Press*, October 25, 1919.

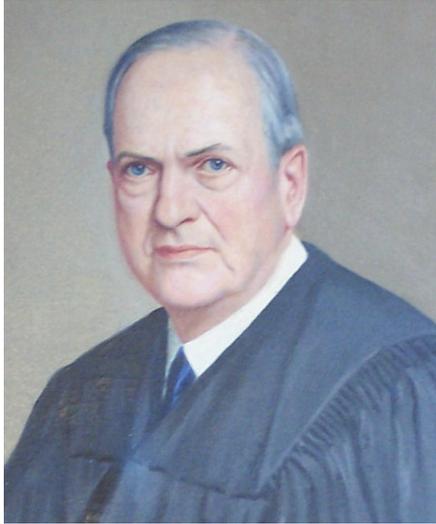
² "J. Henry Williams," Report of the Committee of Legal Biography and History, in *The 26th Annual Report*, 143.

³ "J. Henry Williams," Report of the Committee of Legal Biography and History, in *The 26th Annual Report*, 143.

⁴ "Chairman Harrity Surprised," *New York Times*, September 21, 1894; "J. Henry Williams," Report of the Committee of Legal Biography and History, in *The 26th*

Annual Report, 144.

- ⁵ Tamilia and Hare, *Keystone of Justice*, 97; “J. Henry Williams,” Report of the Committee of Legal Biography and History, in *The 26th Annual Report*, 143; “Judge Williams of Superior Court Dies in Hospital,” *The Press*, October 25, 1919.
- ⁶ “Judge Williams of the Superior Court Dies in Hospital,” *The Press*, October 25, 1919; “J. Henry Williams,” Report of the Committee of Legal Biography and History, in *The 26th Annual Report*, 143; www.pagrاندlodge.org.
- ⁷ “J. Henry Williams,” Report of the Committee of Legal Biography and History, in *The 26th Annual Report*, 143-44.
- ⁸ “Judge Williams of Superior Court Dies in Hospital,” *The Press*, October 25, 1919; “J. Henry Williams,” Report of the Committee of Legal Biography and History, in *The 26th Annual Report*, 144; Tamilia and Hare, *Keystone of Justice*, 97.
- ⁹ “Delaware Water Gap,” *New York Times*, October 2, 1892; “Judge Williams of Superior Court Dies in Hospital,” *The Press*, October 25, 1919.

THE HONORABLE WILLIAM H. KELLER

August 11, 1869 – January 16, 1945

Assumed Office: January 6, 1919

President Judge 1935- 1945

County: Montgomery/Lancaster

MINUTE IN MEMORIAM

The death of WILLIAM HUESTIS KELLER, President Judge of this court, on Tuesday, January 16, 1945, at his home in Lancaster, brought deep sorrow to the bench and bar of this Commonwealth. The passing of this great judge was a staggering blow to his host of friends and an irreparable loss to this court which he frequently said, next to his family, was the nearest thing to his heart.

Now January 25, 1945, as an expression of our high esteem of his character, his learning, leadership, and our personal grief over his untimely death, which can be but feebly expressed in words, we order the following minute to be spread at length on the records of this court:

Judge KELLER was born August 11, 1869, in Montgomery County, Maryland, the son of Daniel S. and Martha Eleanor (Huestis) Keller. His family shortly thereafter returned to Centre County, Pennsylvania, where Judge KELLER spent his youth. He attended

Franklin and Marshall College and after his graduation studied law in his father's office and later graduated from the law school of George Washington University. He began the practice of law in Lancaster on August 22, 1893, and on January 1, 1899, became a member of the law firm of Coyle and Keller, which had a very large general practice. He served as First Deputy Attorney General from May 10, 1915 to January 6, 1919, when he was appointed Judge of the Superior Court by Governor Brumbaugh and was elected for a full term in November 1919, and again in 1929 and 1939. At his last election, he was nominated by both the Democratic and Republican parties. He became President Judge on January 7, 1935.

Judge Keller's appearance and his actions revealed a strong, sturdy mind and body, which gave proof of his manliness. He possessed rare intellectual attainments, which were accompanied by impressive integrity, a simplicity, courtesy and kindness, which were inherent in him. His long and honorable judicial career is noteworthy in many respects. His highly cultivated mind, the breadth of his scholarship and thoroughness were reflected in his opinions.

*Excerpt from the official Minutes of the Superior Court of Pennsylvania.

They are models of clarity and cogent reasoning and have enriched our legal literature. As Judge JEREMIAH S. BLACK said in speaking of Judge GIBSON: "He made others understand him, because he understood himself." The weight given to them is amply proven by the numerous times they are cited in the opinions of other judges. He possessed an independence, but was never intolerant or dogmatic in advancing his views and if convinced of any error, pride did not prevent his readily yielding his position, but if he felt he was right he tenaciously adhered to his conclusions. His highest ambition was to conscientiously discharge his duties and see that justice was attained under the law judicially administered.

It was a rich experience indeed to be associated with him on the bench and to closely observe the workings of his active and acute mind. He always grasped quickly the main point in a case and laid bare any fallacy or error in an argument. His mind was receptive, retentive, and ready, those essential attributes of a well trained intellect. On the bench, but especially in consultation, he habitually cited cases by name from his well stocked and orderly mind, directly relating to the question

under discussion. He will be known in the history of this Commonwealth as one of its great jurists. We mourn deeply the loss of a valuable colleague and a personal friend, for whom we not only had a high esteem and respect, but a deep and abiding affection. What Chief Justice MITCHELL once said in substance of another distinguished judge can be truly said of Judge KELLER—to the last he gave his best and the best that he gave was the best Pennsylvania had to give.

ADDRESS OF
CHIEF JUSTICE GEORGE W. MAXEY
OF THE SUPREME COURT OF PENNSYLVANIA
AT TESTIMONIAL DINNER IN HONOR OF
PRESIDENT JUDGE WILLIAM H. KELLER
OF THE
SUPERIOR COURT

On March 2, 1944, a testimonial dinner in honor of President Judge WILLIAM H. KELLER was held in the Bellevue Stratford Hotel in Philadelphia, at which time oil paintings of Judge KELLER and Judge CHARLES E. RICE were presented to the Superior Court by the Bar of Pennsylvania. These portraits now hang in the Chambers of the Appellate Courts in the Capitol at Harrisburg. Chief Justice GEORGE W. MAXEY of the Supreme Court of Pennsylvania, who initiated the movement for the painting of the portraits of the President Judges of the Superior Court, spoke at this testimonial dinner, in part as follows:

“We are here to pay a tribute to a great court, the Superior Court of Pennsylvania, and to two great President Judges of that Court. Whatever standing the Pennsylvania appellate courts have in this country during the last fifty years—and it appears to be a good one—the Superior Court has contributed its equal share to it. There have always been judges of splendid character and ability on that Court.

I was reared in Susquehanna County, and practiced law in Lackawanna County. Judge RICE came from the neighboring county of Luzerne. I was too young to know him. I saw him in the Superior Court and I believe I appeared before that court once or twice when he was President Judge. I knew he was one of the great judges in

Pennsylvania, and, when you are a great judge in Pennsylvania you are one of the great judges of the country.

I know well the President Judge who is our guest tonight. It is embarrassing to a good man to be praised, and such a man does not need praise. One of my favorite quotations from Emerson is: "Don't tell me what you are, because what you are speaks so loud I cannot hear you." Rufus Choate said, "The way you can tell whether a judge is a great judge is this: Any judge toward whom there flows a tide of respect and affectionate regard and toward whom that tide constantly increases the longer he is on the bench, that man is a great judge." Measured by that standard, the guest of honor tonight is a great judge because, after twenty-five years of service, the tide of affectionate regard, esteem and trust is flowing to him in a constantly increasing volume.

Public office is a public trust, and the public men we honor are those who are true to that trust. We expect certain fine things from the judiciary. We realize now more than we ever realized before the part the judiciary plays in human affairs. There are certain things we Americans long took for granted, as a child takes its mother for granted. We took for granted a constitutional form of government, we took for granted an independent judiciary, and, until this last decade we did not realize that a people *may* be deprived of an independent judiciary. When a people are thus deprived, the loss of their liberty always follows. We Americans are beginning to understand what it means to have an independent and courageous judiciary, a judiciary which under the Constitution can say to the President and to Congress, and which has the courage to say to them: "This far shalt thou go and no further."

If you read the 133 word Second Inaugural Address of George Washington, you will find that he expressed only two thoughts: his appreciation of his re-election and his determination to obey the Constitution of the United States. Even Andrew Jackson, who in his earlier life sometimes flouted the law, emphasized in nearly all his messages to Congress fidelity to the Constitution. In Grover Cleveland's first inaugural address, his first promise was absolute fidelity to the fundamental law. That promise was kept. Grote, the great historian, once showed by many examples that fidelity to the fundamental law—which fidelity Grote characterized as "constitutional morality"—is the one indispensable condition upon which the safety and success of every free government must depend. Fidelity to the

constitution is a phase of fidelity to duty and the success of a nation or state, like the success of an army, depends upon those who are entrusted with power, doing their duty regardless of personal consequences to themselves.

I was very much interested in some of the things the British Ambassador, Lord Halifax, told me on our journey today to this city from Scranton, where he was my guest and where I introduced him to an audience last evening. He has had a long and distinguished career as a British statesman. He was also Viceroy of India for five years. He was with Churchill in those momentous conferences with the French leaders at Tours in 1940 right after France collapsed. What he told me about General Montgomery was particularly interesting. Montgomery is a great soldier, intolerant of timidity, indecision or inefficiency, as all great soldiers are.

Before the Battle of El Alamein on October 27th and 28th, 1942, the British had been constantly falling back but soon after Montgomery was made commander, he (as Lord Halifax told it) summoned to his headquarters every officer in his command, from the rank of Colonel upwards, and to them he said: "We are about to fight a decisive battle. On its issue will depend the fate of Africa and ultimately the fate of the world. All I have to say to you is this: There are only three ways in which any of you can leave the battlefield: The first is in an ambulance; the second is on a stretcher; and the third is in obedience to my orders after the battle is won. Go to your posts and do your duty." Every officer and soldier did his duty in that battle. Africa was saved and El Alamein took its place among the decisive battles of the world. Only by officers and soldiers and all others in places of responsibility doing their duty, regardless of the cost to themselves, are the battles of life won and true progress achieved.

We honor those judges who do their duty despite the fact that in doing their duty they take a stand which at the time is unpopular. We had an example of this in the trial of Aaron Burr, on a charge of treason. The trial judge was Chief Justice JOHN MARSHALL. By outlawing in his instructions to the jury the brutal doctrine of constructive treason—a doctrine which had sent Russell and Sidney to the block in England in 1683, and had sent hundreds of other good men at other times in the same country to the safe fate—John Marshall made the acquittal of Aaron Burr inevitable. He also established a great

and valuable precedent. In doing so he defied the then President of the United States, who was Burr's enemy, and he defied public opinion and almost brought about impeachment proceedings against himself, but he wrote a chapter in American judicial history of which all Americans are now proud. Baron Craigmyle in his "John Marshall," says: "No man can judge of Marshall's greatness either as a man or as a lawyer without noting the trial of Aaron Burr. The power that then ruled America seemed to demand from Marshall that he should doff his judicial robes and become the instrument of the Chief Executive. It is an unedifying sight to see political partisanship seizing the law of the land by the throat. England had known this under the Tudors and the later Stuarts, and did not like it." How courageously Marshall did his duty in the Burr case all the world now knows. What Marshall finally said in that case is, as Craigmyle says: Nothing new, for they were a part of what is everlasting, like justice itself, "but in the face of what Craigmyle calls "the turpitude of the time," it required a brave man to utter them and to act upon them, as Marshall did. I repeat the almost final words of the great Chief Justice in instructing the jury in the case of the *United States v. Aaron Burr*:

"That this court dares not usurp power is most true. That this court dares not shrink from its duty is not less true. No man is desirous of placing himself in a disagreeable situation. No man is desirous of becoming the peculiar subject of calumny. No man, might he let the bitter cup pass from him without self-reproach, would drain it to the bottom. But if he has no choice in the case; if there is no alternative presented to him but a dereliction of duty, or the opprobrium of those who are denominated the world, he merits the contempt as well as the indignation of his country, who can hesitate which to embrace."

Judge KELLER, whom we honor here tonight, has always trod the path of duty. That path is sometimes rough. This seems to be a curious law of life: The easiest way is usually the wrong way; the right way is usually the hard way, often the way of temporary unpopularity, but it is the way the strong man takes. No judge, no President, no man who exercises a public trust is worthy of that trust unless he takes the path of right, no matter what unpleasantness it may bring to him personally.

What are the qualities we like in our judges? First, we expect and demand integrity. Integrity is something of whose possession a man has no right to boast, but to be without it is a disgrace. The guest of

honor has integrity and also that impartiality which stems from integrity. In my view, a man who is unfair is dishonest, and unfairness is one of the meanest forms of dishonesty. A newspaper that is unfair is dishonest; to try to ruin a man's reputation by lying about him is a low form of dishonesty. This impartiality and this fairness which Judge KELLER possesses are born of his integrity. He is fair to litigants, to lawyers and to everyone else who is affected by his acts.

We all know that Judge KELLER has great intelligence. His opinions are profound and they are expressed with clarity. They are legal literature. The judges who live in history are the men who created legal literature. Edgar Lee Masters says in one of his books: "Abraham Lincoln's fame rests in large measure on two speeches, the Gettysburg Speech and the Second Inaugural speech." In those speeches he created imperishable literature.

Thomas Jefferson lives in history, chiefly because he wrote the Declaration of Independence. Every school boy has read that document. It is political wisdom expressed in rhythmic words and it quickens the heartbeat. So, the opinions of John Marshall and our own Agnew and Paxon and Mitchell,—all have in them utterances which appeal to the mind and to the spirit. Gibson is an outstanding example. Jeremiah S. Black said of Gibson—that he combined vigor of thought with felicity of diction, that his written language was a transcript of his mind, that it gave the world the form and pressure of his thoughts. He added: "One can select the cases in which Gibson wrote the opinion as readily as he can pick out gold coins among coppers." Judge KELLER'S opinions will always have high rank in the judicial literature of this Commonwealth.

We also like to find in the judiciary men who do not pussyfoot. We respect a judge who studies his case thoroughly and who, when he comes to a conclusion, states that conclusion unhesitatingly. The general who equivocates and hesitates is generally lost. I have read in a military book that "A general who makes a wrong decision, but who carries it out with vigor and energy, is far superior to a general who hesitates." Likewise, a judge who equivocates and hesitates is an uncertain guide. After Judge KELLER thoroughly studies a case and comes to a conclusion, he maintains it with vigor and persuasiveness.

We produced one President of the United States from Lancaster, Judge KELLER'S home city. I have a book by the son* of a

*John Sergent Wise.

contemporary of Buchanan. It is entitled "Recollections of Thirteen Presidents." The author said that President Buchanan's failure as Chief Executive at a critical time in American history was due to his timorousness and his indecision. The author tells this story to illustrate Buchanan's indecision: Two colored men, Sam and Joshua, were arguing a religious question. Joshua laid down a proposition with such great vehemence that Sam was momentarily staggered. Joshua seeing that he had his opponent "On the run," said, "Answer me, is what I say so or is it not so?" Sam replied, "Well, Joshua, if I must answer you, dis is what I have to say: I say dat what you says may be sort of so, but at de same time it is sort of not so, and de more I thinks of what you say, de more I believe it is a little more sort of not so dan it is sort of so."

That story may illustrate the mind of James Buchanan, but it does not illustrate the mind of William H. Keller. In Judge KELLER'S opinions you find no vacillation. After due study and consideration, he takes a stand, and maintains it. A Judge's opinion ought to be unhesitant and clear, for as St. Paul said: "If the trumpet gives an uncertain sound, who shall prepare himself to the battle?" A lawyer "prepared" with Judge KELLER'S opinion is always *well*-prepared.

Carlyle said, "Show me the man you honor and I will know them better than from any form of words what kind of man you yourself are." In honoring Judge KELLER, we feel that we are honoring ourselves. We show that we look up to him as an ideal, as the kind of judge all judges would like to be. Tonight we honor Mrs. Keller also. She has contributed greatly to her husband's success. Probably the only regret Judge Keller has for the many laborious days and nights he has spent in legal and judicial work is that these hours deprived him of just that many hours of Mrs. Keller's companionship. I am sure that the honors he receives he gladly shares with his wife because she helped him earn them.

There is no substitute for hard work. Many years ago when Thomas A. Edison was at the height of his fame, someone said to him, "Mr. Edison, you are a genius." Edison replied: "If I am a genius, I know what a genius is; it is one per cent inspiration and ninety-nine per cent perspiration." Every great judge and lawyer knows that. No man ever became great in any line unless he worked hard. A century ago, Rufus Choate was the leader of the Bar of Massachusetts. When the law reports came out at the end of the year, Rufus Choate read over them, "took the losing side" of every case, and, just for intellectual exercise,

wrote a brief to support that side. Imagine the labor, and also the mental training involved in that!

I believe that the worse vice in any public official is vanity. I have in mind the type of official who is so “over-charged” with vanity as to take *himself* very seriously and as a result has little attention and energy left with which to take his work seriously. The other type takes his work very seriously, but does not take himself so seriously. The men in history who were ultimately rated as failures were those who spent too much time looking into the mirror of the world to catch glimpses of their own resplendent virtues. Judge KELLER is a modest man, a man devoted to his work and content to let it speak for itself. He never “stoops to conquer,” and such is his sturdiness of character that he holds in scorn anyone whose

“Candied tongue licks absurd pomp,
And crooks the pregnant hinges of the knee
Where thrift may follow fawning.”

Another thing I like about Judge KELLER is his capacity for friendship. There are those who have no such capacity. It requires character to be a real friend. It was said of the Damascus blade that it never failed in a critical hour the warrior who wielded it. Our true friends are like that—they never fail us in the hour of need. Judge KELLER’S friendship is sincere. It is founded not on the deceptive sands of self-seeking but on the rock of mutual respect, and therefore, it is as enduring as granite. He is a candid man, ever true to himself and never false to anyone. He does not tread the dark and winding ways of intrigue; one always knows where to find him. Being a man of genuine ability himself the ability of others never excites in him either envy or enmity. He would disdain attempting to raise his own mental or moral stature by belittling others. It was such a man as Judge KELLER, Emerson must have had in mind when he wrote: “Oh, the comfort, the inexpressible comfort of feeling safe with a person having neither to weigh thought nor measure words, but pouring them all right out just as they are, chaff and grain together, certain that a faithful hand will take and sift them, keep what is worth keeping, and with the breath of kindness blow the rest away.” In the presence of Judge KELLER one feels that he can “think out loud” with safety. Confidence reposed in him is never betrayed.

Those who wear well are individuals of character. They are not mere color—they are fibre. A profound commentator on Washington said, “He was great not because of his talents but because he possessed the character which made his talents trusted.” It was a favorite saying of mine whenever I ran for office: “No man is big enough for any office unless he is big enough to get along with the office.” I meant that a man who can exist happily without the office he is seeking will if he attains the office, be likely to discharge its duties with courage, fidelity and efficiency. Sometimes an office gives a man an opportunity to prove his greatness but his real greatness is in himself and not in the office he occupies. Judge KELLER could worthily fill any position, and I know that he appraises more highly than the office he fills or any other office he might fill, the respect and esteem of his fellow-men, which he possesses in such full measure.

There are many other things I would like to say if time permitted. I would like to say something about the nationally known artist, J. Campbell Phillips, who painted the portraits of judges Rice and Keller which are about to be unveiled. I have seen these portraits by Mr. Phillips. and they are splendid likenesses of the distinguished men they delineate.

In Great Britain three and a half centuries ago there was a poet named Daniel. He wrote some verses which I think apply to our guest of honor. These verses are as follows:

“He that of such a height hath built his mind.
And reared the dwelling of his thoughts so strong
As neither fear nor hope can shake the frame
Of his resolved powers, nor all the wind
Of vanity or malice pierce to wrong
His settled peace or to disturb the same—
What a fair seat hath he, from whence he may
The boundless wastes and wilds of man survey?”

And with how free an eye doth he look down
Upon those lower regions of turmoil!
Where all the storms of passion beat
On flesh and blood; where honor, power, renown
Are only gay afflictions, golden toil;

Where greatness stands upon as feeble feet
As frailty doth, and only great doth seem
To little minds, who do it so esteem.”

In other words, fortunate is the man whose mind is built so high as to be above fear and vanity and who can see in their true proportions and measure at their true worth the “honors” for which men strive. Blessed is the man who has an accurate sense of life’s values.

President Judge KELLER, I know nothing more appropriate to say to you than something which was said in 1884 the completed monument to George Washington was dedicated in the capital city which bears his name. They selected as the orator for that occasion Senator John W. Daniel, the eminent Virginia statesman. I think the outstanding sentence of his oration was the one I am about to apply to you. It is as follows: “Greater than all of Washington’s talents, preeminent as they were, was his matchless manhood, to which Confidence freely gave the keys of every treasure, on which Temptation never dared to smile, and toward which Suspicion never cast a frown.”

That, in my judgment, is a perfect description of WILLIAM H. KELLER, the President Judge of the Superior Court of Pennsylvania.

THE HONORABLE WILLIAM B. LINN



December 20, 1871 – June 13, 1950

Assumed Office: November 1919

County: Lancaster/Philadelphia

BIOGRAPHY

William Bomberger Linn served over twelve years on the Pennsylvania Superior Court. He was subsequently a Pennsylvania Supreme Court Justice for eighteen years.

Linn was born on December 20, 1871 in a farmhouse in Ephrata, Pennsylvania, to Valentine Linn and Mary Bomberger Linn. His parents' property had been in the Bomberger family since the original patent from William Penn in 1730. His father was superintendent of an iron foundry and he was the oldest resident of Lancaster County when he died in May 1942 at the age of 97.¹

Linn attended local public schools in Lancaster County and graduated from the Kutztown Normal School. He became a schoolteacher in Lancaster for a number of years before removing to Philadelphia, where he entered the Law School of the University of Pennsylvania. In 1897, he graduated, remained in the city of Philadelphia, and joined the law office of William H. Addicks. Addicks

was a prominent Philadelphia attorney and a strong mentor for Linn, who quickly earned the respect of numerous members of the Philadelphia Bar. When Addicks died, Linn took over his office and later joined in partnership with H. B. Gill and then John R. Reed.²

Linn practiced Law in Philadelphia over the next 20 years earning a reputation as a “brilliant legal scholar” and an accomplished trial attorney who specialized in public utility cases. His larger clients included the Baltimore and Ohio Railroad and Western Union Telegraph Company.³

On November 5, 1919, Linn was surprised by Governor William C. Sproul with an appointment to the Pennsylvania Superior Court. Linn accepted the commission, filling a vacancy on the bench caused by the death of Judge J. Henry Williams. Linn, a Republican, had never taken an active part in politics. “My appointment is a surprise to me,” declared Linn; “[e]ver since I began the practice of law, I have worked twenty-four hours a day at my profession.” He was heartily congratulated on the appointment by the Philadelphia Bar: “Mr. Linn in a special manner presents the Philadelphia bar in its most dignified and honorable aspect.” Linn retained his seat on the court winning a full ten-year term in the November elections the following year. A memorable case for Linn may have included the court’s refusal of a supersedeas plea for Al Capone. Linn also advocated abolishing jury unanimity in deciding cases believing a three-fourths or five-sixths majority was sufficient.⁴

In November 1930, he was reelected to the Superior Court, receiving among other support, the strong backing of the Philadelphia Bar, which published a statement signed by 71 of its members. “His high character, ability and learning have made him conspicuous during his term of ten years on the court,” noted the members of the bar. “[H]is continuance in that office will be to the advantage of the public and be a just and fitting recognition of distinguished service faithfully rendered to it.”⁵

Linn served on the Superior Court bench until February 23, 1932 when he was elevated by appointment to the Pennsylvania Supreme Court upon the death of Justice Emory A. Walling. Linn’s appointment met “with the hearty approval of the profession.” Citing the quality of Linn’s work on the Superior Court, one contemporary declared, “[h]is elevation will be regarded as a well-deserved promotion of an able,

conscientious and industrious judge.” Linn was elected to a full 21-year term on the Supreme Court in November 1932. For the next eighteen years he wrote many decisions concerning numerous legal topics, demonstrating his breadth of knowledge from cases concerning landlord and tenant law and negligence in various instances, to regulations concerning utility rates and estate law.⁶

Facing a long-illness, Linn rather than shirk his duties, (he had not appeared in court in one month) submitted his resignation to Governor on June 10, 1950. Of his service on the Pennsylvania Supreme Court, his good friend Senator George Wharton Pepper commented: “From the very beginning of his career as a Justice of this Court his diligence, his calmness of judgment, his enthusiasm from his calling, made him notable among the judges of Pennsylvania. It was a real enthusiasm: he loved the law.”⁷

Linn lived in the Overbrook section of the city of Philadelphia for over 30 years. He was a dedicated member of the community, and as one city newspaper penned: “he has taken a prominent part in those things that make the city a more amendable place to live.”⁸ Linn was a member of the boards of numerous community and legal organizations within the city including the Art Club, Athenaeum, Free Library of Philadelphia (director and trustee), Library Company of Philadelphia, Legal Club, Junior Legal Club, Rittenhouse Club, and University Club. He was a vice provost of the Law Association of Philadelphia and also a member of the American, Pennsylvania, and Philadelphia Bar Associations. He received honorary degrees from Franklin and Marshall College, Hahnemann Medical College, and the University of Pennsylvania. “Justice Linn was a scholar, not only in the law but in cultural things as well—in art, music and literature,” commented Chief Justice James B. Drew. “[H]is path led steadily onward in pursuit of the intellectual things in life. This set him apart as a man fully developed in courage, mind and spirit.”⁹

Linn died in Philadelphia after a long illness on June 13, 1950. He loved fly fishing and golf and was a voracious reader, calling his own library of over 10,000 volumes, “a working library, not a collection of first editions.” His memorial ceremony in the Supreme Court took place on November 13, 1950. Notably, all of the speakers commented on Linn’s “full and rounded life,” one calling him a “master of his profession.” Owen J. Roberts, former United States Supreme Court

Justice commented: “Nothing that we can say can add to the record he made; it stands four-square as a paragon and as an example of citizenship and public service.”¹⁰ A year later, the Philadelphia Bar presented a three-quarter length portrait of Linn (by Cameron Burnside) to the court. Over 200 members of the bar contributed to the portrait fund, hoping to restore Linn “to his colleagues as a guide and a guard.”¹¹

Linn married Josephine Steward Wood by 1908 and they had four children. His son Bramwell Linn, a promising poet, committed suicide in 1929 at the age of 21. His son Thomas W. Linn was a state representative for the second district of Delaware County and a World War II veteran; he died from accidental gunshot wounds in 1948 at the age of 40. Judge Linn was survived by his widow and two daughters.¹²

¹ “Wm. B. Linn, 78, Jurist, Dies Here,” *Philadelphia Inquirer*, June 15, 1950.

² “Wm. B. Linn,” *Philadelphia Inquirer*, June 15, 1950; Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923): 4:7.

³ “Justice W. B. Linn Dies in Hospital,” *Evening Bulletin*, June 14, 1950.

⁴ *Pennsylvania Manual*, (1929): 216; “Linn is Appointed to Superior Bench,” *Philadelphia Inquirer*, November 6, 1919; Patrick J. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 97; “Bail Denied Capone by Superior Court,” *New York Times*, July 2, 1929.

⁵ “Judge Linn’s Renomination and Re-election Flavored by Members of the Bar,” 87 *Legal Intelligencer* (April 18, 1930): 428; “Pinchot is Victor in Pennsylvania,” *New York Times*, November 5, 1930.

⁶ “Judge Linn,” 89 *Legal Intelligencer* (February 26, 1932): 272; “Factional Row Due in Keystone State,” *New York Times*, March 6, 1932; “William B. Linn,” Report of the Committee of Legal Biography and History, in *The 56th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1951), 255; 366 PA State Reports, xxv.

⁷ “Justice W. B. Linn Dies in Hospital,” *Evening Bulletin*, June 14, 1950; John W. W. Loose, “Bio. Of Hon. William B. Linn,” 366 PA State Reports, xxvii.

⁸ “Wm. B. Linn,” *Philadelphia Inquirer*, June 15, 1950; Quoted from Tamilia and Hare, “Keystone of Justice, 97.

⁹ “Wm. B. Linn,” *Philadelphia Inquirer*, June 15, 1950; “Justice W. B. Linn Dies in Hospital,” *Evening Bulletin*, June 14, 1950; 366 PA State Reports, xxxi; Loose, “Bio. Of Hon. William B. Linn.”

¹⁰ “William B. Linn, 78, Long a Jurist, Dies,” *New York Times*, June 14, 1950; “William B. Linn,” Report of the Committee of Legal Biography and History, in *The 56th Annual Report*, 255; “Wm. B. Linn,” *Philadelphia Inquirer*, June 15, 1950; 366 PA State Reports, xxxiii-xxxix.

¹¹ "Portrait of Justice Linn Presented to Supreme Court," 125 *Legal Intelligencer* (November 26, 1951): 557.

¹² "Haverford Senior Found Shot Dead," *New York Times*, June 8, 1929; "Dead Student Kept on Haverford Roll," *New York Times*, June 9, 1929; "Thomas W. Linn, Son of Justice Linn, Hurt in Gun Accident," 118 *Legal Intelligencer* (June 9, 1948): 725; "Thomas W. Linn Dies from Accidental Gunshot Wounds," 118 *Legal Intelligencer* (June 10, 1948): 731; Wm. B. Linn," *Philadelphia Inquirer*, June 15, 1950.

THE HONORABLE ROBERT S. GAWTHROP

October 20, 1878 – May 17, 1944

Assumed Office: April 1922

County: Chester

BIOGRAPHY

Robert Smith Gawthrop served a little over ten years on the Pennsylvania Superior Court. He was judge of the Chester County Court of Common Pleas, first deputy attorney general for the Commonwealth, chairman of the Pennsylvania Liquor Control Board, and general solicitor for the Pennsylvania Railroad.

Gawthrop was born in Embreeville, Newlin Township, Chester County on October 20, 1878 to Thomas Carrington Gawthrop and Emma Pratt Gawthrop. His father was a merchant and the family name was well known in Chester County as Gawthrop's ancestors arrived in Pennsylvania in the 1700s. Gawthrop presumably attended the closest public schools, which were in West Chester and graduated from West Chester High School in 1897. He continued his education at the University of Pennsylvania, becoming president of his class, and graduating in 1901. Gawthrop was living with his aunt and uncle in West Chester and before his graduation, had probably already started

his legal education in the office of Thomas S. Butler in that city.¹

On October 11, 1904, Gawthrop was admitted to the Pennsylvania Bar and that year also opened his own law office in West Chester. He diligently served the community and five years later took on his first public service role when he was elected district attorney of Chester County. He served in that position for three years. Perhaps his most controversial case concerned a lynching in Coatesville; Gawthrop tried unsuccessfully to have the venue changed to facilitate prosecution of the case, and later commented that the state's case was "absolutely hopeless" given the "climate of opinion."²

Gawthrop returned to his general practice in 1912, but was again called to public service on May 15, 1915, when Governor Martin Brumbaugh appointed him to fill a vacancy on the Chester County Court of Common Pleas. He gained valuable experience as a jurist during a few months on the bench, again returning to his law practice in January 1916.³

As before, however, it would only be a scant three years before Gawthrop again entered into public service, although this time it would be for the next twelve years. On January 28, 1919, Gawthrop accepted an appointment from Governor William C. Sproul as first deputy attorney general for Pennsylvania. He held that position for the next three years under two different attorney generals. On April 12, 1922, Governor Sproul called Gawthrop to his office and surprised him by offering an appointment to the Pennsylvania Superior Court to fill a vacancy caused by the sudden retirement of Judge John B. Head. Gawthrop quickly resigned as deputy attorney general and accepted this new appointment. Seven months later as the Republican nominee, Gawthrop was elected to a full 10-year term on the Superior Court. He served until 1932 when the impact of the Great Depression caused a Democratic resurgence and a factional split among the Republicans that stymied Gawthrop's reelection bid.⁴

Although Gawthrop held numerous different positions in the local and state government, he always returned to the general practice of law. Losing his Superior Court seat in the November 1932 election was no exception, as Gawthrop again turned to private practice in his firm in West Chester. He also joined the firm of Hause, Gawthrop, Evans and Storey in Harrisburg.⁵

But as usual, it was not long before Gawthrop gained another state

appointment, accepting the position of chairman of the first Pennsylvania Liquor Control Board in December 1933. With the end of prohibition, Gawthrop helped organize the board and consequently was entrusted with opening about 90 liquor stores and jumpstarting a \$40 million business in less than a month. A former prohibitionist, Gawthrop was “wholly unfamiliar with the work,” and was charged with a huge task having to use estimates concerning the amount of Pennsylvania liquor consumption. He continued in that position throughout 1934 and into 1935, before the controversial nature of the business and attacks about “favoritism” in awarding liquor contracts, forced Gawthrop and his colleague A. Marshall Thompson to retire from the board in July 1935. Gawthrop “emphatically denied” any wrongdoing and returned to his private law practice in West Chester.⁶

In May 1935, Gawthrop joined the legal staff of the Pennsylvania Railroad as solicitor for Chester County. Fourteen months later, he was elevated to general attorney for the corporation. In January 1942, the Pennsylvania Railroad again promoted Gawthrop, this time to the position of general solicitor.⁷

Public and community service were obviously important to Gawthrop. He served as chairman of the Chester County Republican Committee and of the Pennsylvania Anthracite Coal Committee, as a director of the Farmers’ and Mechanics’ Trust Company of Chester County and the Union League. Gawthrop was a member of the vestry of the Protestant Episcopal Church of the Holy Trinity in West Chester and a Mason. He was dedicated to his profession acting as a legal advisor to the Pennsylvania Association of Railroads, and as a member of the legal committee of the Association of American Railroads, the Pennsylvania Board of Law Examiners, and the American, Pennsylvania, and Chester County Bar Associations.⁸

Gawthrop died of a heart attack on May 17, 1944.⁹

On November 8, 1906 Gawthrop married Emily Locke Hoskins in West Chester, Pennsylvania. She was the daughter of Dr. Percy C. Hoskins, and was very active in the West Chester community, serving as the first woman member of the board of trustees of the West Chester State Teachers College (West Chester University), and as president of the New Century Club, of the women’s auxiliary of Chester County Hospital, and of the Convocation of Chester. They had two sons, Thomas Carrington and Robert Smith, both of them served in the

armed forces and both were members of the Chest County Bar. By the 1940s, both sons joined their father in his West Chester law practice. Thomas Carrington Gawthrop became President Judge of the Chester County Court of Common Pleas, but Robert Smith Gawthrop (d. 2004) (unlike his father, his brother, and his son) “preferred to pursue the practice of law and represented many Chester County organizations.” Robert Smith Gawthrop (d. 1999) was a United States District Court Judge for the Eastern District of Pennsylvania. As of this printing, the law firm of Gawthrop Greenwood founded in 1904 by the subject of this essay still operates in West Chester, Pennsylvania.¹⁰

¹ “Robert Smith Gawthrop,” Report of the Committee of Legal Biography and History, in *The 49th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1944), 192; Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923): 4:7; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 97; 1900 U.S. Federal Census.

² Eastman, *Courts and Lawyers*, 4:7; “Community on Trial: The Coatesville Lynching of 1911,” *Pennsylvania Magazine of History and Biography*, 106:245, 261, 264.

³ Eastman, *Courts and Lawyers*, 4:7; *Pennsylvania Manual* (1929): 216.

⁴ *Pennsylvania Manual*, (1923-24): 751; Tamilia and Hare, *Keystone of Justice*, 60, 97; “Robert Smith Gawthrop,” Report of the Committee of Legal Biography and History, in *The 49th Annual Report*, 193; “Pinchot Threatens as Candidate Loses,” *New York Times*, June 11, 1922; “Factional Row Due in Keystone State,” *New York Times*, March 6, 1932. Tamilia and Hare (*Keystone of Justice*, 97, 138) offer conflicting stories stating at one point that Gawthrop lost the election and at another that he resigned from the bench.

⁵ “Robert Smith Gawthrop,” Report of the Committee of Legal Biography and History, in *The 49th Annual Report*, 193.

⁶ “Earle to Fight Liquor Activity,” *New York Times*, January 29, 1935; “Pennsylvania Digs into Liquor Issue,” *New York Times*, March 10, 1935; “Liquor Shift in Pennsylvania,” *New York Times*, July 7, 1935; “Pennsylvania Stock Gone,” *New York Times*, August 22, 1935.

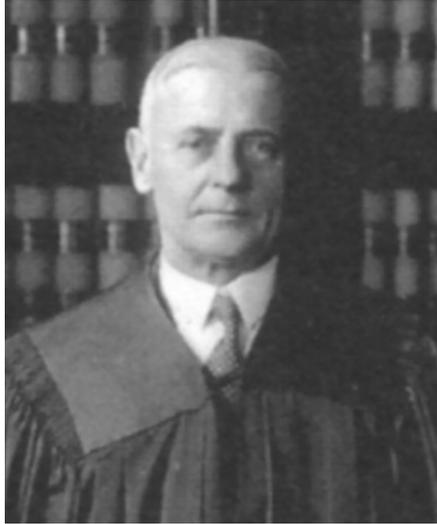
⁷ “Gawthrop Made P.R.R. Solicitor,” *Wall Street Journal*, May 10, 1935; “Joins P.R.R. Law Staff,” *New York Times*, July 18, 1936; “P.R.R. Names General Solicitor,” *New York Times*, Jan. 30, 1942.

⁸ Eastman, *Courts and Lawyers*, 4:7; “Robert Smith Gawthrop,” Report of the Committee of Legal Biography and History, in *The 49th Annual Report*, 192-93; “Honorable Robert S. Gawthrop Named to Board of Law Examiners,” 101 *Legal Intelligencer*, (October 21, 1939): 749; “Robt. S. Gawthrop, P.R.R. Solicitor, 65,” *New York Times*, May 18, 1944.

⁹ “Hon. Robert S. Gawthrop,” 110 *Legal Intelligencer* (May 18, 1944): 563.

¹⁰ Chester County Marriage License Applications, <http://dsf.chesco.org/archiveindex/marriage/1901>; 1930 U.S. Federal Census; “Robert Smith Gawthrop,” Report of the Committee, in *The 49th Annual Report*, 192-193; “Mrs. Robert S. Gawthrop,” *New York Times*, July 19, 1949; “Robert S. Gawthrop 3d, Federal Judge, 56,” *Philadelphia Inquirer*, August 3, 1999; “In the Region: Robert S. Gawthrop, Jr.,” *Philadelphia Inquirer*, January 23, 2004; www.gawthrop.com.

THE HONORABLE JESSE E.B. CUNNINGHAM



December 19, 1868 – December 6, 1942

Assumed Office: January 4, 1926

County: Westmoreland

IN MEMORIAM

AND NOW, January 27, 1943, it is ordered that this minute, expressive of our appreciation of the life and character of our late brother, Jesse E.B. Cunningham, and of our sense of loss over his untimely death, be spread at length on the records of the Court.

BY THE COURT

JESSE E.B. CUNNINGHAM, for seventeen years a valued member of this Court, died at Philadelphia, December 6, 1942. He was born in Johnstown, Cambria County, Pennsylvania, December 19, 1868, the son of John and Eliza Taylor Cunningham, but his parents shortly afterwards moved to Westmoreland County, where his youth and early manhood were spent. He attended Washington and Jefferson College, which in later years conferred on him the honorary degrees of Master of Arts and Doctor of Laws.

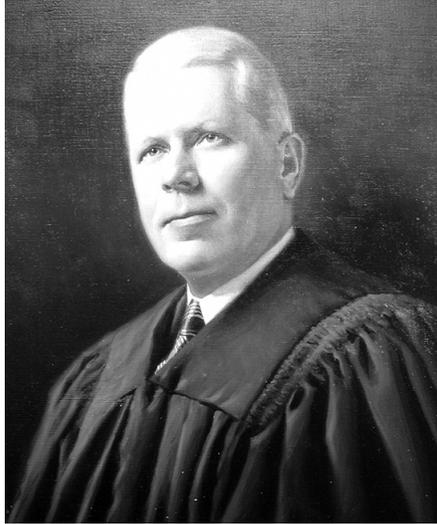
He was admitted to the Bar of Westmoreland County in 1893 and was elected district attorney of that County in 1900 and re-elected in 1903. In 1907, he was appointed Deputy Attorney General of The Commonwealth and was an active and influential participant in the criminal prosecutions growing out of the furnishings and equipment of the new State Capitol. He resigned his office in 1915, and practiced law at Harrisburg until he entered upon his duties as a judge of this Court on January 4, 1926, following his election on November 3, 1925 for a term of ten years. He was re-elected in 1935.

Judge Cunningham soon won the respect, esteem and affective of his colleagues, and of the bar in general and retained them until his death. He was a just and upright judge; an able and learned lawyer; and a Christian gentleman of unblemished character.

His knowledge of the law was sound, his research was painstaking, and his industry great. And his kindly disposition and courtesy to the members of the bar won for him a high place in their regard. His desire, above everything else, was to do justice. His legal knowledge covered many fields, but he was especially skilled in the subjects of criminal law and procedure and workmen's compensation.

We, who were in close association with him, have lost not only a valued colleague, but a dear friend. The Commonwealth has lost a great judge.

THE HONORABLE THOMAS J. BALDRIGE



April 5, 1872 – January 27, 1964

Assumed Office: January 1929

President Judge 1945-1947

County: Blair

BIOGRAPHY

Thomas Jackson Baldrige¹ served 17 years on the Pennsylvania Superior court; for two of those years he was President Judge. He was President Judge of the Blair County Court of Common Pleas and Attorney General of Pennsylvania under Governor John S. Fisher.

Baldrige was born in Hollidaysburg, Pennsylvania, on April 5, 1872 to Howard Malcolm Baldrige and Laura Mattern Baldrige. His father, a Civil War United States Army veteran and “an eminent member of the Blair County Bar,” groomed his son for a law career. His mother was the daughter of Jacob and Catherine Mattern.²

Baldrige attended local public schools in Hollidaysburg and received a preparatory education at Andover Academy in Massachusetts. He returned to Pennsylvania where he commenced his college education at Bucknell University in Lewisburg. After graduation, Baldrige entered the Law School of the University of

Pennsylvania and under the preceptorship of his father, he trained for a career in the law. He returned to Blair County with the intent to join his father's practice and was admitted to the Blair County Bar on March 11, 1895. Just one week later, Baldrige's great expectation to work with his father was crushed, however, when the elder Baldrige died. Baldrige instead began his own successful general law practice, "won public confidence," and soon became "one of the foremost figures among the younger members of the Blair Bar." Over the next 15 years, Baldrige honed his legal skills and gained professional standing both at the local and state level.³

On January 15, 1910, Governor Edwin S. Stuart appointed Baldrige President Judge of the Blair County Court of Common Pleas. He excelled as a jurist and kept his seat on the bench the following fall when he was elected to a full 10-year term; he was reelected to another 10-year term in November 1921. While serving Blair County during these years, Baldrige also began to garner the respect of Pennsylvania Republicans and in 1917, he was appointed to a state commission, with Judge John M. Guest and Attorney General George E. Alter, to review the Orphans' Court laws and the laws on decedents' estates. That year, the commission produced a new decedents' estate law for the Commonwealth. Baldrige continued on the state commission, as well as temporarily sat on his district's Orphans' Court bench while a fellow jurist recovered from an illness.⁴

Baldrige resigned from the Blair County Court of Common Pleas on January 18, 1927, when Governor John S. Fisher recognized him with an appointment as Pennsylvania's Attorney General. His tenure as Attorney General was a little over two years, as on January 28, 1929, he accepted an appointment to the Pennsylvania Superior Court.⁵

The Republican Baldrige easily retained his seat on the Superior Court in the elections in November 1929. "On the Bench of the Superior Court he is exacting," commented one contemporary, "and at the same time exceedingly fair and helpful to counsel."⁶ During the 1930s, there was some controversy surrounding Baldrige concerning the purchase of stock at below market prices; but although he was listed as those who were "favored" and politically attacked (as were two other Pennsylvania jurists), Governor Gifford Pinchot did not ask him to resign. Baldrige maintained his innocence and integrity and was reelected to the Superior Court in November 1939.⁷

On January 20, 1940, Baldrige and fellow Blair County jurist Pennsylvania Supreme Court Justice Marion D. Patterson, were honored at a testimonial dinner celebrating their respective elections. Superior Court Judge Joseph Stadfeld was one of the primary speakers and he presumably commented on the honor that Baldrige and Patterson brought to Blair County as well as both jurists' commitment to the bench and their respective communities. "Blair County," noted the county bar association, "can take justifiable pride in the fact that two of her most distinguished citizens and outstanding members of the legal profession have been advanced to the highest courts in the commonwealth."⁸

Baldrige was involved in both professional and public organizations. He was a Baptist and a trustee of the Hollidaysburg Baptist Church. He was also a member of the Historical Society of Pennsylvania, the Union League, the American, Pennsylvania, and Blair County Bar Associations, and the American Law Institute.⁹

On January 17, 1945, at the age of 72, Baldrige was elevated to the position of President Judge of the Pennsylvania Superior Court upon the death of President Judge William H. Keller. He took the oath of office five days later at the Blair County courthouse; Baldrige served in that capacity for two years resigning from the bench on March 1, 1947.¹⁰

Baldrige died on January 27, 1964 in Hollidaysburg at the age of 91.¹¹

On April 18, 1917, Baldrige married Anna P. Dean, the daughter of Supreme Court Justice John Dean and Margaret Bell Dean. They had no children, and lived a comfortable life in Hollidaysburg, as evidenced by the 1930 census record, which indicates that the Baldriges had two private family servants. Moreover, they traveled to expensive vacation spots such as Palm Beach, Florida, and years later a grand niece remembered the Baldriges' "lovely things" and beautiful nineteenth-century home.¹²

¹The spelling Baldrige is most accurate as evidenced by local Blair County Bar Association reports and a dinner program honoring the jurist, as well as his entries in the Pennsylvania Manual. Sometimes the jurist's name is spelled as Baldrige.

² Frank M. Eastman, *Courts and Lawyers of Pennsylvania: A History, 1623-1923* (American Historical Association: New York, 1923): 4:205; Floyd G. Hoenstine,

Military Services and Genealogical Records of Soldiers of Blair County, Pennsylvania, (Hollidaysburg, PA, 1940), 385.

³ Eastman, *Courts and Lawyers*, 4:205; George Wolf, ed et al., *Blair County's First Hundred Years, 1846-1946*, (The Mirror Press: Altoona, PA, 1945), 297.

⁴ Patrick R. Tamlia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 98; Eastman, *Courts and Lawyers*, 4:206; *Pennsylvania Manual* (1927): 121.

⁵ Eastman, *Courts and Lawyers*, 4:206; *Pennsylvania Manual* (1927): 121; *Pennsylvania Manual* (1929): 216.

⁶ Wolf, ed. et. al., *Blair County's First Hundred Years*, 297; Tamlia and Hare, *Keystone of Justice*, 129-30.

⁷ "Blair Jurists Elected to State Courts," *Blair County Legal Bulletin*, (1938-1939), 4; "List of "Favored" in Alleghany [sic] Issue," *New York Times*, May 25, 1933; 2 on Morgan List Asked to Resign," *New York Times*, May 28, 1933; "Democrats Back Pinchot's Attack," *New York Times*, June 4, 1933; "Philadelphia Vote Goes as Expected," *New York Times*, September 13, 1939.

⁸ Central Pennsylvania Testimonial Dinner Program, January 20, 1940; "Blair Jurists Elected," *Blair County Legal Bulletin*, (1938-1939), 3-4.

⁹ Eastman, *Courts and Lawyers*, 4:206; *Pennsylvania Manual* (1927): 121; Jesse C. Sell, *Twentieth Century History of Altoona and Blair County* (Richmond Arnold: Chicago, 1911): 818; "Connecticut," *The American Lawyer* (May 1897), 226.

¹⁰ "Hon. Thomas J. Baldrige Commissioned President Judge of the Superior Court," *Blair County Legal Bulletin*, (1945), 5-6.

¹¹ "Thomas J. Baldrige," Report of the Committee of Legal Biography and History in *The 69th Annual Report of the Pennsylvania Bar Association* (George H. Buchanan: Philadelphia, PA, 1965), 236.

¹² Eastman, *Courts and Lawyers*, 4:206; Wolf, ed. et. al., *Blair County's First Hundred Years*, 298; Tamlia and Hare, *Keystone of Justice*, 98-99n; 1930 U.S. Federal census, "Palm Beach Group Gives 'Saint Joan,'" *New York Times*, February 17, 1932.

THE HONORABLE J. FRANK GRAFF



*December 28, 1888 –
Assumed Office: 1930
County: Armstrong*

IN MEMORIAM

The proceedings in memoriam for the Honorable J. Frank Graff was held on Wednesday, December 30, 1981, in Courtroom No. 1 of the Armstrong County Courthouse, City of Kittanning, Armstrong County, Pennsylvania, the Honorable R. A. House, presiding.
Speakers:

Mr. Jack D. Heim, Esq.
Mr. James McClister, Esq.
Mr. Peter Calarie, Esq.
The Honorable R.A. House

MR. HEIM: If it please the Court, at this time the Armstrong County Bar Association would like to extend a most sincere welcome to the family of Judge Graff, to his friends, members of the bench and members of the bar. We are here this morning for Judge Graff and at

this time James McClister will deliver the memoriam.

MR. MCCLISTER: It becomes a very challenging and almost overwhelming task for men of lesser lights to comprehend, to appraise, to revere and commemorate the full life of this truly great man—an eminent jurist for over 56 years, a valiant soldier in his earlier years at the Mexican Border and then in the European theater of what he called “The Great War”, World War I, an indispensable pillar in his church, St. John’s Lutheran Church of Kittanning, a very valuable member of the Board of Trustees of the Armstrong County Memorial Hospital for many years, a leading figure in public life for over half a century, a loyal and devoted citizen of the United States, of Pennsylvania and of Armstrong County all his life, unstintingly upholding and enunciating the principles of Democracy and Justice, and always a genuine, trustworthy friend and an energetic sportsman, often expertly blending his legal acumen with basic common sense in his many constructive activities.

J. Frank Graff was born in West Franklin Township, now Worthington Borough, Armstrong County, on December 28, 1888, a son of J. Frank Graff, Sr. and Carrie Louise Brown Graff. His father had served as a state representative and senator, also running the woolen mill which his father built shortly after the Civil war. His mother was the daughter of a Lutheran minister who, after being forced out of the South because of his Northern loyalties, became President of the Lutheran Theological Seminary at Gettysburg where the Judge’s parents first met. This religious background helped to develop early in young J. Frank Graff a fine sense of Truth, Fairness and Justice, basic Christian tenets.

Having obtained his elementary education in the local school at Worthington, he attended Mercersburg Academy in 1902 and graduated four years later in his class. Next, he entered Princeton University, graduating from there in 1911. Since his chief ambition from younger years was to become a lawyer, and his father highly approved, he pursued the law at Harvard Law School and after two years, transferred to the University of Pittsburgh Law School where he attained his Bachelor of Laws degree in 1915. In September of that year, he was admitted to the Bar.

After studying law briefly in the office of the late John H. Painter, Esq., and before feeling at home in the courtroom, J. Frank Graff rallied

valiantly to the cause of the United States by joining Company K of the National Guard, of the 16th Pennsylvania Infantry. He served with that Company on the Mexican Border from June, 1916, to January, 1917. Later, in July, 1917, his Company was sent to Camp Hancock, Augusta, George, and after training, sailed for France in May, 1918. Facing relentless enemy fire along the Marne River, in the Argonne Forest and at other sites in the French Theatre of Operations up to the very minute of the Armistice on November 11, at 11:00 a.m., he miraculously emerged without a scratch. Taking time to participate in the creation and chartering of the American Legion in Paris, he returned from the wars to resume the practice of law.

In the fall of 1919, Graff joined in the law partnership with the late R.L. Ralston and continued in the practice of law with that firm until 1923, when with the urging and encouragement of his senior partner, he ran for, and won, election over his Democratic opponent, the late Charles H. Harrington, Esq., for the office of Judge of Armstrong County. Although at 34, the youngest member then of the local bar, J. Frank in the first instance pitched in with vigor and perseverance, and served his County well. In February, 1930, Governor John S. Fisher appointed him to the Pennsylvania Superior Court; what at first blush appeared a handsome step upward in the judicial world was converted into his only major defeat when Judge Drew of Allegheny County bested him in the primary election; Graff attributed this set-back to his lack of sufficient financial support in a state-wide campaign for a seat on the appellate court. Nevertheless, he was reappointed Judge of Armstrong County in May, 1930, and ran unopposed on the Republican side in 1931, 1941 and 1951; in 1931 and 1941, he defeated the late Harry P. Boarts, Esq., in the general election, and in 1951 he ran unopposed by either party. In 1961 at the age of 72, Graff defeated Edward J. Steiner, Esq., in the primary, and the present Judge R.A. House in the general election. On January 1, 1972, at the age of 83 and by virtue of new requirements of retirement, Judge Graff retired as President Judge of Armstrong County. In an impressive ceremony, he swore in the new incoming Judge, The Honorable R. A. House, and conversely Graff was sworn in as Senior Judge Retired by Judge House.

The designation of "retired" became in the next period of almost 10 years a misnomer in J. Frank Graff's full life. During that period up until a few days before he departed this life, Judge Graff worked a full

five-day week at his small office off the County Law Library in the Courthouse; he was of inestimable aid to Judge House, in giving him valuable hints in the serious demanding judicial business, in presiding in both civil and criminal cases when the court calendar was overflowing, in supervising the tedious matters of domestic relations, in defatigable daily legal research, and in affording guidance and proper advice to all lawyers, young and old, and to his countless friends who wisely chose to consult him from time to time.

Although we are well aware that this great unique personage was a stalwart in the Church of his faith, a tireless worker in formulating fiscal policy and proper program for the sick and injured in our community Hospital, a leader and loyal member of countless fraternal and patriotic organizations, an avid Sportsman in the field, a very personable gentleman, an expert gardener, and a true and priceless friend to many, the focus should be here on the arena in which we knew him best, that is, on the bench.

It would indeed be a sorry commentary for the cynics to remark that it's no wonder he was a good judge, since he practiced his profession for so long. The obvious answer to that is that few, if any, of us can hope to be so devoted to our trade for so long a continuous period, or to achieve such illustrious acclaim. During his 48 years as President Judge, his Court calendar was never cursed with a backlog of cases, and he still had the time, stamina and acumen, by assignments of the Supreme Court, to help other neighboring Counties to relieve their critical trial backlogs, particularly Allegheny and Butler Counties. From 1972, during his "retirement", J. Frank Graff saw to it that his young successor would not be burdened by backlogs. No judge in the Commonwealth of Pennsylvania, or elsewhere, so far as can be ascertained, has presided in trials at a more advance age, no judge has had active tenure on the bench for as long a continuous period, no judge has presided in more criminal homicide cases, many being first degree murder, that is, over three hundred of them, than our, The Honorable J. Frank Graff.

In the myriad of cases in which he presided over the years, he strove to be fair and equitable, never inflexible or dogmatic in his findings and Opinions; to young lawyers and newcomers to the Bar, he constituted a patient, understanding guidance counselor without being overly indulgent; to the older, more seasoned barristers, he was stern and

exacting, without being harsh or vindictive.

Many young aggressive lawyers in the past tended to resent Judge Graff's interceding in the examination of a witness on the stand, but J. Frank explained this seemingly unorthodox conduct by his sincere attempt to clarify the pertinent facts not only for himself but chiefly for the jury. At any rate, the offended lawyer would most probably be much better prepared in his next case before this eminent Judge.

The members of this Bar have often seen a tedious long suffering case converted into a speedy fair trial by Judge Graff in his familiar, expeditious urging, "Gentlemen, let's get along with this case!"

Every person who had contact with this Great Man, from Governors, through the ranks of fellow judges and lawyers, down to the most humble friend or acquaintance, revered and respected him and deeply mourn his passing. We who had the privilege and pleasure of litigating in this Court, are grateful for his noble tutelage, and feel sincerely that his eminence and vast achievements are passed on to his colleagues as a rich heritage.

As stated at the start of this memorial, it is almost impossible to touch all bases and treat of every facet of J. Frank Graff's full and illustrious life. Therefore, brief testimonials, anecdotes and fitting remarks by others present here in Court today are warmly welcomed and should be recorded as a supplement hereto. Respectfully submitted, Harry A. Heilman, Jr. and James D. McClister.

JUDGE HOUSE: Mr. Calarie.

MR. CALARIE: If it please the Court, it is my privilege as the dean of the Armstrong County Bar participating in this memorial, I consider it a privilege and an honor. This is a situation of seniority and not my own volition, simply because of time. I feel really overwhelmed today because forty-eight years ago I stood on this same spot and was admitted to practice law before this Court. Since that time nearly half a century has expired and in all those years I have had the privilege that comes to only but a few to have practiced nearly half a century before the same judge in his capacity as President Judge and Senior Judge. So, as I come to the end in the twilight of my practice I feel very satisfied with having practiced before not only a distinguished jurist but having had an association that involved not only a delightful, but a dear friend and when the going looked unbearable he came to my help. When I needed courage he extended courage and when I needed help he

extended the helping hand and over the years as our friendship grew closer and closer, I was always grateful for having had that experience. Along the way, other than the law itself, we also shared a common experience and that was in the military service. As you have heard, Judge Graff not only started out as a Lieutenant and Commander of his own Company K of the 28th Division, but you have heard a brief resume of his combat experience in World War I. Some years later, I likewise had the same experience having served in the 28th Infantry Division as a combat soldier, so in our experiences and from our common experiences we solidified our friendship and it grew stronger and stronger as the years passed by. From that experience, we also were associated very closely in another area other than the law, especially in affairs affecting the veterans. It was not often that you would experience or see or attend an event where several of the men who served under him in World War I were not present. Keep in mind we are talking about a period of better than sixty-three or sixty-four years and yet today how often we have experienced a ceremony where two of the men who served under him at that time, were present here and are now attending this ceremony. Now, from his association in Company K he carried forth perhaps one of the great virtues of man, love and faith in soldiers who served under him in World War I. From that beginning in 1918 until the present day, he always cared for and always directed and always looked after his men, not only of the men, but their families, dependents and also showed concern and love and affection for those who had served with him in the service. Now, from that also grew his respect not only for his country, but his nation and people in all walks of life. Now, I am sure you who have experienced combat, been in combat or under combat conditions can appreciate the association built up because of that experience and to me there is a poem that was written or recited on many veterans' affairs celebrations that I feel expresses perhaps the best that we can find in the written language of his love and faith in those who served under him and I am sure you all recall the poem entitled "In Flanders Field". If you recall those words, the poet starts, "In Flanders Field between the crosses where poppies grow between the crosses row on row." The poem is based upon what was really a benediction by a soldier who lay buried in Flanders Field and with raised hand said, "Take up our quarrel with our foe, to you from failing hand we throw the torch. Be yourself, hold it high. If you

break faith with us, we who died, we shall not sleep in Flanders Field.”

J. Frank Graff never lost the faith. The members who remain from the company will testify to that and because of that faith may now sleep in Flanders Field.

JUDGE HOUSE: Before we conclude this occasion, are there any others present who wish to make any remarks?

(No response.)

JUDGE HOUSE: Well, before we conclude I hope that you will pardon me for taking some time here to recall some very personal reminiscences of Judge Graff.

As has been stated here, Judge Graff first took office as President Judge in the Thirty-Third Judicial District on the first Monday in January, 1924. He served continually thereafter until his death. To place such an enormous period of time in perspective, the date he took office was some fifteen months before I was born and I was Judge Graff's successor. Through my childhood and adult life everyone in the community, including myself, referred to Judge Graff as “the Judge”. Obviously, anyone who sits as judge for nearly fifty-eight years has certainly earned the right to be known as “the Judge”.

When I was elected to succeed Judge Graff, some thought a confusion might arise. Well, it didn't because of our close friendship and association and I must confess even my own family continued to refer to Judge Graff as “the Judge” and for me this presented no problem at all because I had always thought of him as “the Judge” and continued to do so even after taking office. May I say that Judge Graff was of the same generation as my own parents. When I grew up, parents did not attempt to be buddies with their children. There was always a certain distance maintained between parent and child and I, along with most of my friends, stood in considerable awe of our parents and I must say when I commenced the practice of law, I stood in awe of Judge Graff. It was almost with considerable trepidation that I approached him with some Motion or Petition. However, I, along with all other young lawyers, soon came to realize that Judge Graff was a kindly man and he always gladly took the time to advice fledgling lawyers in matters of both substance and procedure. I recall that visits to his chambers for the purpose of having an Order signed frequently consumed hours of time because Judge Graff loved to discuss the law and very often the conversations would zero in to a specific

conversation and I suspect he was using his lawyer visitors as sounding boards while wrestling with issues which were before him for decision. Judging is a lonely pursuit as my fellow Judges here can attest and I think Judge Graff found it helped to be able to verbalize his view of the facts and his analysis of the issues in a case in this type of informal way that I have described. Judge Graff on numerous occasions related to me his own experiences as a newly elected Judge. He had not practiced law extensively before coming to the bench and he was relatively unfamiliar with the courts. Well, coming to the bench in a one-judge county can be a wrenching experience if there is no one to whom a new judge can turn for assistance or encouragement. Judge Graff was forever grateful to Judge Criswell of Venango County for providing him with help and advice during his first days as Judge. Of course I never knew Judge Criswell, but he must have been a crusty old codger because he gave my Judge valuable advice. It was his advice to always be quick and decisive in trial rulings, even at the risk of being wrong occasionally because erroneous rulings could be redressed on post-trial motions. Likewise, his advice to always let the case go to the jury is good advice for a judge even today. When I came to the bench, Judge Graff was my Judge Criswell. He never interfered in any way, and he was always available for advice and counsel. I always admired the way he handled trials and frankly, I have continually tried to emulate his judicial style. His presence here was of help to me, particularly in my first few years. I will always be grateful for that. Judge Graff had an ability which few judges ever acquire. He was able to commit to memory all manner of jury instructions and so he was able to charge a jury even in a very complex case simply with the aid of a few notes scratched on a legal pad. You think of a teacher who has full command of the subject matter. Judge Graff was able to impart to the jury in a manner of ordinary conversation the necessary instructions in a case. Try as I will, I am unable to emulate him in this respect and I suspect few judges today attempt to do this. This is unfortunate because jury instructions are difficult to understand at best and when read by the judge become almost incomprehensible. Judge Graff's reputation as a legal scholar was second to none. This reputation is richly deserved. He seemed to be the most contented when he was immersed in a case or in hot pursuit of precise precedent which would resolve the issue before him. His interest never flagged down to the last day he came to his office. It

was a standing joke in the law library that when you couldn't find the latest advance sheets, then you would have to retrieve them from Judge Graff's office. Judge Graff as Senior Judge was assigned to this District on a stand-by basis each month for the nine years and ten months that he served in senior statuses. Needless to say, there were many, many cases in the judicial pipeline at various stages of completion when I took office here. Judge Graff undertook to complete all of the cases which he handled and this enabled this Judge to start off with a clean slate. In addition, during the early years of his retirement he continued to try criminal cases and a few civil cases when we were able to run two courtrooms simultaneously. This enabled us to clean up the criminal calendar in short order. In later years, he confined himself mainly to family court matters, but this was enormously helpful to us in meeting the vastly increased case load. Perhaps the one sour note in the last years was the inability of the Court Administrator's office to believe that a judge in his late eighties or early nineties was perfectly capable or rendering sound and efficient judicial services. He and I received numerous suggestions, both open and veiled, from the Administrator's office that his reassignment would not be continued. These caused the old man untold agonies because we both knew he couldn't live another month if he was to be cut off from his office and life's work. Fortunately, we were able to forestall the termination of Judge Graff's services. To his greatest credit and their lasting shame, his final years of service were totally uncompensated, even though he performed the same judicial functions as other Senior Judges who refused to work until they were compensated. Judge Graff's last day in his office was the Wednesday before he died and I suspect that he spent that last day in the same way that he spent the first Monday of January, 1924, hard at work perfecting and exercising his judicial skills. He was living proof that there is no substitute for continued hard work if one wants to reach and hold the pinnacle of success in any line of endeavor. I am reminded that an admirer once told a pianist he was a musical genius and the pianist replied that might be true but it was also true that before he was a genius, he was a drudge. Judge Graff was a judicial genius, but he was no stranger to drudgery that earned him the mask of genius. Judge Graff's acquired genius represents the benchmark against which all others must be measured in both quality and quantity and judicial accomplishment. That mark will not likely be equaled or surpassed and

his skill as a trial judge will not soon be seen again. Judge Graff was the Armstrong County Court of Common Pleas for almost half a century and his work is his monument. He is and will continue to be sorely missed by the Court and its entire staff. When these proceedings today are completed here, we will direct they be transcribed and filed at the number of Judge Graff's admission to the practice of law. We will further direct that copies of the transcript be furnished to members of Judge Graff's family and the Armstrong County Historical Society.

If there is nothing further, we will adjourn now. When we adjourn, we will do so out of respect for the memory the Honorable J. Frank Graff, most distinguished jurist and our good friend and colleague. All right. Court is adjourned.

(Thereupon, the proceedings in memoriam for the Honorable J. Frank Graff was completed at 11:30 a.m.)

THE HONORABLE JOHN G. WHITMORE



*September 1866 –
Assumed Office: June 24, 1930
County: Elk*

BIOGRAPHY

John G. Whitmore served six months on the Pennsylvania Superior Court. He was a well-respected lawyer in Elk County and a long-time advocate of railroad interests.

Whitmore was born in Ridgway, Pennsylvania, in September 1866.¹ His parents were J. K. and Deannah Whitmore; his father was born in Pennsylvania, but several records indicate his mother was born in New York. Whitmore's father was involved in various business activities within Ridgway. Listed as a lumberman in the 1880 United States Census, J. K. Whitmore was also concerned at one time as a partner in a flour and feed business known as Hyde, Houk, and Whitmore (with Jacob V. Houk and J.S. Hyde). Whitmore's mother was a homemaker to him and his three siblings, two sisters and a brother. The family was Episcopalian, as evidenced by J. K. Whitmore's signing of a petition to incorporate Grace Protestant Episcopalian Church in July 1866. Typical for families of a certain financial status in

the late nineteenth century, the Whitmore's also had at least one servant, and also representative of the era, housed at least seven borders (most of whom worked in the family's saw mill business).²

Little is known about Whitmore's educational background or his public life in Ridgway. He was a founding member of the Patriotic Order Sons of America in November 1888 and also served one term as president of the organization. Whitmore was secretary of the Allegheny and Western Railway Company, and probably helped broker a deal in the early 1900s in which it leased its railroad lines to the Buffalo, Rochester, and Pittsburgh Railway Company. In 1898, Whitmore served on the executive committee of the Elk County Bar Association and by 1900, he established a law office in Ridgway, where he represented numerous local business interests. At his office in February 1904, the Clermont Sewer Pipe Company, of which Whitmore was a principal stockholder, was incorporated. As an attorney, Whitmore also represented the Pennsylvania Railroad and Baltimore and Ohio Railroad.³

Whitmore certainly was a prominent member of his small community; he was a Republican but his political involvement in either local or state politics is unclear. His father, who was also a Republican, ran at least once for public office, when he was soundly defeated in 1869 for the position of Elk County treasurer by local Democrat Henry P. Derr.⁴ Whitmore's law practice probably helped him develop friendships with prominent Pennsylvanians, and in 1930, his life-long friendship with then Governor John S. Fisher, earned him an appointment to the Pennsylvania Superior Court.

On June 24, 1930, Whitmore replaced Judge J. Frank Graff, a Republican from Armstrong County, who resigned after only serving three months on the Superior Court bench. Governor Fisher suffered a backlash from Pennsylvania Republicans who argued that the appointment should have been given to James B. Drew, as Drew had just won the Republican primary for Graff's seat. Perhaps because Governor Fisher argued against the primary election system, he ignored the wishes of the party and appointed Whitmore. Regardless, Whitmore served six months on the Pennsylvania Superior Court, when in January 1931 Drew, who won the full-term November election, filled the seat.⁵

Whitmore's death date is unknown. He began a law partnership

in Ridgway around 1930 with Alfonse J. Straub, which dissolved after five years; Whitmore may have retired or he had perhaps died, as Straub's principal clients (by 1948) were Whitmore's former clients, the Pennsylvania Railroad and Baltimore and Ohio Railroad.⁶

Whitmore's wife's name was Laura E. Her surname is unknown, as is their marriage date. Their first child Virginia was born in May 1894, and they had another daughter Genevieve two years later. Again typical of the late nineteenth century, the Whitmores also had one servant (in 1900), a German woman named Maggie Schaffman. In 1898, Whitmore and his wife moved into their newly built home, still recognized today as one of Ridgway's most historic houses. The Queen Anne Victorian home has large-scale ornate woodwork, original gaslights, and a carriage house with a unique carriage lift designed to make more room for the horses to be stabled.⁷

¹ 1900 U.S. Federal Census, www.ancestry.com.

² *History of the Counties of McKean, Elk, Cameron, and Potter*, (J.H. Beers & Co., 1890), www.pa-roots.org; 1880 U.S. Federal Census, www.ancestry.com.

³ *History of the Counties of McKean, Elk, Cameron, and Potter*, www.pa-roots.org; "Bar and Law Library Associations," *The American* (Feb. 1898), 60; *McKean County Miner*, February 18, 1904, www.smethporthistory.org; 1910 U.S. Federal Census, www.ancestry.com; *Ridgway Record*, July 27, 2006, www.ridgwayrecord.com.

⁴ *History of the Counties of McKean, Elk, Cameron, and Potter*, www.pa-roots.org.

⁵ "Pennsylvania's Governors," www.phmc.stata.pa.us; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 98-100; *New York Times*, August 4, 1930; November 5, 1930.

⁶ Straub began practicing law with Edward J. Blatt and H.P. Sorg in the late 1930s (Joseph Risenman, Jr., *History of Northwestern Pennsylvania*, Lewis Historical Publishing Co.: New York, (1948,574).

⁷ 1920 U.S. Federal Census; *Ridgway Record*, July 27, 2006; www.ridgwayrecord.com.

THE HONORABLE JAMES B. DREW

April 27, 1877 – September 5, 1953

Assumed Office: January 1931

County: Allegheny

BIOGRAPHY

James Byron Drew served five months on the Pennsylvania Superior Court. He was a career jurist, serving 7 years on the County Court of Allegheny County, 11 years on the Allegheny County Court of Common Pleas, and almost 2 years on the Pennsylvania Supreme Court. He had the distinction of being Chief Justice of Pennsylvania from March 1950 until his resignation from the Supreme Court in November 1952.

Drew was born in Pittsburgh on April 27, 1877 to John Drew and Martha O'Rourke Drew, both "substantial, respected citizens." His father was a horse breeder and operated the Sherman House in Pittsburgh for over forty years.¹

Drew grew up near "the Point" in the Golden Triangle section of Pittsburgh and attended local public schools. After his high school graduation, he entered the University of Michigan in 1896 as an undergraduate, and studied there for two years before transferring to

Columbia University in New York. In June 1900, he received his Bachelor of Laws and Master of Arts degrees from Columbia, and in November of that same year he was admitted to the New York Bar. He began to practice law in New York, but after two years of trial work for a local street railway company, he returned to his hometown of Pittsburgh.²

Once back in Pittsburgh, Drew began his own law practice upon being admitted to the Allegheny County Bar in September 1902. Just four years later he entered public service when he was appointed assistant city solicitor of Pittsburgh. He cultivated political relationships early in his career serving in that position for six years under both a Democratic and a Republican mayor. In November 1911, at the age of 34, Drew was appointed to the bench of the County Court of Allegheny County. While local lawyers debated whether Drew was too young to preside in court, one biographer noted, “they were not long in discovering that the youngest member of its bench was a lawyer of real ability and fine judicial qualities.” While serving on this minor court, Drew was “indoctrinated in the functions and the obligations of a judge” and showed a “great capacity for judicial work.”³

Drew’s career was interrupted in 1918 by World War I; he served overseas as a captain in the Judge Advocate General’s Corps (United States Army). He became a founding member of the American Legion in Paris and when he returned to Pittsburgh after the war, he helped found the American Legion East Liberty Post 5 of Allegheny County. His judicial career was only temporarily sidetracked, however, and in November 1919, Drew was elected a judge of the Court of Common Pleas of Allegheny County. Over the next 10 years, Drew continued to gain experience “in the science of sitting in judgment in our courts of original jurisdiction.” He was reelected in November 1929.⁴

Throughout his lifetime, Drew enjoyed traveling, whether spending the summers in Southampton, New York, or visiting Palm Beach, Florida, and the Canadian Rockies, or taking regular trips across the Atlantic to Europe in such ships as the *Aquitania*, *Mauretania*, and the *Majestic*. Numerous social columnists reported on the activities of the “distinguished residents... at this agreeable playground [Southampton] on the sands of Long Island.” Drew sometimes leased Daisyfields, a noted villa in Southampton, and also hosted numerous parties at their Palm Beach residence.⁵

Moreover, Drew was a member of the Duquesne Club in Pittsburgh, the Rolling Rock of Ligonier, the Union Interalliee of Paris, and the Everglades, Bath, and Tennis of Palm Beach. He was for two years vice-president of the Columbia Law School Alumni Association and also a member of the Board of Visitors of the Columbia Law School.⁶

In 1930, Drew decided to seek a position on the Pennsylvania Superior Court which was being held by an appointee, Judge J. Frank Graff. Drew, a Republican, won the primary election, and although state Republicans thought he would receive an early elevation to that court upon Graff's resignation, they were disappointed when Judge John G. Whitmore was appointed to fill the remaining six months of Graff's term. Drew continued to campaign for the seat, however, knowing Whitmore was not going to seek a full-term; in the November election a strong Pittsburgh and rural voter turnout helped propel Drew to the bench.⁷ Drew began his brief service on the Pennsylvania Superior Court in January 1931. He was the only member of the court at the time from Allegheny County and his numerous years of judicial experience was instrumental in his contributions to the appellate bench. Although Drew only served for six months on the court, Judge William H. Keller commented that during that short time he "performed valuable service as a judge."⁸

With the death of Pennsylvania Supreme Court Justice Sylvester B. Sadler, Drew was elevated in May 1931 to the highest court in the Commonwealth by Governor Gifford Pinchot. "The long judicial career of Justice Drew in the several courts of which he had served," commented one contemporary legal publication, "gives ample assurance that he will be an able and valuable member of our highest tribunal." Drew's appointment and quick confirmation, however, generated some controversy among state politicians, because he did not immediately resign his seat on the Superior Court. Many speculated that Drew retained the seat until the deadline for the September primary elections had passed, allowing Governor Pinchot to replace him on that bench with a long-term appointment rather than open the seat to a public election.⁹

In November 1931, Drew, who received both the Republican and Democratic nominations for election to the Pennsylvania Supreme Court seat (which he held by appointment), was successfully elected to

a full 21-year term on that bench. During his tenure Drew “always displayed an absorbing interest in his work.” Because of his unfailing dedication to the judicial profession, his colleagues found in him “a passion that his duty as a Judge was to decide the case before him and nothing more.” Drew noted that although he was a Republican “in local matters in Pittsburgh ... [he was] absolutely a non partisan judge.” Six colleges acknowledged Drew’s legal skills with honorary doctor of laws degrees.¹⁰

After serving 18 years on the bench, Drew was elevated to the position of Chief Justice of the Pennsylvania Supreme Court in March 1950 upon the shocking death of Chief Justice George W. Maxey. Chief Justice Maxey, who had been a member of the Supreme Court since November 1930, died suddenly¹¹ in court chambers after suffering a heart attack. Drew performed admirably as Chief Justice; his “conduct of the judicial office was always marked with firmness, independence, and a keen mind. His opinions were models of lucidity and conciseness.”¹²

In November 1952, Drew resigned from the Supreme Court because of failing sight and poor health. In June the following year, he broke his hip in a fall at his home. He died at his home in Pittsburgh on September 5, 1953 at the age of 76.¹³ “We looked upon him as a real friend,” remembered Drew’s Supreme Court colleagues during his memorial ceremony, “and felt for him a genuine affection to which he himself was always responsive.” Judge Elder W. Marshall noted that just a few months before his death, Drew perhaps achieved his “proudest moment” when he administered the oath of office to his son John Addison Drew who was commissioned a judge of the Allegheny County Court of Common Pleas. The respect he earned among fellow jurists was absolute: “His judgments were never excessively technical or given to drawing of fine-spun distinctions, but, on the contrary, they mirrored the breadth of mind and practical wisdom of one experienced in public life.”¹⁴

Drew married Rhoda Stanley Sproule by 1906 and they had three children, Stanley, Rhoda,¹⁵ and John. His wife was born in England, and in 1910, she traveled there perhaps to bring her mother to the United States; in 1916, Rhoda Drew died at the age of 30. Drew married a second time in 1918 to Mary Black Snyder, daughter of prominent iron magnate William Penn Snyder. She was an “unusually

fine helpmate” to her husband, and was active in the Pittsburgh community helping to charter the Junior League of Pittsburgh. They had one daughter.¹⁶

¹ 374 PA State Reports xxi; John G. Buchanan, “Chief Justice Drew,” *PA Bar Association Quarterly*, 24:129.

² “Columbia University Confers Degrees,” *New York Times*, June 14, 1900; Buchanan, “Chief Justice Drew,” 24:129, 374 PA State Reports xxi; “Hon. James B. Drew Takes Oath as Chief Justice,” 122 *Legal Intelligencer* (April 3, 1950): 369.

³ Buchanan, “Chief Justice Drew,” 24: 129-130; 374 PA State Reports xxi, xxv.

⁴ 374 PA State Reports xxxiii-xxiv.

⁵ “Miss Rhonda S. Drew Weds O.P. McComas,” *New York Times*, February 2, 1929; “Sail for Europe Today,” *New York Times*, July 5, 1921; “James B. Drew,” New York Passenger Lists, 1936, 1937, www.ancestry.com; “Majestic to Carry Record Cabin List,” *New York Times*, June 23, 1923; “Mrs. Henry E. Bemis is Florida Hostess,” *New York Times*, February 1, 1938; “Southampton’s Season,” *New York Times*, June 28, 1925; “Carnival a Success at Southampton,” *New York Times*, September 4, 1925; “Southampton Weddings,” *New York Times*, September 6, 1925; “Social Notes,” *New York Times*, January 22, 1926, February 17, 1926, August 22, 1926; “James Drew Gives Palm Beach Party,” *New York Times*, December 26, 1939; “Harold Bramans Palm Beach Hosts,” *New York Times*, February 24, 1941.

⁶ “Ex-U.S. Attorney Heads Columbia Law Alumni,” *New York Times*, June 25, 1940; “Re-elected as President of Columbia Law Alumni,” *New York Times*, July 25, 1941; “Columbia Names Dewey,” *New York Times*, June 26, 1938; “Hon. James B. Drew,” *Legal Intelligencer*, 122:369.

⁷ 374 PA State Reports xxii; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 99-100; “Says that Party Bows to Pinchot,” *New York Times*, August 4, 1930; “Pinchot is Victor in Pennsylvania,” *New York Times*, November 5, 1930.

⁸ Buchanan, “Chief Justice Drew,” 24:130.

⁹ “Justice Drew,” 88 *Legal Intelligencer* (May 29, 1931): 668; Tamilia and Hare, *Keystone of Justice*, 138.

¹⁰ “Philadelphia Elects Moore a Second Time,” *New York Times*, November 4, 1931; 374 PA State Reports xxviii; “James Drew Dies; A Jurist 41 Years,” *New York Times*, September 6, 1953. The colleges were Duquesne University, the University of Pittsburgh, the University of Pennsylvania, St. Francis College, Dickinson College, and Columbia University (Buchanan, Chief Justice Drew,” 24:131).

¹¹ Just before his death Chief Justice Maxey had delivered a eulogy for Judge Marion D. Patterson (“Justice G.W. Maxey of Pennsylvania,” *New York Times*, March 21, 1950).

¹² “Judge Drew to Take Oath as Chief Justice Tomorrow,” 122 *Legal Intelligencer* (March 30, 1950): 355; “Hon. James B. Drew,” *Legal Intelligencer*, 122:369; Buchanan, “Chief Justice Drew,” 24:131.

¹³ “On this Date,” *Pittsburgh Post Gazette*, November 1, 2002; “James Drew Dies,” *New York Times*, September 6, 1953.

¹⁴ 374 PA State Reports xxi-xxxi.

¹⁵ Rhoda Stanley Drew married prominent New York Banker Oliver Parker McComas in 1929 (“Miss Rhoda S. Drew Weds O.P. McComas,” *New York Times*, February 2, 1929); after the death of her husband she married New York broker John Courtland Maxwell (“Mrs. McComas Wed to John C. Maxwell,” *New York Times*, March 8, 1961).

¹⁶ 1910 U.S. Federal Census; Philadelphia Passenger Lists, 1910, www.ancestry.com; “Obituary: Snyder,” *New York Times*, February 5, 1921; 374 PA State Reports xxiv; www.jlpg.org/pittsburgh. Interestingly in 1921, Mary Black Snyder Drew challenged her father’s will in court, because through it he had “virtually disinherited her and made her dependent upon strangers who were left in control of the estate.” The will was upheld. (“Disputes Snyder Will Involving \$30,000,000” “\$40,000,000 Will Stands,” *New York Times*, June 28, 1921, May 17, 1923). Their daughter, Barbara, married Henry P. Hoffstot, Jr., a prominent Pittsburgh attorney (Buchanan, “Chief Justice Drew,” 24:131).

THE HONORABLE JOSEPH STADTFELD

August 12, 1861 – December 12, 1943

Assumed Office: November 7, 1931

County: Allegheny

IN MEMORIAM

A memorial for the late Judge Joseph Stadtfeld was held on Monday, April 10th, at the opening of the spring session of the Superior Court in Pittsburgh.

Robbin B. Wolf, Esq., a member of the Allegheny County Bar Association's Committee on Biography and History, in the absence of President James H. Gray, read the following minute:

"If the court please, on behalf of the Allegheny County Bar Association, I have the honor to present a minute on the life of Judge Joseph Stadtfeld.

Joseph Stadtfeld was born in New York City on August 12, 1861. He was a son of Moritz and Sophia Spier Stadtfeld. His father was a native of Austria, his mother a native of Germany. They moved to Pittsburgh when Joseph was a boy. Joseph attended the public schools and was graduated from the old Central High School at the age of 17 with the highest honors. For six years he was a bookkeeper, during

which time he studied law under Winfield S. Purviance, Esq., and Lieut. Gov. Walter Lyon. He was admitted to the Allegheny County Bar on September 18, 1886, on motion of Thomas Herriott, Esq. He acquired a large civil practice in the Federal and State courts. His work as a corporation lawyer was highly regarded in financial circles.

Judge Stadtfeld was a director of one of Pittsburgh's largest department stores and trustee of the founder's estate; he was a member of the Allegheny County Bar Association, the Pennsylvania Bar Association, and the American Bar Association, of which he was a member of the executive council in 1931. He was a member of the Rodef Shalom Congregation, the B'nai B'rith, the Concordia Club, the Free and Accepted Masons, and the Pennsylvania Society of New York. Judge Stadtfeld was president of the Allegheny County Bar Association from 1927 to 1929 and was vice-president of the Pennsylvania Bar Association.

On January 31, 1895, Judge Stadtfeld married Carrie Edmundson, daughter of a well known member of the Allegheny County Bar. They had three sons, Joseph R. Stadtfeld, Jr., now deceased, Rogers M. Stadtfeld and Capt. Harold R. Stadtfeld, a member of the Bar of Allegheny County, now in England serving in the Judge Advocate General's Department of the Army of the United States.

On June 24, 1930, Judge Stadtfeld was appointed judge of the common pleas court by Governor Fisher as a successor to Judge Josiah Cohen. His high qualifications were conceded by all, nevertheless he was an unsuccessful candidate for election in 1931.

Governor Gifford Pinchot appointed Judge Stadtfeld a judge of the Superior Court of Pennsylvania to succeed Judge James B. Drew, when he became a member of the Supreme Court. He took the oath of office in November 1931, and in the following year was elected to a full 10-year term. He was reelected.

Of Judge Stadtfeld's service in the Superior Court, it is unnecessary to speak. It is known to your honors and can be found in Vols. 103 to 154 of the Superior Court's Reports. To the lawyers of Allegheny County, he was one of our most distinguished members, an honest, impartial, independent, industrious, courageous, and just judge. He was faithful to the judges' oath of office which requires him to support and defend the Constitution of the United States and the Constitution of Pennsylvania. He was devoted to the principles of constitutional

government, a government of laws and not of men, of equal justice under law for every person, and of our American way of life.

Judge Stadtfeld's earthly record is closed. He died at his post of duty on December 12, 1943, while attending a session of the Superior Court, in the 83rd year of his life, full of years and honors. We are told in the words of the preacher, the Son of David, King of Jerusalem, in Ecclesiastes, that 'God shall bring every work into judgment, with every secret thing, whether it be good, or whether it be evil.' The lawyers of Allegheny County have every confidence that when Judge Stadtfeld appears before the Judge of all the earth upon His great white throne at the last great day, he will hear the judgment in his favor: "Well done, good and faithful servant, enter thou in the joy of the Lord.'

As soldiers pay their last respects to a fallen comrade by their salute and the sounding of taps and then march away from his last resting place to the music of inspiring march, so we lawyers of Allegheny County salute our brother-in-the-law, the Honorable Joseph Stadtfeld, and with the inspiration of the high professional example he set us, we turn now to the duties of the day.

I respectfully move the court that when it adjourns today it do so in honor of Judge Joseph Stadtfeld, and that this minute of his life be entered in the records of the court for this day."

President Judge William H. Keller responded as follows:

"It is most fitting that the opening of this session of court should be devoted to a memorial in honor of our late colleague and friend, Judge Stadtfeld, and we thank Mr. Wolf and Judge Gray for the eloquent and sincere tribute to his character and services. It was a matter of deep regret to my brethren and myself that none of us was able to be present at Judge Stadtfeld's funeral, but four of our number were confined to bed with the flu and the other two had so recently recovered from it that it would have been dangerous for them to undertake the journey under present crowded and congested travel conditions.

The members of the bar from this district need no further reminder of the fidelity and loyalty with which our friend and co-worker performed his judicial duties. But a brief reference by the court to some of his many fine qualities and outstanding traits of character, which endeared him to those closely associated with him on this bench, may not be amiss. Among these were his generosity of spirit, his devotion

to his profession, his constant cheerfulness in spite of failing health, and his insistence on doing his share of the work, when, as we now know, it must have cost him great effort. He was an eloquent speaker, a loyal friend, and a real gentleman. We shall miss our friendly association with him.”

Source: 110 *Legal Intelligencer*-448, Wednesday, April 19, 1944

THE HONORABLE WILLIAM M. PARKER

December 19, 1870 – August 5, 1943

Assumed Office: February 1932

County: Venango

BIOGRAPHY

William McCready Parker served eight years on the Pennsylvania Superior Court. He was president judge of the Venango County Court of Common Pleas and died during his third year of a 21-year term as a judge on the Pennsylvania Supreme Court.

Parker was born in Oil City, Pennsylvania, on December 19, 1870 to George Washington Parker and Rebecca McCready Parker. His father was a veteran of the Civil War and a banker, and for many years led the Oil City National Bank. His mother was originally from New Jersey, the daughter of a paper manufacturer. Years later, Parker's long-time law partner noted, "his father... was a man of most excellent character," and his mother was "mentally alert and keen." Parker's family roots in Pennsylvania history stretched back to the colonial era and during the nineteenth century his great grandfather John Parker served as an associate judge of Butler County.¹

William M. Parker attended public schools in Oil City and

graduated from Oil City High School in 1886. Parker, who wanted to attend Princeton University, took further instruction in Greek and mathematics after receiving his diploma, as they were requirements for entrance. In the fall of 1887, he began study at Princeton and earned his B.A. degree in 1891. After graduation, he returned to Oil City, and while he trained for a career in law in the office of Hays and Mattox, he also taught greek, math, and history at Oil City High School, giving other students the option of attending college.² He was admitted to the bar of Venango County in January 1895, on the same day as his long-time friend Judson David Trax. The two young men started Trax and Parker, a private law practice in Oil City, and continued as partners in the firm for more than thirty years. These were “busy, interesting and very happy years,” during which time their firm became one of the most prominent in the entire Oil City area. Parker became a seasoned trial lawyer specifically with those cases concerning the growing oil and gas industry. Trax later remembered Parker’s ambition in life at that young age: “acquire an assured income of two hundred Dollars per month and have access to a good law library with an opportunity to pass his entire time in the examination and study of the law.”³

In 1925, Parker’s career as a judge began when he was appointed president judge of the Venango County Court of Common Pleas. While serving on that court, Parker was particularly interested in juvenile cases; “he was a patient listener” and “he never became impatient especially with the younger practitioners.”⁴ He served that court faithfully until he resigned to accept an appointment to the Pennsylvania Superior Court in February 1932 when Governor Gifford Pinchot named the Republican Parker to replace Judge William B. Linn (who had been elevated to the Pennsylvania Supreme Court). In the general election that fall, Parker was elected to a full 10-year term on the court. “He thoroughly enjoyed his work,” his friend Judson D. Trax remarked, “which was new and rather difficult for him in the beginning.” “He frequently informed me,” Trax continued, “that his relations with members of the Court were exceedingly pleasant.”⁵

Parker did not finish the term, however, as in 1940 he was elevated to the Pennsylvania Supreme Court when Governor Arthur H. James appointed him to succeed the late Judge H. Edgar Barnes. Parker’s appointments were consistent, noted one report: “During his service, the jurist’s capabilities were such that he was advanced to a higher

position before he completed the term of his current office.”⁶ In December 1940, Parker was sworn in as a judge of the Pennsylvania Supreme Court during “simple ceremonies” in the Supreme Court Library.⁷ He decided to run for a 21-year term on that court in 1941 and in the November elections, the 71-year old Republican Parker defeated the Democratic challenger W. Russell Carr.⁸

Parker was a member of numerous civil associations. During World War I, he was chairman of the Oil City chapter of the American Red Cross and led the Liberty Loan drives. He was extremely active in the Second Presbyterian Church of Oil City, serving as an elder and teaching the Parker Bible Class (named such in honor of his father) for over 30 years. Parker was also a charter member of the Oil City Rotary Club. He was honored with a doctor of law degree in 1930 from Grove City College.⁹

At the age of 72, Parker died suddenly of a heart attack at his home in Oil City on the morning of August 5, 1943. “He represented the very best of what the people expect from a public officer,” remembered Governor Edward Martin. “[H]e had acquired a reputation throughout the state for soundness and reliability.” The members of the Supreme Court were shocked at Parker’s sudden death. “He was a man of wide experience and great learning,” declared a statement issued by the court. On a personal note the court asserted: “He had a genius for friendship and a charming modesty.” During the official memorial in the chambers of the Supreme Court in September 1943, his long-time friend Judson D. Trax, members of the Venango County Bar John L. Nesbit and Edmund C. Breen, and Chief Justice George W. Maxey, were the speakers. “He was successful professionally, financially, and politically,” remembered Trax. “During his judicial career, he maintained intimate and friendly contact with the members of our local Bar,” stated Breen, “and at all times merited and received their respect.” While each remembered personal stories of their relationship with Parker over the years, perhaps most important was their exposition of Parker’s dedication to the law.¹⁰

He married Helen S. Innis on April 21, 1898. He had met her in 1891 while she was a student in his class at Oil City High School. They had four children, two of who entered their father’s profession.¹¹

¹ Joseph Riesenman, Jr., *History of Northwestern Pennsylvania*, (New York: Lewis Historical Publishing Co., 1943): 3:90; “Memorial of Honorable William M. Parker,” *348 PA State Reports*, xxiv.

- ² “Memorial,” 348:xxix; “Reelection of Justice Parker Follows 45-year Legal Career,” 105 *Legal Intelligencer* (6 November 1941), 731.
- ³ Riesenman, Jr., *History of Northwestern Pennsylvania*, 3:90, 224–25; “Memorial,” 348:xxv–xxvi.
- ⁴ “Reelection of Justice Parker,” 105:731; “Justice Parker Dies at Home after Sudden Heart Attack,” 109 *Legal Intelligencer* (6 August 1943), 119; “Memorial” 348:xxvi, xxvii.
- ⁵ Riesenman, Jr., *History of Northwestern Pennsylvania*, 3:90; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA 2000), 138; “Memorial,” 348:xxviii.
- ⁶ “Reelection of Justice Parker,” 105:731.
- ⁷ “Judge William M. Parker to be Sworn in Tomorrow,” 103 *Legal Intelligencer* (13 December 1940): 1083; “Hon. William M. Parker Sworn in as Supreme Court Justice,” 103 *Legal Intelligencer* (14 December 1940): 1093.
- ⁸ “Election is Close in Pennsylvania,” *New York Times*, 5 November 1941; “Republicans Win in Pennsylvania,” *New York Times*, 6 November 1941.
- ⁹ *Pennsylvania Manual* (1939), 84:914; “Reelection of Justice Parker,” 105:731; “Justice Parker Dies,” 109:119; “Memorial,” 348:xxiv.
- ¹⁰ “Justice Parker Dies,” 109:119, “Memorial,” 348: xxiii–xxxvii.
- ¹¹ Riesenman, Jr., *History of Northwestern Pennsylvania*, 3:90; “Memorial,” 348:xxix.

THE HONORABLE ARTHUR H. JAMES

July 14, 1883 – April 27, 1973
Assumed Office: November 1932-January 1939;
February 1944-January 1945
County: Luzerne

BIOGRAPHY

Arthur Horace James served almost eight years on the Pennsylvania Superior Court. He was district attorney for Luzerne County, lieutenant governor of Pennsylvania, and governor of Pennsylvania.

James was born on July 14, 1883 in Plymouth, Pennsylvania, to James David James and Rachel Edwards James. His parents had immigrated to Luzerne County from Wales; his father worked as a coalmine foreman and his mother worked as a schoolteacher. James would be the last Pennsylvania governor whose parents were immigrants.¹

While James attended public schools in Plymouth, he also worked during school vacations as a breaker boy, coal car mule driver, and later as an underground mine laborer. His mother died when he was young and his father tried to provide him with a well-rounded childhood,

allowing him breaks from work to concentrate on his studies. James also helped his father run a small general store from their home. He graduated from Plymouth High School in 1901. Over the years James helped his family earn enough money to fund a law school education, a rare occurrence for students in the coal patch region of Luzerne County. "Many people from town marched to the rail station to cheer and wish James good luck," according to one report. He studied law at the Dickinson School of Law, where he was a member of the varsity basketball team, and returned home in the summers to work at the mines. He received his law degree in 1904, was admitted to the Luzerne County Bar the following year, and began a law practice serving both Plymouth and Wilkes-Barre. He reportedly earned only \$198 during his first year as a practicing attorney.²

James' business increased over the years and he also began to involve himself politically becoming the Republican committee chairman of his legislative district. After fourteen years of private practice, James campaigned for local office and was elected Luzerne County District Attorney in 1919; he was re-elected in 1923. Older Republicans in the county recommended him to the powerful Republican leaders in Philadelphia, who nominated James in 1926 for the position of lieutenant governor of the state, forming a ticket with Republican gubernatorial candidate John S. Fisher. James won by a three to one margin over his Democratic challenger W. Clayton Hackett.³

In 1932, James campaigned for a 10-year term on the Pennsylvania Superior Court to fill a vacancy caused by the resignation of Judge Robert S. Gawthrop. The Wilkes-Barre Law and Library Association endorsed his candidacy and its meeting to adopt the resolution of support "was the most widely attended and most harmonious" in its history. James, who thanked the association for their support at the annual dinner in May 1932, wittily remarked that after his primary victory, the best advice he had received was during a sidewalk conversation with Peter J. McCormick (a member of the Luzerne County Bar). "He said to me at that time 'Whatever you do when you get in that Superior Court Bench, don't be too damn Superior.'" James was elected in November. In January 1933, the Wilkes-Barre Law and Library Association honored James with a testimonial dinner; "[T]he luster of the Bench in this State has been undimmed through all of the

historical episodes,” James declared, “and today the liberty of the people is still conserved in the courts.” Various speakers noted James’ integrity and ability, and Judge Frank Trexler “saw in the occasion a large milestone in the career of Judge James.” Two months later at a testimonial dinner honoring the entire Superior Court, James spoke about the importance of continued contact between the bench and bar. On the bench, James witnessed firsthand the consequences of the economic and labor issues that resulted from the Great Depression. Ever possessing a crusading spirit, James was determined to challenge Roosevelt’s New Deal and became an ardent fighter for big business.⁴

In 1938, while still serving as a Superior Court Judge, James began his campaign for Governor of Pennsylvania. In an oft-quoted campaign promise James vowed “to make a bonfire of all the laws passed by the 1937 legislature.” He reportedly made some 25 speeches a day, crossing the state numerous times throughout the 1938 campaign season. He won the election over his closest competitor by almost 300,000 votes.⁵ During his campaign, however, James faced ethics charges for violating rules of the bar code of judicial conduct, which required judges running for non-judicial offices to first resign their position. James held on to his Superior Court position until the last possible minute; acting as a Superior Court Judge he administered the oath of office to his Lieutenant Governor Samuel S. Lewis on January 17, 1939, and subsequently resigned from the Superior Court just one hour before he was sworn in as Governor of Pennsylvania.⁶

As governor, James immediately began to implement his plan to reduce government spending and pass laws protecting and encouraging big business. He initially cut 2,000 government jobs, ended a building program, and slashed the highway budget. James also pushed for laws that banned “sit-down” strikes and tried to iron out differences between workers and mine owners in the Pennsylvania anthracite industry. He created a Department of Commerce to deal with growing business interests in the state and helped pass the Civil Service Act of 1941. Although against most New Deal programs, James fought for the state to get a fair share of funds dispersed through the Work Progress Administration. James’ prominence nationwide was exemplified in May of 1940 when he almost received the Republican nominee for the presidency; he survived six ballots at the Republican National Convention in Philadelphia. James later commented, “I was convinced

that we were going to have a war. I didn't want to be a war President." James, who supported Senator Robert Taft for the nomination, ultimately sided with the rest of the Pennsylvania delegation supporting the nomination of Wendell Wilkie⁷.

James successes, included reorganization of the Selective Service program, a key initiative in the pre-World War II years. After the bombing of Pearl Harbor and the subsequent declaration of war, James mobilized Pennsylvania's resources, establishing the Pennsylvania Reserve Defense Corps and the Citizen's Defense Corps. He also implemented a highway safety program, passed a new Workman's Compensation Law that protected coal mines, and balanced the state's budget.⁸ One of his pet projects was promoting the construction of a new governor's mansion. He switched the fuel supply of the mansion from oil to coal (a testament to his Luzerne County roots) and signed bills authorizing the construction of a new governor's mansion. This, however, did not come to fruition during James' tenure.⁹ Of his governorship, James remembered, "I was a good vote-getter but beyond that I was scared to death of the Governor's office. I was on the spot, took some strong positions and had to live up to them."¹⁰

At the end of his term in January 1943, James returned to his Luzerne County law practice. By the end of the year, upon the death of Judge Joseph Stadtfeld, it was hinted that James would return to the Pennsylvania Superior Court. Although his name was mentioned for both the office of United States Senator and a seat on the Pennsylvania Supreme Court, for various reasons, neither of these nominations materialized. Governor Edward Martin appointed James to the Superior Court in February 1944, but even with the Republican support, he subsequently lost the general election to retain his seat in November.¹¹

James was awarded the honorary doctor of laws degree from the Dickinson School of Law in June 1938 and in the 1950s the Wilkes-Barr Law and Library Association started the Arthur H. James Lawyers Fund to financially assist member of the bar. He was a past president of the Luzerne County Bar Association.¹²

James died in Plymouth of arteriosclerosis on April 27, 1973 at the age of 89. He was active in his private practice until past the age of 80.¹³

He married Ada Morris in 1912. They had three children, two of whom died young. James' wife unfortunately also died at a young age

in 1935. His daughter, who had taken over duties as his first lady, while James was governor, was relieved after October 1, 1941 when James married a second time to Emily Radcliff Case, the widow of his long-time friend Dr. Claude Case of Doylestown.¹⁴

¹ Louis Waddell, "Arthur Horace James," *Dictionary of American Biography, Supplement* 9: 1971-1975, Charles Scribner's Sons, 1994: "Pennsylvania's Governors Past to Present: Governor Arthur H. James," www.phmc.state.pa.us.

² Waddell, "Arthur Horace James," *DAB*; Admissions Record, Luzerne County, 1905; "Pennsylvania's Governors Past to Present," www.phmc.state.pa.us

³ Waddell, "Arthur Horace James," *DAB*; "Pennsylvania's Governors Past to Present," www.phmc.state.pa.us.

⁴ Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA 2000), 138-39; "Pennsylvania Governors Past to Present," www.phmc.state.pa.us; W.E. Woodruff, ed., 1932-33 *Luzerne Legal Register Reports* (Wilkes-Barre, PA, 1953), 27:533, 537-38, 540-42.

⁵ "Pennsylvania's Governors Past to Present," www.phmc.state.pa.us.

⁶ "Ethics Charges Against James Filed with Bar Association," 99 *Legal Intelligencer* (22 October 1938): 772; "James Inaugurated as Governor," 100 *Legal Intelligencer* (18 January 1939): 115.

⁷ Waddell, "Arthur Horace James," *DAB*; "Pennsylvania's Governors Past to Present," www.phmc.state.pa.us.

⁸ *Ibid.*; "Pennsylvania's Governors Past to Present," www.phmc.state.pa.us.

⁹ "James Ends Mansion's Oil Heat," *New York Times*, 27 January 1939; www.dgs.state.pa.us/govres.

¹⁰ "Arthur H. James of Pennsylvania," *New York Times*, 28 April 1973.

¹¹ "Arthur H. James of Pennsylvania," *New York Times*, 28 April 1978; "Reappointment of James to Superior Court Seat Hinted," 109 *Legal Intelligencer* (15 December 1943): 625; Ex-Gov. James is Reappointed to State Superior Court, " 110 *Legal Intelligencer* (10 February 1944): 163.

¹² Dickinson to Confer Honorary Laws Degree on Judge James," 98 *Legal Intelligencer* (28 May 1938): 1197; Robert F. Dilley, ed., 1958 *Luzerne Legal Register Reports* (Wilkes-Barre, PA, 1959), 48:337. The Arthur H. James Fund was in existence as late as 1974 (Perry Shertz to Bernard Hendrzak, 11 February 1974, Wilkes-Barre Law and Library Association).

¹³ "Arthur H. James of Pennsylvania," *New York Times*, 28 April 1973.

¹⁴ Waddell, "Arthur Horace James," *DAB*; "Pennsylvania's Governors Past to Present," www.phmc.state.pa.us.

THE HONORABLE CHESTER H. RHODES



October 19, 1887 – November 8, 1966

Assumed Office: 1935

President Judge 1947 - 1965

County: Monroe

BIOGRAPHY

Chester H. Rhodes served thirty years on the Pennsylvania Superior Court, and for seventeen of those years he was President Judge.

Rhodes was born on October 19, 1887 in Gouldsboro, Pennsylvania, to Arthur L. Rhodes and Stella Hager Rhodes. He attended public schools and the School of Lackawanna in Scranton. He furthered his education at Muhlenberg College in Allentown, and subsequently graduated with a B.A. from Lehigh University in 1910. He continued at Lehigh earning his M.A. in 1912.¹

After college, he moved to Stroudsburg in Monroe County and was admitted to the bar on October 4, 1913. He entered private practice in the county seat and in 1918 served as county solicitor. His skills as an attorney were well respected in the community earning him the

position of district attorney of Monroe County in 1919. He continued in that position, and from 1920 to 1922 served as Democratic Committee Chairman for Monroe County. Capitalizing on his popularity with the voters, he campaigned successfully for a seat in the State House of Representatives in 1922. Rhodes was returned to the House for four more terms and during these years he was a member of two depression era committees, the Utility Investigating Committee (1931) and the Pennsylvania Committee on Unemployment Reserves (1933).²

At the end of his fifth term in the House, Rhodes looked to return to the law. In 1934, he received the endorsement of the Pennsylvania Democratic Committee, decidedly in the Roosevelt camp, and was elected to a 10-year term on the Pennsylvania Superior Court defeating Republican incumbent Judge Frank E. Trexler by less than 100,000 votes. “[T]he Republican weaknesses were by no means confined to Philadelphia County” as “[s]trong New Deal sentiment manifested itself in a score of counties which had been counted safely in the Republican column.” One newspaper reported Rhodes was the first Democrat elected outright to the court in almost 30 years.³

Rhodes campaigned for a second 10-year term on the court in November 1944; he and his running mate F. Clair Ross, defeated their Republican challengers, and former Superior Court judges, J. Frank Graff and Arthur H. James, this time however by less than 30,000 votes. When Ross joined Rhodes on the bench in January 1945, there were two Democrats on the Pennsylvania Superior Court for the first time in its 50-year history.⁴

On March 1, 1947, Rhodes was commissioned president judge of the court at the age of 60. He showed no signs of slowing down and during this term was a strong advocate for a new state constitution. Addressing the Pennsylvania Bar Association, Rhodes noted, “public law cannot be divorced from political, social, and scientific movements.” “I am sure we all realize,” he continued, “that law must always be related to the society which it serves.” He supported the Commission on Constitutional Revision and Amendment, which mandated that the Pennsylvania Supreme and Superior Courts be “constitutional courts.”⁵ It was, however, over twenty years before the people of the state ratified a new Pennsylvania constitution.

In 1954, Rhodes decided to run for a third term on the Superior

court. He and his running mate ten years ago, F. Clair Ross, again took to the campaign trail against the Republicans. There were three seats on the Superior court, up for retention; however, popular Republican Robert E. Woodside, who was placed as a candidate on both tickets, held the third seat. Rhodes received the highest number of votes, among all Superior Court candidates, and his election, and that of Ross and Woodside, gave the Democrats a technical majority on the bench.⁶

Rhodes completed his third term in January 1964 and decided to retire from the bench. His statement to the Pennsylvania Bar in 1947 perhaps adequately sums up his thoughts about his devotion to the bench and bar: "I am convinced that the members of the legal profession, above all others, must assume individual and positive leadership, and avoid encouraging grasping selfish interests."⁷

Rhodes garnered many accolades during his thirty years of service on the Pennsylvania Superior Court and brought his reputation to numerous professional and civic associations. He received honorary doctor of laws degrees from Pennsylvania Military College (1938), Muhlenberg College (1949), Gettysburg College (1956), and Dickinson School of Law (1959). He became an honorary member of the Omicron Delta Kappa, Alpha Epsilon Circle at Muhlenberg College and the Phi Alpha Delta Law Fraternity. On January 18, 1955, he was awarded the Meritorious Service Medal of the Commonwealth of Pennsylvania. He was a trustee of the Lutheran Theological Seminary in the Mt. Airy section of Philadelphia and of Pennsylvania Military College. He served as secretary of the Monroe County Bar Association, and was a member of both the American Judicature Society and American Law Institute.⁸

Rhodes died on November 8, 1966 at the age of 79 in a nursing home in East Stroudsburg. He was obviously fondly remembered for his long service on the Superior Court bench.⁹

Rhodes married Helen M. Hauser in November 1912 and they had one son, Dr. John F. Rhodes.¹⁰

¹ *Pennsylvania Manual* (1955-56), 92:557.

² *Pennsylvania Manual* (1931), 1134, (1955-56), 92:557; "Chester H. Rhodes," 1920 United States Federal Census Record; "Judiciary Committee Reports on Superior Court Candidates," 91 *Legal Intelligencer* (8 May 1934): 1041.

- ³ “On Pennsylvania Ticket,” *New York Times*, 11 February 1934; “Guffey and Earle Win Pennsylvania,” *New York Times*, 7 November 1934; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 139.
- ⁴ “David-Myers Race Turns on War Vote,” *New York Times*, 9 November 1944. Ross won handily by over 80,000 votes (Tamilia and Hare, *Keystone of Justice*, 142.)
- ⁵ *Pennsylvania Manual* (1955-56), 92:557; Chester H. Rhodes, “Our Constitution and its Place in a Changing Word,” 19 *Pennsylvania Bar Association Quarterly* (October 1947) 29, 36.
- ⁶ “Farm Vote Shifts in Pennsylvania,” *New York Times*, 4 November 1954; Tamilia and Hare, *Keystone of Justice*, 184.
- ⁷ Rhodes, “Our Constitution,” 19:28-29
- ⁸ *Pennsylvania Manual* (1939), (1955-56), (1963-64), 84:914, 92:557, 96:460; “Cummings to Get Degree,” *New York Times*, 5 June 1938; “Judiciary Committee,” 91:1041.
- ⁹ “Honorable Chester Rhodes, Former Superior Court Judge, Dies,” 155 *Legal Intelligencer* (10 November 1966): 653; “Chester H. Rhodes,” Social Security Death Index.
- ¹⁰ *Pennsylvania Manual* (1963-64), 96:460.

THE HONORABLE WILLIAM E. HIRT



May 13, 1881 – June 24, 1963
Assumed Office: March 2, 1939
County: Erie

BIOGRAPHY

William Elmer Hirt served over twenty years on the Pennsylvania Superior Court. He also served as a judge and then president judge of the Erie County Court of Common Pleas for nineteen years.

Hirt was born in Erie, Pennsylvania on May 13, 1881, to Charles F. Hirt and Mary Elizabeth Melhorn Hirt. Hirt grew up in Erie attending public schools and graduating from Erie High School in 1899. He furthered his education at Princeton University earning his B.A. in 1904.¹

After college Hirt returned to Erie, where he received training in the law from Henry E. Fish and John Rilling. In 1908, he was admitted to the Erie County Bar Association. For the next twelve years, Hirt was engaged in private practice, but he also involved himself politically as a member of the Erie School Board. His reputation as a trial attorney grew and prompted his appointment on March 1, 1920 by Governor

William C. Sproul to the Erie County Court of Common Pleas. Hirt filled a vacancy on that court caused by the death of Edward L. Whittelsey. His service to the county was exemplary as he continued to sit on the court for the next nineteen years.² He later remembered, "in May 1920, the first criminal court in which I sat, only eleven cases were tried and all of the business of the term was concluded in three days."³ In November 1921, the Republican Hirt was elected to his first 10-year term on the common pleas court, being unopposed in the race. "Though he had been a Republican all his life, politics were never mixed with the discharge of his duties," noted the Erie County Bar Association, "and in tribute to his fairness and ability, all parties nominated him as their candidate in the election of 1931." He was re-elected that year, and just three years later, the president judge asked Hirt to take over the civil trial list. From 1934 to 1936, with the assistance of visiting judges, Hirt disposed of over 700 cases. His persistence and "reputation for being a punctual judge who disposes of cases as promptly as is compatible with a thorough consideration of the equities and law," made him the ideal president judge and he was elevated to that position in January 1936. Hirt continued his service on the court initiating changes to the rules of civil procedures that were so effectual they were ultimately adopted across the state; he developed the Erie County Juvenile Court and introduced a system of free legal aid in the county. "Judge Hirt displayed on the bench the same evenness of mind and judicial temperament that had marked his work as a lawyer," declared the Erie County Bar Association.⁴

On March 2, 1939 Governor Arthur H. James, cognizant of the contributions Hirt had made to the bench in Erie, appointed him to the Pennsylvania Superior Court to fill the vacancy created on the court by his own departure. The Senate unanimously approved Hirt's appointment just six days later, and he was sworn in on March 13th during a brief ceremony in the governor's reception room.⁵ Members of the Erie County Bar Association congratulated Hirt on his appointment and "with satisfaction and pride" they unqualifiedly endorsed and urged his election to the office.⁶ Hirt and his peer Thomas J. Baldrige were the Republican candidates for their seats in the November election; the two sitting judges easily won the election.⁷

At the completion of his first 10-year term, Hirt was re-elected for a second term. He decided, however, in January 1959 that he was not

going to campaign for his seat in that year's November election, and completed his service on the Superior Court in January 1960.⁸ At the time of his retirement, Hirt was the longest serving judge in all of Pennsylvania.⁹

Over the course of his long career, Hirt was a member and leader of numerous community organizations: "Judge Hirt has always been unselfish with his time and is civic minded to the highest degree," noted the Erie County Bar Association. Whether serving as an officer or trustee, or just as a member of numerous organizations including the St. Barnabas House at North East, the Princeton Alumni Association of Northwest Pennsylvania, the Erie Endowment Fund, the United Lutheran Church of American, the Erie Art Club, the Erie Philharmonic Society, and the Child-Parent Department of the Erie Welfare Board, Hirt was able to assist not only in raising funds for worthy causes, but for strength within his community. During World War I, he was an associate member of the legal advisory board and chairman of the professional division of Liberty Loan Drives. Two of Hirt's longer terms of service included 20 years as a board member of the Erie County Community Chest and 21 years as a director of the Erie Boys' Club. He was also 32nd degree Mason and a member of various affiliated orders.¹⁰

Hirt received numerous honors throughout his life. Thiel College awarded him an honorary doctor of civil laws and he received an honorary doctor of laws degree from Gannon College. At his death, Hirt was chancellor of the Erie County Bar Association, the highest honor that the organization could bestow. The bar recognized Hirt for "his exemplary conduct as a lawyer, outstanding service as a Judge of the Superior Court of Pennsylvania, and the Court of Common Pleas of Erie County, and his active participation in civic and community life."¹¹

Hirt died on June 24, 1963 at the age of 82 in Hamot Hospital in Erie after a brief illness. He was remembered for his years of service on the bench and in the community, as well as for his diatribe against appellate judges "suffering from the occupational disease of the chronic dissenter" written in 1960. "The devise of a dissent should not provide a judge with a sounding board for the expression of mere personal views," Hirt wrote, "nor to convey a message to his constituents, for a real judge has no constituents." In 1980, President Judge William F. Cercone rightly listed Hirt among those jurists who had contributed to

the development of the law in Pennsylvania.¹²

Hirt married Emma LeJeal Spafford in November 1908 and they had one son, John William Hirt.¹³

¹ *Pennsylvania Manual* (1949-50), 89-690; "Honorable William E. Hirt (1881-1963)," *Memoirs of Erie County, Pennsylvania, Bench and Bar*, Volume 2, (Erie County Bar Foundation, 2000), n.p.

² "Honorable William E. Hirt," *Memoirs of Erie County*, n.p.

³ "Dedication of Erie County Court House," *87 Legal Intelligencer* (3 October 1930): 1095.

⁴ "Erie County Bar Commends Honorable William E. Hirt," *100 Legal Intelligencer* (267 June 1939): 1323.

⁵ "Judge Hirt Nominated to Fill Superior Court Vacancy," *100 Legal Intelligencer* (3 March 1939): 441; "Senate Confirms Nominations of Judges Hirt and Jones," *100 Legal Intelligencer* (9 March 1939): 498;

⁶ "Erie County Bar," 100:1330.

⁷ "Judge Patterson and Dean Goodrich Receive Nominations," *101 Legal Intelligencer* (14 September 1939): 445; "Judge Patterson Election to State Superior Court," *101 Legal Intelligencer* (9 November 1939): 894.

⁸ "Judge Hirt Announces He will not Run for Re-election," *140 Legal Intelligencer* (9 January 1959): 37.

⁹ "Honorable William E. Hirt," *Memoirs of Erie County*, n.p.

¹⁰ *Pennsylvania Manual* (1949-50), 89:690; "Erie County Bar," 100:1330; "Honorable William E. Hirt," *Memoirs of Erie County*, n.p..

¹¹ "Honorable William E. Hirt," *Memoirs of Erie County*, n.p.; "Services Thursday for Judge W.E. Hirt," *Erie Times*, 26 June 1963.

¹² "Services Thursday," *Erie Times*, 26 June 1963; "William E. Hirt, Ex-Judge, Is Dead," *New York Times*, 16 June 1963; William E. Hirt, "In the Matter of Dissents Inter Judices de Jure," *31 Pennsylvania Bar Association Quarterly* (March 1960): 256-60; 272 PA sup. Ct. Reports XXXV.

¹³ "Honorable William E. Hirt," *Memoirs of Erie County*, n.p.; For more information about John William Hirt see his obituary "John William Hirt," *Erie Times-News*, 25 May 2006.

THE HONORABLE CHARLES E. KENWORTHY



March 7, 1901 – March 26, 1958

Assumed Office: April 15, 1941

County: Pike

BIOGRAPHY

Charles Edward Kenworthy served three years on the Pennsylvania Superior Court. He was a high profile attorney in Philadelphia for many years and served as vice chancellor and chancellor of the Philadelphia Bar Association.

Kenworthy was born in Milford, Pennsylvania, on March 7, 1901 to William Bartle Kenworthy and Corinne Howard Reed. His father was a country doctor. He attended Milford High School, graduating in 1918 and subsequently served as president of the high school alumni association.¹ He attempted to follow his father's profession, entering the pre-med program at the University of Pennsylvania. After one year, however, he decided to follow another course, earning his B.A. in 1922 and his law degree from the University's School of Law in 1925.²

After graduation, Kenworthy briefly practiced with the firm of Murray, Aldrich, and Roberts in New York City. He was admitted to the Pennsylvania Bar in 1926, relocated to Ardmore, Pennsylvania, and

began as an associate in the Philadelphia firm of Evans, Bayard, and Frick. Prominent attorney Ralph B. Evans was his mentor and with this training, Kenworthy quickly began to earn respect among members of the bar, becoming a “lawyer’s lawyer.” He made partner in the firm in 1935 and for many years was one of the most active trial attorneys in both the state and federal courts in the city of Philadelphia.³

Kenworthy also was involved in all aspects of the professional organization within the city. He was a member of the American Bar Association’s Standing Committee of Communications; the Pennsylvania Bar Association’s Committee on the Work of the Institute (as well as the subcommittee on the Institute’s Code of Evidence), and the Procedural Rules Committee; and served as chairman of the Board of Governors of the Philadelphia Bar Association. He became chief counsel for the Medical Society of Pennsylvania in 1937 and a director of the Philadelphia Voluntary Defender Association. He also joined the Juristic Society, serving as its president in 1939, as well as becoming a member of both the Lawyer’s Club of Philadelphia and the Caveat Club.⁴

Kenworthy was nominated in April 1941 to the Pennsylvania Superior Court to fill a vacancy created with the elevation of Judge William M. Parker to the Pennsylvania Supreme Court. At 40 years of age, he was relatively young to receive the nomination, but he had received the recommendation of the Judiciary Committee of the Philadelphia Bar Association. Governor Arthur H. James subsequently sent his name to the Pennsylvania Senate for approval. “Not one dissenting voice was raised against his confirmation,” declared Senator Howard I. James on Kenworthy’s unanimous approval. “His experience is ideal as preparation and background for the responsible and important judicial post to which he has been appointed,” reported *The Shingle* in June 1941.⁵ Kenworthy, a Republican, campaigned for a full 10-year term on the Superior Court in the November election. His Democratic challenger was Michael A. Musmanno of Pittsburgh, and in a close race Kenworthy won by a little over 100,000 votes.⁶

After three years on the bench, Kenworthy resigned in August 1944 to return to private practice. He joined the Philadelphia firm of Schnader and Lewis, which then became Schnader, Kenworthy, Segal, and Lewis.⁷ He continued his professional activities serving two years

as vice chancellor of the Philadelphia Bar Association, and in 1947, he was elected chancellor of the organization. As his mission, Kenworthy set out to find a home for the association. He noted, "the ballroom of a central city hotel is a hopelessly inadequate substitute for the facilities which long ago should have been available to the oldest and one of the largest bar associations in America." He was re-elected to the position of chancellor the following year, and during his tenure helped to form a plan for obtaining a headquarters for the association, as well as initiated the successful Lawyer Reference Service. In June 1948, he resigned as chancellor and moved to Pittsburgh. Of Kenworthy's service to the Philadelphia bar, one writer commented: "In spite of his busy law practice and many civic activities, he has always taken an active and constructive interest in the Philadelphia Bar Association."⁸ Once in Pittsburgh, Kenworthy became a partner in the firm of Reed, Smith, Shaw, and McClay. He continued as an active trial attorney in prominent cases.⁹

Kenworthy was involved in numerous civic organizations throughout his life. He coordinated the Penn Valley United Charities campaign in 1941, served as a trustee of the Bockus Research Fund and of Hahnemann Medical College and Hospital, and acted as a director of the Board of Managers of the Law Alumni Society of the University of Pennsylvania. He was a member of the Racquet Club and Union League of Philadelphia. When he moved to Pittsburgh, he was connected with many cancer fundraising drives.¹⁰

After a long illness, Kenworthy died at the age of 57 on March 26, 1958 at Graduate Hospital in Philadelphia. In 1956, he had abdominal surgery and the hospital reported his death was due to complications. He was buried at a private family lot in his native Pike County.¹¹

Kenworthy married Elizabeth Parker Prichard, daughter of prominent lawyer Frank Perley Prichard, in October 1927. They had four children. By January 1951, Kenworthy and his wife had presumably divorced. Kenworthy married a second time to Jessica Holton.¹²

¹ "Charles Edward Kenworthy," Family Data Collection, Individual Records, 1910 United States Federal Census, 1920 United States Federal Census, *www.ancestry.com*; "Charles E. Kenworthy," 6 The Shingle (June 1941): 124.

- ² “Charles E. Kenworthy, Attorney, Dies at Age 57,” *Philadelphia Bulletin*, 26 March 1958.
- ³ “Chas. E. Kenworthy Named to State Superior Court,” 104 *Legal Intelligencer* (9 April 1941): 691; “Charles E. Kenworthy,” 6:124.
- ⁴ “Charles E. Kenworthy,” 6:124-125; C.E. Kenworthy, “Discovery Under the Proposed New Rules,” 20 *Pennsylvania Bar Association Quarterly* (October 1948): 17-23.
- ⁵ “Chas. E. Kenworthy,” 104:691; “C.E. Kenworthy Sworn in as State Superior Court Justice,” 104 *Legal Intelligencer* (16 April 1941): 735; “Charles E. Kenworthy,” 6:124.
- ⁶ “Election is Close in Pennsylvania,” *New York Times*, 5 November 1941; “Republicans Win in Pennsylvania,” *New York Times*, 6 November 1941.
- ⁷ “Judge Kenworthy’s Resignation Reported but not Confirmed,” 11 *Legal Intelligencer* (12 July 1944): 31; “Announcement,” 111 *Legal Intelligencer*, (16 August 1944): 145.
- ⁸ Charles E. Kenworthy, “A Greeting from the Chancellor,” 10 *The Shingle* (January 1947): 3; “Resignation of Chancellor Kenworthy,” 11 *The Shingle* (June 1948): 127-28
- ⁹ “C.E. Kenworthy, 57, Lawyer, Ex-Judge,” *New York Times*, 27 March 1958.
- ¹⁰ “Charles E. Kenworthy,” 6:125; “Chas. E. Kenworthy,” 104:691; “Charles Kenworthy, Former Superior Court Judge, Dies at 57,” 138 *Legal Intelligencer* (27 March 1958): 407; “Charles Kenworthy, Former Penna. Judge Dies Here at Age of 57,” *Philadelphia Inquirer*, 27 March 1958: “Charles E. Kenworthy,” *Philadelphia Bulletin*, 27 March 1958.
- ¹¹ “Charles Kenworthy,” Social Security Death Index; “Charles Kenworthy,” 138:407.
- ¹² “Charles Edward Kenworthy,” Family Data Collection, Marriages, Individual Records, “Elizabeth Parker Prichard,” One World Tree, www.ancestry.com; “Charles Kenworthy,” *Philadelphia Inquirer*, 27 march 1958.

THE HONORABLE CLAUDE T. RENO



April 4, 1882 – June 12, 1961
Assumed Office: January, 1943
County: Lehigh

BIOGRAPHY

Claude Trexler Reno served a little over ten years on the Pennsylvania Superior Court. He was a representative in the Pennsylvania House of Representatives, president judge of the Lehigh County Court of Common Pleas, and Attorney General for the Commonwealth.

Reno was born in Lyons, Berks County on April 4, 1882 to Joseph F. Reno and Millie J. Trexler Reno. When he was only six months old his parents relocated to Allentown. His father, who was born in Womelsdorf, Pennsylvania, was a schoolteacher there and for many years a traveling salesman. Reno was the cousin of Superior Court Judge Frank M. Trexler.¹

Reno attended public schools in Allentown, graduating from Allentown High School in 1900. He furthered his education at Muhlenberg College, where he was a member of Alpha Tau Omega Fraternity. That association continued throughout his life, as he became national president and subsequently historian of the organization. In

1914, he served as editor of *The Palm*, the fraternity's magazine, and in 1929, he authored *The Manual of the Alpha Tau Omega Fraternity*; in 1962, the fraternity published his work *The ATQ Story: The First Fifty Years*. He saw the fraternity through a growth period in the 1920's and was able to report scholastic improvement in the 1930's.²

Reno received his law degree in 1905 at the Dickinson School of Law where he was an editor of the law review. He returned to Allentown and was admitted to the Lehigh County Bar in 1905.³

He became politically involved when he started working as solicitor for Lehigh County in 1908. That prominence propelled Reno, a Republican, into the Pennsylvania House of Representatives at the age of 29. He was the youngest member of the legislature and served until 1912. He also continued in the position of Lehigh County solicitor until 1912. Presumably, he worked as a private practice attorney in the years following and in 1920, he was elected city solicitor of Allentown as well as solicitor of the School District of Allentown. He resigned from both of these positions in 1921 when he was appointed judge of the Lehigh County Court of Common Pleas by Governor William C. Sproul. Two years later, he was a candidate for a full 10-year term on that court and was subsequently elected president judge. During these years he frequently sat on the Philadelphia County Court of Common Pleas as well and "won the respect, admiration and esteem of the Philadelphia Bar." He voluntarily retired from the Lehigh County Court at the expiration of his term in 1933.⁴

Reno's statewide political career was launched in January 1939 when Governor Arthur H. James appointed him Attorney General of the Commonwealth. Reno appeared in court numerous times to defend state laws including the establishment of a minimum wage for women and minors, the State Labor Relations Act, the Unemployment Compensation Law, and the Parole Act of 1941. In 1940, with the Red Scare a concern throughout the nation, Reno informed the 20,000 state employees they would have to take a loyalty oath. "While other people talked," wrote one contemporary, "Judge Reno acted." Although appointed by Governor James to the Pennsylvania Superior Court on December 15, 1942, Reno served as attorney general until his term expired on December 31st.⁵

Reno began serving on the Superior Court in January 1943 filling a vacancy caused by the death of Judge Jesse E.B. Cunningham. It was

well-known among Republicans that Reno would seek a full 10 year term on the court in the November 1943 election, and in June he announced he would “definitely run” for the position. Reno was unopposed in the primary election and defeated his Democratic challenger Curtis Bok in the general election by about 300,000 votes as Republicans swept the election in the city of Philadelphia.⁶ “The Superior Court of Pennsylvania, one of the nation’s outstanding appellate courts,” reported one contemporary, “adds to its prestige by the addition to its ranks a man who is not only a great lawyer and Judge, but an untiring and self-effacing public servant.”⁷ Reno served on the court until 1953 and then returned to private practice in Allentown.⁸

Reno was a member of numerous social and civic organizations. He was president of the Patriotic Order of the Sons of America, member of the board of trustees of the Lutheran Theological Seminary at Mt. Airy, The Dickinson School of Law, and Muhlenberg College. He was a 32nd degree Mason and a member of the Lehigh County Historical Society. He was also a president of the Lehigh Sunday School Association and a member of the National Executive Board of the United Lutheran Church. He received honorary doctor of law degrees from Muhlenberg and Moravian Colleges.⁹

Reno died at the age of 70 on June 12, 1961 at Sacred Heart Hospital after battling a long illness. While on the Superior Court it was noted that he was “recognized as a scholarly and great Judge, not only by his colleagues on the bench but by the Bar and the public in general.”¹⁰

He married Mae Grim Appel in 1906, who was “his devoted and understanding helpmate.”¹¹

¹ *Pennsylvania Manual* (1949-50), 89:690; “Joseph F. Reno,” *New York Times*, 25 July 1943; M. Louise Rutherford, “Claude Trexler Reno,” 6 *The Shingle* (December 1943): 200.

² *Pennsylvania Manual* (1939), 493; www.marshall.edu/ato/nhistory.html.

³ *Pennsylvania Manual* (1949-50), 89:690; 9 *The Forum* (January 1905) 67.

⁴ *Pennsylvania Manual* (1939), 493; Rutherford, “Claude Trexler Reno,” 6:200.

⁵ “James Picks Miss S.M.R. O’Hara To be Secretary of Pennsylvania,” *New York Times*, 13 January 1939; Rich Gigler, “Local,” *Pittsburgh Post-Gazette*, 17 October 1990; Rutherford, “Claude Trexler Reno,” 6:199-200.

⁶ *Pennsylvania Manual* (1949-50), 89:690; “Bok and Reno will be Rivals for Superior Court Judgeship,” 108 *Legal Intelligencer* (28 June 1943): 913; “Reno to Run for Office,”

108 *Legal Intelligencer* (28 June 1943): 913; "Philadelphia Picks Slated Candidates," *New York Times*, 15 September 1943; "Defeat of Bok Indicated," *New York Times*, 3 November 1943; "Republicans Sweep All in Philadelphia," *New York Times*, 4 November 1943; "Judge Reno Wins Contest for Superior Court Seat," 109 *Legal Intelligencer* (4 November 1943): 435.

⁷ Rutherford, "Claude Trexler Reno," 6:199.

⁸ "Claude T. Reno Former Superior Court Judges, Dies," 144 *Legal Intelligencer* (13 June 1961):795.

⁹ *Pennsylvania Manual* (1939), 493: "Lutherans Face Fight on Women Delegates," *New York Times*, 11 October 1932; *Pennsylvania Manual* (1949-50) 89:690;

¹⁰ "Claude Reno, 79, A Former Judge," *New York Times*, 13 June 1961; Rutherford, "Claude Trexler Reno," 6:200.

¹¹ Rutherford, "Claude Trexler Reno," 6:200.

THE HONORABLE F. CLAIR ROSS



January 3, 1895 – January 17, 1956

Assumed Office: January 18, 1945

County: Mercer

MINUTE IN MEMORIAM

to HONORABLE F. CLAIR ROSS

Judge of Superior Court

Delivered by President Judge, HONORABLE CHESTER H. RHODES, at the opening of the Superior Court at Philadelphia on October 1, 1956.

The sudden and untimely death of our colleague, Judge F. Clair Ross, on Tuesday, January 17, 1956, came as a severe shock to his family, his associates, and the Commonwealth.

Now, October 1, 1956, this memoriam of our appreciation for his service, work, and friendship is ordered spread at length upon the records of this Court:

Judge Ross was born on January 3, 1895, in Sandy Lake, Mercer County, Pennsylvania, and was educated in the public schools there and in Grove City College. He taught for several years in the Derry High

School in Westmoreland County, In World War I, he enlisted as a flying cadet, and thereafter actively engaged in veterans' affairs. He received his formal legal training at the University of Michigan and Columbia University. In his senior year at Columbia, he was an assistant to the late Chief Justice Harlan Fiske Stone of the United States Supreme Court.

In 1925, Judge Ross became associated in the practice of law with W.D. Brandon and J. Campbell Brandon in Butler County. He was constantly active both in his practice and in the service to his community. In 1935, he was appointed Deputy Attorney General by Governor George H. Earle; he was elected as State Treasurer in 1936, and as Auditor General of the Commonwealth in 1940; he was the Democratic nominee for Governor of the Commonwealth in 1942, he was elevated to the judiciary in 1944 by election to this Court, where he served until his death.

In the eleven years Judge Ross served on this Court, he was ever true to his trust. Combining a scholarly intellect with his vast experience, common sense, and human feeling, he administered justice in a learned and sympathetic manner. He had the unique ability to ascertain the true issues of a controversy with expedition and clarity. Each appeal presented an individual challenge, and, whether the problems were single and simple or multiple and difficult, his scrutiny was thorough, complete, and fair. His eloquence as a speaker was carried to his opinions with a lucid conciseness. His thoughts and reasons were always understandable without strain. His opinions were clear, concise, accurate, and unemotional. His dissents were few, but when he disagreed he did so in firm and honest conviction, without malice or ill feeling. Although profoundly interested in all of the law, he was particularly mindful of individual rights and guarantees, indicative of his faith in the American system of law.

In the years we were associated with him on the Court, we found him to be a colleague most congenial, a judge ever sensitive to his responsibilities. He possessed a wit and humor familiar to all who knew him. Although serious in his judicial duties, he was not aloof. He brought a warmth and ease to his friendships. While maintaining the decorum and dignity of the judiciary, he lost none of the humility of the common citizen. However, he possessed that detachment so essential as an exemplar in the impartial administration of justice. Judge Ross

gave the Court his undivided devotion; his contributions to our joint endeavors were many in number and the highest in quality. Those of us who have served with him have sustained a great personal loss, while the judiciary of this Commonwealth has been deprived of a competent and capable jurist. Although the burden of mortality presses upon us, we shall not forget his records as a Judge or his memory as a friend and colleague.

THE HONORABLE W. HEBER DITHRICH

October 25, 1886 - April 18, 1953
Assumed Office: December 29, 1944
County: Allegheny

MEMORIAM

Minutes of memorial service for Honorable W. HEBER DITHRICH held at Pittsburgh, Pennsylvania, on November 9, 1953.

PRESIDENT JUDGE RHODES: After our Court adjourned its April session in Pittsburgh, Hon W. HEBER DITHRICH, a Judge of this Court, passed away on April 18, 1953. This service has been arranged accordingly to honor his memory.

The Court recognizes JOHN G. BUCHANAN, ESQ., of the Allegheny County Bar, and a former President of the Pennsylvania Bar Association.

MR. BUCHANAN: May it please the Court, Your Honors will doubtless recall that Chief Justice Maxey, in his address at the testimonial dinner in Philadelphia in 1944 in honor of President Judge WILLIAM H. KELLER, of blessed memory, quoted the following

words of Rufus Choate: "The way you can tell whether a judge is a great judge is this: Any judge towards whom there flows a tide of respect and affectionate regard and toward who that tide constantly increases the longer he is on the bench, that man is a great judge." If Rufus Choate was right, then I submit that your lamented colleague, W. HEBER DITHRICH, was a great judge.

Born in Coraopolis in this county in 1886, the son of a veteran of the Civil War, he attended Mercersburg Academy, and as an alumnus devoted much attention to the school, serving for many years on its Board of Regents. He graduated from Washington and Jefferson College after a fine career as a student, and later he was honored by his alma mater by the award of the degree of Doctor of Laws. For a time he also served as a trustee of the college.

He registered as a student of law with the late W. T. Tredway on June 7, 1909, the very day on which I registered as a student with the late George B. Gordon. He graduated from the University of Pittsburgh Law School in 1912. He served for a while as Chairman of the Board of Visitors of the School.

As a very young man, he served for two terms as a Representative in the General Assembly. He was a Lieutenant in the Mexican Border Expedition and again in the First World War. After the war, he served as an Assistant United States Attorney for three years and as County Solicitor for six years.

In 1930, he was appointed to the bench of the Court of Common Pleas of Allegheny County by Governor FISHER on the same day with the Honorable WILLIAM H. MCNAUGHER, now President Judge of that court. He was elected a judge of that court in 1931 and re-elected in 1941.

On December 29, 1944, Judge DITHRICH was appointed by Governor MARTIN to the bench of this court, to which he was elected for a full term the following November.

At one time or another, in every public capacity in which he served except that of Representative in the General Assembly, I had occasion to argue with him, against him or before him. It would be an understatement to say that in forty years I cannot remember a single untoward incident in the court of these dealings. Nay more, I have never heard any complaint by any member of the bar of the professional conduct of the judicial decisions of your colleague.

Moreover, in those gatherings where adversaries who have striven mightily in law eat and drink as friends, HEBER DITHRICH was a choice companion. He will be sorely missed by a host of members of our profession.

He was also a man of deep religious feeling and active Christian Practice. For many years he was a vestryman, and at one time the Senior Warden, of St. Stephen's Protestant Episcopal Church in Sewickley.

He was the devoted husband of a lovely wife and the father of a son who has given good promise of success at the bar.

In short, in this private as in his public life, as the head of a family, as a churchman, as a lawyer and as a judge, he left behind him a record to which his widow and kinsmen, his friends, and his colleagues on the bench and at the bar may point with pride.

He died on April 18 of this year, one day after the close of the last term of the court in this city. Just four days before his death, it was my privilege to argue a case before this court. As it happened, I had not seen my old friend for several months, and I was greatly shocked by his pallor and emaciation. He was performing his duties in spite of physical distress. Yet the questions which he put from the bench with regard to the case, a novel and interesting one, exhibited his accustomed keenness. He was fighting a good fight, he was finishing his court, he was keeping the faith: shall we not say that there was laid up for him a crown of righteousness, which the Lord, the righteous judge, will give him at that day: and not to him only, but unto all them also that love his appearing?

PRESIDENT JUDGE RHODES: The Court recognizes CHARLES F.C. ARENSBERG, ESQ., of the Allegheny County Bar, and a former President of the Pennsylvania Bar Association.

Mr. ARENSBURG: With the permission of the Court, Your Honors have just heard from Mr. Buchanan many of the facts of Judge DITHRICH'S life and career and I shall not repeat them.

It is indeed appropriate, when a distinguished man has died, to picture him within the framework of time and place, against the background of his activities so that we see him in his environment, among the conditions out of which he achieved the distinction that we acclaim. But when we have done this, the essential character of the man still eludes us. His mind and heart must be brought into sharper focus.

I know how proud Judge DITHRICH was to become a member

of this Court. He felt a proper pride in taking his place on a bench where so many of the greatest of Pennsylvania judges have sat, and from which so many have been elevated to the Supreme Court of the Commonwealth.

He felt perhaps that here more than in any other Court of the state, the life of the community in cross-section passes in review. Here there is more and wider variety of controversies and consequently more opportunities to compose differences and allay disputes, by wise and understanding decisions.

Judge DITHRICH was peculiarly fitted to be a member of such a Court. He had a wide experience of life in many phases and on many levels. He has been a soldier—a cavalryman—a legislator, a prosecuting United States Attorney. He was a churchman, a lawyer and for eleven years a judge of the Court of Common Pleas of Allegheny County.

All of these positions he had filled with great ability and with untiring energy. But he had more than industry and ability. He had humor and dignity and compassion.

The decisions of any Court dealing as they do with the minutiae of human conduct, and restricted as they must be, rigorously to the facts of the particular case, must seem to a superficial observer the most evanescent of human activities.

A misunderstanding arises among members of the community—a dispute—a quarrel. The parties appear in Court and have their say and the Court gives judgment. The litigants fade again into the background of our community life.

What could be more unimportant? What is so soon forgotten? But there runs through the fabric of every decision threads of logic of wider application, and out of these threads our jurists have woven the web of our law. Out of many particulars there have grown the great general principles, called law, which regulate human affairs.

The conviction that this is so, the knowledge that he, and the Court of which he was a part, services such a purpose and is an essential instrumentality of democratic government, must have sustained Judge DITHRICH, as indeed it must sustain all of you, in the faithful and devoted performance of his duty.

I have read with great interest many of the opinions of Judge DITHRICH as they are scattered throughout the volumes of the Reports. They are admirable. I know of no opinions where the essential

facts are stated more immediately or more tersely, where the opinion moves forward to its conclusion more directly and persuasively.

It would be unfair, if I did not say that I found in other opinions of this Court, the same directness of approach, and conciseness of statement. I have often wondered what model has set so high a standard. I suspect that the great first President Judge of this Court, Judge RICE, set the example that has been carried on by his successors so that a high order of opinion writing has become one of the attributes of this Court.

Judge DITHRICH'S first opinion found in volume 157 of the Reports deals with the liability of an insurance company. Was the impact of a loose stone on the roadway, against the oil pet-cock of an automobile resulting in a burnt-out engine, a collision under the terms of the policy?

And one of the last reported opinions of Judge DITRICH deals also with liability of an insurance carrier. Was a soldier killed in action in Korea, within the protection of the double indemnity provision of the policy which excluded from its benefits, those whose death occurred while engaged with the armed forces in time of war?

We all know how Judge DITHRIH decided the case in an opinion that was sustained upon appeal to the Supreme Court and which will forever remain as a monument to his ability, his learning and his humanity.

But Judge DITHRICH did not specialize in any one branch of the law. The scores of other opinions of Judge DITHRICH, deal with a multiplicity of controversies and all show a calm judicial approach, a cool appraisal of the relevant facts and dispassionate application of the appropriate legal principles.

So far, I have spoken of the judge in his robe of office, of him who sits in judgment and by that very fact is removed by his fellows at the bar. But those who knew him best will remember him, perhaps longest, as the good companion, the gallant horseman, the handsome figure as he walked along the street, the kindly teacher in the Sunday school of his church where he was also a vestryman, doing his share of the work of that other great institution to which the law is supplementary as a kindred force for good.

The sum of these things is the life of a good man and a great judge. His memory will be long cherished by his fellow members at the Bar,

by the community in which he lived and in the hearts of all those who loved him.

God rest his soul!

PRESIDENT JUDGE RHODES: The important events of Judge DITRICH'S career are fully known and have been recently stated. Therefore, I shall not repeat them here. We are not unmindful that he came to the Superior Court with a broad experience in both the legislative and judicial branches of our government.

As a member of this Court for nearly eight years, we found him congenial as a colleague, capable as a judge, and conscientious in the administration of justice. He was studious, scholarly and firm in his convictions.

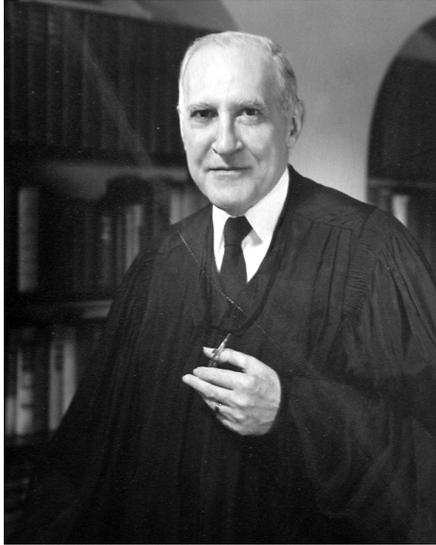
At our April session in Pittsburgh, Judge DITRICH sat with the Court and participated in its deliberations. His unexpected death was a great shock to all.

His judicial knowledge was manifest in conference and reflected in his opinions which were comprehensive and well reasoned. They were recognized for their clarity and quality, and his views were understandingly expressed. When he was convinced of the correctness of his position he did not compromise in his conclusions. At the same time his approach to problems was sympathetic and thoughtful.

His individual objective was to conscientiously discharge his judicial duties, and his life was devoted to the end that there be justice for all under the law judicially administered.

Individually and collectively we have lost a friend, faithful and sincere, and a colleague, esteemed and respected. In his death the judiciary of the Commonwealth has lost an eminent jurist, his country, a distinguished citizen, and his family a devoted husband and father. Daniel Webster once said, in a speech on Mr. Justice STORY, that "justice is the great interest of man on earth." Judge DITRICH "loved justice; and no judge could have a nobler epitaph."

These proceedings will be incorporated in the Reports of the Court. The Court will now take a recess for fifteen minutes.

THE HONORABLE JOHN C. ARNOLD

March 10, 1887 – November 9, 1958

Assumed Office: April 1945

County: Clearfield

BIOGRAPHY

John Carlisle Arnold served nearly eight years on the Pennsylvania Superior Court. He was president of the Clearfield County and Pennsylvania Bar Associations and died while serving in the sixth year of a 21-year term as a judge of the Pennsylvania Supreme Court.

Arnold was born in Curwensville, Pennsylvania, on March 10, 1887 to William C. Arnold and Jane Irvin Arnold. His father was a lawyer “of some repute and some renown: in Clearfield County, and was also a member of the United States Congress. Arnold, therefore, learned about a life of law and public service at an early age.¹

Arnold attended public schools in DuBois, graduating from DuBois High School and subsequently earning his law degree from the University of Pennsylvania Law School in 1909. He returned to DuBois where he was admitted to the bar on September 26, 1910, and where he would practice law for the next eight years. In 1915, at the age

of 28, he became borough solicitor of DuBois and helped to organize it as a city. He continued in the position as solicitor for the newly formed city of DuBois from 1916 to 1917. One editorial claimed that as a lawyer in a small town, and because of the geography and diversity of a county such as Clearfield, Arnold had to be well versed in many aspects of the law instead of specializing in one or two fields.²

It was not long before Arnold's public service and credibility as a lawyer garnered him a countywide position and in 1917 he was elected district attorney of Clearfield County. He moved to Clearfield proper and was reelected to the position in 1921. Just four years later he resigned to return to private practice organizing the firm of Arnold and Platt, presumably with a relative of his wife's, Clare E. Platt. In subsequent years the firm was reorganized as Hartswick, Arnold, and Platt, as Arnold and Smith (W. Wallace Smith), and finally as Arnold and Chaplin, where Arnold served as senior partner with D. Edward Chaplin and his son Dan P. Arnold. Arnold worked at Arnold and Chaplin for over ten years.³

Arnold was dedicated to his profession, as his friends remembered years later, "above all things, however, he was a lawyer." This was exemplified by his service to the organized bar. He became president of the Clearfield County Bar Association in 1935. His reputation locally, influenced his election in 1941 as vice-president of the Pennsylvania Bar Association. He poked fun at his profession that year writing a brief article in the Association's quarterly journal lamenting the "present mass production of decisions, reports, and statutes," that were required reading for lawyers. Instead he recommended Perry Mason books and Lyman Windolph's *Country Lawyer*, as the "books are never difficult to understand, and they attain a just end, without wasting a lawyer's time, eyesight, or paper." In 1942, Arnold became president of the Pennsylvania Bar Association and also served as a delegate to the House of Delegates of the American Bar Association. During his tenure as president, one of the directives of the state bar association organization was to provide a uniform set of rules to the licensing boards throughout Pennsylvania.⁴ Arnold also asked that the association also "give more consideration to the trends in administration of justice." He received some criticism for his stance on the American Law Institute's Code of Evidence, with some critics remarking that he needed to endorse open discussions of the Code as well as be more

amenable to changes.⁵ As president, Arnold spoke at the induction ceremony of George W. Maxey, newly appointed Chief Justice of the Pennsylvania Supreme Court, where he summarized what it meant to lead the organization. "I feel quite inadequate to convey to you and this Court the sentiments of a strong Bar, which as this Court best knows, possesses large talents and true fidelity," Arnold declared. "Only permit me to say," he continued, "that no Bar of any Court has loftier aims or better minds, and that no Bar of any Court is truer or more loyal to the Bench."⁶

Arnold's prominence garnered him the nomination to the Pennsylvania Superior Court by Governor Edward Martin to fill the vacancy caused by the death of President Judge William H. Keller. The Governor nominated W. Heber Dithrich to fill a second vacancy. A Republican, Arnold's appointment in March 1945, came as Democrats gathered in Harrisburg to decide on the two candidates they were going to support for the Superior Court seats in the fall election. The Pennsylvania Senate unanimously approved Arnold's appointment in early April, and Albert C. Hirsch, president of the Allegheny County Bar Association, presented him to the court. "He is a man of substantial worth," Hirsch commented, "not in things seen, which are temporal, but in things unseen which are eternal."⁷ Arnold became the Republican candidate for a full 10-year term, and easily won the 1945 general election in November (garnering the most votes of all four candidates) despite controversy over the charge that he and W. Heber Dithrich withdraw their claim to be American Labor Party candidates.⁸

In 1950, Arnold's name was mentioned as a possible candidate to serve on the Pennsylvania Supreme Court. In 1952, he won the Republican primary and that November, Pennsylvania voters elevated him to the Supreme Court. At a testimonial dinner in 1955, his colleague Justice Stearn noted, "John gave us the strength that we needed on the Supreme Court."⁹

Arnold was involved in numerous civic and professional societies throughout his career. He was a member of the Pennsylvania Supreme Court's Board of Governors, a trustee of the Dickinson School of Law and of the Joseph and Elizabeth Shaw Memorial Public Library, a member of the American Judicature Society, the Socialegal Club of Philadelphia, the Acorn Club of DuBois, and the Board of Managers of the Law Alumni Society of the University of Pennsylvania. He was

a 33rd Degree Mason. Arnold was also extremely active in his church, Trinity Methodist, teaching the Men's Bible Class at Sunday School for over 16 years. The church honored him with a testimonial dinner in 1955. In 1947, the James Wilson Law Club Alumni of the University of Pennsylvania also honored Arnold and in June 1953 he received an honorary doctor of law degree from Dickinson College. The Dickinson School of Law in April 1958 presented him with a citation recognizing "his distinguished accomplishments in the field of law."¹⁰

Arnold died at the age of 71 on November 9, 1958 while serving in the sixth year of his 21-year term on the Pennsylvania Supreme Court. In October, he suffered a cracked hip in a fall at home, and was confined to his residence; Governor George Leader had given an interim appointment on the court to Justice-elect Curtis Bok. In a memorial in the Supreme Court of Pennsylvania, representatives from the Clearfield County Bar Association, the Pennsylvania Bar Association, the Philadelphia Bar Association, and Chief Justice Benjamin R. Jones, all spoke about Arnold's life and contributions to the profession and court. "Judge Arnold was, as has been said here, a very eminent trial lawyer of northwestern Pennsylvania," Chief Justice Jones memorialized. "He was a wonderful colleague.... We are all richer for having known John Arnold," he continued, "and his honesty, his integrity, and his ability will always be an inspiration to all of us. Governor George Leader called Arnold, "an outstanding man of real integrity and one of Pennsylvania's most distinguished legal figures."¹¹

In September 1913, Arnold married Clare E. Platt. They had four children, one of which, Dan P. Arnold became a member of the bar and served as vice president of the Clearfield County Bar Association.¹²

¹ *Pennsylvania Manual* (1949-50), 89:691; "Memorial of Honorable John C. Arnold," 394 *PA State Reports*, xxiv.

² Joseph Riesenman, Jr., *History of Northwestern Pennsylvania*, (New York: Lewis Historical Publishing Co., 1943): 3:515; Warren Fox, et.al., com., *Registration for Students at Law and Admission to the Bar, 1866-1971* (Clearfield County Courthouse, 1995): 111; *Pennsylvania Manual* (1949-50), 89:691; Jane Elling, "The Two Active Judges of the County: Reilly and Ammerman," *The Progress* (Clearfield), 24 March 2000.

- ³ Riesenman, Jr., *History of Northwestern Pennsylvania*, 3:515; *Pennsylvania Manual* (1949-50), 89:691; *Journal of the National Association of Referees in Bankruptcy* (1928-29) 105.
- ⁴ "Memorial," 394:xxxi; "*Pennsylvania Bar Association*," *27 American Bar Association Journal* (1941): 565; "John C. Arnold Elected Head of Pennsylvania Bar Association," *107 Legal Intelligencer* (3 July 1942): 13; "Pennsylvania Bar Association," *28 American Bar Association Journal* (1942): 573; "Heads Pennsylvania Lawyers," *New York Times*, 3 July 1942.
- ⁵ "Gibbons and Arnold Honored at Bar Association Reception," *108 Legal Intelligencer* (21 January 1943): 107; William Draper Lewis, "Mr. John C. Arnold's Meditations on the Institute's Code of Evidence," *6 The Shingle* (May 1943): 116-18.
- ⁶ John C. Arnold, "Address of Salutation," *14 Pennsylvania Bar Association Quarterly* (April 1943): 204.
- ⁷ "John C. Arnold is Nominated to Superior Court Position," *112 Legal Intelligencer* (28 March 1945): 383; Governor Martin to Send Local Attorney's Name to Penna. State Senate Today," *The Progress* (Clearfield), 27 March 1945; "Arnold Approved unanimously by Penna Senate," *The Progress* (Clearfield), 3 April 1945; "Judge Arnold Seated in PA Superior Court," *The Progress* (Clearfield), 9 April 1945.
- ⁸ "Nominating Petition Filed," *112 Legal Intelligencer* (10 April 1945): 435; "Clearfield Judge Given Fine Vote," *The Progress* (Clearfield), 7 November 1945; "Arnold and Dithrich Elected to State Superior Court," *113 Legal Intelligencer* (8 November 1945): 515. For more information on the election controversy see "Judges Asked to Withdraw as Candidates of Labor Party," *113 Legal Intelligencer* (19 July 1945): 67 and "Ballot Printing Halted," *New York Times*, 27 August 1945.
- ⁹ "John C. Arnold, State Supreme Court Justice, Dies," *The Progress* (Clearfield), 10 November 1958; "Supreme Court Justice John C. Arnold is Honored at Testimonial Dinner," *The Progress* (Clearfield), 14 May 1955.
- ¹⁰ "John C. Arnold," 112:383; *Pennsylvania Manual* (1949-50), 89-691; Riesenman, Jr., *History of Northwestern Pennsylvania*, 3:516; "Supreme Court Justice John C. Arnold," *The Progress* (Clearfield), 14 May 1955; "John C. Arnold," *The Progress* (Clearfield), 10 November 1958. "James Wilson Law Club Alumni to Honor Judge John C. Arnold," *116 Legal Intelligencer* (29 April 1947): 625; "Memorial," 394:xxv.
- ¹¹ "Funeral Services Today for Late Justice Arnold," *139 Legal Intelligencer* (12 November 1958): 549; "Justice J. C. Arnold of Pennsylvania, 71," *New York Times*, 10 November 1958; "Supreme Court Justice John C. Arnold," *The Progress* (Clearfield), 14 May 1955; "Leader Expresses Regret at Death of Justice Arnold," *The Progress* (Clearfield), 10 November 1958.
- ¹² Riesenman, Jr., *History of Northwestern Pennsylvania*, 3:516; "Memorial," 394:xxiii.

THE HONORABLE JOHN S. FINE



April 10, 1893 – May 21, 1978

Assumed Office: July 15, 1947

County: Luzerne

BIOGRAPHY

John Sydney Fine served almost three years on the Pennsylvania Superior Court. He was a judge on the Luzerne County Court of Common Pleas for twenty years, a Republican Party leader, and governor of Pennsylvania.

Fine was born on April 10, 1893 in Alden, Luzerne County, to Jacob W. Fine and Margaret Croop Fine. His father was a mine worker for the Glen Alden Company Mine. At a young age Fine and his brothers and sisters labored on the company farm until his family moved to Nanticoke. In that small town, Fine worked part-time writing community news for the local newspaper while he attended and graduated from Nanticoke High School.¹

He continued his education at the Dickinson School of Law, received his degree in 1914, and moved back to northeastern Pennsylvania. In 1915, he was admitted to the bar in Luzerne County and started a law practice in Wilkes-Barre. Fine became politically

involved when in 1916, he became a chairman of the fourth district of the Republican Committee of Luzerne County. It was not long however, before war interrupted Fine's budding law and political career as he enlisted in the United States Army Engineers and was subsequently sent overseas. Stationed in Ireland, Fine briefly attended Trinity College of the University of Ireland in Dublin where he completed some graduate work. He was discharged from the Army in 1919 with the rank of sergeant, and returned to Wilkes-Barre.²

He continued with his law practice, as well as reassumed his post as district chairman. From 1920 to 1922, he was secretary of the Republican County Committee and in 1922 became chairman of the committee. He continued to be a leader in the county's Republican Party supporting the agenda of Governor Gifford Pinchot.³

Fine's support led to this appointment on January 3, 1927 to the Luzerne County Court of Common Pleas. He was subsequently elected to a 10-year term on that court. Throughout his tenure as judge, his power in the Republican Party continued to grow, and although he lost the retention election in 1936, he was a delegate-at-large at the Republican National Convention in Cleveland that year. He practiced law too, partnering with Edward C. Marinelli. In 1939, the voters returned him to county court for another 10-year term. "Fine continued to be a political leader in Luzerne County during his years on the bench," argued one biographer, "and he is reputed to have been its Republican boss except during the governorship of his fellow Luzerne County Republican, Arthur H. James (1939-1943)."⁴

In June 1947, the Pennsylvania Senate approved Fine's appointment (by Governor James Duff) to the Superior Court to the seat vacated by President Judge Thomas J. Baldrige. That fall, Fine won a 10-year term on the court.⁵ During a speech at the 100th anniversary banquet for the Wilkes-barre Law and Library Association, he credited the organization, specifically a resolution introduced in 1895 by Henry W. Palmer, for starting the movement to establish the Pennsylvania Superior Court.⁶ Fine, whose gubernatorial campaign was inevitable given his power within the Republican Party, resigned from the Superior Court in March 1950. He did not want to compromise "the ethics of his profession: as both the American and Pennsylvania Bar Associations frowned upon a judge's retention of his seat while running for a non-judicial post. "I have reached this decision

after mature consideration,” Fine said. “I now enthusiastically and actively enlist in this campaign confident of ultimate victory in November.”⁷

Fine was hand-picked by Governor Duff, and the “progressive” Republicans, who pushed for the election of Duff to the United States Senate, actively supported Fine’s campaign as well. It was a tough campaign against Philadelphia Democrat Richardson Dilworth and voter turnout was close to 75 percent. Fine was victorious winning by less than 100,000 votes as the Republicans swept Pennsylvania’s rural counties. At his inauguration in January 1951, he addressed the economic problems Pennsylvania faced, calling for “strict Spartan living.”⁸

Fine at many times was a controversial governor as he was forced to deal with difficult problems such as a need for better public educational facilities, an improved public health system, and a broad based tax system. He was successful in expanding educational and mental health services and one of his proudest achievements was the extension of the Pennsylvania Turnpike into Luzerne County. His proposal for a state income tax, however, was defeated with the help of Republican senators, as Fine continued to face rifts in his own fragmented party. He was able to obtain a one percent sales tax in 1953, but only after intense ridicule by his opposition who used the slogan “a penny for Fine.” Fine also took up the controversial issue of a new state constitution; “No one with faith in democracy should have any fear of a Constitutional Convention,” Fine declared, “or question the verdict of the people, and should have no fear about the verdict of the people of Pennsylvania.” But he was unconvincing, as a new constitution would take more than ten years to be adopted.⁹

In 1952, Fine faced ridicule at the national level when he served as chairman of Pennsylvania’s delegation at the Republican National Convention. Although he had met with presidential candidate Dwight D. Eisenhower, Fine waffled in his decision which candidate (Eisenhower or Senator Robert Taft) to throw the state’s vote to, even endorsing General Douglas MacArthur at one point. He insisted, however, that he was “not being coy,” and ultimately said the most popular candidate should receive the state’s vote. “Pennsylvania will not ‘pass,’” Fine insisted, “because that indicates indecision and shows cowardice of which the Pennsylvania delegation cannot be accused

when the time comes to vote.” He ultimately supported Eisenhower for the presidency and urged Republicans nationwide to stick to the issues and avoid a mudslinging campaign. “It is time to tell and to repeat what the Republicans are going to do to get us out of the terrible mess the Truman deal has put us in.” Fine asserted.¹⁰

At the end of his term, Fine returned to Luzerne County and settled in Loyalville. He practiced law and went into the coal excavation and stripping business with his brother-in-law Daniel P. Morgan. A little over two years after he left the governorship, Fine looked to reenter politics running for a seat on the Luzerne County Court, where he had received his start. He was handily defeated in the May primary election of 1957. Fine continued to remain involved in the community; he was an active Freemason, and belonged to many local civic organizations. He also was awarded an honorary doctor of laws degree in 1960 from his alma mater the Dickinson School of Law.¹¹

Fine died on May 21, 1978 at the age of 85. Remembered as a veteran of the state’s “political wars,” Fine was memorialized as a “long-time champion” of Luzerne County.¹²

In December 1939, Fine married Helen Pennebacker Morgan. She was a probation officer for the Luzerne County Court. At Fine’s gubernatorial inauguration, she was at his side, greeting well-wishers in the public reception line. Tragically, however, she had fallen off of a platform during one of Fine’s gubernatorial campaign speeches in October 1950, and after months of severe headaches she was rushed to University Hospital in Philadelphia on February 14, 1951 where she underwent emergency brain surgery. After three weeks in the hospital, she returned home, but her condition quickly deteriorated and after further surgery she died on April 23, 1951. They had two sons.¹³

¹*Pennsylvania Manual* (1949-1950), 89:691; Louis Waddell, “John Sydney Fine,” *Dictionary of American Biography, Supplement 10: 1976-1980*, Charles Scibner’s Sons, 1995.

²*Pennsylvania Manual* (1949-1950), 89:691; Admissions Record, Luzerne County, 1915; Waddell, “John Sydney Fine,” *DAB*.

³ *Pennsylvania Manual* (1949-1950), 89:691; “Judge John S. Fine Appointed to the State Superior Court Post,” 116 *Legal Intelligencer* (18 June 1947):873.

⁴ “Helene Morgan wed to Judge John S. Fine,” *New York Times*, 6 December 1939; “Judge John S. Fine,” 116:873.

⁵ Judge John S. Fine,” 116:873.

- ⁶ “100th Anniversary Banquet Program,” 14 February 1950; Frank J. Flannery, ed., 1950-51 *Luzerne Legal Register Reports* (Wilkes-Barre, Pa., 1952), 41:544.
- ⁷ “John Fine Resigns from Superior Court,” 122 *Legal Intelligencer* (2 March 1950):214.
- ⁸ “Fred Peters, Prominent in Republican Party,” *Philadelphia Inquirer*, 23 October 1981; G.O.P. Lead Slim in Pennsylvania, *New York Times*, 8 November 1950; “G.O.P. Call Close in Pennsylvania,” *New York Times*, 9 November 1950; “Fine Inaugurated in Pennsylvania,” *New York Times*, 17 January 1951.
- ⁹ “Pennsylvania’s Governors Past to Present: Governor John Sydney Fine,” www.phmc.state.pa.us; Waddell, “John Sydney Fine,” *DAB*; John S. Fine, “The Need for a Constitutional Convention,” 24 *Pennsylvania Bar Association Quarterly* (April 1953): 190-91; “Ex-Governor John S. Fine of Pennsylvania Dies,” *New York Times*, 22 May 1978.
- ¹⁰ “Gov. Fine to Meet Eisenhower Sunday,” *New York Times*, 5 June 1952; “Pennsylvania’s Governors,” www.phmc.state.pa.us; “Fine will Support Eisenhower’s Bid,” *New York Times*, 7 July 1952; “Fine Advises G.O.P. To Stick to Issues,” *New York Times*, 21 October 1952.
- ¹¹ Waddell, “John Sydney Fine,” *DAB*; “Fine Loses in Primary,” *New York Times*, 23 May 1957; Robert K. Dilley, ed., 1960 *Luzerne Legal Register Reports* (Wilks-Barre, PA, 1961), 50:309.
- ¹² “Ex-Governor John S. Fine,” *New York Times*, 22 May 1978.
- ¹³ “Helen Morgan,” *New York Times*, 6 December 1939; Waddell, “John Sydney Fine,” *DAB*; “Fine Inaugurated,” *New York Times*, 17 January 1951; “Pennsylvania’s Governors,” www.phmc.state.pa.us; “Gov. Fine’s Wife has Operation,” *New York Times*, 16 February 1951; “Gov. Fine’s Wife Better,” *New York Times*, 8 March 1951; “Ex-Governor John S. Fine,” *New York Times*, 22 May 1978.

THE HONORABLE BLAIR F. GUNTHER

June 20, 1903 – December 23, 1966

Assumed Office: April 1950

County: Allegheny

BIOGRAPHY

Blair Frederic Gunther served a little over ten years on the Pennsylvania Superior Court. He was also a deputy Attorney General for the Commonwealth and judge on the Allegheny County Court of Common Pleas.

Gunther was born in Hastings, Pennsylvania, on June 20, 1903 to John Gunther and Amelia Krystynick Gunther. His father was a coal miner and later in life a businessman. Gunther's Polish heritage was extremely important to him as he fought to stop the spread of communism in America and to resettle Poles in the United States after World War II.¹

Gunther received his early education at both public and private schools. He graduated from Kanty Preparatory School and College in Erie, Pennsylvania, and continued his education at Duquesne University School of Law where he received his law degree in 1927. He was admitted to the bar the following year and immediately entered

private practice presumably in Pittsburgh.²

Gunther's legal reputation in the Allegheny County area also spread to Harrisburg and throughout the state. His knowledge of languages and his ethnic background helped to propel him into state office. He was a leading Republican and "a favorite among nationality groups." In 1935, Gunther began a three-year appointment as deputy attorney general for the Commonwealth of Pennsylvania. During these years, Gunther tried to capitalize on his new political career, running for a local county coroner position and even becoming a candidate for a congressional seat. His persistence was rewarded in 1942 when he was appointed to succeed his father-in-law, Judge Frank A. Piekarski on the Allegheny County Court of Common Pleas. Gunther ended his private practice and turned his concerns not only to the bench, but with World War II raging in Europe also to the plight of Poles and Slaves both in Europe and in the United States. He won a full 10-year term on that court in the general election of 1943.³

Gunther fully supported the war effort. He took steps among the Slavic community in western Pennsylvania and across the nation to gain recognition and equal treatment for the minority group. He asked local coal miners to stay on the job during World War II. "[T]he coal miners, and especially their Slavic section, can really help our country and its great allies free their Slavic brothers and sisters who are living in occupied Europe," read a statement signed by Gunther and other Slavic leaders.⁴ Throughout the war years, he emerged as a leader in the fight against communism. He joined the American Slav Congress, a group formed in 1942 to unite Slavic groups in the United States to support the war. He served as its chairman, but within two years had abandoned the organization, later reporting to the House Committee on Un-American Activities that the group's "chief aim" was to subvert millions of Slavic Americans operating in our basic industries in order to cripple our national defense apparatus.⁵

Gunther's reputation among his ethnic group, however, led to his appointment in 1947 as leader of the Polish National Alliance, a nationwide group with a membership of close to 350,000. At the time, it was one of the largest fraternal and beneficial organizations in Pennsylvania. As the group's president for 12 critical years, Gunther's political clout grew, as did his dedication to preventing the spread of communism and helping minority ethnic groups throughout the

nation. Gunther was also a member of the Polish American Congress, where in 1947, he was named chairman of the Committee for the Resettlement of Polish Displaced Persons. Over the next decade, the committee helped to bring thousands of Polish refugees to the United States. Moreover, Gunther was an organizer and director of the Committee to Stop World Communism. The committee produced educational materials and other propaganda to fight against the spread of communism in the United States. For all his work with the Polish American Congress, Gunther was honored at a testimonial dinner in August of 1948. Gunther's prowess garnered him the respect of numerous ethnic groups across the nation, and in 1957 when fifty-two groups formed the National Confederation of American Ethnic Groups, they named Gunther as the confederation president. This group, as had many of the groups Gunther had led, had been formed to gain "full and fair recognition" for ethnic minorities.⁶

In April 1950, Governor James H. Duff appointed Gunther to the Pennsylvania Superior Court to fill a vacancy created by the resignation of Judge John S. Fine, who decided to campaign for the position of Governor of Pennsylvania. While a member of the appellate court, Gunther continued his fight against communism urging jail terms for communists prosecuted through legal means. The courts "may take judicial notice that communism as a doctrine is dedicated to the overthrow of the United States by violence," commented Gunther during a speech to the United Police Clubs of Philadelphia. Gunther even requested that local newsstands in Pittsburgh stop selling *The Daily Worker*, the official communist newspaper. He noted that newsstand owners "were most cooperative: and "had not realized such sales might hurt the [Korean] war effort." In the 1950 November general election, Gunther, who received the support of the Allegheny County Bar Association, was elected to a full 10-year term on the Superior Court. Ten years later however, in the general election to retain his seat, the Republican Gunther lost to his Democratic challenger Gerald F. Flood.⁷

Gunther continued on in the employ of the court, however, in the following spring he was named to the post of prothonotary for the Pennsylvania Supreme Court. He also acted in that position for the Superior Court.⁸

Although Gunther's primary civic involvement continued to be

within groups organized for the benefit of ethnic minorities, he also joined other local civic and professional organizations. He was a member of the American Judicature Society, the Lawyer's Club, the Civic Club of Allegheny County, and the Rotary Club, as well as being a trustee for Alliance College. In 1951, he presented the college with a check for 16 full-tuition scholarships for American students who wanted to study foreign policy. In order to be considered for the scholarship, students had to write an essay; the title of the essay that year was "The United States and Poland."⁹

Gunther continued to be a force in local politics and in 1963, he campaigned for the post of county commissioner of Allegheny County. After a fierce campaign, in which his running mate the Republican incumbent John M. Parker accused him of saying "something at political rallies in a foreign language that sounded like 'Vote for Gunther,'" Gunther shot back: "It's difficult to say Walker in Polish." Gunther won the election and served as the minority member of the commission. One newspaper described his conduct on the commission as "feisty," and Gunther seemed to take this position in stride, often making controversial comments. When the county was looking to unload 1,100 outdated voting machines, Gunther remarked, "If we could just get Fidel Castro to hold an election, we'd have a ready-made market." In 1966, with Pittsburgh's declining economic strength at issue, Gunther asserted: "This town is dead. Why would anybody come here for a convention? We need more go-go girls and things like that."¹⁰

In the spring of 1966, Gunther announced his candidacy for lieutenant governor of Pennsylvania. Republicans, however, did not back his effort because Gunther had given his vote at the 1964 Republican National Convention to Barry Goldwater instead of Pennsylvania Governor William W. Scranton. Scranton Supporters instead campaigned for Attorney General Walter E. Allesandrone, who had died in a plane crash in May 1966. "The call for the nomination of a dead man," Gunther declared, "is the act of self-seeking ghouls who will not let the soul of a good man rest." Gunther lost the primary.¹¹

On December 23, 1966, at the age of 63, Gunther died in his sleep of a heart attack. He was remembered as "one of the most powerful men in Pennsylvania's Republican party." His former Republican running mate John M. Walker was named to finish Gunther's term on the Allegheny County Commission.¹²

Gunther married Mary Piekarski, daughter of Allegheny County Judge Frank A. Piekarski. They had three children. Their twins, Blair Gunther and Frank Gunther both served in the United States Army, and a third son attended the United States Naval Academy. After his wife's death in 1961, Gunther married a second time to Dr. Gertrude Bernard, a music teacher.¹³

¹ *Pennsylvania Manual* (1957-58), 93:442.

² *Ibid.*

³ *Pennsylvania Manual* (1959-60): 443-444; "Blair F. Gunther is Dead at 63; Pennsylvania Republican Leader," *New York Times*, 24 December 1966.

⁴ An estimated sixty percent of coal miners in the nation in 1943 were of Slavic descent ("Slav Group in Mine Plea," *New York Times*, 17 May 1943).

⁵ "Hon. Blair F. Gunther Named to State Superior Court," 122 *Legal Intelligencer* (18 April 1950): 437; "Blair F. Gunther is Dead at 63," *New York Times*, 24 December 1966; Hans Kohn, "Panславism and World War II," 46 *American Political Science Review* (September 1952): 706.

⁶ *Pennsylvania Manual* (1957-58), 93:442; "Milestones in the Story of the Polish American Congress," www.ploamcon.org; "Polish American Congress," www.irhc.umn.edu; "Papers of Blair F. Gunther," <http://digital.library.pitt.edu>; "Blair F. Gunther," 155 *Legal Intelligencer* (27 December 1966): 935; "Ethnic Confederation Elects President," *New York Times*, 22 July 1957. For more on Gunther's role in the fight against communism see Philip Jenkins, *The Cold War at Home: The Red Scare in Pennsylvania, 1945-1960* (Chapel Hill: The University of North Carolina Press, 1999).

⁷ "Hon. Blair F. Gunther Named to State Superior Court," 122 *Legal Intelligencer* (18 April 1950); 437; "Blair F. Gunther Takes Oath as Superior Court Judge," 122 *Legal Intelligencer* (26 April 1950): 469; "Judge Gunther Urges Jail Terms for Communists," 123 *Legal Intelligencer* (21 July 1950); 67; Emily L. Bell, "On this Date," *Pittsburgh Post-Gazette*, 20 September 2000; "Papers of Blair F. Gunther," <http://digital.library.pitt.edu>; "Gunther named Prothonotary of Superior Court," 144 *Legal Intelligencer* (27 March 1961): 401.

⁸ "Gunther named Prothonotary," 144:401.

⁹ "New Members of the American Judicature Society," 33 *Journal of the American Judicature Society* (1949): 126; *Pennsylvania Manual* (1955-56): 92:557-58; "Notes and News," 35 *Modern Language Journal* (May 1951): 399.

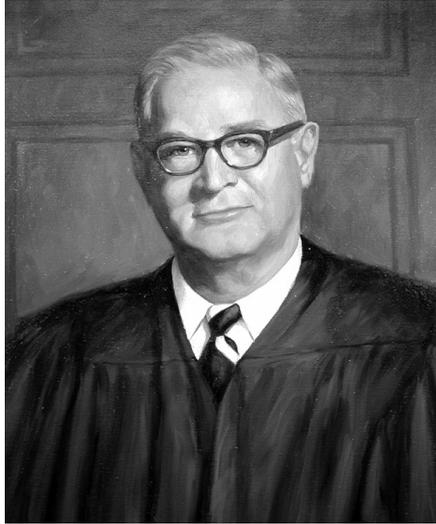
¹⁰ "Blair F. Gunther is Dead at 63," *New York Times*, 24 December 1966.

¹¹ "Republican Leaders in Pennsylvania Ask Votes for Dead Man," *New York Times*, 13 May 1966; "Blair F. Gunther is Dead at 63," *New York Times*, 24 December 1966.

¹² "Blair F. Gunther is Dead at 63," *New York Times*, 24 December 1966; Rich Gigler, "Local," *Pittsburgh Post-Gazette*, 5 April 1991, 23 December 1991, 16 January 1992.

¹³ *Pennsylvania Manual* (1957-58), 93:442; "Blair F. Gunther is Dead at 63," *New York Times*, 24 December 1966. On 15 March 1967, Gunther's wife donated a cache of his papers to Archives at the University of Pittsburgh ("Papers of Blair F. Gunther," <http://digital.library.pitt.edu>)

THE HONORABLE J. COLVIN WRIGHT



*November 20, 1901 -
Assumed Office: March 2, 1953
President Judge 1968 - 1974
County: Bedford*

BIOGRAPHY

John Colvin Wright served for twenty years on the Pennsylvania Superior Court, and for five of those years he was President Judge. He was a district attorney for Bedford County and President Judge of the Bedford County Court of Common Pleas.

Wright was born in Bedford on November 20, 1901 to Jacob Anson Wright and Anna J. Colvin Wright. His father was a judge presumably in Bedford County and therefore Wright was probably inspired at a young age to enter the practice of law.

Wright attended local public schools graduating in 1918 from Bedford High School. He continued his education at Haverford College, achieving membership in Phi Beta Kappa and receiving his B.A. in 1922. That September he received a certification from the State Board of Law Examiners to begin the study of law. He attended the Law School of the University of Pennsylvania, where he was a member

of the Order of the Coif and an associate editor of the law review. In addition to being enrolled in a full law course at the University of Pennsylvania, Wright also trained locally in the law office of his mother's relative Frank E. Colvin. Colvin attested to his age and residency in the county, noting that Wright was "a person of good moral character, and well qualified to register as a student of law." Wright graduated with his law degree in 1925 and subsequently passed the bar exam in July.¹

He immediately returned to Bedford County, where in September 1925, he petitioned to become a member of the bar. A committee of five lawyers was appointed to "examine the said applicant as to his qualifications and moral character." The committee was "thoroughly satisfied" with Wright's training and credentials and admitted him to the bar on September 8, 1925. He presumably entered private practice in Bedford possibly continuing at the office of Frank E. Colvin.²

Only two years later, however, Wright entered the public employ as district attorney for Bedford County. He served in this position for five years, and continued serving the county becoming its solicitor in 1932.³

All of Wright's work within the county court system earned him the respect to his colleagues throughout Bedford. These years of public service were rewarded with his election in 1941 to the position of President Judge of the Bedford County Court of Common Pleas. He was commissioned in December 1941 and began serving a 10-year term in January 1942.⁴ On January 5, Wright's first day on the bench, a large number of Bedford County Bar Association members and citizens of the county were in attendance to hear the reading of his commission and congratulate him on his election. During the brief session Wright also conducted business for the court appointing various court and county officials.⁵

While a judge for Bedford County, Wright also served as chairman of the Pennsylvania Bar Association's Executive Committee for Warren County and was named to the executive committee again in 1947.⁶ In November 1951, he was reelected as a Bedford County Court judge with the unanimous endorsement of the members of the Bedford County bar. While a member of the court, the Republican Wright was a delegate to the Republican National Convention in 1952 and he presided over such events as naturalization ceremonies. Wright also served during this period as a judge in numerous judicial districts

throughout Pennsylvania, including nine months as acting president judge for the Huntington County Court.⁷

Governor John S. Fine appointed Wright to the Superior Court of Pennsylvania on February 26, 1953. He was locked in a fierce race in the November general election to retain his seat on the Court. "A political upset appeared in the making in the state's largest city," one newspaper reported. "The G.O.P. slate for... judicial posts appeared headed toward victory." In fact Wright and his fellow Republican candidate Harold L. Ervin won the city of Philadelphia and in turn the election. In January 1968, Wright through seniority, became President Judge of the court.⁸ In November 1971, he reached 70 years of age; the mandatory retirement age under the new Pennsylvania Constitution of 1968. He was, however, permitted to serve the remainder of his second term, which ended in January 1974.⁹

Wright was dedicated to both his profession and his community. His professional associations included the American Law Institute's Commission on Uniform State Laws, the advisory committee on Decedents' Estates Laws, the Joint State Government Commission, and the American Judicature Society. He was also an honorary member of the Pennsylvania Council of Juvenile Court Judges. Wright joined the Union League of Philadelphia and the Sons of the American Revolution, and was a trustee for the Bedford Volunteer Fire Company. He held memberships in various Bedford social and service clubs including the Rotary, Masons, Moose, Grange, and Odd Fellows.

Wright married Margaret K. Cowell and had four children. One of his sons John Colvin Wright, Junior, became a member of the bar.¹⁰

¹ *Pennsylvania Manual* (1955-56), 92:558; 73 *University of Pennsylvania Law Review* 402; Registration Certificate, No. 4282, Commonwealth of Pennsylvania, State Board of Law Examiners, 12 September 1922; Certificate of Frank E. Colvin, Bedford County, 12 July 1923.

² Petition of John Colvin Wright, Bedford County, 7 September 1925; Report of the Committee in re petition of John Colvin Wright, Bedford County, 8 September 1925.

³ *Pennsylvania Manual* (1957-58), 93:442.

⁴ Commission, J. Colvin Wright, 5 January 1942.

⁵ Bedford Court Docket, 5 January 1942.

⁶ "John C. Arnold Elected Head of Pennsylvania Bar Association," 107 *Legal Intelligencer* (July 3, 1942); 13; "Owen J. Roberts Named," *New York Times*, 4 July 1947.

⁷ *Pennsylvania Manual* (1969), 99:495; "War Brides Get Citizenship Papers," *Tribune Democrat*, 25 November 1952.

⁸ Commission, J. Colvin Wright, 26 February, 15 December 1953; "G.O.P. Leads Philadelphia," *New York Times*, 4 November 1953; "John B. Hannum Takes Oath as Superior Court Judge," 158 *Legal Intelligencer* (3 January 1968): 1201.

⁹ Patrick R. Tamilya and John J. Hare, *Keystone of Justice; The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 184.

¹⁰ *Pennsylvania Manual* (1969), 99:495.

THE HONORABLE ROBERT E. WOODSIDE



June 4, 1904 – March 18, 1998

Assumed Office: October 7, 1953

County: Dauphin

BIOGRAPHY

Robert E. Woodside served eleven years on the Pennsylvania Superior Court. He was a member of the Pennsylvania House of Representatives, judge of the Dauphin County Court of Common Pleas, and Attorney General for the Commonwealth of Pennsylvania.

Woodside was born in Millersburg, Pennsylvania, on June 4, 1904 to Robert E. Woodside and Ella Neitz Woodside. During his induction ceremony as a judge on the Dauphin County Court of Common Pleas in 1941, Woodside commended his parents “who not only sacrificed that I might be intellectually trained, but who taught and demonstrated to me the principles of justice and morality.” “My one regret,” he continued, “is that my father did not live to see this day.” Family and the community were extremely important to Woodside.¹

Woodside received his education at Millersburg Public schools and graduated in 1922 from Millersburg High School. Even at a young age, Woodside was thinking about a life of public service, serving as a

volunteer firefighter in Millersburg and as a page in the Pennsylvania Senate in its sessions in 1921 and 1923. It was his older sister Adelaide (she had taught Woodside in high school), who convinced his parents that he should attend college and law school. Woodside therefore continued his education enrolling at Dickinson College and earning his B.A. degree in 1926. While an undergraduate, Woodside was the editor of the campus newspaper, *The Dickinsonian*, the leader of the campus debate team, president of his class, a member of Phi Kappa Sigma fraternity, and was elected to membership in both Skull and Key and Raven's Claw, the honor societies of the men's junior and senior classes, respectively. Woodside attended the Dickinson School of Law working his way through law school as a reporter for the *Harrisburg Telegraph*. He was also honored with membership in the *Corpus Juris* honorary fraternity. In 1928, he received his law degree and was admitted to the bar.²

After graduation, Woodside, who had a temporary residence in Harrisburg, began a law partnership with R. Dixon Herman. They practiced in both Harrisburg and Millersburg, and Woodside commuted almost daily by train to his hometown where he kept a permanent residence throughout his lifetime.³

His commitment to his profession in both communities enhanced his legal reputation, and his political contacts in Harrisburg made him an ideal candidate for the Pennsylvania House of Representatives. Woodside, a Republican, was elected to the House as a representative from Dauphin County in 1932. He continued to be re-elected for four more terms, the last ending in 1942. Throughout his House career he served in various posts including chairman of the Rules Committee, secretary to the Joint State Government Commission, and member of the Joint Committee on the Revision of the Criminal Law. In 1937, he was the House Minority Leader and from 1939 to 1941, the Majority Leader. Woodside continued to practice law during these years and he later thanked members of the House of Representatives and the Speakers of the House for the "helpfulness and encouragement" they gave him.⁴

Woodside left the House of Representatives and his profession as a lawyer when he was elected to a 10-year term on the Dauphin County Court of Common Pleas. He began serving as a judge for the county in 1942, and because the court also acted as the State's Commonwealth

Court, Woodside was involved in many decisions dealing with and affecting Pennsylvania's constitutional law. At his induction ceremony, Woodside commented: "I am naturally moved by the honor that is mine today. But I have no feeling of pride; I rather have only a sense of appreciation and a spirit of determination." After thanking the voters of Dauphin County, his family, and good friends, particularly the Honorable William E. Habbyshaw and Senator M. Harvey Taylor for their years of advice, Woodside stressed his desire to serve the court. "I am determined to be interested not only in the punishment of criminals, but in their reformation, and in the prevention of crime," Woodside asserted. He specifically looked to work with the public to deter juveniles from committing crimes and help those who had. "I am determined to help build a progressive, ever-improving body of laws," he continued, "based always upon the sound unchanging principles of godliness and constitutional government."⁵

While serving on the county court, Woodside was also the Dauphin County Juvenile Judge and he wrote many opinions on Juvenile law. He served as chairman of the board of trustees of Pennsylvania's Whitehill Industrial School for Boys and was a member of the Ashe Committee formed in 1944 to devise a more efficient institutional program for the state. Woodside called Pennsylvania's system for sending criminals to the Eastern or Western State Penitentiaries based on where they were sentenced "archaic." From 1947 to 1949 he was chairman of the Pennsylvania Council of Juvenile Court Judges. In 1950, Woodside criticized the Pennsylvania penal system, urging the state to update the Ashe Report, establish a "classification center" at Whitehill, and build a new correctional facility near State College solely for the "younger and less serious offender." He called for the creation of a Pennsylvania Commissioner of Correction to monitor and improve the state's penal system. Woodside's commitment to reforming juvenile delinquents was honored in 1977 when Dauphin County opened a new correctional facility for minors and named it "The Woodside Juvenile Detention Center."⁶

In February 1951, Governor John S. Fine appointed Woodside to serve as Pennsylvania's Attorney General. Woodside took office on March 7th and was sworn in during "impressive ceremonies." The Governor noted that Woodside had almost equal experience in both the legislative and judicial branches of government and Woodside later

commented that the office “provided the greatest opportunity to serve the state.” Woodside was Attorney General for two and a half years and, building on his prior commitment to the punishment and reformation of criminals, was widely recognized across the nation for his positions on racketeering and prison reform. While he was Attorney General, Woodside also served as a delegate to the Republican National Convention in 1952, which nominated Dwight D. Eisenhower as its presidential candidate.⁷

Woodside resigned as Attorney General when he was appointed to fill a vacancy on the Pennsylvania Superior Court created by the elevation of Judge John C. Arnold to the Pennsylvania Supreme Court. His nomination received Senate approval in less than two hours and he started his tenure as judge on October 1, 1953. The following year Woodside received the support of both the Republicans and the Democrats in the general election for a 10-year term on the court. He easily won the election with, at the time, “the largest number of votes ever cast in Pennsylvania for a candidate for office.” In fact, even though a life-long Republican, Woodside’s policies and decisions over the years would prompt the Democrats to later claim a technical majority on the court by counting Woodside as one of their party. However, in the elections of 1964, Woodside’s judicial career ended abruptly when Lyndon B. Johnson’s Democratic Party crushed Republican candidates throughout the nation.⁸

Another of Woodside’s many contributions to the development of Pennsylvania law occurred while he was a member of the Superior Court. In 1959, he was appointed chairman of the Commission on Constitutional Revision; this commission, known in Pennsylvania history as the Woodside Commission, issued a report calling for numerous constitutional changes. Many of the changes the commission advocated were adopted throughout the 1960s as amendments to the constitution, while others were implemented in the 1968 Pennsylvania Constitutional Convention to which Woodside was a delegate. At the Convention, Woodside was a co-chairman of the Subcommittee on the Creation of the Commonwealth Court. He also served on the Commission on Modernization of the Legislature, another position that he was well qualified to hold.⁹

After he left the Superior Court, Woodside returned to private practice starting a law firm with his son Robert J. Woodside and a

friend Charles B. Zwally. Their firm, which practiced primarily in Harrisburg, merged with another becoming Shearer, Mette, and Woodside and continues in existence as Mette, Evans, and Woodside.¹⁰

Woodside's dedication to the study of law was exemplified by his working as an adjunct professor at the Dickinson School of Law, his alma mater. "He used to conduct seminars for Dickinson law students in his Harrisburg apartment on Thursday nights," commented Carolyn C. Thompson, District Court Administrator for Dauphin County. The school had presented him with an honorary doctor of laws degree in 1951 and he served as a trustee for both the college and the law school. In an effort to further educate students on Pennsylvania law and constitutional law, Woodside wrote *Pennsylvania Constitutional Law* in 1985.¹¹

Woodside was as dedicated to his community as much as he was to the law and social concerns throughout Pennsylvania. He wrote *My life and Town* in 1975 discussing the importance of the community of Millersburg. He was a member of numerous boards including the Dauphin County Unit of the American Cancer Society, the Dauphin and Perry Counties Tuberculosis and Health Association, the Salvation Army, the Tri-County Mental Health Association, and Harrisburg Hospital. He helped to found the Historical Society of Millersburg and Upper Paxton Township as well as assisting in the establishment of a community cable company for Millersburg residents. He was a member of the Keystone Boy Scouts and the Millersburg Lions Club. Like his father, Woodside also joined the Masonic order, becoming a 33rd degree Mason and Grand Master of Lodge No. 364, and in 1986, he received the Benjamin Franklin Medal for outstanding service to Masons and to Pennsylvania.¹²

"Every legal and government position I held from pageboy to the appellate court was a challenge and a thrill," Woodside wrote of his years of public service. Woodside died at his winter residence in Sun City, Arizona on March 18, 1998 at the age of 93 and was buried in Oak Hill Cemetery. Those who knew him remembered "what a truly delightful man he was." "Judge Woodside's devotion to the law and public life for nearly three-quarters of a century made him one of the most respected members of our profession in the Commonwealth," memorialized the members of the Dauphin County Bar Association. The Pennsylvania Senate introduced a memorial resolution on March

30, 1998, resolving: “that the Senate of Pennsylvania express with great sadness the passage of Judge Robert E. Woodside, an exemplary public servant whose impeccable reputation and extensive contributions and illustrious record of service are noted with pride, gratitude, and respect.”¹³

In 1931, Woodside married F. Fairlee Habbart of Dover, Delaware. During his induction to the Dauphin County Court, Woodside praised his wife for her “patience and understanding” over the years. They had three children, William E. Woodside, Robert J. Woodside, and Jane F. Woodside, who like their father, all graduated from the Dickinson School of Law, and followed in their father’s profession and his dedication to public service.¹⁴

After his wife died, Woodside married a second time to Anna C. Revwer Signor.

¹ *Pennsylvania Manual* (1955-56), 92:558; “Induction Ceremony,” 52 *Dauphin County Reports* (29 December 1941): 456.

² *Pennsylvania Manual* (1955-56), 92:558; “Memorial Resolution on the Death of Honorable Robert E. Woodside, Jr.,” Dauphin County Bar Association Records, 29 October 1988, 1-3, 8.

³ *Pennsylvania Manual* (1935-36), 323; “Memorial Resolution,” 3.

⁴ *Pennsylvania Manual* (1963-64), 96:461; “Induction Ceremony,” 52:456; “Woodside takes oath as Attorney General,” 124 *Legal Intelligencer* (8 March 1951): 301.

⁵ “Induction Ceremony,” 52:454-58.

⁶ *Pennsylvania Manual* (1957-58), 93:442; “Judge Urges Sweeping Changes in Penal System,” 122 *Legal Intelligencer* (26 June 1950) 721; “Judge Woodside dies; viewing is scheduled for public March 24: His career spanned five decades,” obituary, n.d., n.p.; “Robert Woodside, 93, Ex-Pennsylvania Judge and state House Leader,” *The Morning Call*, 22 March 1998.

⁷ “Judge Woodside is Named Attorney General by Governor,” 124 *Legal Intelligencer* (27 February 1951): 255; “Woodside takes oath,” 124:301; “Memorial Resolution,” 4-5; “Judge Woodside dies,” obituary, n.d., n.p.

⁸ “Memorial Resolution,” 5; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000), 184; *Pennsylvania Manual* (1955-56), 92:558; PA Senate Resolution No. 162, 30 March 1998.

⁹ *Pennsylvania Manual* (1963-64), 96:461; PA Senate Resolution No. 162, 30 March 1998; “Memorial Resolution,” 6.

¹⁰ “Memorial Resolution,” 6-7; “Judge Woodside dies,” obituary, n.d., n.p.

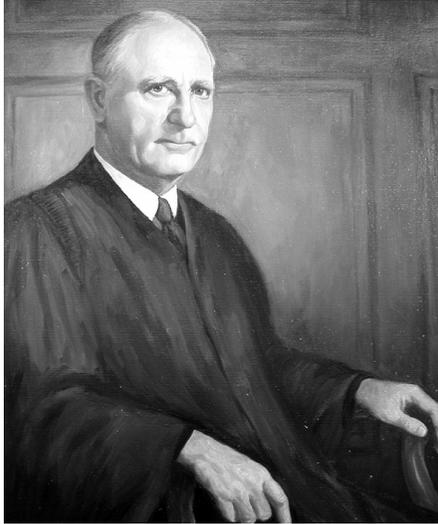
¹¹ Carolyn C. Thompson to the Hon. Joseph A. Del Sole, 16 December 2005;

Pennsylvania Manual (1957-58), 93:442; PA Senate Resolution No. 162, 30 March 1998.

¹²“Memorial Resolution,” 7-8; “Judge Woodside dies,” obit., n.d., n.p.; www.pagrandlodge.org/gmaster.

¹³“Judge Woodside dies,” obituary, n.d., n.p.; Carolyn C. Thompson to the Hon. Joseph A. Del Sole, 16 December 2005; “Memorial Resolution,” 1; PA Senate Resolution No. 162, 30 March 1998; “Robert Woodside,” *The Morning Call*, 22 March 1998.

¹⁴William E. Woodside was Chief Counsel for the Pennsylvania Senate, Robert J. Woodside was a United States bankruptcy judge, and Jane F. Woodside was counsel for the Pennsylvania Senate (PA Senate Resolution No. 162, 30 March 1998). “Memorial Resolution,” 8; “Induction Ceremony,” 52:456.

THE HONORABLE HAROLD L. ERVIN

April 5, 1895 – November 26, 1990

Assumed Office: January 4, 1954

President Judge 1965 - 1967

County: Delaware

BIOGRAPHY

Harold Leroy Ervin served fifteen years on the Pennsylvania Superior Court, and for three of those years he was President Judge. He was a judge of the Delaware County Court of Common Pleas for twelve years and served as a solicitor for numerous townships and municipalities in that county.

Ervin was born in Catawissa, Columbia County, Pennsylvania, on April 5, 1895 to Isaac G. Ervin and Martha Brown Ervin.¹ A genealogist speculates that Ervin's father worked as a printer.²

Ervin attended local public schools, graduating from Catawissa High School in 1913. He furthered his education at Temple University receiving his B.A. degree in 1916. At Temple, Ervin joined the Sigma Pi Fraternity and he was editor-in-chief of *The Owl*.

After graduation, Ervin served in the United States Army as a Second Lieutenant, Infantry, during World War I. His military service

only briefly interrupted his pursuit of earning his law degree in 1920.³

Ervin presumably moved to Delaware County after his graduation from law school becoming a member of that county's bar association and beginning a private practice. He also began to work as the solicitor for numerous townships and municipalities in Delaware County, such as Upper Darby and Haverford. His involvement with local government probably prompted his election as a presidential elector for the county in January 1929, when he cast his vote for the Republican Hoover-Curtis ticket. His work as solicitor also surely helped Ervin establish his legal reputation in the county and on July 24, 1941, he was appointed judge of the Delaware County Court of Common Pleas. That November at the general elections Ervin won a 10-year term on that court. Only seven years later on January 5, 1948, Ervin earned the position of president judge of the county court, and in November 1951, both Republicans and Democrats alike supported his reelection as he ran unopposed for a second term.⁴

Ervin decided to run for election to the Pennsylvania Superior Court in 1953. He and J. Colvin Wright were the two Republican candidates for the seats on the court in the November general election. "Aided by a surprising show of strength in Pennsylvania's election one newspaper reported, "the two Republican candidates for Pennsylvania's Superior Court built up a mounting lead early this morning in the top race of Pennsylvania's election." Both Ervin and Wright defeated their Democratic challengers and earned 10-year terms on the Superior Court.⁵ Ervin was reelected in 1963 to another 10-year term and on January 4, 1965 became President Judge of the Superior Court. Notable during his career as President Judge was Ervin's swearing in of Pennsylvania's first African-American appellate judge, Theodore O. Spaulding. Ervin resigned from the court at the end of 1967.⁶

A member of the Pennsylvania Bar Association, Ervin was chairman of the Committee on Judicial Administration after which he took over as head of its subcommittee on Uniform Rules. In that position, he helped evaluate and apply the American Law Institute's Model Code in Pennsylvania.⁷ He was also a member of the American Judicature Society.⁸ Ervin was involved in numerous civic and fraternal organizations including the Family Service of Delaware County, the Rolling Green Golf Club, the Reformation Lutheran Church in Media, and the Media Royal Arch Chapter. He was a member of the

Sons of the Revolution, the Union League of Philadelphia, and the American Legion. In February 1965, Temple University presented Ervin with an honorary doctor of laws.⁹ President Judge of the Superior Court William F. Cercone named Ervin among those judges who had contributed to the development of law in Pennsylvania. Throughout his lifetime Ervin lived in various Delaware County communities including Drexel Hill, Swarthmore, Media, and Newtown Square¹⁰

Ervin died at Dunwoody Village Health Center in Newtown Square on November 26, 1990 at the age of 95, and he was buried in Arlington Cemetery in Drexel Hill. He had for 13 years prior to his death resided at the assisted living facility.¹¹ “He was a judge in every way,” noted Jane Ervin, the wife of his grandson Harold Ervin. “He knew what he wanted and that was all there was to it.”¹²

Ervin married Ruth K. Erdman, a first-generation American born in New York, whom he had met around 1920 when they were both living in Philadelphia’s 46th Ward. They had one son, Harold L. Ervin, Junior, who like his father became a member of the bar.¹³ Ervin’s wife died sometime around 1958 and he married Elsie M. (Peterson) Evans, who also passed away before Ervin. His son died in 1972.¹⁴

¹ *Pennsylvania Manual* (1955-56), 92:558.

² “Query: Isaac and Martha Ervin,” www.genforum.org.

³ *Pennsylvania Manual* (1967), 98:444.

⁴ Ibid; “H.Ervin, PA Judge 28 Years,” *Philadelphia Inquirer*, 29 November 1990, Local; Gas Pipeline Upheld on Eminent Domain,” *New York Times*, 9 August 1950; “Harold Leroy Ervin,” World War II Draft Registration Card.

⁵ “G.O.P. Leads Philadelphia,” *New York Times*, 4 November 1953.

⁶ *Pennsylvania Manual* (1967) 98:444. Judge J. Colvin Wright replaced Ervin as President Judge in January of 1968 (“John B.Hannum Takes Oath as Superior Court Judge,” *158 Legal Intelligencer* (3 January 1968): 1201).

⁷ “A Leo Levin, “Pennsylvania and the Uniform Rules of Evidence: Presumptions and Dead Man statues,” 103 *University of Pennsylvania Law Review* (October 1954):2.

⁸ “New Members of the American Judicature Society,” *33 Journal of the American Judicature Society* (1949): 126.

⁹ *Pennsylvania Manual* (1967), 98:444.

¹⁰ 272 PA Sup. Ct. Reports XXXV; *Pennsylvania Manual* (1955-56, 1957-58, 1963-64, 1967), 92:558, 93:442, 96:461, 98:444; “Harold Leroy Ervin,” World War II Draft Registration Card.

¹¹ "Harold L. Ervin," Social Security Death Index Record.

¹² "H. Ervin, PA Judge 28 Years," *Philadelphia Inquirer*, 29 November 1990, Local.

¹³ 1920 United States Federal Census; *Pennsylvania Manual* (1963-64), 96:461.

¹⁴ *Pennsylvania Manual* (1967), 98:444; "H. Ervin, Pa Judge 28 Years," *Philadelphia Inquirer*, 29 November 1990, Local.

THE HONORABLE PHILIP O. CARR

March 29, 1915 – December 23, 1999

Assumed Office: March 5, 1956

County: Fayette

BIOGRAPHY

Philip Oglevee Carr served 10 months on the Pennsylvania Superior Court. He was a World War II veteran and for five years was an assistant United States attorney for the Western District of Pennsylvania.

Carr was born in Uniontown, Fayette County, Pennsylvania on March 29, 1915 to Walter Russell Carr and Mary Lula Oglevee Carr. His father trained as a lawyer and rose to prominence in Fayette County becoming the President Judge of the Fayette County Court of Common Pleas.¹

Carr received his early education in public schools in Uniontown. He furthered his education at the Westminster School, from which he graduated in 1935 and four years later he graduated from Amherst College in Massachusetts. Carr returned to Pennsylvania to attend the University of Pittsburgh School of Law.

His law career, however, was put on hold when the Japanese attacked Pearl Harbor, as Carr chose to enlist as an Aviation Cadet in the Army Air Corps. In September 1942, Carr was commissioned a Second Lieutenant in the Army Air Corps and was sent overseas. He served as a bomber pilot in the war. Carr saw action in the skies over Africa and Italy and for his meritorious service in air combat he received the Air Medal with Clusters. He also received a Unit Citation and was promoted to Captain. After serving for over two years, Carr was honorably discharged from the Army in January 1945. He returned to the United States to witness the Allied Victory in World War II.²

Carr had been admitted to the bar before his tour of duty began. In fact his admission occurred in the same month he received his army commission, September 1942. Upon his return from the war, Carr immediately set to work as an Assistant United States Attorney for the Western District of Pennsylvania. He continued in that position for

five years, after which he probably returned to private practice in Uniontown.

At the age of 41, Carr was appointed to the Pennsylvania Superior Court by Governor George Leader to fill a vacancy on the bench caused by the death of Judge F. Clair Ross. The Pennsylvania Senate approved the appointment on February 21st and on March 5, 1956, during a brief ceremony at the Lackawanna County Courthouse, Carr received his commission as a Superior Court judge and President Judge Chester H. Rhodes administered the oath of office. When attorney D. Edward Dumbald presented Carr to the court, he noted that Carr was the first person from Fayette County to sit on the Superior Court. The appointment must have greatly pleased Carr's father, who was in attendance at the ceremony, as he also sat on the bench as President Judge of the Fayette County Court. Carr stood for election as the administration-backed Democratic candidate for a full ten-year term on the court, and while he won the primary election in April, he was defeated in the 1965 November general election by Republican challenger G. Harold Watkins of Schuylkill County.³

Unfortunately, little information has been found about Carr's activities after his brief service on the Superior court. The members of the Superior Court, however, thought highly of his contributions as President Judge William F. Cercone noted Carr among those jurists who contributed to the development of law in Pennsylvania. Presumably, Carr returned to private practice in Uniontown; he was rated BV by Martindale-Hubbell. Carr died on December 23, 1999.⁴

In October 1942, probably just before he shipped out for war, Carr had married Katharine Louise Machmer. They had three children.⁵

¹ *Pennsylvania Manual*, (1955-56), 92:558; "Philip O. Carr takes Oath as Judge of Superior Court," 134 *Legal Intelligencer* (6 March 1956): 314.

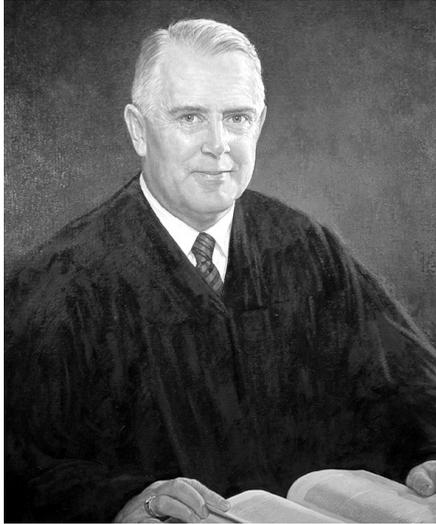
² *Pennsylvania Manual*, (1955-56), 92:558.

³ *Pennsylvania Manual*, (1955-56), 92:558.

⁴ "Philip O. Carr takes Oath," 134:314; Patrick R. Tamilia and John J. Hare, *Keystone of Justice: The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA 2000), 185.

⁵ 272 PA Sup. Ct. Reports XXXV; Martindale-Hubbell, www.martindale.com, "Philip O. Carr," Social Security Death Index Record.

⁶ *Pennsylvania Manual*, (1955-56), 92:558; www.galley.bizland.com

THE HONORABLE G. HAROLD WATKINS

January 2, 1903 – August 5, 1991

Assumed Office: January 7, 1957

President Judge 1974 - 1978

County: Schuylkill

The President Judge Induction Ceremony of
The Honorable G. Harold Watkins, P.J.E.,
and the Induction Ceremony of
The Honorable Gwilym A. Price, Jr.,
were both held together as one on
January 7, 1974.

*The ceremony has been divided so that
the portion pertaining to
The Honorable G. Harold Watkins, P.J.E. appears below.*

*The portion of the ceremony involving
the induction of
The Honorable Gwilym A. Price, Jr.,
is located separately at the appropriate section of this volume.*

INDUCTION

PROCEEDINGS ON THE OCCASION OF THE INDUCTION OF HONORABLE G. HAROLD WATKINS AS PRESIDENT JUDGE OF THE SUPERIOR COURT OF PENNSYLVANIA AND OF GWILYM A. PRICE, JR., AS A JUDGE OF THE SUPERIOR COURT OF PENNSYLVANIA

The induction proceedings held in Courtroom No. 1, Schuylkill County Courthouse, Pennsylvania, on January 7, 1974, were as follows:

COURT CRIER: Please rise, the Honorable Judges, The Chief Justice of the Supreme Court of Pennsylvania, The Judges of the Superior Court, and the President Judge of the Court of Common Pleas of Schuylkill County.

HONORABLE JAMES J. CURRAN: You may open Court.

(Court opened by Court Crier)

PRESIDENT JUDGE CURRAN: This County has been singularly honored today with the presence of the HONORABLE BENJAMIN R. JONES, the Chief Justice of the Supreme Court of Pennsylvania, and members of the Superior Court of the Commonwealth of Pennsylvania. Their presence is a tribute to the new President Judge of the Superior Court, the HONORABLE G. HAROLD WATKINS. The action of JUDGE WATKINS in selecting Schuylkill County as the site of his induction into office is a tribute to this County and all of its people.

I am exercising a prerogative of seniority as the President Judge of the Court of Common Pleas in an instance that gives me great pleasure. I have assigned to myself the case of the induction of G. HAROLD WATKINS, and I would like to present the opinion that I have prepared in open Court.

The Court finds that the HONORABLE G. HAROLD WATKINS has presented undeniable evidence of his judicial talents in such full measure as to warrant the most sincere congratulations from this Court and its Judges, court officials and members.

I may be accused of having chosen the case wherein my opinion will be certain to win unanimous approval of my colleagues as well as per curiam approval from the higher Courts even though no appeal be taken. If I am so accused, I must plead "Guilty" for through the years

of association with the HONORABLE G. HAROLD WATKINS, most times mild, but sometimes most turbulent, I have formed in my mind a concrete opinion of the man whom we honor today. It is an opinion based on experience and action, not sentiment; on fact, not platitudes; on reasoned conclusions, not wishful thinking.

I have found through years of public life in which JUDGE WATKINS and I were contemporaries that regardless of which side of the fence you may have reserved your own special perch, there is no reason to deny and you come to realize that on the other side there may be someone whom, in spite of traditional party prejudices, earns admiration and respect. On my part this realization came early in my experience with our honored Judge, and I like to believe this realization was in some part a mutual exchange. Today I take the privilege of saying what I have long thought and often said in private.

In the year 1930, 44 years ago, G. HAROLD WATKINS was admitted to this Bar. In his case there is a remarkable consistency to public life. He has filled many roles and in each one, lawyer, political leader, Senator, Judge, and now President Judge of the Superior Court, he has exhibited qualifications vital to the performance of each one. The evolution from one to the other was a process in which no one step of the way was taken lightly. Every step was a challenge and every challenge was met with determination, and every determination culminated in growth.

College student, public high school teacher, law student, active practicing lawyer, political leader, Senator, Secretary of the Pennsylvania Senate, his Party's nominee for state-wide office to a place on the Superior Court of Pennsylvania.

Few people in this Commonwealth are as well and favorable known as JUDGE WATKINS, probably none can number as many intimate friends throughout the length and breadth of the State.

As fellow lawyers of this Bar, we knew him as an able and learned advocate who fought hard and strenuously, abided by the rules and accepted the final result without rancor. He complied with the ultimate action of the Court and was at all times highly respectful to the Court and the Judges. A lawyer whose word was sufficient in the adjustment or settlement of any litigation, and one who had warm feelings for the fellow members of the Bar.

His friends and associates know him as a staunch supporter,

exceptionally loyal to a friend or a case, and in each field of endeavor in which he participated he made and kept numerous personal friends.

Long ago Euclid told his Student Prince, "There is no royal road to learning." I would like to paraphrase that adage and say, "There is no easy road to success." JUDGE WATKINS epitomizes this paraphrase. He would be the first to acknowledge that his particular road has been filled with all the obstacles that confront a man who has chosen public service as a way of life. It can truly be said of him that he never swerved from the course he meant to achieve. He faced the onslaught of controversy with the assurance of his own integrity; he never allowed criticism to change his purpose when he believed his purpose was high and proper; he never allowed triumph to lull him into the fateful serenity of vanity; he was never bitter or vengeful in defeat; and perhaps, in the greatest quality of all qualities that he possessed the possesses, he never allowed his inordinate energies and zest for life to be diminished by the little things, the snide things that can consume the time and drain the energy of any public official. He seemed always to make time for those in need of consolation, advice or assistance of even a friendly expression in passing.

He has given generously of himself to others and now he has been raised to a position where more than ever he will be able to influence the lives of the people in this Commonwealth. That he will fill it with absolute honor and with total ability, those of us who know him best have deepest confidence.

We rejoice with him in this new challenge; we ask of him that he never change.

We like him as he is.

(The oath of office was administered to PRESIDENT JUDGE WATKINS.)

PRESIDENT JUDGE WATKINS: First as President Judge I want to welcome JUDGE PRICE and JUDGE VAN DER VOORT to the Court and congratulate JUDGE SPAETH on his reappointment. The Court has been constantly changing recently, and one of our biggest problems is picture taking. A new member of the Court requires a new picture, and after seventeen years on the Bench, there is little room left on the walls of my Chambers for pictures. Before I say the few remarks I have to make I want to do like JUDGE

PRICE'S Father. I want to introduce those who are responsible for me being here. First, the one who is really responsible, my wife, Nellie. My children: Carole Healy and her husband, Roberto. My son, Edmund Watkins, and his wife Terry. My son, George, and his wife Susan. My daughter, Pamela, and my grandson Christopher, and my son-in-law, Senator Hobbs. I have two other grandchildren here, Edmund and Florence.

I want to thank my associates on the Court for agreeing to sit in my native County and the hospitality of Pottsville may convince you we should return regularly. It is an historical occasion as it is the first time in the history of the Commonwealth that an appellate court sat in Schuylkill County, and I have the honor of being the only Schuylkill County citizen to serve as President Judge on an appellate court. There have been ten President Judges since the organization of the Superior Court in 1895; HON. E. RICE, Luzerne County; HON. GEORGE B. ORLADY, Huntingdon County; HON. WILLIAM D. PORTER, Allegheny County; HON. FRANK M. TREXLER, Lehigh County; HON. WILLIAM H. KELLER, Lancaster County; HON. THOMAS J. BALDRIDGE, Blair County; HON. CHESTER J. RHODES, Monroe County; HON. HAROLD L. ERVIN, Delaware County; HON. J. COLVIN WRIGHT, Bedford County; G. HAROLD WATKINS, Schuylkill County.

I am intensely proud of the great honor that has come to me personally and to Schuylkill County. I am particularly proud and grateful that the grandson of an immigrant Welsh coal miner could achieve such an honor. No one can downgrade the American system to me. There is a tendency in the Country to accent our faults and minimize our virtues.

The very freedom with which as individuals we are endowed by this Republic breeds the very evils that result from human nature, itself. But despite the faults, as we approach the Bi-Centennial of this Nation, we can be proud of its virtues and its accomplishments and say of the supreme law of the land with Gladstone: "As far as I can see, the American Constitution is the most wonderful work ever struck up at one time by the brain and purposes of man."

As President Judge, I pledge to the people of this Commonwealth to apply myself with great industry to the tremendous job of administering justice so that so far as this Court is concerned, no one

will be able to complain that "Justice delayed is justice denied."

At this time on behalf of the Superior Court, I want to thank particularly the President Judge of this County and the County Commissioners for their cooperation in making the visit of the Superior Court such a happy one.

Continuation of this ceremony as it pertains to the Honorable Gwilym A. Price, Jr. can be found at the appropriate section of this volume.

RESOLUTION
HONORABLE G. HAROLD WATKINS

At a meeting of the Board of Judges of the Superior Court of Pennsylvania held in Pittsburgh on April 28, 1995, it was moved, seconded, and unanimously approved that the following resolution, commemorating the life of G. Harold Watkins, a former President Judge of the Superior Court, who died August 5, 1991, be adopted.

RESOLUTION

The Superior Court of Pennsylvania, having assembled by reason of the death of Judge G. Harold Watkins to celebrate his life, doth pronounce:

WHEREAS, Judge Watkins was born to Florence Sykes Watkins and George Powell Watkins on January 2, 1903, in the classic coal country town of Girardville, Schuylkill County, a town where he was raised and a county where he remained through his life;

WHEREAS, Judge Watkins pursued the study of his earlier years at Girardville schools and thereafter graduated from Penn State University in 1925, whereupon he spent two years as a high school teacher in Juniata County before commencing his study at Harvard University Law School, from which he was graduated in 1925, at which time he practiced the profession of the law in Schuylkill County until elected in 1957 to the Pennsylvania Superior Court;

WHEREAS, Judge Watkins complemented the practice of this profession with a zeal for community and public service by membership in the Ashland F. & A.N., the Frackville Elks, the Patriotic Order of Sons of America, and the Loyal Order of the Moose, as well as the

Schuylkill County Republican Committee, of which he later served as chairman from 1941 to 1952;

WHEREAS, Judge Watkins was elected to the Senate of the Commonwealth of Pennsylvania, where he served until 1945, when he was appointed Secretary of the Senate, a position he held until 1956;

WHEREAS, Judge Watkins was elected in 1957, and again in 1967, to the Superior Court of Pennsylvania and served this Court as President Judge from January of 1974 until his retirement in January of 1978, when the Chief Justice of the Pennsylvania Supreme Court accorded him a Senior Judge of the Superior Court, a position he held until 1988;

NOW, THEREFORE, we, his colleagues upon the Pennsylvania Superior Court, moved by fondness, esteem, and respect, do PROCLAIM.

THAT Judge Watkins, while he became a legend for the amazingly astute manner in which he served both the legislative and judicial branches of government, truly remained a man of the people, always faithful to their hopes and sharing of their aspirations, for he believed that to love and to nourish is to cause to flourish;

THAT however apt the observation that American politics is a blood sport because high officials are easily as often target as totem, Judge Watkins, as in ever so many other ways, was the exception for, while he was staunchly Republican in belief and activity, his counterparts in the Democratic Party, though his ardent adversaries, never became his antagonists, and instead maintained a real and genuine respect and affection for the friend they called "Mickey" and "Little Guy";

THAT Judge Watkins reflected an innate sense of dignity and was, at the same time, an extraordinarily personable man, who, though comfortable in the company of philosophers and Presidents, more thoroughly enjoyed friends and cherished friendships for he believed that friendship is a faith;

THAT Judge Watkins personified the characteristic of loyalty, for, ever mindful of the observation of Shakespeare: ". . . to thine own self be true, it must follow, as the night the day, thou canst not then be false to any man", Judge Watkins could not be false to any man, and so was very true to the wife he adored, the family he cherished, the institutions he loved, and the friends he enjoyed;

THAT, it having been neither easy nor inevitable for Judge Watkins to excel as a lawyer and political leader, and then to attain high office, and there achieve the deep respect and admiration of partisan and adversary alike, the thought occurs that Judge Watkins was unable to accomplish and achieve and attain because he was always selfless, and because he was the “Little Guy”, the one we all came to know and then to love; and

THAT reflection upon the life of Judge Watkins, and the continuing flow of his friendship, as well as recall of his warmth and his exceptional personal characteristics, is certain to be a font of inspiration in our daily pursuits.

WE FURTHER RESOLVE that the Court Reporter be instructed to transcribe these resolutions in their entirety upon the Court’s permanent record and that the same be presented to his family.

THE HONORABLE HARRY M. MONTGOMERY

June 12, 1901 – August 29, 1999
Assumed Office: January 5, 1960
County: Allegheny

PORTRAIT CEREMONY

For

THE HONORABLE HARRY M. MONTGOMERY

December 12, 1984

PAT CAREY, COURT CRIER: The Honorable, the judges of the Superior Court of Pennsylvania. (As judges enter) OYEZ, OYEZ, OYEZ. All manner of men who stand bound by recognizances or otherwise have to do before the honorable, the Judges of the Superior Court of Pennsylvania, here holden, they may now appear and they shall be heard. God save the Commonwealth and this Honorable Court.

HONORABLE EDMUND B. SPAETH, JR., PRESIDENT JUDGE: Good afternoon ladies and gentlemen. We look forward enormously to this occasion. I think the way I'd like to proceed, if you have the programs, I'd like to ask Reverend Marsh if he would deliver

the invocation and then if I may introduce some guests, and then we'll proceed. Reverend Marsh.

REVEREND HELSEL R. MARSH, JR., HILAND PRESBYTERIAN CHURCH: Shall we pray. Precious God, author of life itself, founder of justice in all of its many forms and present in our midst through the power of your spirit. We give you thanks this day for honorable men and women whose lives live forth your principles and whose dedication is an inspiration to all of us. This day, Oh God, we give you thanks, especially for Judge Montgomery, for the gift of his life, for the principles of justice by which he has lived and ruled and by all the benefits that those gathered this day have receive from him. May this day be a thanksgiving for him and a continued inspiration for all of us through Jesus Christ our Lord. Amen.

PRESIDENT JUDGE SPAETH: You will see we have the entire Superior Court bench present, including the senior judges. Among other members of the judiciary who are included in the audience, this is Justice Zappala, Judge Boyle, Judge Dauer, Justice Pomeroy, Judge Zaverella and Judge Guffey. It's a great privilege to have you all here. Now, if I may ask our colleague, Judge Brosky to present the portrait.

HONORABLE JOHN G. BROSKY: President Judge Spaeth, my colleagues, Reverend clergy, members of the Allegheny County Bar Association, our honored guest and our colleague, the Honorable Judge Harry M. Montgomery, and all of you as friends of Judge Montgomery.

PROCEEDINGS

On reaching his 91st birthday, Justice Oliver Wendell Holmes once said, there is a time to hear the kind voices of friends and to say to one's self, "Thy work is done." But the riders in a race do not stop short when they reach the goal. There is still some cantering before coming to a standstill.

This is the time for our colleague, Judge Montgomery to hear the kind voices of friends and not to stop short in his work which is not yet done.

Since biblical days, man has always been inspired by the accomplishments and achievements of his fellowman. We can look back, as Judge Montgomery can, with pardonable pride to his 60 years at the bar and 40 years on the bench, and I know he can look forward

with keen appreciation to the future.

There is something unique about the number 40. It appears quite often in the Bible. And I'm sure Reverend Marsh will remember the Biblical passage that says:

The rain was upon the earth 40 days and 40 nights (Genesis 7-12);
Isaac was 40 years old when he took Rebekah to be his wife (Genesis 26-20);

Moses was on the Mount 40 days and 40 nights (Exodus 24-18);

The children of Israel walked 40 years in the wilderness (Joshua 5-6);

The time Solomon reigned in Jerusalem over all Israel was 40 years (Kings 11-42);

And so, it came to pass, that Judge Montgomery did reign over all the judiciary for 40 years.

Our honored guest, Judge Montgomery, likes to look back some 60 years when he was admitted to the bar in 1924.

Calvin Coolidge was President of the United States and our country was experiencing an unprecedented economic boom. The 1920's were referred to as the good years. They were good years not because only the rich men rode in private railroad cars and society threw magnificent parties. They were good years not because the world was at peace, or because you could buy a white shirt for 23 cents, although the child who made the shirt got paid 3.00 a week.

They were the good years because whatever the trouble, people had faith and confidence in themselves that they could fix it. They were known as the spirited years or the confident years.

Confidence and faith is what Judge Montgomery had when he began his law firm of Ralph and Montgomery on October 13, 1924. He continued with it until 1943 when the Judge ascended to the bench in 1944.

What was Pittsburgh like on October 13, 1924. The weatherman said it was fair, but, although the day was mild and clear, sightseers on top of the Grant Building could not see the Cathedral of Learning, the Pitt Stadium or the Liberty Bridge. You couldn't see them because none of them were in existence.

But in existence was Jock Sutherland who was named coach of the football team at the University of Pittsburgh. Ground was broken for the construction of the Pitt Stadium in 1924, and Lefty Ira Hill, today a prominent attorney at Reed, Smith, Shaw and McClay, was then an

outstanding pitcher who led the Pitt Baseball team to a college championship. Isn't it a coincidence, in the audience I see that great pitcher, Lefty Ira Hill. Stand up Lefty. Let us take a look at you. (applause)

Now, our honored guest, Judge Montgomery, was a hockey player for the Pittsburgh Professional Hockey Team, known as the Yellow Jackets. They played at the Duquesne Gardens which is no longer in existence. This was an unusual activity for the judge when you realize that for four years in college at the University of Pittsburgh he was the lead trumpet player in the Pitt Band and he had his own band which he called the Collegiate Six.

Gifford Pinchot was then Governor of Pennsylvania elected on the promise to clean house at the State Capitol.

The cinema, as the movies were then known, with silent movies, featured Harold Lloyd, Madge Bellamy and Bebe Daniels.

A Model T. Ford could be bought for \$300. It was in competition with the closed type automobiles known as the Stutz, the Cleveland, the Rickenbacker and the Maxwell. Judge Montgomery's first car was the Model T Ford in which he and a fellow lawyer criss-crossed the United States.

Pittsburghers were proud of their Smokey City with its fame in steel, glass and coal. They were proud, too of its Union National Bank, which later merged with the Mellon Bank, whose capital of \$39 million was greater than the combined capital of the Bank of England, the Bank of France and the Bank of Germany.

If you earned \$10,000 a year, had a wife and two children, you paid income tax of less than \$500.

Few people had a radio, few had flown in an airplane and television was not yet invented. There were no garbage disposals, no refrigerators, no automatic dishwashers, and no electric mixing appliances.

Life was hard said Judge Montgomery, yet people seemed happy. Laws were becoming more just, music was getting sweeter; books were wiser and homes were happier.

It was truly a happy home Harry and Bertha Montgomery established when they married in 1926. Since then it has grown to five children and ten grandchildren. And I am very proud to present some of them to you at this time. Would you please stand as I call your name. Harry M. Montgomery, Jr., Richard C. Montgomery, his wife Kathy

and daughter Mary; John B. Montgomery, his wife Joanne and children, Kristen, Mollie and Kate; and then we have Jane M. Dickey, her son Peter and daughter Jennie. We also have Susan Harris and, of course, her husband Carl Harris. To add to this wonderful family, we have two wonderful friends of the Montgomery family—Mrs. Mary Birmingham and Mrs. Nan Price. This is the Judge's family and I think we ought to recognize their presence one more time. (applause)

In the program of course, the biography is clearly set out, but I make note of the fact that Judge Montgomery became an assistance county solicitor in 1942–43 and his election to the bench in November 1943, assuming that office in 1944 in the old County Court that we had here in Allegheny. Then it was on to Common Pleas Court in 1942, and finally Superior Court in 1959. From there on, the Judge became a hero shaping the laws of the Commonwealth instead of an attorney struggling through it.

Also, in the printed biography, I cited three important cases in which Judge Montgomery made his mark. There were many others, some of them were those in which I participated as an assistant county solicitor and the Judge reviewing my work was our honored guest, Harry Montgomery.

In all my associations with Judge Montgomery, and I'm sure my colleagues join me, trying cases before him or sitting with him on the bench, I found Judge Montgomery to be a judicial person of deep human wisdom, who has a quick apprehension of the issues in a case; a keen analytical mind; a scholar with youthful interpretations, a patient judge of integrity and impartiality; and a wise and kind Judge with a warm heart. His accumulated years of experience as an attorney and Judge bring clarity of thought to add value to his decisions in interpreting the law. In his capacity to understand people and the forces of the law, Judge Montgomery is truly a servant of the law and of the people.

And so I think it is very right and proper that Judge Montgomery be honored here today in having his portrait presented to the Allegheny County Bar Association to be prominently displayed in a designated area of our judicial system. We are grateful to the Allegheny County Bar Association, its President, Tom Cooper, and its Vice President sitting in today, John Doherty and the Board of Governors for their wholehearted support to this program today. And I may add an

additional note to our appreciation to Attorney George Miller who is seated in the audience, and is the owner of a distinguished art gallery here in the Pittsburgh area who was kind enough to present the easel upon which the portrait is resting today. George, we thank you.

Now, for the unveiling of the portrait, I would ask our distinguished colleague Judge Montgomery to come forward along with our well-known portrait artist from Philadelphia, Mrs. Philip Bregy, who was nice enough to join us here today, who labored hard to do this wonderful painting. Will they please come forward now for the unveiling.

This will be followed by the acceptance of the painting by our distinguished Vice President of the Allegheny County Bar Association, Mr. John Doherty, who tells me that of all of his hundreds of criminal cases, this is the first time he is sitting on the side of the Appellee. And now for the unveiling, Judge Montgomery and Mrs. Bregy. (applause)

I'm sure the painting is an exact likeness of our good Judge. As someone once said "Every Artist dips his brush in his own soul and paints nature into her painting." And I say, Mrs. Bregy, you have done that and we are pleased with the portrait being unveiled today. Judge Spaeth.

HONORABLE EDMUND B. SPAETH, PRESIDENT JUDGE: Mr. Doherty, may we have your acceptance on behalf of the bar.

MR. JOHN DOHERTY, VICE PRESIDENT, ALLEGHENY COUNTY BAR ASSOCIATION: If it please the Court, I accept on behalf of the Allegheny County Bar Association this magnificent portrait painted by Mrs. Emilie Bregy of Plymouth Meeting, Pennsylvania. The portrait marks Judge Montgomery's 40th year as a member of the Judiciary of Pennsylvania. It is a singular experience to participate in this ceremony before this Honorable Court for a jurist who not only served the law well, but served it as a member of our Bar Association. We accept because it is important to our future lawyers that they have a joinder with the past, especially with a past served so well and with such distinction as it was by Judge Montgomery. We thank you.

HONORABLE EDMUND B. SPAETH, PRESIDENT JUDGE: Thank you, Mr. Doherty. Harry.

HONORABLE HARRY M. MONTGOMERY: President Judge Spaeth, my colleagues, generous, kind, friendly colleagues, who

were so thoughtful enough to suggest this event today, my dear friend, John Brosky, whose staff did more researching than ordinarily they do—it wasn't limited to researching the law. Mr. Doherty, I thank you very much and your organization, the Allegheny County Bar Association, for executing all of the orders that were given to you by General John Brosky here – he is a retired General, you know, in the Air Force, and when he gives orders, they must be carried out. And, Jim Smith, The Executive Director of the Allegheny County Bar Association carried them out very well, and I thank you and all your members who so generously supported this event today.

Reverend Marsh, I thank you for coming in. You're my new pastor of the Highland Presbyterian Church and I'll have to get better acquainted with you. That's not that I don't attend church, but I'm not a regular attendee at our church. A little spiritual advice is, ____ I was going to say is occasionally welcomed by the judiciary, but I say to you that it is always necessary. Many a decision is not based upon research and thought alone but with a little prayer added to it that justice may be done.

Now, my dear friend, Mrs. Bregy, let me offer my congratulations to you on making me more handsome, and more dignified than I thought I really was, and to compliment you not only on your artistic skill, but on your insight and ability to incorporate in your pictures, the character and personality of your subject. And, I thank you also for your patience in dealing with a restless, impatient subject. Thanks also for being here today.

Now, I'm not going to try to put into a capsule my 40 years' experience as a member of the judiciary of Pennsylvania. If I start to reminisce and recall some of the things about which Judge Brosky told you and elaborate on them, I'd have you here all day. There is one thing, though, that I do question in his statements, that I may have been in the wilderness for 40 years. I hope I have made some contribution to the law of Pennsylvania and accomplished something.

I've been very privileged to have contact with most all phases of the law from the time I was first elected to the old County Court here, which I think in Latin terms is called the Piepoudre Court, where the farmer and the workmen came in off the farms and streets with dusty feet and filed their own claims and got justice. It wasn't quite that way when I first joined the Court, but it was limited to those claims of the

ordinary man, minor violations, small claims, domestic relations matters, etc. For 4 years I enjoyed that experience. The next 12 years in Common Pleas Court, my connection with the law was enlarged so that I was in contact with it in almost all phases and then in the Superior Court when I was elected there in '59, it was enlarged again. Although I was never elected to the Commonwealth Court or the Supreme Court, in my own mind, I think that maybe I had a little connection with them as well. When I first joined the Superior Court, it had jurisdiction of many matters that were later transferred to the new Commonwealth Court: Viz Public utility matters, unemployment compensation, workmen's compensation and so forth, so that I did have experience with the matters that are not within the jurisdiction of the Commonwealth Court. On one occasion, I had the great honor and privilege to preside over a panel in which one of the Justices of the Supreme Court was one of my associates. In the summer of '79, the Superior Court was asked to help the Supreme Court with its backlog of homicide cases. I was assigned to a panel with Justice O'Brien and Judge Honeyman; we disposed of about 75 homicide cases that summer. In that respect, I think I served on the Supreme Court. That is the history of my experiences. It was very satisfying, it was very gratifying, it was very enjoyable and I might say there was never a dull moment during the whole 40 years.

Now, I don't know what this occasion is meant to show, whether it's an acknowledgment of my 40 years, or my accomplishments. If it's my 40 years, then I give credit to the Man above because He has favored me with good health and I hope a little remaining mental capacity to carry on.

As far as my achievements are concerned or my contributions to the law, that's for the lawyers and other Judges to say. But, in that respect, I must share these honors and credits with some other people. In the olden days, a Judge could retire to his library, do his research and write his opinions. It was a one-man operation. Not so today, and it hasn't been for some time. We need able helpers and I've been fortunate through my years of experience to have some able people help me. I'd like to mention one or two of them and tell you how proud I am, how I was proud of them and how I'm more proud of them now for their achievements since. Bob Dauer out there was a clerk of mine, he became Judge Dauer and now he's head of the Criminal Division of

Common Pleas Court of this county. Paul Zavarella was another. He became Judge Zavarella and now he's head of the Orphan's Court Division of this Court. Al Fiok was another. He became Judge Fiok, but passed away on the ascendancy of his Judicial career. There are others. Ralph Schuster, Mary Jane Bowes, but another outstanding one – Katie Ford. Katie came to me before she graduated while she was still in law school, remained with me some time thereafter, but the President Judge wanted her, so he took her as his Administrative Assistant. She's now Chief of the Legal Staff, the Central Legal Staff of the Superior Court of Pennsylvania with 16 or more lawyers under her. I'm very proud of you, Katie, Katie Ford, but its now Mrs. Katie Ford-Elliott. I look forward to great things for you.

Now, whom else shall I thank but my friends out there. Members of the bar, fraternal friends, church friends, neighbors, personal friends, family friends. What a sad world it would be without family and friends. You're part of it and by your presence here today, you do me a great honor and make me very happy.

Now, as to the future, that's really not in my hands. If the Good Lord continues to bless me with good health, and the Supreme Court deems it necessary to continue to use my services, let me say this—I'm still available. (applause)

HONORABLE HARRY M. MONTGOMERY: Excuse me, I overlooked one group, and if you'll pardon me for the oversight, and it's an important group I named some of my clerks of the past, but I want to present to you my indispensable staff of the present. I would like to first present Veleter Mazyck, Miss Mazyck, lawclerk in my staff, Marcia Webb, another law clerk, Howard Grossinger, another law clerk, and the girl that ties it all together. She does all the word processing on that new-type machine and types all the opinions; she keeps track of all my opinions as well as those opinions of all the judges on my court; she keeps track of our votes, does the housekeeping and even provides the doughnuts and coffee. I refer to my secretary, Mrs. Winifred Kennelly, affectionately known by all as Winnie; and in addition to all she does for me, she's raising two fine sons. (applause)

HONORABLE EDMUND B. SPAETH, PRESIDENT JUDGE: Harry, it is quite impossible for me to express the esteem and love that we hold for you. Perhaps I can convey just a little bit of it if I ask each of you to put yourselves in the position that we who work with

Harry are in. As he's mentioned, the Superior Court has a tremendous number of cases and a tremendous variety of cases. I wish I could convey to you the confidence, the satisfaction that each of us feels when we receive a draft opinion from Judge Montgomery. Now, an essential part of any opinion is the statement of facts. You might suppose that there isn't really much to stating the facts of the case. After all, what happened is what happened. I assure you nothing could be further from the truth. The statement of a case requires the most exquisite discrimination, the most careful judgment to be sure that something important is not omitted, that something that occurred is not exaggerated. It's a matter of achieving in a brief compass the heart of the case. In many respects, it's the most difficult thing that a judge does and especially for an appellate judge who has not seen the witnesses and is working from what lawyers call a "cold record" – The transcript of what they said, and over and over again, Harry Montgomery has said "This is an appeal from so and so, and this is what happened", and you know that that's what happened. It's a marvelous accomplishment. Every occupation, I suggest, has its particular hazard. The hazard of being a Judge is arrogance. That's not surprising because after all, being a Judge is in its very essence a lonely occupation. You, by yourself, over the very small number of colleagues, have to decide what you think the right thing to do is. That requires a good deal of self-confidence and that self-confidence can easily become too self-confident. It never does with Judge Montgomery and you see it in the way he states a case. He doesn't carry any particular viewpoint. He is explaining to the reader, he's explaining to his colleagues, that is what the record shows. Now the balance of his work is in the legal research in the statement of the law that follows the statement of the facts and again his colleagues have over and over again felt not simply a sense of pleasure and of admiration of professional craftsmanship, but a real thrill of pride in the manner in which Harry uses the law. You will never find a Montgomery opinion in which a case does not support the proposition for which it is cited. It's one of the marks of a great opinion that it is supported by its authorities and that its authorities are comprehensive. You know, you can write an opinion to say anything and put in some citations, because you can find a proposition for almost any thing in the law and that isn't deciding the case according to the law, it's citing the appropriate case, the soundest case among those that bear upon the subject. John Brosky,

in his remarks, refers to a hero of the law. It wasn't long ago that I was at the home of a friend of mine, a small group meets every so often for an evening of conversation, the subject being picked by the host, and our host said "I suggest tonight we talk about heroes. Who do you think are heroes? What is your conception of a hero?" and so we did. Well, we talked about the sort of heroes you would think of, heroes like Achilles, Alexander, Charles Lindbergh, Hilary and then we paused in our discussion and tried to summarize just what we did we mean by a hero. We decided that in the usual sense of the work, a hero's a pretty flashy kind of person. Somebody who's done something very great and courageous, but also that attracts tremendous attention. And that led one of us to say "yes, but there are other kinds of heroes who are just as heroic and in a way even more." The usual phrase is "The unsung hero." Now the jurisdiction of the Superior Court doesn't have many cases that you could reasonably compare to the Atlantic Ocean and their difficulties, or to Mt. Everest. We have some great cases, we have some landmark cases and Judge Montgomery's participated and written some of those, but most of our cases are the grist of everyday life. Judge Montgomery mentioned some of them in his own experience. They're everyday persons, everyday troubles which require careful, thoughtful resolution by judges who are trying to combine professional craftsmanship with self-confidence and humility. Judge Montgomery's been doing that year after year and we really regard this man and he should be regarded by all who know his work as a true hero of the law. We're very grateful to all who had a part in arranging this, we're delighted with the portrait, and we thank the bar association for its thoughtfulness, its hospitality, and in that regard the association has asked that I, on its behalf, invite all of you to greet the Judge at a reception which is right after the ceremony in the Engineers Society Room over at the William Penn Hotel.

Thanks you very much.

The court will be adjourned.

PAT CAREY, COURT CRIER: COURT ADJOURNED.

RESOLUTION
HONORABLE HARRY M. MONTGOMERY
May 30, 1991

THE SUPERIOR COURT OF PENNSYLVANIA, having assembled for the happy purpose of celebration of the Ninetieth Birthday of Judge Harry M. Montgomery, doth PRONOUNCE:

WHEREAS, Judge Montgomery was born to Mollie Sumner Montgomery and Milton Montgomery on June 12, 1901, in the City of Pittsburgh, County of Allegheny, where he was raised and has remained throughout the years;

WHEREAS, Judge Montgomery pursued his studies at the Sixth Ward-City of Allegheny Grammar School, Latimer High School and Allegheny High School, as well as the University of Pittsburgh, from which he was graduated in 1922, and from which he received his law degree in 1924, as a result of which he was admitted to the Bar of the Courts of Pennsylvania in 1924;

WHEREAS, Judge Harry M. Montgomery thereafter engaged in the practice of law in the City of Pittsburgh as a private practitioner, including service as assistant solicitor for Allegheny County, until elected to the County Court of Allegheny in 1943, and thereafter in 1947 to the Common Pleas Court of Allegheny County;

WHEREAS, Judge Montgomery was, in 1952, upon motion of the esteemed David L. Lawrence, then mayor of the City of Pittsburgh and subsequently Governor of Pennsylvania, nominee of the Democrat Party for the position of Justice of the Supreme Court and did participate in the lasty Presidential whistle-stop campaign throughout Pennsylvania conducted by President Harry S. Truman on behalf of Adlai Stevenson;

WHEREAS, Judge Montgomery was, in 1959, elected the the Superior Court of Pennsylvania and was served there through the present time,

NOW, THEREFORE, we, his colleagues upon the Pennsylvania Superior Court, as members of the legions who hold him in high esteem and deep respect and affection, do DECLARE:

THAT Harry Montgomery has distinguished the Superior Court by reason of his fluency in the language of the law and commitment to the rule of law, his sound sense of jurisprudence and feel for fairness,

and his erudition and grace,

THAT Judge Montgomery has blessed this Court and the citizenry of the Commonwealth with so rare a perception, a special insight, and gifted articulation that his Opinions will, for generations to come, be a rare, rich resource for this jurisprudence of this Commonwealth,

THAT Judge Montgomery has, in a profession which requires judgment by peers, revealed himself as without peer,

THAT, Judge Montgomery, in the profession of adversaries, is wise scholar, kindly mentor, and cherished friend,

THAT Judge Montgomery is, with us, our colleague, and for us, an ideal.

NOW, THEREFORE, the Superior Court of Pennsylvania does in ardent acclamation:

COMMEND Judge Montgomery for his telling impact upon and sterling contribution to the jurisprudence of the Commonwealth.

THANK Judge Montgomery for enhancing the stature of the Superior Court and enriching, by this friendship, the lives of its members and

SALUTE Judge Montgomery upon the occasion of his Ninetieth Birthday.

Signed:

The Honorable President Judge James E. Rowley

The Honorable James R. Cavanaugh

The Honorable Donald E. Wieand

The Honorable Stephen J. McEwen, Jr.

The Honorable Vincent A. Cirillo

The Honorable Peter Paul Olszewski

The Honorable Joseph A. Del Sole

The Honorable Frank J. Montemuro, Jr.

The Honorable Phyllis W. Beck

The Honorable Patrick R. Tamilia

The Honorable John T.J. Kelly, Jr.

The Honorable Zoran Popovich

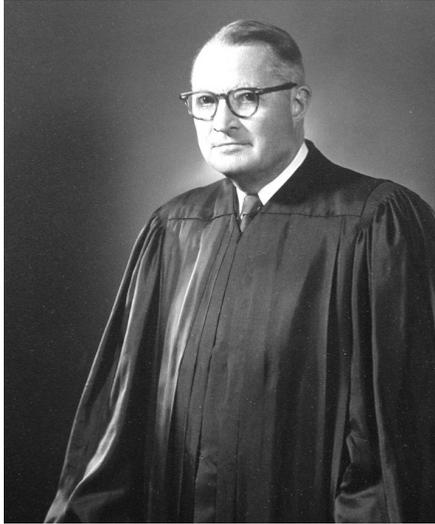
The Honorable Justin M. Johnson

The Honorable Joseph A. Hudock

The Honorable Kate Ford Elliott
The Honorable J. Sydney Hoffman
The Honorable William F. Cercone
The Honorable John P. Hester
The Honorable John G. Brosky

Adopted by the Board of Judges this 30th day of May, 1991.
SIGNED: The Honorable James E. Rowley, President Judge.

ATTESTED: Eleanor R. Valecko, Deputy Prothonotary.

THE HONORABLE GERALD F. FLOOD

March 31, 1898 – December 26, 1965

Assumed Office: January 2, 1961

County: Philadelphia

MEMORIAM

Minute in Memoriam to Honorable GERALD F. FLOOD,
Judge of the Superior Court

Delivered by President Judge, HONORABLE HAROLD L. ERVIN,
at the opening session of the Superior Court at Harrisburg,
Pennsylvania, on March 14, 1966.

Our friend and colleague, Gerald F. Flood, passed on December 26, 1965. Judge Flood commenced his judicial career when he was appointed and later elected as Judge of Court of Common Pleas No. 6 of Philadelphia County in 1937. He was re-elected in 1947 and again in 1957. On November 6, 1960, he was elected to this Court and commenced his term of service on the first Monday of January, 1961.

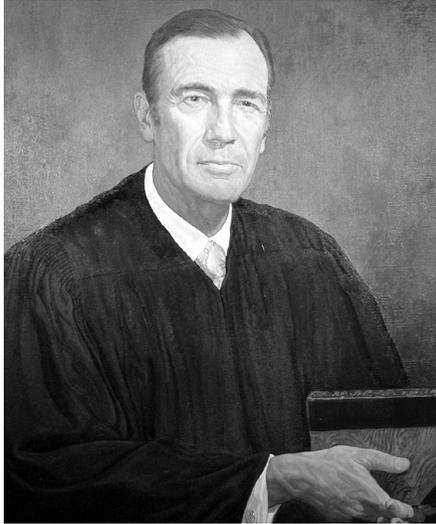
He was a graduate of the Law School of the University of Pennsylvania and later served as a professor of Pennsylvania Civil

Procedure in that Law School. He served on many boards and was active upon many committees of the Pennsylvania and American Bar Associations.

He was a legal scholar of high standing and gave freely of his knowledge to students, the Bench and the Bar. He devoted considerable time to the Procedural Rules Committee and helped to mold the Pennsylvania Rules of Civil Procedures.

He has written many able opinions for the Court and his wise counsel and outstanding ability have contributed greatly to the work of this Court.

He will be greatly missed by all of his colleagues.

THE HONORABLE ROBERT LEE JACOBS

*December 17, 1910 –
Assumed Office: January 4, 1965
President Judge 1978-1979
County: Cumberland*

INDUCTION

**IN THE
SUPERIOR COURT OF PENNSYLVANIA**

**PROCEEDINGS ON THE OCCASION OF
THE INDUCTION OF
HONORABLE ROBERT LEE JACOBS
AS PRESIDENT JUDGE OF THE SUPERIOR COURT
OF PENNSYLVANIA**

January 3, 1978
Carlisle, Pennsylvania

Court was convened with the Honorable G. Harold Watkins presiding.

HON. G. HAROLD WATKINS: The Superior Court of Pennsylvania is meeting specially in the Old Court house of Cumberland County in Carlisle, for the purpose of honoring your own son and our distinguished member of the Court, who will be elevated today to be President Judge of the Superior Court of Pennsylvania, Judge Robert Lee Jacobs.

We're also meeting to induct the newly elected Judge of the Superior Court, the Honorable John P. Hester, who I will ask now to present himself at the bar of the Court, and ask the Chief Justice of Pennsylvania to swear him in.

(Thereupon, the induction of Honorable John P. Hester as Judge of the Superior Court of Pennsylvania was held.)

HON. G. HAROLD WATKINS: Judge Hester, will you take your place on the Court.

At this time, I'd like to call on the Honorable Dale F. Shughart, President Judge of the Court of Cumberland County.

HON. DALE F. SHUGHART: Three Members of the Bar of this Court have been elevated to a position of eminence on an Appellate Court of the Commonwealth; the first, John Bannister Gibson, was admitted to the Bar of Cumberland County in 1803. He was appointed as an Associate Justice of the Supreme Court in 1816, because Chief Justice in 1827, and served until 1838. Sylvester Baker Sadler, a native son of Cumberland County, succeeded his father as President Judge of this judicial district in January 1915. He was elected to the Supreme Court, and assumed his duties on the bench of that Court on January 21, 1921. He was elected and served on the Supreme Court until his death in March of 1931.

The first and only resident of this county to become a member of the Superior Court is Robert Lee Jacobs, a member of this Bar, and a former Judge of this Court.

We are honored that Judge Jacobs and his colleagues have chosen to hold the first session of the Superior Court in 1978 in this Court House on the occasion of his installation as President Judge of that Court.

Chief Justice Eagen, President Judge Watkins, my friend and former colleague, Judge Jacobs, and members of the Superior Court of Pennsylvania: we welcome you here to our County, and extend to you the services of the Court and the facilities. We hope you will have a good time here. Thank you.

HON. G. HAROLD WATKINS: Thank you very much, Judge Shughart.

At this time, I'd like to call on the distinguished past President of the Pennsylvania Bar Association, Mr. Irwin Benjamin.

MR. BENJAMIN: May it please the Court, Judge Jacobs, Mrs. Jacobs, Members of the Bar, and distinguished guests. It is with great personal pleasure that I have the opportunity today to represent the Pennsylvania Bar Association on this occasion. But my pleasure is really more than personal; it is deepened by my profound professional respect for the man who today assumes the mantle of President Judge of the Pennsylvania Superior Court. By so doing, Judge Robert Lee Jacobs is elevated to a position, which since its creation in 1895, has been filled by distinguished jurists and capable administrators from the first President Judge, Charles E. Rice, to the popular and respected retiring President Judge, G. Harold Watkins.

I noticed in a recent newspaper article, Judge Jacobs was quoted as having said that luck played a prominent role with his success. Maybe so; but we in this gathering know it was much more than that. We know, for the past 23 years, that is from 1955, when Judge Jacobs was first elected to the Cumberland County Common Pleas Court, and held court in this very room, he has proven that he is qualified in every way to wear the judicial robe of learning. Some of the qualifications of which I speak are his profound knowledge of the law, his discreet decisiveness, and just as important, his fairness, moral courage, patience and consideration of others.

In Judge Jacobs the people of the Commonwealth of Pennsylvania are indeed fortunate to have a man whose interest in justice and personal abilities will enable him to successfully cope with the mounting caseload with which this Court is faced, provide justice for those before the Court, and view both tasks with a sense of commitment and good humor.

Judge Jacobs, on behalf of the almost 15,000 members of the Pennsylvania Bar Association, congratulations and since best wishes

for health, happiness, and success during your tenure. Thank you.

HON. G. HAROLD WATKINS: Thank you very much, Mr. Benjamin. At this time, I'd like to have Mr. Lawrence J. Beaser, Counsel for the Governor, read the Commission of Judge Jacobs.

MR. BEASER: May it please the Court; it is a distinct personal honor to be here today representing Governor Shapp, who sends his regrets and best wishes. It is a personal honor, because as clerk to Judge Hoffman, I served on the Superior Court as a law clerk with Judge Jacobs, and know him not only for his superb legal ability, but also for his great human kindness.

Now the Commission from the Governor of the Commonwealth: In the name and by the authority of the Commonwealth of Pennsylvania to Robert Lee Jacobs of the County of Cumberland and Commonwealth of Pennsylvania, greetings. Whereas, a vacancy has occurred in the office of President Judge of the Superior Court of Pennsylvania, by reason of retirement of the Honorable G. Harold Watkins, effective on the first Monday of January, Anno Domini 1978 and, Whereas, it appears by the records in the office of the Secretary of the Commonwealth, that you shall be the judge longest in continuous service, and by virtue of the provisions of the Constitution of this Commonwealth you will be entitled to hold the office of President judge of the Superior Court of Pennsylvania for the remainder of the term for which you were elected and commissioned. Therefore, know ye, that in conformity to the provisions of the Constitution and laws of said Commonwealth, in such cases made and provided, I do by these presents commission you, Robert Lee Jacobs, to be President Judge of the Superior Court of Pennsylvania, to have and to hold the said office until the first Monday of January Anno Domini 1986, that being the expiration of your term of office, if you shall so long behave yourself well. This commission to take effective on the first Monday of January Anno Domini 1978, given under my hand and the great Seal of the State of the City of Harrisburg, this 29th day of December in the Year of our Lord, 1977, and of the Commonwealth the two hundred and second.

Milton J. Shapp, Governor.

HON. G. HAROLD WATKINS: Thank you very much, Mr. Beaser.

At this time, I'd like to call on William L. Sunday, Esquire,

President of the Cumberland County Bar Association.

MR. SUNDAY: May it please the Court; it is indeed a privilege and pleasure to appear before your Honorable Court today to present the Honorable Robert Lee Jacobs for induction as President Judge of the Superior Court of Pennsylvania.

Judge Jacobs has been a lifelong resident of Carlisle, Cumberland County, Pennsylvania. He is a son of the late T. Ralph Jacobs, Esquire, with whom he practiced law as a general practitioner. Judge Jacobs will bring to the office of President Judge a wide variety of experience. He served his country in the United States Navy during World War II. He served as State Senator for the 31st District from 1936 to 1940. Judge Jacobs has experience as a general practitioner, member of the Board of View, Judge of the Courts of Cumberland County from 1956 to 1964, and Judge of the Superior Court since 1965. He possesses all the qualities of a judge. And as Judge Edmund B. Spaeth, Jr. has written, he is, as he always was, graciousness itself.

On behalf of the Cumberland County Bar Association and all the citizens of Cumberland County, I present the Honorable Robert Lee Jacobs for induction as President Judge of the Superior Court.

HON. G. HAROLD WATKINS: Thank you, Mr. Sunday.

At this time, I'd like to present the Chief Justice of Pennsylvania, but I'm giving that honor to a close personal friend of the Chief Justice, the Honorable J. Sydney Hoffman.

HON. J. SYDNEY HOFFMAN: It is significantly coincidental that 13 years ago today, Robert Lee Jacobs and I were sworn in joint ceremonies to the Superior Court of Pennsylvania. And our association has been one of tremendously affectionate regard and deep respect, one for the other.

It is an emotionally charged day for me. And no one is more thrilled and excited by this elevation as the 11th distinguished President Judge of our Court. And, certainly, my elation and pride is shared by our beloved retiring President Judge, G. Harold Watkins, by all our colleagues, and demonstrated so visibly by his relatives and many friends who are here.

We wish Bob rewarding fulfillment in his new position, and a long and beautiful life to him and his dear Ann.

I am honored now to assume my official duty of the day to present to you one of the most illustrious citizens of Pennsylvania, one who has

served the people well for more than 40 years before assuming that highest office of the judiciary; he's my warm and personal friend, the Chief Justice of the Commonwealth of Pennsylvania, Michael J. Eagen, who will administer the oath of office to our new President Judge, Chief Justice Eagen.

(Thereupon, the induction of Honorable Robert Lee Jacobs as President Judge of the Superior Court of Pennsylvania was held.)

HON. MICHAEL J. EAGEN: Our host President Judge Shughart, President Judge Jacobs, and other distinguished members of the judiciary, the family and friends of our new President Judge of the Superior Court; it is a joyful privilege for me to be part of this eventful day. And may I first, on behalf of the members of the Supreme Court of Pennsylvania, and everybody living in Pennsylvania, extend deep appreciation to the retiring President Judge of the Superior Court, G. Harold Watkins, for dedicated and excellent service over a long period of years. Judge Watkins, we wish you many happy and fruitful additional years.

HON. G. HAROLD WATKINS: Thank you very much.

HON. MICHAEL J. EAGEN: The Superior Court of Pennsylvania dates back to the year 1895. Its first formal decision was filed on November 18th of that year. And the Court's jurisdiction has been such that it has a greater impact on the lives of more Pennsylvanians than any other court in the Commonwealth's history. During its 82 years, the Court can boast of a multitude of outstanding jurists. And the post of President Judge of that Court is one of the most prestigious and greatest honors the Commonwealth has to offer.

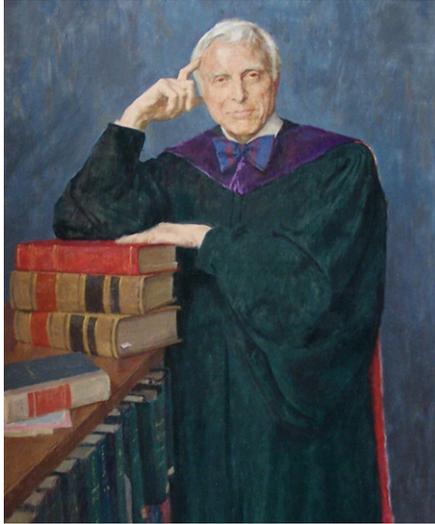
President Judge Jacobs is admirably equipped with the qualities of mind, character, manners, and temper to assume this ultra-important post. And I look forward, God willing, to working shoulder-to-shoulder with him in the years immediately ahead.

Man's greatest interest on earth is justice. The law affects every human being every moment of his or her life, from the cradle to the grave. Our system of justice is essentially a human institution; like all human institutions, it is determined far more by the character and capacity of those administering the system than by the system itself.

As Chief Justice of this Commonwealth, it is my responsibility to administer and to improve the judicial process, to the end that there will be a fair and effective administration of justice. And an efficient

court system is a critical component in creating and maintaining an environment of equal and effective justice. The demands on the law and the demands on the courts have increased a thousand-fold since the Superior Court came into existence. In this connection, it is interesting to note that in 1895 there was a total of 83 nisi prius judges, or judges of the Courts of Common Pleas, statewide in Pennsylvania; today there are 285. In Philadelphia in 1895 there were 16 such judges; today there are 81. And there is a continuous daily cry that more are needed. And since it is from the Courts of Common Pleas that appeals in most parts stem, the everincreasing burden on the Appellate Court System should not be surprising. The Appellate Court System of Pennsylvania must be equipped and geared to meet this everincreasing burden on the Appellate Court System should not be surprising.

THE HONORABLE J. SYDNEY HOFFMAN



July 14, 1908 – June 22, 1998
Assumed Office: January 4, 1965
County: Berks

PRESENTATION OF THE PORTRAIT

Tuesday, September 28, 1982
Old Federal Courthouse
Ninth and Chestnut Streets
Philadelphia, Pennsylvania

PROCEEDINGS

JUDGE CERCONO: Please remain standing. Good afternoon. The Superior Court is privileged to begin the ceremonial session by asking Rabbi Aaron Landes of the Beth Shalom Synagogue in Elkins Park for an opening prayer. After an opening prayer, please remain standing for the Pledge of Allegiance. Rabbi Landes.

RABBI LANDES: Avinu shebashamayim, Heavenly Father, our Jewish community has just observed the holiday of Yom Kippur, the

day of atonement, in which we prayed for a better present and an ideal tomorrow. We prayed for people who could live with the realization that they serve God in their everyday lives, that God, ultimate king, will come for all of us tomorrow.

We pray oh Lord, that the example of Judge J. Sydney Hoffman be a beacon for all of us. We thank thee for his life and pray that it continue in good health for a life of continued service.

We thank thee for his vision that over the decades has seen American law as the concordization of the ideals of the American society as embodied in our Constitution and Bill of Rights.

We thank thee that he has always realized in the Hebrew tradition that the shafat, the Judge, not only serves the Commonwealth, not only serves his country, not only serves his fellow man, but ultimately serves God.

We thank thee, oh Lord, that in his years of service through our community he has always had his feet on the ground in terms of the practicalities of everyday life, while he has had a vision of what American society and the society of the Commonwealth of Pennsylvania might become. His combination of vision and practicality has served the citizens of our Commonwealth and our country in an extraordinary way.

We recognize, oh Lord God, that a nation that lives under law, with its government subject to law, is part of the idealism of the biblical tradition which you shared with man.

We are thankful to thee, oh Lord, that there are exemplars to this tradition not only with the Jewish-Christian communities, but there are exemplars on the judicial benches of our court system.

We are about to dedicate a portrait so that all who pass through these halls will always remember Judge Hoffman. But granting his biblical life span of 125 years in good health, we know that his contribution to the well-being of our communities, to the well-being of our country and our Commonwealth, to the well-being of each of the citizens of our Commonwealth, that these contributions will be a lasting honorarium of one of our most distinguished citizens.

We prayed for life in our synagogues. We prayed for good health. We prayed for peace and well-being.

I know, oh Lord, that in honoring Judge Hoffman, we recognize that we begin a new year as a Jewish community, and we go together

as a united community of a new beginning on this day.

May the ideals represented by the American court system and the ideals represented by our distinguished judges, and in particular Judge Hoffman, who we honor this day, continue to guide all of us and be concordized in our lives and in the lives of those who surround us. Amen.

THE AUDIENCE: Amen.

RABBI LANDES: Thank you.

(Whereupon the Pledge of Allegiance was recited by all participants.)

JUDGE CERCONE: Again, good afternoon. Did you get the impression that we are a little crowded up here? This is a very formidable line. I don't think the Philadelphia Eagles would break through our ranks today. You might say this is what is called judicial unity.

Ordinarily this Court sits in panels of three judges, three judges per panel, and each panel has autonomous power to speak for the Court and preside over the business of the Court. It would be entirely proper for a panel of judges made up of our judges to preside over this ceremony, but none of us would give up the privilege and the opportunity to be here and to join with the members of the family of Judge Hoffman, his friends and colleagues, to pay homage, to pay honor, admiration, esteem and affection and, yes, the love we hold for Judge Hoffman, who will receive one of the rare honors today. He will receive not only a portrait painted by an internationally famous and renowned artist, William Arthur Smith—there is a brief recitation of his accomplishments in your printed program. It will give you some idea of his limitless talents—but I don't know that Judge Hoffman knows as of this moment, and I'm going to announce on behalf of the Court that today we dedicate the beautiful and impressive Superior Court library located on this floor to be called from this moment on the Judge J. Sydney Hoffman Library. (Applause.)

We do that in recognition of his intellectual preeminence, his exemplification of the excellence of the human spirit, and the vast contribution he has made to the advancement of civil and criminal law.

It is a great honor for us to name the library after this dear friend of ours.

For this dedication, as Rabbi Landes has pointed out—Rabbi

Landes, I want you to know that your dear brother Morris Landes, who is a rabbi in Pittsburgh—and I are good friends.

RABBI LANDES: Thank you. Please give him my warmest regards.

JUDGE CERCONE: As part of this dedication, the friends of Judge Hoffman will present to the Superior Court this portrait which I have referred to just a moment ago, in honor of the occasion. So I'm looking forward to this moment with great anticipation and excitement. I haven't seen the portrait yet. It will be unveiled in a few minutes. I know each and every one of you are looking forward to seeing it. After the program is over, I will invite you to come behind the bench here and study the portrait a little more carefully.

To represent the friends of Judge Hoffman, the Court is to recognize Marvin Comisky, Esquire, a highly respected member of the Philadelphia Bar, a former chancellor of the Philadelphia Bar Association, and the former president of the Pennsylvania Bar Association. Mr. Comisky.

MR. COMISKY: May it please the Court, I'm honored to have been asked to present William A. Smith's portrait of the Honorable J. Sydney Hoffman, Senior Judge of the Superior Court, to the Superior Court of the Commonwealth of Pennsylvania.

In making this presentation, I'm acting in a number of capacities:

I stand here as a lawyer to acknowledge Judge Hoffman's indelible and permanent contribution to the law of this Commonwealth.

I stand here as a citizen, one of twelve million Pennsylvanians, to acknowledge his accomplishments on and off the bench as an articulate advocate of fairness, as a jurist dedicated to the pursuit of justice and the constant improvement of judicial administration, as an inspiration to those seeking to help families with problems and children in need of assistance, and as a dedicated worker who has never hesitated to volunteer his boundless energy in the service of his community.

I stand here as a former chancellor of the Philadelphia Bar Association and a former president of the Pennsylvania Bar Association acknowledging my personal gratitude for his advice, guidance and excellent judgment in acting as a sounding board for me in each of those offices.

I stand here as a social friend, acknowledging my delight to share a party, a Bar Association event, a charitable occasion, a social dinner

with our Judge Hoffman and his devoted wife, Vivian, who has played such an important role in the events of this memorable day.

I stand here as a member of a grouping of lawyers who, by their response to the mere mention of his portrait, rushed to demonstrate that our Judge Hoffman has a special place in their hearts.

As chairman of the portrait committee, I can tell you that I have never participated in any fund-raising effort in which contributions were made so quickly and in such amounts. All acknowledged Bar leadership groups participated; indeed clamored to participate. I was chastised on more than one occasion because of my limited list of requested participants. Indeed, when the funds flowed in with only one elementary request and no follow-up, my personal secretary told me I was in the wrong profession. She said I should become a professional fund raiser. She quickly realized, as did I, that it was the subject not the solicitor who achieved this tremendous result.

And this outpouring of affectionate regard and respect, indeed love and affection, is as it should be.

It is fitting that we honor our Judge Hoffman today and insure that his name is remembered by future generations of Pennsylvania, who may be inspired by the accomplishments of the man in the portrait, for they will see what we now see.

For from each of the prospectives from which I speak – lawyer, Bar representative, citizen, friend— it is clear that our Judge Hoffman has continually maintained maximum efforts on behalf of his profession, the people of Pennsylvania and the cause of justice.

For most, it would have been enough to be a successful and respected attorney and counselor, active in his community and in public affairs. But not for our Judge Hoffman.

In 1956, at the age of 48, he was appointed and then elected the County Court of Philadelphia, sitting Family and Juvenile Court.

For most, it would have been enough to function as an active trial judge, fairly and quickly deciding large numbers of cases, cases which were so important to families and their children.

But not for our Judge Hoffman.

Our Judge Hoffman became one of the leading authorities on juvenile law in America. His court provided a model to the nation. Judges, probation officers and sociologists from all over the country visited his court. He had a juvenile jury in his courtroom, participated

in a television series called “Juvenile Jury” and organized church and civil groups to act as sponsors for delinquent children.

For most, this role of national leader in the field of juvenile law and active trial judge would have been enough.

But not for our Judge Hoffman.

In 1964 he was elected to the Superior Court of Pennsylvania.

In a court whose case load and wide jurisdictional subjects—civil, criminal, family, divorce, real estate of unlimited scope – stagger anyone, our Judge Hoffman refused ever to be swept up in the mass of work.

He always looked and was able to identify a case which was worth a dissent. He then would take the time to write a clear opinion, as concise as the facts and the law would warrant.

In each case, our Judge Hoffman shows concern for people. Each case is treated with respect. And though he has written many landmark decisions—and dissents which became landmark decisions—he has never lost sight of justice as the goal of our courts.

I do not think of him as a liberal, conservative or moderate. While respecting the past, through *stare decisis*, he has never been limited to precedents; never afraid of innovation, when it was indicated. And his voice, whether in dissent or in the majority, has been heard and recognized.

So far on the Superior Court, as confirmed by Lexis, he has written 1,737 published decisions. Of those, 1,106 are majority opinions, 520 are dissents, and 154 are concurring opinions. What a tremendous accomplishment, particularly when one appreciates the extensive variety of subject matters encompassed.

Being a conscientious appellate court judge, reviewing thousands of cases a year and writing hundreds of published and memorandum opinions, is all we should be able to expect of anyone.

But not for our Judge Hoffman.

In 1971, he founded the Philadelphia Accelerated Rehabilitative Disposition Program, better known as ARD, as a novel experiment to help speed up our system of criminal justice and improve the system’s ability successfully to rehabilitate first offenders.

He was specially appointed by the Supreme Court to serve in this program, and two or three days a week he sat at the Court of Common Pleas level, hearing hundreds of cases, while at the same time fully maintaining his load as a Superior Court Judge.

In this work with the ARD program, he developed innovative and successful programs to help alcoholics and defendants with other drug problems.

THE ARD program has now been adopted throughout Pennsylvania by Supreme Court rule. Moreover, modeled on this innovative program, virtually all states in the nation now have ARD programs.

Certainly this, then, is all we could expect of anyone.

But not for our Judge Hoffman.

He has always found time to teach. He has lectured extensively throughout the country. For years he has been a visiting faculty member at the FBI Academy.

But more than his formal teaching has been the instruction of his clerks.

Judge Hoffman's family of clerks now numbers over 30. To his clerks he has been a teacher, role model and mentor. His clerks have responded to his teaching.

We have with us today, Judge Abraham Gafni, one of the most respected judges on our Philadelphia Court of Common Pleas. Judge Gafni was Judge Hoffman's first Superior Court clerk.

Two of his other clerks are law professors.

And I am pleased that two of my law partners are former clerks of Judge Hoffman. One, Norman Perlberger, has followed in the Judge's footsteps and is a recognized leader in the field of family law. The other, Lawrence Beaser, left Judge Hoffman's training and went on to become counsel to and a member of the cabinet of the Governor of Pennsylvania.

Certainly, this role of teacher on top of all his other duties, is all we should expect of anyone.

But not for our Judge Hoffman.

Throughout his years on the bench, Judge Hoffman has remained active and committed to his community. His activities are too numerous to list. They extend from having been the co-founder of Teen Aid, Inc., now known as Big Sisters, to having been chairman for 18 years of the man's organization division of Allied Jewish Appeal, to having assisted the administration of justice by serving as chairman of the judicial inquiry and review board.

He has been and is chairman of the Board of Trustees of

Philadelphia College of Osteopathic Medicine, now the Osteopathic Medical Center of Philadelphia, the ninth largest medical college in the country. Along with the president of PCOM, Dr. Thomas Rowland, Jr., Judge Hoffman has helped create a national leader in osteopathic education and the health care field.

And still that is not enough for our Judge Hoffman.

In 1978, under our Constitution, he became a senior judge. He could have retired or worked part time. He continued to serve as a senior judge with an extremely active case load.

And then in 1980, he initiated the Superior Court Settlement Conference Program. This unique model program has been very successful in resolving case, and thus improving our system of appellate justice. In fact, the National Center for State Courts has indicated that this is the leading project of its type in the country, having heard more matters and settled more cases than any other program.

So it is fitting that we honor today a man who has never been able to do enough for his community, for his profession and for our system of justice.

It is appropriate that the painting we are dedicating today is the work of an artist whose credentials are notable and whose range is very wide indeed. William A. Smith has painted monumental murals of a scale as great as one thousand square feet, and he has designed diminutive stamps for the U.S. Postal Service. Mr. Smith's easel paintings include as subjects the figure and landscapes. He is equally adept in oil, water color and the various print-making techniques, as attested by his numerous awards and honors in all these fields.

Mr. Smith's work has been exhibited at nearly every major museum in the country. He has had more than 30 one-man exhibitions, not only in this country, but also in Milan, Athens, Tokyo and other cities and art centers of Europe and Asia.

This artist has the distinction of having been applauded as the subject of a poem by Carl Sandburg titled, simply, "Bill Smith", and it is Mr. Smith's portrait of the late poet that is in Washington's National Portrait Gallery.

I am very pleased that this great artist consented to paint the portrait of a great man in the field of law, our own Judge J. Sydney Hoffman.

It is thus with humility and great pleasure that I present to this

Honorable Court William A. Smith's portrait of the Honorable J. Sydney Hoffman. (Applause.)

JUDGE CERCONI: I congratulate you Mr. Comisky on a most eloquent and impressive presentation.

Before we accept the portrait on behalf of the Court, I had hoped we could have more time in order to give me the opportunity to give you a brief resume and background on each judge who sits on the bench with me here; however, in the interest of time, suffice it is to say that each in his or her own way contributed vitally to the dynamic quality of the law.

We are privileged to have with us our colleagues from the Commonwealth Court seated on the bench with us, because they share the facilities here in the Federal Courthouse, sharing the courtrooms and the chambers here. To my immediate left is my dear friend and your friend and the President Judge of the Commonwealth Court of Pennsylvania, the Honorable James C. Crumlish. I'm not going to issue the trite suggestion that you withhold your applause. I'm going to let you applaud and show your warm acknowledgment of these judges. (Applause.)

On my far left is Judge Crumlish's colleague, Judge Robert Williams, Jr., of the Commonwealth Court. (Applause.)

May I present the colleagues of the Superior Court of Pennsylvania. Beginning at my left, Robert Van der Voort. (Applause.) Former President of the Superior Court of Pennsylvania, Judge G. Harold Watkins. I wanted him to preside over this ceremony, but somehow he escaped it. (Applause.)

The next judge is Judge Frank Montemuro, Jr. (Applause.)

The first woman in the history of the Superior Court to become judge—and we are happy to have her—Judge Phyllis Beck. (Applause.)

Judge Stevens McEwen, Jr. (Applause.)

James Rowley, from Beaver County. (Applause.) We call him old plain talk.

Judge Richard Wickersham. (Applause.)

Judge John Hester. (Applause.)

Starting to my fair right, Judge Abraham Lipez. (Applause.)

Judge Harry Montgomery. (Applause.)

Judge Zoran Popovich. Do you believe he was a law clerk of mine? (Applause.)

Judge Justin Johnson. (Applause.)

Judge Vincent Cirillo. (Applause.)

Judge Donald Wieand. (Applause.)

Judge John Brosky. (Applause.)

Judge James Cavanaugh (Applause.)

Judge Edmund Spaeth, Jr. (Applause.)

And, of course, our honoree, Judge J. Sydney Hoffman. (Great Applause.)

I'm enthusiastic about Judge Hoffman because I think he is part Italian anyway. He has a whole clan here, and all relatives. That is the way it should be. I want to introduce them to you.

First and foremost is his lovely wife Vivian.

Vivian, will you please stand? (Applause.)

Mr. and Mrs. Charles Penneys, sister and brother-in-law of the Judge. (Applause.)

Mr. and Mrs. Morris Satinsky, also sister and brother-in-law. (Applause.)

Raymond Hoffman, the brother, the dear brother of the Judge. (Applause.)

Mr. and Mrs. Samuel Sobel, mother-in-law and father-in-law. (Applause.)

Mr. and Mrs. Richard Ginsburg, sister-in-law and brother-in-law. (Applause.)

Dr. and Mrs. Stuart Orsher, son and daughter-in-law. (Applause.)

Drs. Andrea and Robert Orsher, son and daughter-in-law. (Applause.)

And of course, there is a gathering here of nieces and nephews, aunts, uncles, and cousins related to the Judge either collaterally or directly by affinity or consanguinity. I would ask each and every one of you to stand. (More Applause.)

Representing the family of the Judge and making a presentation on behalf of the family is the Judge's dear brother, who we all love, Raymond Hoffman.

MR. RAYMOND HOFFMAN: May it please the Court, I'm overwhelmed at having the privilege of sharing the same platform with the Superior Court of Pennsylvania, sitting en banc, on which Sydney has served so ably.

When I entered this courtroom today and realized that in a short

time I would be called upon to stand before you to make a speech concerning this presentation, I was absolutely terrified. As I was sitting here, I felt a great feeling of love emanating from this audience, and the feeling of fear was dissipated immediately. It was replaced by one of the exultation, as I felt pride to be an active participant in this touching and imposing tribute to my brother.

As a spokesman for the family of Judge Hoffman, I have the privilege and honor of making this presentation. We in his family have always recognized Sydney's outstanding qualities as a leader, humanitarian and as an eminent scholar of the law. We have always looked up to him with admiration and great love.

When we became aware that his friends, lawyers and peers in this community were planning to honor him by the presentation of this magnificent portrait by the Superior Court of Pennsylvania, we wanted to participate in the lasting tribute by contributing this frame for the dignified and elegant portrait. So with great respect and our deepest appreciation to all of his friends who have made this possible, we are therefore making this presentation.

Sydney, may God bestow upon you many more years of a healthy, happy and productive life. (Applause.)

JUDGE CERCONE: I don't know, Ray, you spoke just like a judge and I congratulate you on your warm and impressive remarks.

Speaking of judges, we are honored to have the presence with us today of one of the outstanding justices of the Supreme Court of Pennsylvania, our good friend Justice Robert N.C. Nix, Jr. (Applause.)

We have a letter from a colleague of Justice Nix' and a dear friend of Judge Hoffman, and I would like to read it to you. It is from Justice Samuel J. Roberts.

"Dear President Judge Cercone, colleagues in the law and distinguished friends of Judge Hoffman:

"I regret exceedingly that an unchangeable year old commitment sends me to St. Louis, but my heart and thoughts join with those of our grateful fellow citizens in honoring in this very special way my cherished friend and esteemed colleague, Judge J. Sydney Hoffman, an exemplary jurist and distinguished leader in public life.

"Judge Hoffman ranks in the forefront of the members of Pennsylvania's historic judiciary who have striven tirelessly to achieve our greatest goal—equal justice for all. His life both on and off the

bench reflects a steadfast commitment to the biblical injunction: 'Do justice and right.'

"Thus, this presentation does honor where honor is truly due, and serves as a fitting tribute to Judge Hoffman's warm and delightful personality, his scholarly legal mind and his compassionate and understanding heart.

"It is our prayerful hope that Judge Hoffman's dear ones and all his fellow citizens will continue to enjoy the blessings of his humanity and dedicated public service for years to come.

"With kindest regards, cordially, Samuel J. Roberts." (Applause.)

In accepting the portrait, we are all looking forward to seeing, we all have a thought as to how you really describe Judge Hoffman—a brilliant jurist, an outstanding citizen, a humanitarian—but there are certain warm qualities of his personality that endear him to us each in his own individual way. For instance, I'm always impressed when Judge Hoffman makes a speech. The excitement, the enthusiasm and the exuberance he puts into that speech—I have often said he is the only one who can make an Italian speech in English.

His sense of humor brings out that gentle humor of his that finds a twinkle in his eyes when he scales the height of fantasy.

How many times has he told us how it felt to be King of Siam, or what it felt like to lead the charge of the light brigade, or how he made it across the Sahara Desert without the benefit of a camel, or how he was a regular visitor to Shangri-la, and on and on? Ordinarily a person is honored by the presentation of a plaque, a certificate, a memento, which are all proper items of honor, because a library named after someone is really a rare honor, because a library is a repository of man's knowledge and of his climb from one civilization to another. A law library is a recordation of man's effort to reach that principle of law that will enable us to finally achieve that world dream of peace among men. So it must be a special man or a woman for whom a library is named, and we, the judges of the Superior Court, are proud to name this library after this brilliant friend of ours. After all, he is a descendent of an ancient heritage that epitomizes intellectual attainment, intellectual preeminence and scholarship, whether in the field of science, law or art. Accordingly, Judge Hoffman, we are so happy this library will be named after you.

Now we come to that moment that we have all waited for, and I'm

going to ask lovely Vivian and Artist Smith to approach the bench. The portrait is here.

I want to say, Vivian, that I know you are the most excited and thrilled person present here. We want you to know that you share in this honor that we bestow upon Sydney, because the honor we bestow upon him shines also upon you.

MRS. HOFFMAN: Thank you.

JUDGE CERCONO: We just now have the former Justice of the Supreme Court of Pennsylvania, the Honorable Bruce Kauffman. (Applause.)

Will you come forward, Vivian and Mr. Smith? (Whereupon the portrait was unveiled.) (Applause.)

That is certainly a beautiful portrait!

I think this is the proper time to express gratitude and appreciation for so many people that made this day possible. First of all, to Judge Cavanaugh, who first set the plans for this ceremony from the very beginning along with Marvin Comisky to Rhonda Shaten, the Judge's secretary, whose loyalty and dedication to the Judge makes her someone special, to Ellen Kaplan, Judge Cavanaugh's Law Clerk, who is unable to be with us, and I understand, but who helped with so many of the plans, to Libby Newman, outstanding and well-known artist and former president of the Allied Artists of America, who worked along with Vivian on the program, to Bruce Cassidy, Court Crier, who made all of the facilities possible.

Yesterday we were so worried because we knew we were going to have an overflow audience, so we arranged with Bruce and Joe Morrone of the City to have a public address system set up in the next room so that those who could not get into this room could at least hear the proceedings.

Also, to Joe McNulty, the Judge's Law Clerk, who helped Bruce Cassidy, to the Judge's Law Clerks, those past and present, who are here. Some have come from long distances to pay honor to their mentor, their tutor, their teacher, from whom they derive so much inspiration.

We want to thank all the people, last but not least, Judge Price, who is not able to be here, who extends his congratulations to the Judge and to Vivian. There is an Italian word "acido", which means when a toastmaster forgets somebody, he is going to develop some stomach

disorder. So I know that if I do that, you will understand that it is unintentional. But to all of those who made this day possible, we of the Superior Court want to extend our best wishes.

It is now my great pleasure to call on the Former Chief Justice of Pennsylvania, our dear friend, Chief Justice Michael J. Egan.

CHIEF JUSTICE EGAN: President Judge Cercone, President Judge Crumlsh, distinguished judges of the Superior Court and Commonwealth Court, Mrs. Hoffman, family of Sydney's and friends, it hasn't been my privilege to appear before the Superior Court in official session since the year 1939. If memory serves me correctly, I lost that one. I'm extremely confident that I'll win this one.

Judge Hoffman and I go back many, many years. Specifically, five complete decades. Over the years, with deep pride and keen admiration, I watched my friend obtain the highest – an unusually industrious judge, a very productive judge, a very intelligent judge, and what to me is even more important, a good and fine person who never lost his genuine sense of reality.

When I was Chief Justice and fought to enlarge the membership of the Superior Court—and I use the word “fought” advisedly—and to institute other changes in the appellate court system that would create more efficiency, no one was more supportive than Judge Hoffman. In 1979, when I tripped the unusual step of directing the Superior Court to hold an unusual, special summer session, and assigned the members of the Supreme Court, including myself, to sit on the Superior Court and transferred for disposition 200 appeals from criminal convictions of longstanding, the first one to come to my office and offer his assistance was Judge Hoffman. It was my pleasure. I assigned myself to sit on a panel, which Judge Hoffman shared during that session. We heard 30 oral arguments and 30 appeals. Each member of the panel studied—and I emphasize the word study—the briefs submitted by counsel before argument. Our staff researched the issues and prepared separate briefs for the attention of the panel. The decision in each and every case, and the opinion, was filed within ten days of argument, and not a single motion for reargument was filed.

Judge Hoffman's contribution in that successful endeavor was enormous. And I might incidentally say that that was the first and only time that a Chief Justice of Pennsylvania sat on the Superior Court, and it kind of dispelled the old cliché that there are no judges on the

Supreme Court and no justice on the Superior Court.

Needless to say, therefore, this is an occasion of great joy for me, and I'm proud and happy to salute one of the finest judges in the history of Pennsylvania, and it is a great and happy occasion that I wouldn't want to have missed. And isn't it nice that this tribute is being paid while Sydney can still smell the roses? (Applause.)

JUDGE CERCONE: Thank you very much, Chief Justice, for those beautiful words. There is one consolation that the Superior Court has today. This is the first time the Superior Court will speak after the Supreme Court has spoken.

We now have a representative of Judge Hoffman's law clerks, one of his most brilliant students, who is now a Judge of the Court of Common Pleas of Philadelphia County. It is my pleasure to introduce at this time Judge Abraham Gafni.

JUDGE GAFNI: President Judge Cercone, President Judge Crumlish, Judges, it is really difficult to express how honored I am to be selected to speak to you about Judge Sydney Hoffman. As you have already heard, I was not selected because of my relationship with Judge Hoffman. Obviously, there are many people who are as close or closer to him, known him for many more years than I. In fact, it only shocks me of how many people there are who count Judge Hoffman amongst their very dearest friends. And I know that if I speak up here, there are tens and twenties of you who feel cheated that you don't have the opportunity to speak publicly about Judge Hoffman. And so unlike Mr. Comisky here representing many, many, many different groups, I represent one group and one group only—the law clerks, those who had the opportunity to work with Judge Hoffman during this eighteen years.

If I may stop and ask the law clerks who are present to raise their hands, if you would? (Applause.)

Those of us here and many that work far, far away, had a very rare privilege. We served as Judge Hoffman's law clerks during the eighteen years he has been on the Superior Court of Pennsylvania. Thirty-one men and women so served, and I can tell you with complete confidence, there is not one of us who would have exchanged that professional experience for any other. There is not one of us who does not count that clerkship as critical in our development as lawyers, and more importantly,— and I'm sure you understand this—as human beings.

Now, virtually all of us who came to Judge Hoffman came shortly after graduating from law school. Like anybody coming from law school, we were skeptical about judges and their ability. As you all know, professors in law school have one job; that is, to demonstrate that appellate court opinions are poorly written and written by judges of limited ability. That is what law school training is about. Well, it took just a few weeks for this preconception to be dispelled, at least insofar as they relate to Judge Hoffman. We became aware this was a judge who really knew the law—and I'm sure many others. I was just talking about the first few weeks, you understand.

You may not be aware of this, but Judge Hoffman had and has the ability to remember cases by name, cases which are ten years old, twenty years old and thirty years old, often giving us the reference to the volume in which they appeared. And more astounding—and I never understood how he does this—he not only remembers the author of the opinion, the Appellate Court opinion—and I think the judges in the Superior Court will confirm this—he will remember the facts of that case, the county from which it emanated, and the trial judge who presided. Now, that, of course, is a remarkable feat of memory, but memory is not just what makes a judge. Aside from the retentive ability Judge Hoffman has—a rare, unique ability, and I think if you speak to any of the law clerks today, you will find this out—he has a sense about cases. Time after time I would watch him listen to an argument being presented by attorneys or an opinion would be circulated and, God, without knowing anything more than the case, even if it's an unusual area of the law, he would say, "Something is wrong. Either the facts are wrong or the law is incorrect." He has a certain legal fine-tuning which somehow tells him that a discordant note is being sounded. I think if you review the record and if you review the law, you see that Judge Hoffman's suspicions about this were borne out.

Occasionally, he disagreed with the majority, as we heard from the statistics more than occasionally, or very often he felt constrained to follow a ruling of the Supreme Court, but in those cases he never hesitated to set forth his views, whether concurring or in dissent, and not capricious, but to point out the decision did not lead to a fair and just result. The record is clear just how many of those dissenting and concurring opinions ultimately became the law of this Commonwealth. But if we law clerks are to think back, perhaps most important in our

training was that each case that Judge Hoffman had involved not only principles of law, but human beings whose very lives would be significantly affected by the words appearing in his opinions.

I suppose and I would imagine this is true for an appellate judge, particularly the problem of losing the human touch is acute. You don't see the litigants in front of you. In all of these years, Judge Hoffman never lost the ability to view these cases as representing the problems of real people who are entitled to the full attention and the full concern of the courts. As a result, we law clerks, as we began to realize when you draft an opinion for Judge Hoffman, after he told us what he wants, how he wants, where he wants—and it involved more than a mechanical application of legal opinions to facts—each opinion had to set forth not only the statute and opinion upon which the conclusion was based, but the underlying reason and the appropriateness of the result. The opinion must be clear, concise, and most important, understandable not only to the legal community but to the litigant whose faith in our justice system could only be maintained if they felt that the court had in fact given full consideration to their positions.

We always felt an obligation to meet Judge Hoffman's high standards. When we didn't, he let us know it and he sent the work back and back and often back again. But when it got very bad, he said, "Well, I guess I won't send it back; I will do it myself." That is what he did—more times than any of us wishes to remember. However, if attempting to meet his demands, which not just because he was the chief and we were working for him, but two other reasons: First, as you heard, he worked as hard or harder than we did. And, more importantly, he treated us with courtesy, with dignity, with respect, and with deep appreciation for our efforts. I don't think I have to tell you that Judge Hoffman is a person who exhibits courtesy. This is a courtesy which is not reserved for the high and the mighty. It is extended to every person with whom he comes in contact, and predictably, every such person, law clerk or other, felt compelled to help Judge Hoffman in any way possible.

His interest in us carried over to our personal lives. I don't think those of you who knew my relationship with Judge Hoffman would be surprised to know I considered him a second father to me, but I can assure you every one of the law clerks here, and those who could not be here, view him with no less affection than I. Whether in times of

success, in times of crises and despair, we turn to Judge Hoffman, and we know that he regards us as his family. Indeed, you may not be aware of this, but every year Judge Hoffman gets all of his law clerks together. He does this when his new law clerks pass the Bar examination and are admitted to practice. He wants the new law clerks to meet the former law clerks, so he takes us all out to lunch. The clerks come from hundreds of miles away, eager to attend the luncheon, eager to recount to Judge Hoffman the changes in his or her life. It is apparent he is vitally interested in us, excited about our successes, concerned about our failures. It is because of this love and affection that we law clerks twice had dinner parties for Judge Hoffman, first when he completed ten years on the Superior Court, and then when he attained a senior judge status. In fact, we were so influenced by Judge Hoffman that one of those dinners—if you look both to the portrait and at Judge Hoffman, all of the law clerks came with bow ties. Most of us had the good sense to bring clip-ons. Three or four did not and had to wait until Judge Hoffman came and tied the tie for them, because he was the only one who knew how to do it.

I remember one of the dinners I made a comment. As I think back the to comment, it seems more appropriate today. I stated at that time that I was always amazed at how certain people seemed to fit their names. And so it is today with Judge Hoffman. Look to his name. J. Sydney Hoffman.

Now, those of us who become judges must all add the J to our names to show we are judges, but in the case of Judge Hoffman the J. was there from birth. For like no other person that I know, it is apparent that he was born to be a judge, that he was uniquely blessed in full measure with the qualities of a great judge—intelligence and integrity, perseverance and patience, good common sense; that he is a judge before whom all lawyers should appear; that he is the judge all other judges wish they could be; that for those of us who are his law clerks, he remains the inspiration to our professional and private lives. Thank you. (Applause.)

JUDGE CERCONI: That is just an example of Judge Hoffman's teachings. It was beautifully done, Judge Gafni, and we certainly appreciate your eloquence

Before we call on Judge Hoffman to defend himself, I would like to introduce our colleagues on this Common Pleas Court bench. I don't

know if I'm going to be able to cover each and every one of them, but I'm going to try: Judge Schwartz, Judge Ivans, Judge Rosenwald, Judge Winnet, Judge Rosen, Judge Lord, Judge Stern, Judge Ray Kremer, Judge Doris Harris, Judge Blake, Judge Mirarchi, Judge Cipriani, Judge Van Husen, Judge Hyman, Judge Gutovich, Judge Barbieri, who is now a court administrator for the Pennsylvania Courts. Judge Hannum, Judge Shertz—Judge Hannum from the United States District Court for the Eastern District. Judge Lipez, Judge Wilson, Judge Fullum, Judge Sporkin, Judge Doty, Judge Ribner. I understand they are standing out in the hall somewhere. (Applause.)

If I have omitted anybody, you can, of course, blame it on the president officer here. Judge Peter Paul Olszewski. Judge Stephen Zappala is here, also. Also Judge Eugene Gelfand, Judge Paul Chalfin Judge Berel Ceasar, Judge Norman Jenkins, Judge Leon Katz, Judge Marvin Halbert, Judge Lawrence Prattis, Judge David Savitt, Judge Calvin Wilson, Judge Charles Wright, Judge Paul Ribner, Judge Bernard Goodheart, Judge Edmund Pawelec, Judge Thomas White, Judge Raymond A. Malone, Judge Judith Jamison, Judge Stanly Greensberg, Judge Charles Weiner, Judge Clifford S. Green, Judge James T. McDermott and Morris Gerber (Applause.)

Now, of course our dear friend, Judge Hoffman. Judge (Great Applause.)

JUDGE HOFFMAN: When my brother Raymond said he was overwhelmed, he was expressing my sentiments. I am not only overwhelmed, but I'm flabbergasted and I'm thrilled. I'm excited; I'm delighted. Like all of us in public life, if you live long enough, you have attained a certain stature in the community. You have received numerous awards and plaques and honors, and all kinds of prestigious accolades, but certainly nothing has ever happened to me like what has happened today. I'll tell you, I'm avalanched by emotion and completely devastated by a remarkable feeling of love and affection for you all.

I'm not going to mention people individually, but I just want to say, as far as the Court is concerned, the fact that they thought I was worthy enough for them to bestow upon me this honor, it has me completely euphoric, and if I'm a little discursive, and if I don't form my sentences correctly, and if I'm a little incoherent, believe me, there is a reason for it. I'm going to try – Bill has already warned me to be brief—but please be patient with me, indulge me. This is an occasion that is

afforded very few people, and if I'm maudlin and over sentimental, and if I have tears in my eyes, remember, this is my day. I tell you, I've never had anything like it before. (Applause.)

If there is such a phenomenon as being born a lawyer, I guess it was I. My dear father was one of the ablest trial lawyers I have ever known. I have observed hundreds of lawyers that have appeared before me and I must reiterate, he was one of the greats. He brought to our family, the viability, the life, the interest, the concern of the law. And from the time I was a small child, I knew how important, how significant it was to become a lawyer. It was a rough road for me. It was a rough road for a very good reason—and I never said this publicly before—but from the time I was six years old I was afflicted with a chronic childhood disease that plagued me until my middle twenties. And believe me, my scholastic career was erratic. I was never in school a day until I was 13 years of age, when I went to a military preparatory school. After literally going from the 1st grade through high school in five years, although I was continuously besieged by illness, I went from college to college, from fellowship to scholarship. But I was determined. And my dear father and mother, who were the most loving, devoted parents in the world, never lost patience. They, also, were determined that I was to be a lawyer.

As I heard Raymond speak today, I realize what affection and what love, what cohesiveness our family had and how it was absolutely necessary that I attained that goal. And, really, it's my proudest accomplishment that I reached my goal of not only being a lawyer, but a Judge.

One of the disadvantages of speaking extemporaneously is that I am perhaps somewhat disorganized but it has just occurred to me that in speaking of my father it reminds me that if he were here today, he would be astounded by the complexities and the differences in the legal world. He primarily practiced criminal law in a world where there were few suppression hearings, no post-conviction hearings and exclusionary doctrine as well as other defendants' rights were conspicuously absent. In my father's day, cases were leisurely tried and there were comparatively few of them. In Philadelphia, for example, the criminal list must be ten times what it was forty years ago and the number of judges has more than quadrupled. I think there were 18 assistant district attorneys, there are now about 200 and there were one or two

public defenders, today there are probably 150. When I came to the Bar, court started at ten o'clock in the morning, and at 12 o'clock there was a recess for two hours, and at three o'clock court was recessed. And there was a good baseball game that day, the court recessed at noon. This is not an exaggeration, this is the way it was. It was a much more leisurely gentleman's way of being a judge, of being a lawyer.

Now we are avalanched. We are besieged. I can't believe it myself, the enormity of the case load. My dear father, who used to take three days to try a drunken driving case, could never have accommodated himself to the 20 minutes he would not be allotted.

When I came on this Court, which was 17 years ago, there were about 800 cases filed. This year there would be 6,000 filings. This is almost impossible, the amount of the work the judges do today. It is fantastic. The dedication and the Solomonic gifts that the judges on all the courts have in solving these countless legal problems, staggers the imagination.

There are concepts that were never taught in law school 40 years ago—no fault divorce and no fault torts—strict liability, and consumer's rights. Who ever heard of the courts'—I was going to say intrusion, but it is not an intrusion, but involvement, with education, with civil rights and with a defendant's constitution rights. It is significant that our courts have established legal safeguards for people regardless of their race, religion or social and economic status.

When I became a lawyer there was no guarantee of the right to have free counsel. There was nothing to prevent your house from being broken into without a warrant. Our law has thankfully developed a series of exclusionary rules that prevent the police and other authorities from illegally seizing property and apprehending people. The America today has taken giant steps forward in giving life to the Bill of Rights.

There is a revolution, a millennium, a different concept, a different world. How proud and delighted that I am to be part of this new vital world. I understand that the courts have been criticized as being soft on criminals, criticized unmercifully. But in my opinion, this is for the most part, totally unjustified. Of course, we are visible, and of course, many of these ideas are controversial because we are involved in every phase of people's lives. We are the lightning rods that attract all kinds of criticism and the barbs of the entire populace. However, our courts have the courage to stand four-square for what we think is decent and just.

If there is one thing that is certain in my mind—and I believe it, as truly as I believe there is a God above—that the lawyers, the judges, the people acquainted with and affiliated with the legal profession are the catalytic agent that propels civilization forward. I'm proud to be a judge and I'm proud to be a lawyer, and I'm proud to be associated with people of the Bench and Bar. I believe we are very special. I think we have a nobility, a decency. I think that we have something that makes us different than other people, and I defy our critics. Yes, even the Chief Justice of the United States, who is over-critical and is caustic and mordant, and continually points the finger. Points the finger at what? He points the finger at the fact that we are not doing the job. How can anybody do the job when there is such a multiplicity of cases, that the cases we never heard of before are now predominant in our lives. Who ever heard of malpractice, legal malpractice? Who ever heard of product liability and asbestosis cases? Who ever heard of any of these things? Yet today these are part and parcel of our way of life, and the judges and the lawyers are meeting this challenge and are doing it in the most admirable fashion possible. So I join hands with them and I say good luck to you and god bless you because you are very, very special, and I really am completely immersed in the practice of law, because therein, I think, lies the chief hope of civilization.

So I came here today to tell you that I love you; I admire you. I physically and literally and figuratively am embracing and hugging each one of you. You have made this the happiest day of my life. You have done so much for Vivian and my entire family, but most importantly, you make me feel that my efforts throughout the years have not been wasted. Bill Cercone mentioned that I am a fantasizer. I plead guilty. I fantasize incessantly, but let me assure you that all my Walter Mittys, all my fantasies came true today. You are all wonderful. I love you. Thank you for being part of my life. (Applause.)

JUDGE CERCONE: I'm not being facetious when I say the Judge's response should be substituted for the preamble to the United States Constitution. It was brilliant. That gives you an example of the brilliance of Judge Hoffman.

Before these proceedings are closed and we call upon Brother Bartholomew Sheehan for Benediction, I want to announce that the proceedings will become a part of the permanent history of the Court and published in the proper volumes so when years go by, years later,

when students and scholars, lawyers and judges, and the public in general pull down the volume in which the proceedings will be published, they will know that there was a moment in Philadelphia when the people of the community and the state paid homage and honor to a special human being, Judge J. Sydney Hoffman. (Applause.)

The Judge has asked me to announce that you are all invited to a reception immediately after the ceremony, to be held at the Downtown Club. I don't know-

MRS. HOFFMAN: 6th and Chestnut

JUDGE CERCONI: There is one judge I did want to introduce, Judge Takiff. (Applause.)

Before we stand, I want to point out a little of the background of Brother Bartholomew Sheehan. It is very interesting.

He is a member of the Jesuit Order. Before entering the Order a few years ago, he was a lawyer, a Superior Court Judge in the State of New Jersey and President of the Second National Bank in New Jersey. He is, more importantly, a contemporary practitioner and admirer of Judge Hoffman, and comes to us today for the station at St. Joseph's Preparatory School in Philadelphia.

Let's all rise for Benediction.

BROTHER SHEEHAN: If I seem to you to strike a schizophrenic note in what I hope will be truly a Benediction, it is because the last time I was in this courtroom an even larger group was here, and every one of them was a lawyer. It was on the return day of the petition for the filing of a bill in bankruptcy of the Penn Central Railroad, and there were 700 lawyers recording their appearances that day. But the more things change, the more they remain the same. If the sociological view has been a little hasty in interring the institution of family—and I have been tempted on occasion to think maybe they were not entirely wrong—all such notions have been driven from my mind this day. And so Yahweh, Lord God, behold how sweet and altogether fitting it is that men should dwell as brothers in unity. It is like the precious oil upon that ebb, flowing down upon the beard of Abraham, upon the beard of Aaron, upon the brow of J. Sydney Hoffman. It is like the dew upon Mount Herman that sparkles in the mountains of Sian, for was it not there, Yahweh, that you proclaimed your blessing, life forever more?

Now, therefore, Judges, be wise, be warned the rulers of the earth,

that you do not invite his anger but serve his people well. And to that end, we have this day attested the living of the life and the doing of a work which knows the full meaning of that scriptural command. Let us then pray that motivated by what we have known, but now seen revealed not give way to that mindless, shapeless anomie which tells us you can do anything, when we have before us such an example as has been laid before all to contemplate.

If I had been not the lawyer looking for a forum to speak, as well as a religious with something more to say, it would have been better if I had in my Benediction simply said to all that has already been said—Amen.

JUDGE CERCONE: Brother Sheehan, we are grateful for your prayer. Before we adjourn, I want to extend the thanks of this Court for the kind attention you gave to the speakers and for your coming here to pay honor to this great Judge, and invite you to come forward at your leisure to contemplate a beautiful portrait painted by the famous artist, William A. Smith.

Thank you again. Court is now adjourned.

**In Memoriam
HONORABLE
J. SYDNEY HOFFMAN**

July 14, 1908—June 22, 1998
September 28, 1998

PROCEEDINGS

COURT CRIER: The Honorable Judges of the Superior Court of Pennsylvania, oyez, oyez, oyez.

And now the family and personal friends of the beloved Judge J. Sydney Hoffman, having assembled with colleagues from the bench and bar, with chamber associates and with members of the numerous community organizations in which he was a pillar, before the Honorable Judges of the Superior Court of Pennsylvania sitting in special session to honor his memory. Now come distinguished and cherished friends to be heard by this Court, and they shall be heard. God, pray embrace J. Sydney Hoffman, and save the Commonwealth and this Honorable Court.

JUDGE McEWEN: We gather this high noon, family and friends and colleagues and admirers, all and each, to celebrate the life of Judge J. Sydney Hoffman, a truly unique and inspirational individual. The throng which fills this courtroom attains the best evidence rule since you provide compelling demonstrative testimony of the extraordinary worth of this great man and of his amazing contribution, to the jurisprudence of this Commonwealth.

The Judges of the Court sitting En Banc for this Memorial Session are:

President Judge Stephen J. McEwen, Jr.—Delaware County
Judge James R. Cavanaugh—Chester County
Judge Joseph A. Del Sole—Allegheny County
Judge John T.J. Kelly, Jr.—Philadelphia County
Judge Zoran Popovich—Union County
Judge J. Michael Eakin – Cumberland County
Judge Michael T. Joyce – Erie County

Judge Correale F. Stevens – Luzerne County
Judge Berle M. Schiller – Montgomery County
Judge Maureen Lally-Green – Allegheny County
PJE William F. Cercone – Allegheny County
Judge John P. Hester – Allegheny County
Judge Peter Paul Olszewski—Luzerne County
Justice Frank J. Montemuro, Jr., — Philadelphia County
Judge Phyllis W. Beck – Montgomery County
PJE Vincent A. Cirillo—Montgomery County
Judge Patrick R. Tamilya – Allegheny County

And, how pleased our cherished friend Sydney would be that, present to this address this Memorial Session of the Superior Court are his *de facto* godson, Judge and Professor Abe Gafni, dear friend, Attorney and Chancellor Marvin Comisky, and cherished colleague and oracle, President Judge Emeritus Bill Cercone.

The Court, recognizing the presences of all three, first calls upon Judge Abe Gafni to present remarks on behalf of the family of Judge Hoffman.

JUDGE GAFNI: The Court please, friends and family: When President Judge McEwen advised me of this memorial session and that President Judge Emeritus Cercone and Attorney Marvin Comisky would speak on behalf of the bench and Bar, I thought how difficult it will be for them to try to encapsulate in but a matter of minutes the distinguished career that spanned more than 60 years.

How much more fortunate was I who was requested to speak in a more limited area on behalf of family and friends. But, as I further considered the matter, I suddenly realized that in certain respects to speak about Judge Hoffman's personal relationships presented an even more daunting challenge, because strangely enough the scope of these relationships and interests may have exceeded even his professional ones.

When I first met Judge Hoffman almost 35 years ago and served as his law clerk, I was continually amazed by how he was able to approach his judicial decision making. For him, this was not simply an intellectual exercise in which legal principles are applied mechanically and dispassionately.

For Judge Hoffman, each case was highly personal. He understood

and deeply felt his responsibility towards the unseen appellate litigants. And his ability to resolve difficult issues was based not just on his knowledge of the law, but because he understood people; how they lived, the problems they faced, the issues which were important to them as they attempted to deal with the challenges presented by a society which was becoming increasingly more complex.

As I brooded on better, I began to recognize that this understanding stemmed in great part not just from remarkable intelligence, respect for scholarship, it emanated as well from his deep concern involving connection and true friendship with multitudes of people.

Moreover, this circle of friendship was not limited to those who were prominent in legal, judicial, political, social, or business circles; it also included individuals from all walks of life, court officers and stenographers who had served in his trial court from years earlier, individuals who worked where he lived or restaurants where he ate, members of the many charitable and fraternal organizations of which he was an active member, committee men and committee women with whom he had been associated long before he had been a Judge. There were even juveniles who had appeared in this court from years earlier who would show up from time to time to tell him how he had helped them and of their current situation.

No, in all of these different relationships, several patterns always seemed to emerge. These people never spoke about Judge Hoffman as "I know Judge Hoffman." They always expressed it in terms of "Judge Hoffman is my friend or I'm Judge Hoffman's friend." And they always had a sense that he was read to listen to their problems and give not just advice, but assistance whenever possible.

Moreover, once you were a friend of Judge Hoffman's you stayed one forever.

Now, I don't know how many of you are familiar with a dandy story down in Ventnor called Jagielky's, but I don't think that there is anybody who ever sent out as many gift boxes of candy during Christmas and Hanukkah as he did. Often to people he had not seen or spoken to for an extended period, but who remained, as far as he was concerned, friends with whom he would simply not lose contact.

And I suspect if you really wanted to get the true measure of how Judge Hoffman felt about people and how much he was attracted to

them and how they were attracted to him, you always knew if you were down at the shore of their beautiful home, Vivian understood, and Goldie understood before Vivian, that if Judge Hoffman went out for half hour walk on the boardwalk there were going to be at least five or ten or maybe 15 extra people for dinner that evening, because anybody who showed up he would invite.

But there was another aspect of his personality in this regard that I consider even more remarkable. I think it is a recognized phenomenon that as we grow older our contacts and circle of friends generally contract. Rarely do people who enter their 70s or 80s increase or expand the numbers of people with whom they embark upon new or personal relationships. But just as Judge Hoffman never seemed to grow older, his spirit or outlook, so to he never withdrew from people. He would make it a point to seek out different people with who he might have lunch or dinner every day. And those of you who had those lunches or dinners would know that he would usually greet you by saying something like, "What's cooking" or more often, "Do you have a little dirt for me?"

Now, he wasn't looking for gossip, although quite frankly he enjoyed that too very much, but to the very end he remained passionately interested in what people where thinking and doing, what was new in their lives, and in this way he continued to grow in wisdom and understanding.

There is a 2,000 year old saying in a book from the Talmud called the Ethics of the Fathers which states, "Who is wise? He who learns from every person."

Judge Hoffman continued to learn from everybody right until the end. But it must be emphasized that this learning was not simply beneficial to him; for all of those with who he came in contact knew that they could always turn to him as a trusted advisor who would be available to them in times of joy and sadness, success or adversity.

Now, you might think and one really might think that a public person with such a vast array of friends and accomplishments would have little time, or interest, or involvement with his family. The truth was just the opposite. If anything, Judge Hoffman's devotion to his family was more intense.

Of course, I must tell you it was difficult to decide where that family line was drawn. Certainly, he viewed Rhoda Shaten and Sue

Carl, his secretaries of many years, as well as all of his law clerks, to be extended parts of his families.

But Judge Hoffman, perhaps as well as any person I have ever known fulfilled the biblical commandment requiring filial love, respect and duty.

I remember how he visited his mother at least twice a week to make sure that she was comfortable and well cared for. This same sense of family connectedness was also demonstrated at his and Vivian's 25th wedding anniversary just a few weeks before his death, when the only expression of sadness was his as he remarked how regrettable it was that he could celebrate the occasion only with his immediate family only with his sister Erma and how much he missed his brother Raymond, and sister Annette. This attachment extended to nephews and nieces, some of who are here today.

And though he had no children of his own after his marriage to Vivian, he developed a close relationship with her sons Stewart and Robby, their wives Gladys and Andrea, and especially, especially the grandchildren, reflected and contributed to his undiminished capacity to grow and change with the passage of years.

And finally, of course there was the devoted husband, first to Goldie and then for a quarter century to Vivian. And I might add that it was perhaps among his very last words that he expressed again to Vivian his deep love for her and how very very important she had been in his life.

Now, having said all of that and as devoted as he may have been to family and friends, however, I cannot imagine that marriage to him was always easy, for there was competition. And that competition was the love he felt for the law and for this Superior Court. Even during the summers with the beautiful home at the shore, Judge Hoffman found it difficult to absent himself from his judicial activities for more than a long weekend despite Vivian's imploring that he slow down a bit, that he take it a little easier.

With his passing, however, she advises me that she has now begun to understand why he was so devoted to this Court and his colleagues as they have individually and collectively provided her with support, caring and solicitude far beyond what might be expected from a purely professional relationship. And she has asked me to specifically express how thankful she is to President Judge McEwen and the entire Court

whose sensitivity and aid have been a source of strength, as she has sought to cope with the stress of the past months.

Today, we note the passing of a great lawyer and judge, but it is well to remember that this same man exhibited greatness in a less public fashion by offering himself as a true friend to many without regard to their social status. And by remaining close and supportive of all members of the families. And in the law and legal community suffered a grievous loss, we are left with shining memory of how we should conduct ourselves. That we must assign importance to both our professional and personal lives. And that we cannot deem ourselves to be complete if we ignore either of these.

Judge Hoffman was a complete man. May his example continue as a constant reminder and guide for us in years to come. Thank you.

JUDGE McEWEN: Thank you, Judge Gafni.

We will now hear from the individual who Sydney described as counsel extraordinaire, Chancellor Marvin Comisky.

MR. COMISKY: May it please the Court, Judge J. Sydney Hoffman was my idol, indeed my ideal of a judge and a person. He had a listening ear, a sympathetic smile, a mild response, meaningful and helpful. He was the embodiment of desirable judicial and personal characteristics.

My comments represent not just a personal observation, but by reason of my leadership in the Philadelphia and Pennsylvania Bar Association, it represents a voice of multiple layers throughout the Commonwealth.

It was demonstrated in his lifetime when his portrait was presented to this court. The outpouring of contributions and the expressed disappointment of those who were not requested was overwhelming.

My relationship with the Judge transcended the lawyer/jurist relationship. I enjoyed that to the fullest, but I enjoyed even more seeing him and his wife, Vivian, at so many charitable and social and Bar meetings and enjoying, however briefly, a private discussion.

I felt after such an encounter, whatever the subject, an additional pleasurable moment and a revival of my admiration for him. He was always young in thought and spirit and concepts and maintaining equanimity and a goodwill, and in maintaining a good knowledge of the current events of the day and of the world around him.

In his extraordinary number of opinions, and dissents, he formed

innovative concepts which increased his respect for our judicial administration.

As a consultant, advisor, companion and friend, he was always available. He found the time to meet and address a matter. He had tremendous energy despite a full daily working calendar, he would look nattily dressed, relaxed and composed at the cocktail house, and even beyond.

He was the first to receive the Justice Michael A. Musmanno Award by trial lawyers, setting the standard for followers. He received so many other awards and honors that when I last checked I was absolutely amazed by the number and variety of organizations and lives he touched, all with a helpful hand. To recite and describe them requires more than a session, perhaps a seminar.

His close relationships with his former law clerks was unique and near legend, with yearly lunches and an open door. He was a role model, and served as mentor to some of the most prominent attorneys in our state, among them a member of the Governor's cabinet an outstanding jurist whom you heard this morning, and a dean of a law school. I also was privileged to act as Judge Hoffman's attorney in his capacity as Chairman of the Board of Directors of the Philadelphia College of Osteopathic Medicine, the ninth largest medical school in the country.

In addition to all his other community activities, Judge Hoffman devoted his time to help create PCOM as a national leader in osteopathic medicine and the health care field.

As a client, he was ideal, bright and knowledgeable, yet willing to accept advice and appreciative of my role. His service on the board of PCOM and his myriad of other community activities were in addition to his full time duties on this, the Superior Court of Pennsylvania.

He possessed these unique qualities: One with a quick mind and an insightful knowledge of people. One who was upbeat with a sense of humor. One who treated each case with respect. One who, though he wrote many landmark decisions, never lost sight of justice, a goal of our courts. One who cared for and pondered upon the effect of the decision for fairness and its effect upon the litigants. One who everyone admired with affection. One who achieved a pinnacle of conduct for graciousness, humility, friendship and warmth with the public and Bar and his fellow jurists. One who became a role model and mentor to generations of Pennsylvania lawyers and a judge's judge with an

uncanny instinct for justice and a broad knowledge of the law.

In 1983, Judge Hoffman was one of the speakers at the introduction of his longtime friend Samuel J. Roberts as Chief Justice of Pennsylvania. On that occasion, Judge Hoffman observed that our country and his Commonwealth had been blessed with a strong and independent judiciary composed of men and women of the highest intellect, idealism, and courage. And yet in the midst of this august company there remains a select number of judges whose ability and character established them as inspirational models. They are, in effect, the superstars of our profession. His philosophy, scholarship and incisive reasoning provides the beacon which lights our way. These words applied by Judge Hoffman to Mr. Chief Justice Roberts are equally applicable to Judge J. Sydney Hoffman.

Judge J. Sydney Hoffman was an example of how one individual can make a difference in our society. To paraphrase a comment I made at the presentation of his portrait to this court, which hangs just outside of the ceremonial courtroom: It is fitting that we memorialize Judge Hoffman and ensure that his name is remembered by future generations of Pennsylvanians who will be inspired by the accomplishments of the man in the portrait for they will see what we have seen.

JUDGE McEWEN: Thank you, Mr. Comisky.

We will now hear from a precious friend of Judge Hoffman, our cherished colleague Judge Cercone, who will be speaking on behalf of the Court.

JUDGE CERCONE: After listening to those two eloquent presentations, I'm tempted to ask my chief to put me on the short list.

President Judge McEwen, my colleagues of the Superior Court, our dear Vivian, Dick and Iris Levy, members of the Hoffman and Orsher families, Dalck and Rose Feith, colleagues of the trial and appellate courts, members of the Bar, Judge Hoffman's law clerks and secretaries, Judge Gafni, Marvin Comisky, Esquire, and friends.

If it were possible, I would gladly share my time on this occasion with the great numbers of Judge Hoffman's friends who I know would describe, if time permitted, an unforgettable remembrance of him. Since time does not permit that defining and moving experience, we can only in a brief time allotted merely touch upon the meaning of the life of our colleague,

There are so many occasions to remember about a colleague with who you have served over a great number of years. The Judge and I served together on this honorable Superior Court of Pennsylvania for 28 years. It was more than sufficient time for me to form my personal judgment on every aspect of his character, judicial temperament and ability. Countless times over the years we spent in conversations on the law as it pertained to the problems of the community. Countless times we spent over the years in familiar surroundings with his beloved Vivian, my wife Millie and our family members, when during those happy times we were enriched as beneficiaries of Judge Hoffman's incisive intellect, his brilliant conversation on social and economic issues which he honed to perfection in his written opinions for the court.

He was able to write with such prescience because he always paid close attention to the small details of daily life which told him so much about how people deal with the concerns of thier children, their children's health, education and state of family. To him, the true spirit and outlook of the people and their problems were sometimes just as well revealed by the commonplace experiences in the life of the community as by the manifestations of academic student and discussion.

As a result of his observations, as Judge Gafni has said he became nationally acknowledged as a leading authority on juvenile and family law. He provided a model to judges, probation officers, sociologists and others around the nation who came to his court to receive his teachings.

What attracted people to Judge Hoffman's work was the fact that in thought and judgment he was richly endowed with an understanding of human nature, which was tempered by the fires of experience and the delicate sense of compassion.

What attracted legal scholars and practitioners to Judge Hoffman's work was his commitment to equal justice, a commitment born of his desire and deep faith in the value of every individual regardless of his social position.

He was always well organized, never shirking his responsibilities in keeping the high image of this Superior Court as an institution uppermost in his mind, keeping it in the highest esteem by our sister courts, the legal profession and the people of Pennsylvania.

In his lifetime, he epitomized grace, urbanity, personal elegance and gentility in everything he said or did. There was not one profane word in his vocabulary. There was no person in any social or economic status with who he did not feel comfortable. And every person who knew him had the same warm friendship for him.

As our President Judge McEwen reminds us, and I quote, “As a trial judge almost 40 years ago, he conceived and molded in Philadelphia County an innovative pre-indictment probation program that became the accelerated rehabilitation program, the accepted, even the mandated practice throughout 67 counties of the Commonwealth.” This procedure has enabled thousands of Pennsylvanians through the past four decades to rise above a minor infraction and pursue purposeful lives without the stigma of a criminal record.”

For years, Judge Hoffman also presided in our conciliation program, where parties in disputes on appeal to our Court came before Judge Hoffman and he worked out their differences before incurring greater legal expenses.

He was held in the highest regard by lawyers and judges in Pennsylvania, not only because of his historic landmark opinions, but also for his willingness to give time before Bar association and community groups to speak on important issues of the day. He was known and admired by lawyers and judges in other states throughout our nation, when during appellate court conferences he was invited to address them on cutting edge questions of law facing the courts.

He had a deep respect for the trial judges and the trial lawyers because it was there in the crucible of the trial that is found the essential development of the law. He had an abiding respect for the appellate lawyers who advanced the principle of law one step further within the ambit of legislation and common law.

One of the finest tributes conferred upon Judge Hoffman by the judges of our own Superior Court took place when we unanimously decided that the law library be established by our Court be named the Judge J. Sydney Hoffman Library as an appropriate symbol of his erudition and scholarship. An additional highlight of that dedication to the library was a presentation made by his countless friends of a portrait of Judge Hoffman painted by the gifted artist William A. Smith, which you can now see at the entrance of this beautiful Superior Court courtroom.

To give an account of all of the honors paid to Judge Hoffman through the years by local and state bar associations, civil, social and law enforcement associates, for his work as judge and civic leader would be rendering an encyclopedic report on this special human being who gave so much in everything he did for the betterment of community life. But just to mention a few as the judge reminded us, he was a recipient of the Justice Michael Angelo Musmanno award for his brilliant work as a judge. Several times he received man of the year awards from civic organizations for his contributions to programs whose objective was to advance and improve the lives of children lacking the benefits to which children are entitled.

I can't recall how many times he regaled us by the flights in the world of fantasy. He would tell of his experience in leading the Charge of the Light Brigade at Bala Clava, two trips to Shangri La, his trip across the Sahara Desert on foot refusing the offer of a camel or desert vehicle. He told these ephemeral stories with such assumed candor and believability that he was able to expand the limits of our imagination, which was always accepted by laughter and enlivened conversation.

Now, his death has diminished all of us who came to know him so intimately over the years. But Judge Hoffman will always exist in the memory of each of us who was fortunate enough to be within in the ambit of his friendship. On this day of remembrance we express our love, sympathy and condolences to Vivian, who the judge cherished so dearly, and she and her ineffable love for him, may our prayers and love give her spiritual strength in this time of her inestimable loss. It has been pointedly said that God listens to our weeping when the occasion itself is beyond our knowledge, but still within his love and power. For our dear friend and brother, Sydney Hoffman, we pray for respite, and eternal peace in the house of the Lord.

JUDGE McEWEN: Thank you.

As many of you know, the eulogy of the Court that was delivered at the funeral service will be made a part of the record, and will be published together with these remarks today, by the reporter

While that eulogy expressed the views of the Court, certain of our judges have asked permission to address you as well.

May I first call upon Judge Jim Cavanaugh, a colleague of Judge Hoffman for many, many years.

JUDGE CAVANAUGH: As a Philadelphian, I want to pay a brief

tribute to Sydney Hoffman, not only because he was a magnificent judge, which, of course, he was, but for his role in the art of government.

Sydney was a practitioner of the art of government with a group of a certain persuasion who had been out of power in this old city for the better part of a century until it came into its ascendancy in the middle of the millennium. Sydney's role with that auspicious group was that of wise counselor, moderate tactician and prudent advisor—in that era, he dwelt among and was valued counsel to the likes of Dilworth, Tate, Green, Sr., Byrne, Kelly, Sr., Hayes, McGlinchy, Freedman, Fineman, Chudoff, Lord and Toll. He even gave solace to followers of the wounded pachyderm during those years.

His role was peacemaking and his virtues were kindness, solicitude and even meekness. Anyone who knew Sydney Hoffman would never mistake these characteristics as a sign of frailty, but rather understand them for what they were: the impartation of his moral strength and the bestowal of his blessings among all who knew him.

JUDGE McEWEN: Thank you Judge Cavanaugh.

Judge Peter Paul Olszewski?

JUDGE OLSZEWSKI: President Judge McEwen, my distinguished colleagues on the bench, Mrs. Hoffman, ladies and gentlemen: it is a great privilege and a high honor to come today to pay my respects to Judge Sydney Hoffman who was and is a giant among judges.

Judge Hoffman came to my swearing in ceremonies in Wilkes-Barre when I was elected to the Superior Court. He was one of the distinguished speakers. When he got up, he brilliantly intoned the greatness of the Superior Court of Pennsylvania. He talked about the special chemistry, as he called it that blended the judges together. He talked about the collegiality and the great experiences that I would have as a member of the Superior Court. He spoke about the transitional point of my life as I proceeded in my legal experiences from a trial judge of 16 years, to an appellate court judge.

Well, the next speaker was Jack Palance, the Academy Award-winning actor. He got up and he paused for some time, and he reflected. Jack said that he listened carefully to what Judge Hoffman had to say and was convinced, after hearing Judge Hoffman, that I would be sitting in Heaven with the archangels.

Well, ladies and gentlemen, let me say this to you: I feel confident that Judge Hoffman is in heaven and he's sitting among all of the archangels.

Thank you very much.

JUDGE McEWEN: Thank you Judge Peter Paul.

We've assembled today in sadness because of the death, but in joy because of the life of the great and special J. Sydney Hoffman, our thoughts are as well of the gracious lady who shared his times of triumph and whose love and faith have been an inspiration to all who know him. We salute you, Vivian, and do share in the sadness which you suffer, and of which for you there is endless depth.

This court is grateful to all of you to have journeyed here, assembled and honored the memory and celebrate the life of this extraordinary individual

The court expresses particular appreciation of Judge Gafni, Attorney Comisky, and colleague President Judge Emeritus Bill Cercone. And I, as President Judge have to render a particular salute to all of my colleagues who have come to this courtroom, this Founders Courtroom of Philadelphia from across the Commonwealth, all those counties that I mentioned earlier. I do salute them and thank them for that.

In conclusion, may I note as was stated in the eulogy of Judge Hoffman's funeral service: "Literature, and even history, lesson the need for the steadfast. The clever inspire respect, but the steadfast our inspiration."

Sydney Hoffman was certainly every bit of that. He was, as well, an individual of kindness, warmth, integrity, wisdom and worth. We celebrate his life, we cherish his memory, and we thank him for all of it.

COURT CRIER: And now, this special session of the Superior Court honoring J. Sydney Hoffman is now adjourned.

(The memorial service concluded at 12:45p.m.)

THE HONORABLE THEODORE O. SPAULDING

February 18, 1902 – September 9, 1974

Assumed Office: March 1966

County: Philadelphia

BIOGRAPHY

Theodore O. Spaulding served eight years on the Pennsylvania Superior Court. He was judge of the County Court of Philadelphia for thirteen years and in the 1940s served as president of the Philadelphia Chapter of the NAACP.

Spaulding was born in Concord, North Carolina on February 18, 1902 to Henry W. Spaulding and Hattie L. Moore Spaulding. His father was a carpenter, but through humble circumstances was able to help all seven of his children attend college.¹

Spaulding attended Howard University and graduated in 1924. He continued his education at the University of Detroit, where he received his law degree in 1928. The following year he was admitted to the bar and practiced law in Detroit, before moving to Philadelphia in 1931. Subsequently admitted to the Philadelphia Bar, he practiced with Lewis Tanner Moore from 1933 to 1940.²

While in Philadelphia, Spaulding involved himself in various social concerns, attempting to help the poor, underprivileged, and

underrepresented classes. He acted as counsel for the Home Owners' Loan Corporation, a depression-era agency created to aid local unemployed homeowners. According to a law partner and long-time friend, Carlyle M. Tucker: "Ted served well and generously in this capacity, motivated always from a humanitarian standpoint."³ He also became involved in the NAACP serving as counsel for the local Philadelphia Chapter and as a member of the board of the NAACP's publication *The Crisis Magazine*. Soon his prominence within the African-American community earned him the position of president of the local organization. At the start of Spaulding's presidency in 1940, the Philadelphia chapter had 2,800 members; by the end of his presidency in 1945 that number had risen to 17,000. World War II, the Philadelphia transit strike of 1944,⁴ and general discontent with social norms within the African-American population were all factors in the growth of the local chapter. During his presidency, Spaulding continued to act as counsel for the organization and attended the 1945 Chicago Conference, where NAACP lawyers from across the United States attempted to develop a legal and political strategy to deal with restrictive covenant cases brought by white individuals to evict African Americans from their homes. Spaulding's work earned him a position on the National Board of the NAACP where he offered Roy Wilkins, executive director of the organization, valuable input on such topics as professional salaries within the NAACP and the financial welfare of the association.⁵ Other agencies that benefited from Spaulding's work were the United Fund of Greater Philadelphia, the Philadelphia Housing Association, Germantown Hospital, and the Christian Street YMCA. Spaulding was also a founding member of the Philadelphia Fellowship Commission and the United National Council of Philadelphia (the World Affairs Council).⁶

Professionally, Spaulding served as a Selective Service attorney throughout World War II and in 1940 established the law firm of Spaulding, Williams, Watson, and Tucker with John Francis Williams, Rufus S. Coville Watson, Sr., and Carlyle M. Tucker. Tucker remembered those early years when Spaulding persuaded the Friends Society of Philadelphia to rent the firm office space on 15th Street when they were refused space elsewhere in the city. "In his private practice of law," Tucker asserted, "his personality, stature and competence generated numerous clients confident with his representation and loud

in his praise.”⁷

On July 24, 1953, Governor John S. Fine appointed Spaulding to the Municipal Court of Philadelphia (the predecessor of the Philadelphia County Court). Two years later he won election to a 10-year term on that court.⁸ During those years Spaulding shared office space in City Hall with future Superior Court Judge J. Sydney Hoffman. “Judge Spaulding,” Hoffman reminisced, “impressed me with his inner tranquility, deep convictions and understanding of the law.” Spaulding’s actions on the bench won him a second 10-year term on the county court.⁹

His “sensitivity to human problems” extended further than his service on the bench as he continued to advocate for those less fortunate. In 1957, the United Nations appointed him to represent the organization as an alternate delegate to the Subcommission of the Economic and Social Council on the Protection of Minorities and the Prevention of Discrimination. Spaulding also promoted education initiatives, serving as a member of Philadelphia’s Post-High School Facilities and Programs Commission that recommended the establishment of Philadelphia Community College. One colleague noted that “despite the unbelievable crowded court calendars and thousands of cases he heard,” Spaulding “helped to set up medical treatment for the needy and numerous scholarships for those worthy children unable to pay the rising costs of a college education.”¹⁰

In January 1966, Governor William A. Scranton nominated Spaulding to fill a vacancy on the Pennsylvania Superior Court. His nomination received the endorsement of both the Philadelphia and Pennsylvania Bar Associations.¹¹ Spaulding, “[n]otwithstanding his modesty and self-effacement... yielded to the persuasion of his many friends and accepted the appointment.”¹² With Senate approval he became the first African American to serve on an appellate court in Pennsylvania. “I was today inducted as a member of the Superior Court,” Spaulding wrote to NAACP Director Roy Wilkins on March 10, 1966. He explained to Wilkins that the court’s schedule would prohibit him from attending all of the NAACP board meetings, but he hoped his attendance record would not suffer. Members of the organization lauded Spaulding’s appointment: “I am sure that you will grace that court with the dignity, honor and judicial acumen which you have brought to your years on the bench,” wrote Assistant Director

John M. Morsell. After serving only a little over a week on the court, Spaulding again wrote to Wilkins informing him, “a rigorous court schedule plus a political campaign make it impossible for me to meet with the Budget Committee and Trustees.” He remarked that even with his busy schedule he would continue to participate in NAACP board events as much as possible. Spaulding’s campaign to retain his Superior Court seat in the November election received the support of the Republican committee and he easily won election to a full ten-year term on the court.¹³

During his years on the Superior Court, his colleague Judge J. Sydney Hoffman noted with respect Spaulding’s diligent service. “Ted’s appraisal of cases and dedication to his work were inspiring,” Hoffman declared. “His prolific legacy to the law is truly monumental.” Judge Hoffman cited three cases (*Dougall v. Ford Motor Co.*, *Cooper v. Roberts*, and *Commonwealth Human Relations Commission v. Loyal Order of Moose Lodge No. 107*) for which Spaulding’s opinion is to be remembered and highly regarded. These cases, stated Hoffman “come to mind as outstanding examples of his intellectual ability and dedication to fitting the law to the modern day needs and problems that face us.”¹⁴

A severe illness forced Spaulding to retire from the Pennsylvania Superior Court in December 1973. Friends noted that it was “a shock because of his previous boundless energy in serving the public.” “With the retirement of Ted Spaulding from the Bench, and particularly, from the Superior Court,” asserted Judge Hoffman, “a void has been left by a truly great man.”¹⁵ Spaulding died at his home on September 9, 1974 and was buried in Merion Park Cemetery in Bala Cynwyd, Pennsylvania.¹⁶

Spaulding married Virgil Trent in April 1930 and they had three children; described by a peer as “his constant friend, companion, and support,” Spaulding’s wife assisted him with both his political and civic commitments.¹⁷ Their youngest son Joseph Clinton Spaulding followed his father’s career path, attending Howard University School of Law, becoming a member of the Pennsylvania Bar, and advocating for the poor and underrepresented before his death in 2003.¹⁸

¹⁴“The Judges of our Courts,” 154 *Legal Intelligencer* (31 January 1966): 173; *Pennsylvania Manual*, (1969) 99:496.

- ² “The Judges of our Courts,” 154:173; Carlyle M. Tucker, “Judge Spaulding: His Years at the Bar,” 37 *The Shingle* (April 1974): 67; *Pennsylvania Manual*, (1969) 99:496.
- ³ Tucker, “Judge Spaulding: His Years at the Bar,” 37:67.
- ⁴ “All the ingredients of a first class race riot were boiling and brewing,” said Spaulding of the strike (James Wolfinger, “‘Liberty... That’s a lot of bunk!’: The meaning of the 1944 Philadelphia transit strike to black Philadelphia,” paper presented at the Australian Society for the Study of Labour History, Sydney, Australia, July 2005).
- ⁵ “The Judges of our Courts,” 154:173; “Services Tomorrow for Judge Spaulding,” 171 *Legal Intelligencer* (12 September 1974): 681; Clement E. Vose, “NAACP Strategy in Covenant Cases,” 6 *Western Reserve Law Review* (Winter 1955): 105-106; Theodore O. Spaulding to Roy Wilkins, 10 March 1966, John H. Bracey, Jr., et. al., eds., Papers of the NAACP: Supplement to Part 16, Board of Directors Files, 1966-1970, reel 3, frames 0820-0854, microfilm.
- ⁶ “Services Tomorrow for Judge Spaulding,” 171:681; “The Judges of our Courts,” 154:173; *Pennsylvania Manual*, (1969) 99:496.
- ⁷ “The Judges of our Courts,” 154:173; Tucker, “Judge Spaulding: His Years at the Bar,” 37:68.
- ⁸ “The Judges of our Courts,” 154:173; “Spaulding and Gilbert to take Oaths today,” 133 *Legal Intelligencer* (29 December 1955): 785.
- ⁹ Honorable J. Sydney Hoffman, “Judge Spaulding: His Years on the Bench,” 37 *The Shingle* (April 1974): 69.
- ¹⁰ Hoffman, “Judge Spaulding: His Years on the Bench,” 37:69; “The Judges of our Courts,” 154:182.
- ¹¹ “Judge Theodore Spaulding named by Governor to Superior Court,” 154 *Legal Intelligencer* (26 January 1966): 149.
- ¹² Hoffman, “Judge Spaulding: His Years on the Bench,” 37:69.
- ¹³ Theodore O. Spaulding to Roy Wilkins, 10 March 1966, John M. Morsell to Theodore Spaulding, 16 March 1966, Theodore O. Spaulding to Roy Wilkins, 18 March 1966, Bracey Jr., et. al. eds. Papers of the NAACP, reel 3, frames 0820-0854, microfilm; “Spaulding and Watkins Keep Court Seats,” *Philadelphia Inquirer*, 9 November 1966.
- ¹⁴ Hoffman, “Judge Spaulding: His Years on the Bench,” 37:69-70
- ¹⁵ Tucker, “Judge Spaulding: His Years at the Bar,” 37:67; Hoffman, “Judge Spaulding: His Years on the Bench,” 37:69.
- ¹⁶ “Theodore O. Spaulding,” *New York Times*, 12 September 1974. Regrettably, the cemetery’s management was accused of improper burial practices in 2002 (“Grave Desecration is alleged,” *Philadelphia Inquirer*, 19 July 2002, Local).
- ¹⁷ Tucker, “Judge Spaulding: His Years at the Bar,” 37:67.
- ¹⁸ John F. Morrison, “Joseph C. Spaulding, altruistic lawyer,” *Philadelphia Daily News*, 6 August 2003, Local.

THE HONORABLE JOHN B. HANNUM



*March 19, 1915 –
Assumed Office: January 1968
County: Chester*

BIOGRAPHY

John Berne Hannum served one year on the Pennsylvania Superior Court. He was a United States District Court Judge for the Eastern District of Pennsylvania for 15 years.

Hannum was born on March 19, 1915 in Chester, Pennsylvania, to John B. Hannum, Junior, and Helen C.W. Hannum.¹ His father was a district attorney for Delaware County and a senior member of the firm of Hannum, Hunter, Hannum and Hodge. His grandfather John B. Hannum was a judge of the Delaware County Orphans Court for sixteen years.² The Hannum name was well known in the county from its roots in colonial Pennsylvania and John B. Hannum probably learned early in his life about the law and a tradition of public service. His sister, Christine, was also influenced by family traditions, as she was involved during her lifetime helping to raise funds for such institutions as the Bayard Taylor Library and the Po-Mar-Lin Fire Company.³

John B. Hannum attended the Lawrenceville School, a private academy, furthered his education at Princeton University, and graduated from Franklin and Marshall College. He received his law degree in 1941 from the Dickinson School of Law. A year later he was admitted to the bar. During World War II he served as a lieutenant in the United States Naval Reserves, and in 1946 he returned to private practice in Delaware County.⁴

In 1949, Hannum joined the Philadelphia firm of Pepper, Bodine, Frick, Scheetz, and Hamilton. He remained associated with the firm for almost twenty years becoming a partner (the firm reorganized under the name of Pepper, Hamilton, and Scheetz). Hannum engrossed himself in the profession and became involved in various aspects of community life in Philadelphia. He was elected to the International Association of Insurance Counsel, serving on its standing Aviation Insurance Committee and the Financial Responsibility Committee. He joined the American Judicature Society and the Lawyer's Club of Philadelphia, while serving on the executive committee of the Philadelphia Academy of Music and becoming a member of the Fellowship Commission of Philadelphia.⁵

Hannum's residence, however, was in Chester County, and therefore he lent his support to numerous civic groups in that county and entered local politics. He was a member of the executive committee of Lincoln University and the board of managers of Chester County Hospital. He also served as a trustee not only for Widener University and the Delaware School of Law, but also for his alma mater Dickinson School of Law. Politically, Hannum was a Republican and in 1957 he chaired the Chester County Citizens for Eisenhower. He was a delegate to the Republican National Convention in 1960 and for 21 years served on the Unionville-Chaddsford School District Board. He was chairman of the Republican County Committee of Chester County and garnered the political clout necessary to earn election to the 1968 Pennsylvania Constitutional Convention. During the Convention, he was named to the Sub-Committee on Tenure of Judges, Judiciary Committee, where he served as co-chairman.⁶

In January 1968, the Senate confirmed Hannum's appointment to the Pennsylvania Superior Court. Governor Raymond P. Schafer had named Hannum to fill the vacancy caused by the resignation of President Judge Harold L. Ervin. Hannum received the endorsement

of the Philadelphia Bar Association, and the Judiciary Committee of the Pennsylvania Bar Association, whose members considered him to be “well qualified for the appointment to the Superior Court.”⁷ He served the court admirably during 1968, but in the attempt to retain his seat in the November elections, he was defeated by Allegheny County Democrat William F. Cercone. In fact in 1980, it was Cercone, then President Judge of the Superior Court, who credited Hannum among those jurists who had contributed to the development of the law in Pennsylvania. Hannum, who had helped to revamp Pennsylvania’s court system during the Constitutional Convention, never saw those changes implemented as the new Pennsylvania Constitution went into effect only a few days before he left the Superior Court in January 1969.⁸

It was not long, however, before Hannum would again serve on the bench. In March 1969, President Richard M. Nixon nominated Hannum to be a United States Judge for the Eastern District of Pennsylvania. Presumably, Hannum’s appointment was endorsed by the Philadelphia Bar Association, which as early as 1967 had recommended him for appointment to the United States District Court. The United States Senate approved the nomination in May of 1968 and Hannum was sworn in at the United States Courthouse in Philadelphia.⁹ While serving on the bench, Hannum was appointed by United States Supreme Court Chief Justice Warren Burger to the Judicial Conference Committee on the Administration of the Federal Magistrates System. Hannum also presided over a naturalization ceremony in Philadelphia and received recognition and awards from Beta Gamma Sigma (an honor society serving business programs), the Abraham Lincoln Association, and Widener University.¹⁰ His actions on the District Court, however, were “frequently controversial” according to one Philadelphia newspaper, and defense lawyers publicly criticized Hannum “for his allegedly quick temper and hostility toward criminal defendants.”¹¹ On May 29, 1984, Hannum retired from the court and assumed senior status.¹²

In December 1940, Hannum had married Nancy Penn Smith at Holy Trinity Episcopal Church in West Chester, Pennsylvania. His wife, who was born into privilege and for over fifty years was the Master of Foxhounds of Mr. Stewart’s Cheshire Foxhounds, influenced Hannum with her passion for riding and the sport of foxhunting. From 1948 to 1951, Hannum rode in four Maryland Hunt Cup races, twice

finishing second and once third, on a course which rivaled in both prestige and difficulty, the Grand National in Great Britain.¹³ He and his wife were life members of the Bryn Mawr Hound Show Association and they preserved thousands of acres of land in Chester County with conservation easements particularly to protect it from development and promote the sport of foxhunting and its traditions.¹⁴ They had three children, and their two sons, Richard Penn Smith Hannum and Joseph “Jock” B. Hannum, became members of the bar.¹⁵

¹ *Pennsylvania Manual* (1969), 99:496.

² “John B. Hannum,” *New York Times*, 16 January 1942; “Judge John B. Hannum,” *New York Times*, 21 April 1937.

³ “Christine Potter Hannum,” *Philadelphia Inquirer*, 22 August 1991.

⁴ *Pennsylvania Manual* (1969), 99:496; “John Berne Hannum,” www.fjc.gov; “John B. Hannum takes Oath as Superior Court Judge,” 158 *Legal Intelligencer*, (3 January 1968): 1201.

⁵ “John Berne Hannum,” www.fcj.gov; “Newly Elected Members of the International Association of Insurance Counsel,” 23 *Insurance Counsel Journal* (1956): 6; “Standing Committees,” 24 *idem.* (1957): 305; “Report of the Financial Responsibility Committee,” 25 *idem.* (1958): 270; “New Members of the American Judicature Society,” 45 *Journal of the American Judicature Society* (1961): 73; *Pennsylvania Manual* (1969): 99:496.

⁶ *Pennsylvania Manual* (1969): 99:496; “Judge Hannum to Receive Honorary Degree from Widener,” 174 *Legal Intelligencer* (18 May 1976): 1701; “Judge John B. Hannum takes Oath of Office to Federal Court,” 167 *Legal Intelligencer* (2 June 1969): 1433.

⁷ “John B. Hannum Takes Oath,” 158:1201.

⁸ 272 PA Sup. Ct. Reports XXXV; Jonathan P. Nase, “Pennsylvania’s Appellate Judges, 1969-1994,” *Duquesne Law Review* 33 (Spring 1995): 391.

⁹ “John Berne Hannum,” www.fjc.gov; 5 *Weekly Compilations of Presidential (Nixon) Documents* (1969): 489; “John B. Hannum Takes Oath of Office,” 1609:1443.

¹⁰ “Judge Hannum to receive Honorary Degree,” 174:1701; “Hannum to Preside at Naturalization Ceremonies Tomorrow,” 183 *idem.* (25 November 1980): 1773; <http://students.villanova.edu/betagammassigma>; www.alincolnassoci.com; Hannum and his wife Nancy Penn Smith Hannum also gave generously to Widener University (2002) Annual Report, www.widener.edu).

¹¹ Jim Smith, “Fellow U.S. Judge Says Hannum was out of Line,” *Philadelphia Daily News*, 28 September 1989, Local; Federick N. Tulsy, “U.S. Judge Rebukes 2[n]d Jurist Levels Criticism in Rankin Case,” *Philadelphia Inquirer*, 28 September 1989, Local.

¹² “John Berne Hannum,” www.fjc.gov; 20 *Weekly Compilations of Presidential (Reagan)*

Documents (1984): 929.

¹³ “Miss Nancy Penn Smith Becomes the Bride of John Hannum 3d in Church Ceremony,” *New York Times*, 22 December 1940; www.equiery.com/archives/Steeplechase/100YearsHuntCup.html. Nancy Penn Smith inherited the Brooklawn Estate in Unionville, Pennsylvania from her mother Carol Averell Harriman Smith and stepfather W. Plunkett Stewart, a well known Pennsylvania banker, president of the Master of Fox Hounds Association of America. In 2005 the Bryn Mawr Hound Show honored Nancy Penn Smith Hannum with the Julian M. Marshall Award (www.bmhoundshow.org.)

¹⁴ www.bmhoundshow.org; Nancy Petersen, “Chester land Saved from Development is Going to the Dogs,” *Philadelphia Inquirer*, 29 May 1991.

¹⁵ *Pennsylvania Manual* (1969) 99:496; “Judge Hannum to receive Honorary Degree,” 174:1701.

THE HONORABLE WILLIAM F. CERCONE

August 13, 1913 – January 2, 2005

Assumed Office: January 2, 1969

President Judge: 1979 – 1983

County: Allegheny

INDUCTION

PROCEEDINGS ON THE OCCASION OF
THE INDUCTION OF
HONORABLE WILLIAM F. CERCONE
AS A JUDGE OF THE SUPERIOR COURT
OF PENNSYLVANIA

Present: WRIGHT, P.J.; MONTGOMERY and
SPAULDING, JJ.

The proceedings at the special session of the Superior Court of Pennsylvania on January 2, 1969, were as follows:

COURT CRIER: The Honorable Judges of the Superior Court of Pennsylvania.

HONORABLE J. COLVIN WRIGHT: You may open court.

(Court opened by the Court Crier.)

PRESIDENT JUDGE WRIGHT: We have called a special session of the Superior Court this morning for the purpose of administering the oath of office to our newly elected colleague, the HONORABLE WILLIAM F. CERCONO.

Present with me are Judge MONTGOMERY and Judge SPAULDING of the Superior Court. Judges WATKINS, HOFFMAN, and JACOBS could not be present but send their congratulations and best wishes.

We are honored to have on the Bench with us on my left the Honorable HUGH C. BOYLE, President Judge of the Orphans' Court of Allegheny County, and on my right the Honorable HERBERT P. SORG of the United States District Court for the Western District of Pennsylvania.

We deeply appreciate the presence of this distinguished audience. Time does not permit recognition of each one individually; however, we do want to mention the Mayors of our two largest cities, from Philadelphia, Mayor James H. J. Tate and his wife; and from Pittsburgh, Mayor Joseph M. Barr and Mrs. Barr.

We also wish to recognize and are honored by the presence of His Excellency Bishop Nicholas T. Elko of the Greek Byzantine Church, and County Commissioner Leonard C. Staisey.

It is pleasant to be a judge of the Superior Court. Our work is challenging and our fellowship close and friendly. Although our decisions are not always unanimous, we are able to disagree without being disagreeable.

In 1953, my first year as a member of this Court, the number of appeals docketed was 543. Of this number, 291 were formally listed for argument and entered in the journal which each judge maintains. By way of contrast, in 1968 the number of appeals docketed was 1697, more than three times the number in 1953, of which over 800 were given journal numbers.

Although all appeals are given careful consideration, we no longer write an opinion in every case. Indeed, it would be physically impossible to do so. With the approval of the Bar Association, we dispose of many cases by a per curiam order of affirmance without opinion. In the event of reversal, an opinion is always written. I am happy to report that, notwithstanding our greatly increased case load, the work of the

Superior Court is completely up to date.

Judge CERCONO has been a personal friend for many years. All of you are familiar with his impressive record and his many accomplishments. I will simply say that he enjoys the respect and confidence of the Bench and Bar throughout the entire Commonwealth, and I confidently predict that he will make an outstanding contribution to our work.

Speaking for all of the members of the Superior Court, we are honored to have Judge CERCONO sit with us, and we welcome him wholeheartedly to our fellowship.

We are also happy to welcome his charming wife, Mrs. Amelia Cercone, to that wonderful circle of wives who constitute what has sometimes been referred to (facetiously of course) as the Supreme Court.

Now, if Judge CERCONO will step forward to the lectern. Raise your hand.

(Judge CERCONO did so.)

PRESIDENT JUDGE WRIGHT: You, WILLIAM F. CERCONO, duly elected and commissioned by the Governor of the Commonwealth of Pennsylvania to be a judge of the Superior Court in and for the Commonwealth of Pennsylvania, do solemnly swear that you will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that you will discharge the duties of your office with fidelity.

JUDGE WILLIAM F. CERCONO: I do, Judge WRIGHT.

PRESIDENT JUDGE WRIGHT: Judge CERCONO, will you kindly come forward and take a seat on the Bench.

(Applause.)

PRESIDENT JUDGE WRIGHT: The Court now recognizes Lieutenant William F. Cercone, Jr.

LIEUTENANT WILLIAM F. CERCONO, JR.: Honorable members of the Bench, friends, Father, and members of the family, last year I came to Pittsburgh to present my Father's commission upon his re-election to the Common Pleas Court. I was a Lieutenant Junior Grade. This year I return to Pittsburgh to appear at the swearing-in ceremony of my Father's election to the Superior Court of Pennsylvania. I come as a full Lieutenant. Next year I plan to be a Lieutenant Commander so the pressure is on Father.

Not desiring to reiterate my father's many accomplishments, which everyone here is quite aware of, and knowing full well that I am to be followed by two eminent members of the Bar, I shall take leave by extending to Father an old sailor's greeting: "Congratulations on a job well done." Thank you.

(Applause.)

PRESIDENT JUDGE WRIGHT: My attention has been called to the presence in the audience of two other persons whom it gives me a great deal of pleasure to mention: Commissioner Thomas Foerster and Miss Genevieve Blatt.

(Applause.)

PRESIDENT JUDGE WRIGHT: Now the Court will recognize the Honorable Loran L. Lewis, President of the State Association of Trial Lawyers. Trial judges, excuse me. Well, he was a good lawyer and still is. Go ahead.

(Applause.)

HONORABLE LORAN L. LEWIS: If your Honors please, it gives me great pleasure to be able to say a few words at this swearing-in ceremony of my friend and colleague, Judge WILLIAM F. CERCONE.

Perhaps it is fitting that I have been given this opportunity, because I have been intimately acquainted with Bill and the members of his family for a great many years. His uncle, the late Justice MICHAEL A. MUSMANNO (one of Pennsylvania's greatest jurists) and I were very close friends. In fact, we practically lived together for nine months during the Communist Sedition Trial in 1950. Also, his late uncle, Sam Musmanno, was not only my tipstaff, but I considered him to be one of my closest and dearest friends.

As I stand here today on this memorable occasion among Judge CERCONE'S family, his colleagues and his many friends, my mind returns to the first Monday in January, 1948—just 21 years ago. On that day in the courthouse across the street, a momentous event occurred. The first democratic district attorney in the history of Allegheny County was being sworn into office. After the ceremony, William S. Rahauser, the new District Attorney, announced his staff. He must have had a premonition of what was to come, because among his appointees were three Lieutenant Commanders and three Lieutenants from the navy; a Marine Corps Captain; two Air Force

Lieutenants; a Major, a Captain and a Lieutenant from the Army; and an assortment of noncommissioned officers and enlisted men. It is to be noted that Bill Rahausser, now Judge Rahausser, was partial to the Navy and not without where very few soldiers receive such an award. How proud both of them would be if they were here today.

In short, your honorable court is getting a new member who will grace it with dignity and possesses all those qualities necessary to be a great jurist. Thank you.

(Applause.)

PRESIDENT JUDGE WRIGHT: Since the name of District Attorney Rahausser has been mentioned, we want to call the attention of the audience to the fact that, of course, as we all know, Judge Rahausser, he and Judge Smart and a lot of the other distinguished jurists, are sitting in the courtroom. While, as I said before, we cannot mention them individually, be assured we are happy and delighted that they are here.

My attention has also been called to the fact that we are honored by the presence in the audience of Mrs. Grace Sloan, Auditor General and Treasurer elect of the Commonwealth of Pennsylvania.

(Applause.)

PRESIDENT JUDGE WRIGHT: It is a great pleasure for me personally to recognize the next speaker, the Honorable William H. Eckert, President elect of the Pennsylvania Bar Association.

(Applause.)

HONORABLE WILLIAM H. ECKERT: If the Court please: To participate in the elevation of so distinguished a jurist as the Honorable WILLIAM F. CERCONE to the renowned Superior Court of Pennsylvania is a great honor and privilege, which I deeply appreciate. Since Judge CERCONE's personal career has been sketched by his esteemed colleague, Judge Loran L. Lewis, I will address myself more to Judge CERCONE from a lawyer's viewpoint. Judge CERCONE has served for over 12 years on the Court of Common Pleas of Allegheny County. During those 12 years Judge CERCONE has distinguished himself by the quality of his judicial work and has earned the respect of the entire Bar. All lawyers were glad when they were sent to Judge CERCONE'S courtroom because they knew that there they would receive a fair and ably conducted trial. Since the Court of Common Pleas of Allegheny county sits in a metropolitan

community, Judge CERCONI has had experience presiding over a wide range of litigation, including negligence cases, contract cases, equity cases, tax appeals and an infinite variety of appeals from other administrative agencies and miscellaneous matters.

During his 12 years on the Bench, Judge CERCONI has also taken his turn in presiding over criminal trials, hearing pleas and imposing sentences in our Criminal courts. His work in the Criminal Courts has been so outstanding that it elicited special commendation from Chief Justice BELL of the Supreme Court of Pennsylvania in an address before the Pennsylvania Bar Association in 1963.

In all that wide variety of judicial work Judge CERCONI has demonstrated that he possesses all of the qualifications of a consummate judge, including exceeding ability, mature experience, sound judgment, judicial temperament, impeccable integrity, indefatigable industry, indomitable courage and uniform courtesy. His rulings during a trial are clear and firm. He disposes of cases promptly after they have been tried or argued before him and writes a clear and forceful opinion.

Judge CERCONI'S expertise as a trial judge has been so marked that he has been cited for it by the Academy of Trial Lawyers of Allegheny County.

The Pennsylvania Bar Association Judicial committee conducts a thorough investigation of all candidates for our state-wide Courts and does not recommend anyone for judicial office unless it is firmly convinced that he possesses all of the necessary judicial qualifications. After such a thorough investigation of Judge CERCONI last year, that state-wide Committee certified Judge CERCONI to be well qualified for the Superior Court of Pennsylvania.

The Bench, the Bar and the public of Allegheny County will sorely miss Judge CERCONI from their Court of Common Pleas. But this County's loss will be the State's gain, because now all the people of the great Commonwealth of Pennsylvania will have the benefit of Judge CERCONI'S judicial talents in his new position on a state-wide Court.

Judge CERCONI is eminently qualified to serve on our Superior Court. He has had vast experience with cases of the type that come before that appellate Court. Furthermore, his experience both at the Bar and on the Bench will enable him to bring both viewpoints to bear

in helping the Superior Court to decide the manifold cases that come before it for disposition.

Notwithstanding his faithful application to his judicial duties for the past dozen years, Judge CERCONE has found time to assist in many worthy civic endeavors of a wide variety. They are far too many numerous to recite in the time available here. Many of those civic organizations have honored Judge CERCONE with citations acknowledging his invaluable service to them.

The high regard in which Judge CERCONE is held not only by the local community, but nationally, for his sterling character, aside from his judicial attainments, is attested by the fact that he has been elected as the National President of the Sons of Columbus of America. He is only the fourth President which that national organization has had in its 42 year history.

We are confident, therefore, that Judge CERCONE will be a valuable addition to our Superior Court and that he will have an illustrious career as an appellate judge, just as he has had as a trial judge. Thank you.

(Applause.)

PRESIDENT JUDGE WRIGHT: Now, I think it is only fair that we call upon Judge CERCONE to defend himself.

(Standing ovation.)

HONORABLE WILLIAM F. CERCONE: I am ready for the first case.

(Laughter.)

Judge WRIGHT, my other new colleagues on the Superior Court, Judge MONTGOMERY and Judge SPAULDING, my distinguished colleagues of the courts of our County and Federal Government and friends:

This is truly a wonderful day and I am deeply grateful to each of you for your attendance this morning, especially the two great Mayors of our two cities, Mayor Tate from Philadelphia and his lovely wife, and Mayor Barr of our own great City of Pittsburgh and his lovely wife Alice.

After hearing my son Bill's remarks, and his challenge to me, I think maybe I should have been satisfied on the Court of Common Pleas. He is really a great challenge to me and a great inspiration and I was happy that he was able to come from his duties in the Navy to

participate in these proceedings.

Each of you has made this day so meaningful for me. As I look over the audience there isn't one of you who hasn't helped make this day possible. So that you are really a part of the life of Bill Cercone and I am deeply grateful that you are here.

There is one who is not here this morning and Judge Lewis alluded to that briefly—my uncle, Justice MICHAEL A. MUSMANNO, a man who dedicated himself to public service and to public problems and when he died he left a rich legacy of the true worth of life: Compassion, a high sense of responsibility, a dedication to one's task, a moral and spiritual strength and, above all, a belief in God.

I would like to think that from that heavenly abode this morning he is satisfied with what is happening here, and that each of you and all of us can contribute even more to the ideals for which he sought during his lifetime.

So I, as a judge of the Superior Court, will dedicate myself to those ideals, to make even more effort to understand the problems of the people. This is a great Court, it has a great responsibility and it has a great tradition. The judges who sit here now, excluding myself, symbolized the highest tradition of the law. Judge MONTGOMERY, our colleague from this County, Judge WRIGHT and Judge SPAULDING, Judge WATKINS and Judge HOFFMAN and Judge JACOBS carry on the work of this Court, and I only hope and pray that I may be able to live up to the high tradition of this Court and its significance to this State.

So I want to thank you for your attention and the kindness you gave to the speakers here. I want to thank Bill Eckert, the President elect of the Pennsylvania Bar Association, and my colleague Loran Lewis for their eloquent remarks and for the presence of each of you. God bless you and I wish you all a most wonderful, happy New Year and everything successful in all your endeavors. Thank you very much. (Applause.)

PRESIDENT JUDGE WRIGHT: This Court is about to adjourn but we wish to announce that immediately following the adjournment Judge CERCONO and Mrs. Cercone will stand in front of the lectern and I am sure will be happy to have you pass before them and extend your felicitations.

COURT CRIER: Court is now adjourned.

PRESIDENT JUDGE INDUCTION**PROCEEDINGS ON THE OCCASION OF
THE INDUCTION OF
HONORABLE WILLIAM F. CERCONO
AS PRESIDENT JUDGE OF THE SUPERIOR COURT
OF PENNSYLVANIA**

*January 2, 1979
Pittsburgh, Pennsylvania*

Court was convened in Special Sessions with the Honorable
Michael J. Eagen, Chief Justice of the Supreme
Court Of Pennsylvania, presiding.

HONORABLE J. SYDNEY HOFFMAN: Reverend clergy, the Chief Justice of Pennsylvania, members of the Supreme Court, members of the Superior Court, Judge Cercone, the members of the Circuit Court, the members of the Common Pleas Court, the members of other courts who are here today, the friends and family of Judge Cercone, it has often been stated that those who are present at great events are unable to recognize the significance of that which they witness because of the very immediacy of the occurrence.

It is only with a perspective ordered by time and distance that one may begin to appreciate that he has observed and perhaps even participated in some small measure in an event of major importance.

We are here today to bear witness to the administration of the oath of office to the next President Judge of the Superior Court of Pennsylvania. I predict in the years to come many will recognize that this was indeed a momentous day, one that heralded the events of a new progressive era for our judicial system, for on this day there will be brought into a close working relationship the principal participants in the ceremony, the Chief Justice of Pennsylvania Michael J. Eagen who will preside at these ceremonies and the President Judge of the Superior Court of Pennsylvania, William F. Cercone, who is about to assume this important role.

It is, of course, a great honor to have the Chief Justice at these ceremonies. I am particularly touched by his presence, for the Chief

Justice has been a warm intimate friend of mine for more than forty years, and during this period we have enjoyed many encounters and many meetings in both the political and judicial world. As I think back over those years, because I realize that our Chief Justice is no ordinary man, I can state with absolute conviction that the multitude of his accomplishments in years past are significant yet they may have already been overshadowed by the many improvements instituted by him in his short tenure as Chief Justice of Pennsylvania.

In the two years of his stewardship, he has demonstrated a grasp of an approach to the administration of problems of a most complex nature. More importantly he has attacked these problems with courage and daring, imagination and innovation. Under his direction the Supreme Court has expedited the hearings of arguments and of filing of opinions. For the first time in several decades the procedures of the Supreme Court are not only fair, but also a swift administration of justice.

His activities, however, have not been limited to his own court, for as Chief Justice he is responsible for the entire judicial system of this Commonwealth. He has insisted upon the modernization of court procedures, upon court efficiency, upon sound management techniques and perhaps even most importantly upon the highest degree of competence, dedication and concern for all who serve within the court system.

Perhaps the best illustration of Mr. Chief Justice Eagen's achievements in his reorganization of the Superior Court. He recognized that our court carried the heaviest caseload per judge of any appellate court in the United States, and that it could no longer sit as a seven-judge en banc court.

In an order handed down on May 9, 1978, Mr. Justice Eagen mandated the establishment of three three-judge panels among it and used the services of senior judges from both trial and appellate levels. These changes, which altered procedures in effect for more than eighty years, were accomplished under his supervision efficiently and with a minimum of disruption; and while many expressed skepticism concerning his course of action, only four months after its inception there was virtual unanimity concerning its success. In short, Chief Justice Eagen has attacked the problems of the entire court system with an enthusiasm and vigor which have already resulted in its complete

revitalization.

It is a happy coincidence, and certainly adds to the excitement of this day, that Chief Justice Eagen was a colleague and friend of the revered and sainted Justice Michael Musmanno, an uncle of Judge William Cercone. Justice Musmanno's brilliant and scholarly opinions opened many vistas in numerous areas of the law throughout the United States. Judge Cercone, whom I count among my very closest friends, has demonstrated both as a trial and appellate judge many of these same qualities and characteristics of his illustrious uncle. He is dynamic, he is scholarly and brilliant and one of the kindly, friendliest, most amiable persons I have ever known.

I know that the Chief Justice is as excited as I am in anticipating the ascension of Judge Cercone to the President Judgeship. There is no better person qualified to assume the awesome responsibility of overseeing and directing the court in its transitional stage.

Judge Cercone follows in the footsteps of many great predecessors and will certainly add luster to the representation of the court. It is most encouraging at a time when the courts have been subject to much scrutiny, and many times, unfounded and unwarranted attacks that Chief Justice Eagen and President Judge Cercone will be working in concert. These inspired leaders, with their understanding, their decisiveness and experience, wisdom, sound judgment and common sense, will unquestionably provide a new standard of appellate excellence.

Now, I have the great honor and privilege to present to all of you the Chief Justice of Pennsylvania, Mr. Justice, Mr. Chief Justice Michael J. Eagen. (Applause.)

CHIEF JUSTICE MICHAEL J. EAGEN: Thank you. Judge Hoffman, I am glad I am sitting down after that address.

This special session of the Superior Court of the Commonwealth of Pennsylvania is now in session. We will begin with an invocation given by the Reverend Father Andrew Chura, pastor of the Holy Ghost Byzantine Catholic Church.

(Invocation by Father Andrew Chura.)

CHIEF JUSTICE EAGEN: The Court now recognizes the Honorable I. Martin Wekselman, judge of the Court of Common Pleas of Allegheny County. Judge Wekselman.

HONORABLE I. MARTIN WEKSELMAN: May it please the

Court, Chief Justice Eagen, Justices, Judges:

I am honored to have the privilege of representing the Court of Common Pleas of Allegheny County, on which bench Judge Cercone served with distinction from the time of his appointment in 1956 until he was sworn in as the judge of the Superior Court in January of 1969.

Those of us who are scheduled to speak here have agreed to discuss separate phases of Judge Cercone's career since no one could really do it justice in one presentation. Therefore, I will limit my remarks to his serviced on the bench of the Court of Common Pleas and to some very special reasons why I am pleased to participate in this ceremony.

I have a great deal of biographical information on Judge Cercone, and those who follow me will spend a great deal of time discussing his background. They will discuss his education, his service in the armed forces, his distinguished career at the Bar in both private and public sectors of that calling. They will discuss his dedicated service on the bench for the past twenty-two years and make perfectly safe predictions with respect to his stewardship of the Superior Court in the years to come. They will discuss his pedigree, he being a member of a distinguished family of lawyers and judges.

Ten years ago today, January 2, 1969, when William F. Cercone was sworn in as the Judge of the Superior Court, William H. Eckert, a distinguished member of the Bar said some things about Judge Cercone. I am sure that Bill Eckert will not object to my borrowing a portion of his remarks which succinctly state the high regard in which Bill Cercone was held when he sat on the Common Pleas bench.

He stated the following and I quote:

"Judge Cercone has served for over twelve years on the Court of Common Pleas of Allegheny County. During those twelve years Judge Cercone has distinguished himself by the quality of his judicial work and has earned the respect of the entire Bar. All lawyers were glad when they were sent to Judge Cercone's courtroom because they knew that there they would receive a fair and ably conducted trial. Since the Court of Common Pleas of Allegheny County sits in a metropolitan community, Judge Cercone has had experience presiding over a wide range of litigation, including negligence cases, contract cases, equity cases, tax appeals and an infinite variety of appeals from other administrative agencies and miscellaneous matters.

During his twelve years on the Bench, Judge Cercone has also taken

his turn in presiding over criminal trials, hearing pleas and imposing sentences in our Criminal Courts. His work in the Criminal Courts has been so outstanding that it elicited special commendation from Chief Justice Bell of the Supreme Court of Pennsylvania in an address before the Pennsylvania Bar Association in 1963.

In all that wide variety of judicial work, Judge Cercone has demonstrated that he possesses all of the qualifications of a consummate judge, including exceeding ability, mature experience, sound judgment, judicial temperament, impeccable integrity, indefatigable industry, indomitable courage and uniform courtesy. His rulings during the trial are clear and firm. He disposes of cases promptly after they have been tried or argued before him and writes a clear and forceful opinion.

Judge Cercone's expertise as a trial judge has been so marked that he has been cited for it by the Academy of Trial Lawyers of Allegheny County.

I, too, had the pleasure of practicing law during the last ten years of Judge Cercone's tenure in the Court of Common Pleas and I and all the lawyers who appeared before him are in full agreement with Bill Eckert's remarks.

I now turn to certain of the activities of Judge Cercone which have doubly endeared him to me. It may not be well known to members of this audience that Judge Cercone has been active and immeasurably helpful in areas which, although they are of general concern to people, are of peculiar and particular concern to the American Jewish Community. Throughout his very busy career as a lawyer and judge, he has found time to be active in other organizations which are a natural part of his religious and ethnic heritage; he has also found time to participate in worthy projects which are of more intimate concern to his brethren of entirely disparate religious and ethnic backgrounds.

Although I have been active for years in the Pittsburgh Council for Soviet Jewry, I have never found the time nor the energy to travel to the Soviet Union in an attempt to be of help. Bill Cercone has. Bill Cercone has met and talked with Anatoly Shcharansky and has given generously of his time to appear at meeting and discuss with interested members of the community the problem which he viewed first-hand.

Bill Cercone has for years been one of the strongest supporters of Histadrut, the Israeli Labor Movement, and has worked tirelessly to

make possible the creation and erection of many projects in the State of Israel which benefits the citizens of that state, both Jewish and Arab. In 1961, Judge Cercone was invited to Israel to participate in the dedication of an athletic complex erected and dedicated to the late Judge Sammy Weiss, who was for many years his friend and colleague.

He has been one of the principal mainstays of the Jewish National Fund which has devoted itself to the reclamation of the barren wastes of the Middle East and to the literal flowering of the desert. It is very easy for people to be sympathetic to worthy causes. It is much more difficult for them to roll up their sleeves and pitch in and help.

All of us here know of Judge Cercone's competence in the calling which he has made his life's work, and we have had good reason for being confident that his tenure as President Judge of the Superior court will produce great benefits for our system of justice. Lawyers and litigants in Pennsylvania cannot help but benefit from his industry, temperament and knowledge of the law. And isn't it wonderful to know that we will have serving in such an important position in our system of justice a man who is not only a great lawyer and a great judge, but who is, in addition, a warm, aware and interested human being who gives of himself in the interest of justice throughout the world, one who does not limit himself to contending with the seemingly impossible work load of the Superior Court—although that should be more than enough for any person—but one who finds time in addition to concern himself with the affairs of men, even those who do not appear before him.

On behalf of myself, and on behalf of my brothers and sisters of the Bench of this county, I wish Judge Cercone a long and happy tenure as President Judge of the Superior Court and I bring to him the sincere congratulations and best wishes of the innumerable people whose lives he has touched over the many years of his distinguished public and private life. Thank you. (Applause.)

CHIEF JUSTICE EAGEN: The Court now recognizes John M. Feeney, Esquire, President of the Allegheny County Bar Association.

JOHN M. FEENEY, ESQUIRE: Mr. Chief Justice Eagen, Judge Hoffman and other distinguished members of the Supreme Court, Superior Court, Commonwealth Court, United States Court of Appeals from the Third Circuit and many of the Courts of Common Pleas judges that are in the audience, Judge Cercone, his lovely wife Millie and friends of the family of Judge Cercone and fellow-members

of the Bar:

My talk was originally entitled welcome, and I had thought maybe it had been overlooked, and I decided to change it to a farewell, but I guess it is still early enough to welcome, and it is my very pleasant task also to note from the program to extend a sincere welcome from all of us, especially those who have journeyed west of the Alleghenies to the works of the Ohio to be present at the ceremony honoring Judge Cercone at his becoming the President Judge of the Superior Court of Pennsylvania.

We, from the Pittsburgh area and the Allegheny County Bar Association, are justly proud of our friend, fellow-member of the Bar, Judge Cercone, on achieving this distinction.

Western Pennsylvania has had a rich, cultural heritage and its citizens have contributed substantially to the historical development of this Commonwealth and to the nation.

The Supreme Court of Pennsylvania lists five of its seven judges from Western Pennsylvania, four from the Pittsburgh area and one, Justice Roberts, from Erie; the Superior Court lists four of its seven judges from the Allegheny County Bar Association in Pittsburgh; Commonwealth Court has three out of nine from the Pittsburgh area; and this is also evident in the state government.

We are proud of men and women who have achieved high office in the appellate court systems so that in reality when we honor Judge Cercone, we honor ourselves.

Judge Cercone takes over as President Judge of the Superior Court in a time of transition. Judge Hoffman talked about a crisis in the appellate court systems generally and in particular the Superior Court resulting from an enormous increase in the number of appellate cases to the point where the work load partially paralyzes the limitations of any seven judges, regardless of how devoted they are to their duties.

We are fortunate that in the difficult years ahead that Judge Cercone is presiding over the Superior Court with his wealth of experience in public life and his twenty-two years as a trial and appellate judge. Judge Cercone, we, your friends and fellow-members of the Bar Association, stand ready at any time to assist you and the Superior Court as we stand ready to assist all of the courts, and we hope that you will call upon us at any time that you see fit.

Thank you very much. (Applause.)

CHIEF JUSTICE EAGEN: The Court now recognizes a distinguished member of the Bar of Allegheny County, Alexander Unkovic, Esquire, who is former President of the Allegheny County Bar Association and the former President of the Pennsylvania Bar Association and a man who has served the courts in many capacities in a very honorable and excellent fashion. Mr. Unkovic.

ALEXANDER UNKOVIC, ESQUIRE: Chief Justice Eagen, other distinguished jurists, Father Chura, Mayor Caliguiri and other civic leaders who are here, and the family and friends of Judge Cercone:

It is with a feeling of deep satisfaction that I have an opportunity today to help in the honoring of a great and well-known citizen of this community in his elevation to the President Judgeship of the Superior Court of Pennsylvania.

Coincidentally as to dates, Bill, you may not remember, but it was twenty years ago today on January 2nd, 1959 that my wife Joan and our children and I had the good fortune to move into a developing community on the old Martin Farm in Ross Township and to have as our next-door neighbors Judge Cercone and his magnificent family. It has been one of the pleasures of our life to have enjoyed that relationship over the last twenty years.

Although my remarks will not be guided particularly toward the judge's great success in the legal field, nevertheless I do remember with humility an equity case that he and I tried together many years ago, and in which I was the vanquished and, Bill, you were the victor.

If I had to categorize the life of William F. Cercone in a simple phrase I would call him an unwavering patriot. He was raised in Stowe Township and he was one of four children and he had attended the local elementary school.

Bill, as he was known in those days, worked hard not only as a student, but also in extracurricular activities. He deservedly earned the name of "Five Yard Cercone" when he was a fullback on the high school football team, although he weighed only 155 pounds. Those were the days of the 60-minute football player playing both offense and defense and Bill earned in high school a reputation of durability. His natural athletic ability was not limited to football as he was a second baseman on the high school baseball team.

He also found time, as many did in those days, to become a halfback on the local sandlot team, and that team was the Sunny Boys

Sandlot Football Team and there, despite his reputation for durability, he suffered a broken jaw and his food intake was limited to milk shakes for six weeks.

In high school, however, his activities were not limited to sports. He was an excellent scholar and was a member of the Varsity Debating Team. Upon graduation for high school he registered as a paralegal student at the University of Pittsburgh. He concentrated his efforts on scholastic activity; however, he continued his forensic activities as a member of the well-known University of Pittsburgh Debating Team.

Like many of us in the thirties, he was a street car student, taking the long trek from an outlying community to Oakland.

In 1936, he received his college degree from the University of Pittsburgh and was married during that year. Then during the evenings he became a Duquesne University law school student where he finished in 1941.

During the day he did surveying and transit work for several engineers and somewhere during each 24-hour period found time for his studies and his family.

In 1941, Judge Cercone was elected a member of the Board of Education of the Stowe Township School Board and thereafter became President of that board which he served for six years; and in the early 1940's, although he was exempt because of his marital and family status, he nevertheless volunteered for service in the United States Navy and became a member of the amphibious forces and served in the Pacific. He served on the LSM as a communication officer. Those were the ships that many of you will remember landed men and tanks on countless islands in the Pacific.

Upon returning from service in 1946, he resumed his practice and shortly thereafter William Rahauser, now our distinguished Judge Rahauser, who was then newly-elected District Attorney, invited him to become an Assistant District Attorney.

Judge Cercone entered into his duties with enthusiasm, industry and intelligence. He handled the Steve Nelson trial, one of the most famous trials of the 1940's. He participated as a prosecutor in a large number of murder trials and was the District Attorney in charge of the Grand Jury for a year and a half.

His skillfulness as a trial lawyer became recognized not only locally but statewide and nationally.

Judge Cercone, throughout his lifetime, has given of himself not only as a lawyer and a judge but also in causes aiding the alleviation of the many ills that mankind suffers.

Not the least of his activities was his great effort in raising funds through the Old Newsboy program for Children's Hospital. He was a member of the Board of Directors of Alliance College in Cambridge Springs, Pennsylvania. He is currently serving as the national President of the Sons of Columbus, an organization with 50,000 participants, and is a member of the Italian Sons and Daughters of America and the Sons of Italy. He has been active in the Ukranian drive for freedom from the Soviet Union.

Judge Cercone, debating in earlier years, formed the groundwork for his great ability as an orator. He has been constantly called upon to speak before veteran, religious and community groups of all types.

Many honors were bestowed upon him. The American Legion gave him an award for his fight against Communism and his prosecution of Steve Nelson who was found guilty of sedition. He received a local award from the Veterans of Foreign Wars, not only for his fight against Communism, but for his service in the past. He received a Catholic War Veterans man of the Year award for his relentless fight against Communism and for his continual battle against pornography.

Judge Cercone, your life has been in the greatest tradition of a citizen of this favored of all countries. You have given of yourself to the betterment of the cause of humanity and have worked hard and productively in advancing the legal profession and the judiciary in this great Commonwealth. We are happy with your ascendancy to the President Judgeship of the Superior Court of Pennsylvania and know that you, by your efforts, will bring greater honors to that position in the years to come. I thank you. (Applause.)

CHIEF JUSTICE EAGEN: The Court now recognizes a distinguished leader and member of the Bar from Philadelphia who is President of the Pennsylvania Bar Association, Louis J. Goffman, Esquire.

LOUIS J. GOFFMAN, ESQ.: Mr. Chief Justice, other distinguished jurists, guests and friends of Judge Cercone, may it please the Court:

Prior to 1968 when he was a candidate, or 1969 when he joined the

courts, I did not have the honor or pleasure of knowing Judge Cercone personally. I had heard of some of his professional achievements and personal achievements, many of which have been recounted this morning.

I said 1968 or 1969 because I am not certain whether our first meeting was before the November 1968 election or earlier in January at the Chancellor's reception when I took that office at the Philadelphia Bar Association, but I am certain that I had the good fortune upon that occasion, whichever it was, to meet Millie Cercone also. The warmth and charm of these two people struck me immediately and we have developed a friendship that I cherish and look forward to enjoying for many years to come.

I have the honor of appearing here today as President of the Pennsylvania Bar Association to join the Court and the citizens of Pennsylvania in welcoming Judge Cercone to his new post as President Judge of this Court. Though he has achieved that position constitutionally by reason of his seniority, he, nevertheless, meets fully the test that has been applied as a job specification which emphasizes interest in judicial administration as such, acquaintance with that subject and the willingness to devote time and effort to the administrative tasks.

One of my predecessors as President of the Association, William H. Eckert of Pittsburgh, put it well exactly ten years ago as Judge Wekselman said when he spoke of Judge Cercone's elevation in this court, to use his words. You have heard Judge Wekselman quote from Bill Eckert's comments on that day.

With that launching of his career on this court I thought it would be interesting to see how he took to the water. You will note that the Cercone family's Navy activities have influenced my choice of words.

I made a study of Volume 214, Pennsylvania Superior Court Reports which covered the beginning of 1969 and this is what I found:

What developed in the ensuing ten years was an appellate jurist whose multifacet judicial personality is reflected in his published opinions.

In the *Salvadore* decisions, landmarks of the area of product liability, his opinions illustrate his efforts to keep the law progressive in the strictest jurisprudential sense of that term. In numerous opinions he demonstrated his profound concern for every litigant and unstinting

effort to cure their injuries so they would not go uncompensated, a value nurtured by the tremendous influence of the life and career of his illustrious uncle, the late Justice Michael A. Musmanno.

This was reflected in *Hamil v. Bashline*, 243 Pa.Super. 227, 364 A.2d 1366, an important malpractice case. Judge Cercone's dissenting opinion there, which the Supreme Court followed in substantial part on appeal, is an eloquent example of his commitment to the vitality of the law and the role of the judiciary in molding it and directing it to fit a complex and ever-changing society.

He has been most sensitive to human rights and the protection of Constitutional guarantees without infringing on the proper procedures of law enforcement as in *Commonwealth v. Jackson*. He has tremendous liberality of thought and zealotry in the protection of the defenseless who could not help themselves.

He is equally at home with the subtleties of civil procedure and the heart-wrenching reality of domestic relations.

Your new position and added duties, Judge Cercone, impose on you burdens that go beyond the decision of difficult legal disputes. Complaints will fall on your shoulders, criticism of this court as well as our appellate courts has come from many sources, some are justified, many are not, but sufficient emphasis has been given to the principles because of the complaints.

I must quote from two recent reports dealing with the Pennsylvania appellate courts, one by our association's special committee and the other by the American Judicature Society Study Commission by the Supreme Court.

Our report said even the most cursory glance reveals that Pennsylvania is asking its Superior Court judges to shoulder a virtually impossible caseload, well out of line with the expectation other states have for their judges.

The Judicature Society said one, if not the major difficulty with the Pennsylvania system has been the reliance upon the Superior Court as the principal intermediate appellate court of the Commonwealth. While limiting its membership to seven members, it is humanly impossible for seven persons, no matter how able, to perform this task as it is evidenced by the fact that other states of similar size have far more intermediate appellate judges than Pennsylvania. Ohio, for example, has 28; Illinois, 34; New Jersey, 22; Missouri, 24; Florida, 28

and Michigan, 18.

That situation must be corrected and the wheels are now in motion. The Constitutional Amendment required to remove the seven-judge limit for this court, has already passed the General Assembly once. We are bending every effort to have the required second approval of this noncontroversial Act completed this month so that it may be put before the voters in the spring. We are calling on the legislative leaders and on the Governor-elect to help accomplish this for the citizens of Pennsylvania so that the public legal matters before the appellate courts can be disposed of promptly.

Judge Cercone, the Bar of Pennsylvania wishes you a happy and productive administration as President Judge. We pledge our support and cooperation. We promise to work closely with you and to the extent appropriate call to your attention and [push you] to adopt steps that will help you achieve the high standards and goals we know you will set. (Applause.)

CHIEF JUSTICE EAGEN: I hope you have noted the occasion this morning is honored by the presence of many distinguished jurists. Their appearance here this morning is indicative of the importance of this occasion; and, above and beyond that, it also indicates a high esteem in which Judge Cercone is held by his judicial colleagues.

And now, with your indulgence and please without applause until after everyone is introduced, I would just like to introduce to you briefly the members of the bench and judiciary who have honored this occasion by their presence. They are members of the federal courts and state courts here on the bench.

May I first introduce Judge Spaeth of the Superior Court to my far right; Judge Price of the Pennsylvania Superior Court, on my left Judge Hoffman, of course, you heard from before, Judge Van der Voort of the Superior Court, Judge Hester of the Superior Court and Judge Wieand of the Superior Court.

And then immediately to our rear here we have the Honorable Joseph Weis, Jr., of the Third Circuit Federal Court; Judge Ruggero Aldisert of the Third Circuit Federal Court.

We have the Honorable Harry M. Montgomery, Senior Judge of the Superior Court of Pennsylvania.

We have the Honorable Thomas W. Pomeroy, who served well as a member of the Supreme Court of Pennsylvania for the last eight

years.

We have my distinguished colleague the Honorable Samuel Roberts of the Supreme Court.

We have the Honorable John A. MacPhail of the Commonwealth Court; the Honorable David W. Craig of the Commonwealth Court; and the Honorable Richard DiSalle of the Commonwealth Court.

Please acknowledge their presence. (Applause.)

CHIEF JUSTICE EAGEN: We now come to the pivotal part of this ceremony, the administration of the oath of office.

Before the oath is administered, we will recognize the son of Judge Cercone who will present the Governor's certification designating his father as the new President Judge of the Superior Court.

WILLIAM F. CERCONE, JR., ESQ.: May it please the Court, I would like the record to reflect that this is the first time I have appeared before the Court without my father leaving. I never knew if he left because he knew me or because my arguments were so bad. Today he is not leaving.

In the name and by authority of the Commonwealth of Pennsylvania, Governor's Office, to William Franklin Cercone of the County of Allegheny in the Commonwealth of Pennsylvania:

Greetings: Whereas a vacancy has occurred to the office of President Judge of Superior Court of Pennsylvania by reason of retirement of the Honorable Robert Lee Jacobs, effective on the first Monday of January, one thousand nine hundred seventy-nine, and whereas it appears by the record in the Office of the Secretary of the Commonwealth that you shall be the judge longest in continuous service, and by virtue of the provision of the Constitution of this Commonwealth you will be entitled to hold the office of President Judge of the Superior Court of Pennsylvania for the remainder of the term to which you were elected and commissioned.

Therefore, know ye that in conformity to the provisions of the Constitution and laws of the said Commonwealth in such case made and provided I do by these presence commission you, William Franklin Cercone, to be President Judge of the Superior Court of Pennsylvania to have and to hold the said office until the first Monday of January, one thousand nine hundred and eighty, that being then the expiration of your term of office if you shall so long behave yourself well.

This Commission to take effect on the first Monday of January,

one thousand nine hundred and seventy-nine.

Given under my hand and great seal of the state at the city of Harrisburg, this 29th day of December, the year of our Lord one thousand nine hundred and seventy-eight and of the Commonwealth the two hundred and third.

Signed by the Governor, Milton J. Shapp and the Secretary of the Commonwealth, Barton A. Fields.

Congratulations, dad. (Applause.)

CHIEF JUSTICE EAGEN: It is now my very pleasant privilege to administer the oath of office.

Will everyone please stand.

(Oath administered by Honorable Michael J. Eagen, Chief Justice, Pennsylvania Supreme Court.)

CHIEF JUSTICE EAGEN: Old friends of Judge Cercone, needless to say, I am extremely pleased and happy to sit in session with the Superior Court of this eventful day. It is an occasion of great joy for all of us, Judge Cercone, but it is also a very important day to the people of Pennsylvania and to the administration of justice in this Commonwealth.

Since the adoption of the 1968 Constitution, this Commonwealth enjoys an integrated or unified court system. In that system we have three courts of review or appellate courts, one of these, the Superior Court, was established in 1895 by an Act of the Legislature and in 1968 it was given Constitutional dimension.

Because of its jurisdiction and the nature of its jurisdiction, the Superior Court probably touches the lives of the people of Pennsylvania in a more intimate way than either of the other two appellate courts. Unfortunately, because of its limited personnel, and its ever-increasing caseload, the ability of the members of the Court to perform in a manner of which they are capable has been severely taxed in recent years. To meet this problem, and to improve the quality of appellate review of the entire Pennsylvania system, a dramatic change in the jurisdictional structure and the functioning of the appellate courts in Pennsylvania is now under study, and preferably will result in a plan which will be implemented before many months pass.

The Superior Court will have a most important part in this new plan, and, in fact, its role may even be gruesome; hence, it is obvious that the leadership of the Superior Court takes on an awesome new

dimension at such a time and assumes great significance.

Since it came into existence in 1895 the Superior Court has had eleven presiding jurists, or President Judges, and all have served with great distinction. We witness today the induction of the twelfth President Judge of the Superior Court of Pennsylvania. The challenge the new President Judge faces will require the ultimate in learning, imagination and judgment. Judge Cercone has the tools to meet this challenge, and I am extremely confident that he will answer and respond to this challenge to the fullest and not only perform in an excellent, admirable manner, but he will enjoy doing it.

Ladies and gentlemen, I can't tell you how pleased I am to present to you the twelfth and new President Judge of the Superior Court of Pennsylvania, the Honorable William F. Cercone. (Applause.)

PRESIDENT JUDGE WILLIAM F. CERCONE: Thank you very much, Mr. Chief Justice.

Mr. Chief Justice, my colleagues, friends and family members.

It is a great honor for my family and me and at the same time it is an historic event for Allegheny County because I am the first judge born in Allegheny County to become President Judge of this great court, and I want to share that honor with the people of Allegheny county and through them with all of the people of Pennsylvania.

It is nice at the beginning of the year to hear so many complimentary remarks made about us. The danger that exists when someone listens to the various praises sung about him is that he might start believing some of it. But the responsibilities of this office quickly bring me back to the world of reality.

The responsibility does bring various problems and I am thinking of the mother who was having trouble getting her son to go to school one morning. She said, "Son, you just must get to school."

He said, "I am not going to school. The teacher doesn't like me, the students don't like me, the janitor doesn't like me and even the bus driver doesn't like me."

She said, "I don't care, you are going to school if I have to drive you there myself. After all, you are the principal." (Laughter.)

You know, responsibility does bring certain problems, so if I don't show up some morning it will be some intimation to my colleagues what the problem is.

I have had the great honor this morning of being sworn in by one

of the ablest and most highly-respected jurists in the land and one of the most wonderful gentlemen I have ever known, the Chief Justice of the Supreme Court of Pennsylvania, Mr. Chief Justice Michael J. Eagen. He came all the way from the northern climes of Scranton to be with us this morning and to participate here and it has been a great honor for all of us that he is present. Mr. Chief Justice, I certainly am grateful for your presence this morning.

I am happy to have so many of my friends here whose encouragement and support have always been with me down through the years since we first knew each other. I have been a judge twenty-three years and even before that many of you have touched upon my life.

Of course, I am pleased by the love and affection and support of each member of my family, my wife Millie and my children whom the Chief Justice will introduce a little later, my brother and sisters and relatives—the family support without which, of course, no man or woman could become so active in public life.

It is hard to believe that in ten years the men with whom I first began serving are either now retired or are deceased. The first President Judge I knew was a brilliant man, Judge J. Colvin Wright of Bedford, he is now deceased; Judge Theodore Spaulding was a most scholarly, warm-hearted and kind man who made it a joy to be on the court with him. He is also deceased.

Happily, the remaining members of that court are with us, and they are all ably dedicated men of the law; Judge Hoffman who is here and who has so richly contributed to the work of the court and who inspires us all with his opinions and innovative judgments; Judge Montgomery, our hometown product, whose wisdom and understanding and knowledge of the law were always a support to everyone on the court; Judge Jacobs, my immediate predecessor, whose guidance and counsel we depended on so much, was an excellent judge on our court; Judge Watkins, a former President Judge of this court, an outstanding judge, whose opinions were clear and concise, who was able to get right down to the essence of the case and clarify much of it for us so many times, is with us on the court; Judge Packel, Israel Packel, who went on to be Justice of the Supreme Court of Pennsylvania and then later Attorney General of Pennsylvania, was a fine addition to our court. He is a fine legal scholar with whom I enjoyed working.

Today I have the joy of serving with my present colleagues who are

equally able and dedicated in the law. You know most of them well, because the majority of the members of our court are now from Pittsburgh. These colleagues of mine will be greatly instrumental in accomplishing the work that faces us as individual judges and as a court and about which the Chief Justice spoke. I am not going to take up too much time this morning, but just to tell you that this court was established in 1895 with seven judges and we still have only seven active judges. During that time the work of the court has increased tremendously. It is impossible to do the work we have in 1979 with the same judicial manpower of 1895. The Superior Court must have a Constitutional change so to bring about the enlargement of the court. The matter will come before the people of Pennsylvania at election time.

I hope by that time that sufficient information, in-depth information, will get to the people so they can make an intelligent judgment on the subject. I think once they understand what a tremendous burden this court has I don't think any fair-minded citizen would, if any way, hesitate to approve a Constitutional amendment in enlarging the Superior Court. The trouble is that when you have a state so big and the time is so short it is so difficult to get the entire information before the public. We are hoping that the news media will do that for us.

Under a recent order of the Supreme Court last Fall—up until that time we sat as a court en banc—the seven of us sat at one time listening to arguments of cases. We now sit in panels. Three judges to a panel. That certainly doesn't solve all our problems by any means, but it has some advantages.

I suppose you are wondering what do the judges and the President Judge of the Superior Court do. Well, the Superior Court is an appellate court which hears the civil and criminal appeals from the Common Pleas Courts of the fifty-nine districts of the sixty-seven counties.

We hear practically every type of problem that has an impact on the life of the community—all the family problems, the divorces, the support, the custody of children, the criminal cases except the murder trials and the civil cases encompassing a wide range of problems.

There is one thing about an appellate court that is not always fully understood by our average citizen. An appellate court does not decide the guilt or innocence of a person in a criminal case. Our function, and

a very important one, is to determine whether an accused has had a fair trial. After we read and study the record, if we find that the accused had a fair trial, then the verdict is upheld. If we find that for some legally sufficient reason, properly brought before us, that the accused has not had a fair trial, we order a new trial.

There is only one time we can discharge a man and that is when he has been deprived of a speedy trial. Then we say no matter what the charge is against him, the Commonwealth delayed too long in bringing his case to trial, and by reason of that, the accused no longer has to stand trial.

In the civil cases, however, we do have the power to overturn verdicts. We can overturn verdicts if, after reading the record, we find that the verdict is against the weight of the evidence or against the law, or the court erred if those issues are properly brought before us.

The President Judge has several functions. One function he has is to represent the Court in transactions with the other two branches of government.

The President Judge is asked to take part in ceremonial affairs around the state, but his most important function is to assign cases for opinion-writing to the various panels of judges. That is the greatest and most important function of the President Judge. He must also keep an up-to-date record of the Court's work.

I want to express my deep gratitude once again for your presence. I want to express my gratitude to Father Chura for the beautiful invocation and to Rabbi Landes who will close the meeting this morning with a prayer, to Jack Feeney, thank you very much, Judge Wekselman, Judge Hoffman, Alex, my great neighbor, and to my son, William for his presentation; and Jack, express my deep appreciation to that dynamic executive-director of the Bar Association, Jim Smith, and the members of the Bar who made these ceremonies possible and made possible these arrangements this morning and to my colleagues for their kindness in coming here.

You run into trouble when you begin introducing people in the audience because sure enough you are going to miss somebody, but I do want to acknowledge those who we do know are here, at least we have information about their being here.

I want to introduce them to you, these are all Judges and officers of either the city or the county, people who are concerned with the problems that we have which we face as individuals and as a

community.

It is my great pride to introduce, first, the Mayor of the great city of Pittsburgh, Mayor Caligiuri. It is nice to have you. (Applause.)

If you will hold your applause I will introduce all the rest, Judge Brosky, the Presiding Judge of the Family Division, Judge Papadakos, Judge Harper, Judge Tamilia, Judge Dauer, Judge Grigsby. We have our City councilmen, the President of Council Mr. DiPasquale, the Controller Mr. Joyce, Judge Sheib. We have the Chairman of the Board of County Commissioners, Jim Flaherty. I want to thank you, Jim, for arranging the public address system this morning and having your workmen get this room in proper order.

Judge Schwartz, Judge Ridge, Judge McGregor, Judge Del Sole, Judge Wekselman, of course, Judge Colbert, Judge Popovich, Sheriff Coon, the District Attorney, Mr. Colville, Councilman Bob Stone, Councilman Jim Bulls and Dr. Ed Cook, I saw him there, and Dr. Cyril Wecht, the Coroner of Allegheny County.

We have with us the Honorable Rita Kane, the Register of Wills of Allegheny county, and Sophie Mazloff, City Councilwoman.

Let me extend to you again on behalf of my family most happy wishes for the coming year. Thank you very much. (Applause.)

CHIEF JUSTICE EAGEN: May I present Judge Cercone's family to you, first Mrs. Amelia Cercone, his wife; his son Bill, Jr., and his wife Susan; daughter Dr. Marilyn Shaffer, Professor in Child Psychology at Hartford University in Connecticut; daughters, Mrs. Patty Klein, Diane Cercone, both graduates of Penn State, son David Cercone who is in high school and we have stepsons and spouses—pardon me, I shouldn't forget this, this is a very favorite name of mine, Miss Michele Cercone, a daughter and a freshman also in high school.

Now, we have some stepsons and their wives, Paul and his wife Louise. John, a teacher, and his wife Betty Jean.

Brother of the honored distinguished President Judge, Dr. Edward Cercone.

CHIEF JUSTICE EAGEN: There are two sisters of the President Judge, one of whom is here today, Caroline Neville. His sister Rose Angelini and her husband, are, unfortunately, not able to be with us.

There are also numerous relatives of Judge Cercone here today but we won't specifically mention them, but we are delighted to have them with us.

Now, before we bring this very eventful occasion to a close may I ask you to remember Judge Cercone in your prayers. He has a very important and difficult assignment in the years ahead. Pray that he will fulfill it in a manner of which he is capable and while you are at it, pray for all the people who work in the Pennsylvania court system that we may, in our own way, serve better the people of Pennsylvania.

Now, we will close this event. Of course everyone is invited to the reception in honor of the Judge, it is on the 17th floor of the William Penn Hotel.

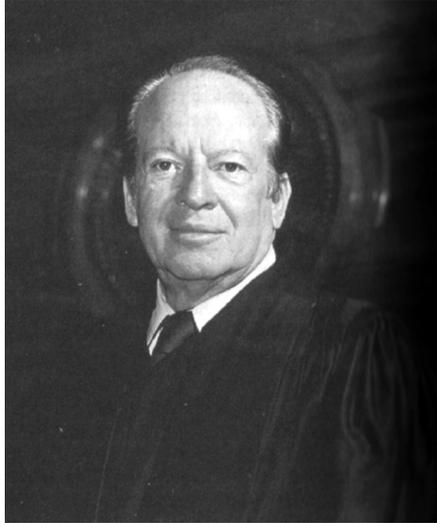
Now, we will close this special session of the court with the benediction by Rabbi Morris Landes of the Adath Jeshurum congregation.

(Benediction by Rabbi Morris Landes.)

(CHIEF JUSTICE EAGEN: Thank you, Rabbi, and thank you one and all.

THE HONORABLE WILLIAM F. CERCONE

PORTRAIT PRESENTATION



UNVEILING OF THE PORTRAIT
OF THE
HONORABLE JUDGE WILLIAM F. CERCONE

September 24, 1986
8th Floor
City County Building
Pittsburgh, PA
3:30 p.m.

Before:

THE HONORABLE VINCENT A. CIRILLO,
President Judge, Presiding
THE HONORABLE RICHRD B. WICKERSHAM
THE HONORABLE JOHN G. BROSKY
THE HONORABLE JAMES E. ROWLEY
THE HONORABLE DONALD E. WIEAND
THE HONORABLE STEPHEN J. McEWEN, JR.

THE HONORABLE PETER PAUL OLSZEWSKI
THE HONORABLE JOSEPH A. DEL SOLE
THE HONORABLE FRANK J. MONTEMURO, JR.
THE HONORABLE PHYLLIS W. BECK
THE HONORABLE PATRICK R. TAMILIA
THE HONORABLE ZORAN POPOVICH
THE HONORABLE JUSTIN M. JOHNSON
THE HONORABLE HARRY M. MONTGOMERY
THE HONORABLE J. SYDNEY HOFFMAN
THE HONORABLE WILLIAM F. CERONE
THE HONORABLE JOHN P. HESTER

PROCEEDINGS

COURT CRIER: The Honorable, The Judges of The Superior Court of Pennsylvania. Oyez, Oyez, Oyez. All manner of men who stand bound by recognizance or otherwise has to do before The Honorable, The Judges of the Superior Court of Pennsylvania, here holden, may now appear and they shall be heard. God save the Commonwealth and this Honorable Court.

JUDGE CIRILLO: Let us please stand for the invocation by Reverend Dominic Olivieri of Immaculate Conception Church, followed by the Pledge of Allegiance.

JUDGE CIRILLO: Judge Cercone, my distinguished colleagues, Millie Cercone, family of Judge Bill Cercone, his friends, distinguished public officials, Justices of the Supreme Court, we are gathered here today in a special Superior Court session seated in Allegheny County to honor a colleague who has led the Superior Court as President Judge, Administrative Judge and Associate Judge for almost 20 years. He made many contributions to our court and you will hear about that as the program progresses.

The Allegheny County Bar Association, in conjunction with this special session of the Superior Court, is honoring a member of theirs who has been a jurist for over 30 years. They are honoring him with the unveiling of a portrait in his honor, just as a token of their appreciation of having a fellow member of their Bar who has done so many good things during his career, both for his family, his country and God.

I would like to recognize Judge William Cercone's colleagues with

whom he has served on the bench for many years. In the second row to my left is Judge Hester. Next to him is Judge Johnson. Next to him is Judge Beck. Next to him is Judge Del Sole.

In the second row to my right is Judge Montgomery, Judge Popovich, Judge Montemuro and Judge Olszewski.

Seated in the front row to my left is Judge Stephen McEwen, Judge Rowley, Judge Wickersham and to my right is Judge Wieand, Judge Brosky, Judge Hoffman, Judge Tamilya and, of course, our beloved Judge Cercone.

In the audience, there are two justices present, Justice Stephen Zappala and Justice Papadakos. We appreciate their being here.

The Superior Court is indebted to the justices who give us guidance in the operation of our court and we are so pleased to have them honoring Judge Bill Cercone by their presence.

In the audience, we have Commissioner Thomas Foerster; Register of Wills, Rita Wilson Kane; the Recorder of Deeds, Michael Della Vecchia; City Councilwoman, Sophie Masloff.

We have Judge Hugh Boyle, Judge Eugene Strassburger, Judge Emil Narick and Judge Robert Horgos.

You will notice that the notes keep coming. There is also Judge David Cercone in the audience, Judge Zavarella and Judge Boyle.

We are also honored here today—Millie, if you just pass the note up, I'll recognize whoever it is—to have with us today the President of the Pennsylvania Bar Association, who is bringing greetings to our Court and to Judge Cercone on behalf of the Pennsylvania Bar, Ira. B. Coldren.

MR. COLDREN: President Judge Cirillo, your honors, distinguished guests, Judge Cercone, I am generally honored to represent the Pennsylvania Bar Association in paying tribute to one of Pennsylvania's greatest judges.

The professional accomplishments of Judge Cercone are well known. Throughout his 13 years of service on the Court of Common Pleas of Allegheny County and his 17 years on the Superior Court of Pennsylvania, he has demonstrated all the requisites of an outstanding judge: High intelligence, unstinting diligence, broad knowledge of the law, steadfast courage and an unswerving dedication to the American system of jurisprudence.

His accomplishments as President Judge of the Superior Court of

Pennsylvania must give him great satisfaction. I can recall his intense personal campaign in 1980 to promote the legislation which increased the number of Superior Court judges from 7 to 15.

All of us know of the prodigious efforts, really, incredible efforts of the judges of the Superior Court to reduce the court's huge backlog. Begun under Judge Cercone and continuing in 1986, these efforts have been remarkably successful. Lots of the credit must go to Judge Cercone.

His accomplishments have not been limited to the judicial arena, however. Judge Cercone has given more than a full measure of his time to the people of his community. His generous participation in charitable and civic activities has been almost without limit.

He has been a leader in veterans, youth, educational and patriotic organizations and he has been honored for his vigorous and dedicated participation in these organizations.

Judge Cercone has also been a leader among lawyers. Unassuming and easy in manner, he has exhibited the humility of the truly great public servant. He has never forgotten that he was first a lawyer and that lawyers are as necessary as judges.

He has recognized that the solution of problems concerning our judicial system are the mutual concern of judges and lawyers and has kept open the channels of communication between the Court and the Bar.

He has assured that the great resources of the Bar Association are available to the Court and that there will always be a useful exchange of information and ideas between judges and lawyers.

Judge Cercone has been a great lawyer, a great judge and a great citizen. We are proud to honor him today. Thank you.

JUDGE CIRILLO: Thank you, President Coldren. I will now call upon Michael J. Boyle, the President of the Allegheny County Bar Association.

MR. BOYLE: Thank you, Judge Cirillo. May it please the Court, it is my distinct pleasure as President of the Allegheny County Bar Association to welcome all here present to this unveiling of the portrait of Judge William F. Cercone. I await with all of you the first unveiling of what is sure to be a handsome portrait by a gifted artist.

Our reason for gathering here today in this historic courtroom is not so much to celebrate the unveiling of a portrait of an outstanding jurist, as it is to recognize him for his long and dedicated record of

public service.

At a time when our courts and our professions are subjected to the demeaning comments and cynical criticism by those who doubt the value of our judicial system to a stable society, it is particularly fitting that Judge Cercone should be selected for special recognition of his outstanding record of service to the people of this community and of the Commonwealth.

Too often we take for granted the outstanding accomplishments of those in our midst. The press of daily business too often obscures our awareness of the significant contributions of outstanding men and women.

Time dims the brightness of accomplishments. However, today, we are determined not to allow the record of Judge Cercone to pass unacclaimed, but to highlight it now and for posterity.

It is particularly fitting that we should mark this occasion in this courtroom, for it is here that Judge Cercone presided with his colleagues as the first president judge of the Superior Court from Allegheny County.

It, undoubtedly, holds for him fond memories of spirited arguments and some that tried his patience. It was here that we experienced the special quality of his judicial temperament and sense of justice and fairness.

Judge Cercone, may this occasion be one of your fondest memories in this special place in your judicial career. Thank you, Your Honor.

JUDGE CIRILLO: Thank you, President Boyle.

I will now call upon John J. McLean, jr., President of the Academy of Trial Lawyers.

MR. McLEAN: Thank you, Judge Cirillo, and may it please the Court, the Academy of Trial Lawyers of Allegheny County is honored and also very proud to be permitted to have a place in today's program.

Judge Cercone is certainly a favorite of Allegheny County and absolutely well known to all of the lawyers of Allegheny County, particularly the trial lawyers of Allegheny County.

The Academy believes that Judge Cercone, by his life of public service, has not only richly earned the honor that is paid him today, but it's more than that.

His life of service has reflected credit on our entire profession, judges and lawyers alike. So, we in the Academy thank him for that

honor which we feel that we share with him as members of our profession.

The Academy of Trial Lawyers in 1960 honored Judge Cercone and the wards were used in 1960 that remain absolutely fitting today, just as they were then.

This is what the Academy honored Judge Cercone for in 1960; “For achieving undelayed justice through sympathetic understanding, distinguished ability and tireless dedication to the eternal principles of right.”

That fits today every bit as much as it did over 25 years ago.

I have to add a personal note, but Judge Cercone doesn't remember this. The first time I met him, he was a solicitor in Stowe Township and I was a brand new lawyer. As a brand new lawyer, I was much impressed with anybody who was a real lawyer and already established.

I met him in the office of the Board of Viewers on a matter that I can't remember why I was there on and I was introduced to him.

There were two qualities that he exhibited then that have never failed him in the years since and I think are those qualities that, to me, are the most important reason why we all like him so well.

Those were his qualities of humility and never-failing good humor and they have always been there and they're my favorite.

So, our best to you, Judge Cercone.

JUDGE CIRILLO: Thank you, President McLean.

I now call upon the Honorable Sydney Hoffman, Senior Judge of the Superior Court of Pennsylvania, who spent his entire career on the Superior Court as a close friend and colleague of our former president, Judge William F. Cercone.

JUDGE HOFFMAN: Judge Cirillo, my colleagues and members of the Supreme Court of Pennsylvania, judges in the audience and friends, this is such an exciting day for me that if I were a Rembrandt on the spoken word, I could tell you just the way I feel and the way my heart is aglow for this beautiful moment.

Bill, do you recall, a few years ago I had a presentation in Philadelphia and Chief Justice Eagen spoke in words that I will never forget, he said, “You know, Sydney, it's awfully nice that you can still smell the roses, that you are still here to hear the accolades and the tributes.”

Today, you are going to have those accolades and, considering there

is nothing wrong with your olfactory senses, believe me, you are going to smell plenty of roses.

I recall that day with such joy, such happiness, because it wasn't only your wit and your charm and the fact that you were able to exhibit such kindness, but to each person in that room, you figuratively put your arm around them, made them feel that they were part of the proceedings and your sensitivity, your personality gave it a warmth that I just can't measure, that your personality, indeed, pervaded the whole room and made it one of the great moments of my life and until this day, I am exhilarated and happy and thrilled because it was the golden opportunity for me and, Bill, you, indeed, made it.

Why am I saying these things? Because somehow or other, the way that Bill is able to project himself indicates his true character, indeed.

I remember, and Bill, probably has even forgotten it. You spoke to the American Jewish Congress in Philadelphia and you had just come back from Russia and there, you met with the Refuseniks.

The Refuseniks are a group of harassed, worried, upset, anxiety-ridden people who are trying somehow to leave their native country and you told us about them and you explained the story and you indicated their plight and you described the psychological makeup of these people and how imperative it was that we all helped them and did something for them.

Your word got around the entire Philadelphia area and Philadelphia became ignited with a desire to help people who, through no fault of their own, were behind the Iron Curtain, but these are just some of the things that are characteristic of the way that you behaved, the way that you would handle yourself.

One of the speakers has already mentioned how you have been involved in every charity and that's true. There is nothing, no ethnic group, no religion, no color that is a barrier or a bar to you and you not only give your time, but you give your bone and your marrow and your blood and your guts.

You have done something that nobody else in my lifetime has done. You have the ability to make people realize they have an obligation to society and you do it with a sincerity that I have never seen before in anybody.

So, there is no question about it that you are a very, very special man.

I asked my clerks and also some members on the staff if they would

give me some idea out of the number of cases you have written—which, by the way, is well in excess of 1,500—and I said, “Give me a few of his landmark cases.”

Of course, they came through with about four or five dozen cases and if I were to recite all the cases that Bill Cercone wrote that had a profound impact on our lives, we would be here until tomorrow. In the interest of time, let me read just a few of the matters which I think, especially to the attorneys, are of paramount importance to the Bar and could very well live forever.

Whether it was breathing life into the law by eliminating artificial barriers to sue and making the courts more accessible for a man severely injured by an exploding steam boiler in the landmark case of *Salvadore*, which allowed an employee to sue the manufacturer of the steam boiler for a breach of warranty, whereas under prior law, only the purchaser of the boiler and not the employee could have sued.

Now, this doesn't sound like much to the layman in the audience, but it's a tremendously important matter.

Or, in the *Heffner* case, where in a No-Fault case for the first time he gave status and also a certain amount of recompose to a widow of a man in a No-Fault case.

I think most of you will remember the humanity, the beautiful, beautiful thought that impelled him to say that a Jehovah's Witness should have a blood transfusion and he received applause not only of the Pittsburgh Press, but it received worldwide attention.

Or, by recognizing, as he did, in the *Feingold* case, allowing the parents of a child born with a crippling disease of the nervous system to recover damages from two doctors for their foiled attempts to prevent the birth and on and on and on.

And I will never attempt to read all the things, but I assure you that time and time again, he has etched out and spelled out a different way of life for thousands of people in the State of Pennsylvania.

You know, it's very interesting to note that while he was doing these things, while he was one of the busiest men that people could conceive, he always had time for his family and he loved his family and he revered them and he was sensitive to their needs and he was affectionate and kind and loving and a devoted father.

Millie and he have had between them eight children, seven grandchildren, but there is a cohesiveness in that family, a love, a

beautiful feeling that they all belong to each other.

There are no lines of demarcation and, Bill, in his own way, somehow made this all very possible and Millie, Millie is loyal and devoted and loving.

If I may pardon for saying this, Millie, you may have one serious drawback, if I could call it that. You made one terrible mistake in your life. You know, Bill, in his Walter Middy world, believes that he is perhaps the greatest golfer in the world and, Millie, on occasions, has had the affrontry to beat the pants off of him.

Now, what this must do to his ego, Millie. I am just wondering whether or not you can't forgo the fact that you are a superb golfer, a superb athlete and, for the sake of Bill, his equilibrium, his emotional stability, that from now on, why don't you dedicate yourself to seeing that this never happens again?

I just have two other remarks to make. Will you be patient with me, Mr. President Judge, because Bill is very dear to me?

You know, I was sitting here and I was thinking that if Uncle Mike Musmanno were here, he would be so proud. He would be so happy because Bill, in his own way, lives most of the concepts, the precepts, the thoughts, the philosophy, the ideology of Uncle Mike.

I could almost guarantee that if I know Mike, and I knew him for more than 40 years, somehow or other, he found a way for his spirit to be hovering over this courtroom today.

And Bill, he should give you inspiration and he should give you a feeling that what you have done, your recognition of individual rights, the thing that he fought for all his life, you have been the greatest emulator.

May I just close with this: Again, I have been trying to think of some way of expressing our personal relationship and I suppose the best way I can do it is succinctly and briefly and to the point, Bill, you're my brother and I love you.

JUDGE CIRILLO: Judge Hoffman, thank you for those kind remarks.

I now call on the Chairman of the portrait committee, Patrick R. Tamilia, a member of the Superior Court of Pennsylvania.

JUDGE TAMILIA: Thank you, President Judge Cirillo.

Distinguished guests, colleagues, Justice Zappala, Justice Papadacos, for showing your great esteem for Judge Cercone by being here.

Tom Foerster, who I am sure has been through political wars with Judge Cercone for many, many years, your presence here is also deeply appreciated.

Since we made introductions, some other of your colleagues on the Common Pleas bench have come in.

Judge Warren Watson, I saw him back there hiding someplace and then Judge Judy Friedman and Judge John Musmanno is back there, too. I believe we may have neglected Judge Abraham Lipez one of our former senior judges, a former senior judge of the Superior Court.

And by no means should we forget to acknowledge all of the lovely wives of the Superior Court judges who are sitting out there about halfway down the row. We need and want and appreciate your presence here today to support Millie and Judge Cercone in what we are about to do here.

It has been said by Justice Felix Frankfurter that weak characters ought not to be judges.

Justice Cordoza pronounced that “Deep below consciousness are other forces, the likes and dislikes, the predilections and the prejudices, the complex of instinct and emotions and habits and convictions, which make the man, whether he be a litigant or a judge.”

Now, within these two perspective statements may be drawn a very fine conceptual portrait of Judge Cercone, which will parallel the physical portrait we present today.

Judge Cercone, through the 30 years of his judicial career and before, personified strength and character and today, he is a picture of vitality, dynamism and strength.

Those deep-lying forces of which Justice Cordoza spoke come to the surface with Judge Cercone in many ways. The surfacing currents show a dynamic person who achieved much in public life, a person dedicated to basic values of loyalty to country and commitment to family, a person filled with compassion and humor and one who showed wisdom and skill in his decision and his administration of our Court.

Judge Cercone directed this Court through its historic transition from a seven judge court to one with 15 commissioned judges and several senior judges, setting the stage for later developments by which we can boast the best record of dispositions in the nation.

The details of Judge Cercone’s life and career are briefly and

adequately summarized in our programs, so I will not repeat them.

I have known him and members of his family for more than 30 years, at first from the distance of a print and media personality, later, as a person to consult, emulate and follow and finally, as a colleague and a friend on the Superior Court.

If it is true that leaders of Britain's Military were nurtured on the playing fields of Eton, in a similar fashion, Judge Cercone earned his spurs on the fields of Stowe High School, where he was a varsity fullback on the football team and regular varsity second baseman on the baseball team.

At the University of Pittsburgh, he sharpened those verbal and intellectual skills, which were to serve him so well in later years, as a member of the Varsity Debating Team.

He served his country so well in World War II, in the amphibious forces of the U.S. Navy in the Pacific.

That experience and the special relationship with Justice Musmanno, his uncle, who tutored him, and his cousin, Dr. Neil Musmanno, in academic and intellectual skills as a child, helped to inculcate in him a fundamental American value described by Justice Brandies that,

“This country demands its sons and daughters, whatever their race, however intense or diverse their religious connections, be politically merely American citizens.”

With this preparation, when the opportunity presented itself, he could, with courage and fortitude, deal with the heavy burden as chief prosecutor in the case of Commonwealth versus Steven Nelson, who was considered to be one of the four leading Communist leaders in the United States.

He recognized the Communist threat to this nation and undertook to protect it. As stated by Justice Robert Jackson, he understood that,

“Their philosophy is to minimize man as an individual and to increase the power of man acting in the mass. If any single characteristic distinguishes our democracy from Communism, it is our recognition of the individual as a personality, rather than a soulless part in the jigsaw puzzle that is the collective state.”

Following his successful career as prosecutor, he was elected to the

Common Pleas Court of Allegheny County, where he served with great distinction for 12 years.

This was followed by his election to the Superior Court of Pennsylvania in 1968 and subsequently, his ascension to the position of chief judge from 1979 to August 1983, when he was appointed by the Chief Justice of the Supreme Court as a Senior Judge of the Superior Court, where he continues to serve.

Judge Cercone's career is characterized by activity and service from which the sparks of creativity flow.

Justice David Brewer epitomized his style when he stated, "The moving waters are full of life and health, only in the still water is stagnation and death."

During Judge Cercone's time on the bench, the courts have come under increasing, if unmerited attack, and in his service as Chairman of the Pennsylvania Judicial Review Board, he was called upon to withstand strong forces which would have undermined the integrity of the judiciary.

He recognized, as did Judge Story, that,

"Whenever liberties of this country are to be destroyed, the first step in the conspiracy will be to bring courts of justice into odium."

In his notable appellate court decisions and governance, Justice Story again may be quoted as describing the vivid style of Judge Cercone:

"He possessed the happy faculty of yielding just the proper weight to authority; neither, on the one hand, surrendering himself blindfolded to the dictates of the other judges nor, on the other hand, overruling settled doctrines upon his own private notion of policy or justice."

Time does not permit us to detail more fully the depth and breadth of Judge Cercone's considerable and notable achievements. This assemblage recognizes, by its presence, the legacy he presents to us.

Sharing in his life and achievements, and now in the honor we accord him, are the members of Judge Cercone's family, some of whom I will introduce. First, of course, is Millie, his wife, Millie, the beloved Millie Cercone. Will you stand, Millie.

We have here with us his brother, Dr. Edward Cercone, and his

wife, Rosalia.

We also have Virginia Berardino, who is the aunt of Judge Cercone and the sister of Justice Musmanno.

We have Judge David Cercone, a nephew. Stand up, please.

We have Judge Cercone's nephew, Judge David Cercone's father, Richard Cercone.

We have his daughter, Dr. Marilyn Schaffer, a professor at the University of Hartford in Connecticut. She is not here, but we want to at least let you know what this illustrious lineage means in his life.

We have Bill Cercone, William F. Cercone, Jr., Esq., the Judge's son and a successful lawyer. Will you stand up, please.

We have Patricia Klein, daughter, who is a school teacher in the Montgomery County school system.

Diana Harris, daughter, a school teacher and now a homemaker in Philadelphia.

John Biedrzycki, stepson, and Betty Jean Biedrzycki. John is a school teacher in the Pittsburgh Public Schools.

Paul Biedrzycki, stepson. I don't think he's here, but he is in transportation work up in Greenville, North Carolina.

David Cercone, the son, is here. He just finished law school at Duquesne University, took the Bar and is happily awaiting on the results, I am sure.

Then we have Michelle Cercone, a recent graduate of the Art Institute of Pittsburgh.

Before we go to the unveiling, I want to recognize the members of our committee who worked long and hard to produce this glorious affair.

We have Honorable Harry Montgomery, the chairman, Judge Brosky, Honorable Joseph Del Sole, Honorable Phyllis W. Beck, John Doherty, Esq., a past president, he is back there. John, I saw you. He is a past president of the Allegheny County Bar Association.

Sidney Baker, who is a past president of the Academy of Trial Lawyers of Allegheny County and, of course, John J. McLean, who you have already heard from.

Michael Boyle, you have heard from and Jim Smith. Stand, Jim. Without Jim, this wouldn't have gone on.

The Bar Association is incredible and it is involved in anything that it considers important to the judiciary in Allegheny County when

it comes to this kind of occasion.

Now, for the presentation, we will have Millie Cercone, the Judge's wife, and the artist, George A. Malick, come forward, come to the easel there.

While they are moving there, I want to tell you just a little bit about our artist. Mr. Malick is perhaps best known for his illustrations in children's books and his reputation is based also on his work as an artist for the National Wildlife Association and the National Life Association.

Among his top accomplishments is that he has accepted a commission from the Norman Rockwell Museum to create the highly successful memorial plate, Rockwell Remember. He has executed many portraits of top executives and high government officials in Pennsylvania.

With that, Millie and Mr. Malick, will you please unveil the portrait.

(Whereupon, the portrait of Judge William F. Cercone was unveiled.)

JUDGE TAMILIA: At this time, I will call Mr. Boyle to come forward and accept the portrait on behalf of the Bar Association.

MR. BOYLE: Thank you, Judge Tamilia.

It's my proud pleasure to accept this handsome painting of our distinguished jurist, Judge Cercone. It has the beginnings, Judge, I notice of your winning smile. It is the trait we all remember you by.

I want to say that we will take good care of this painting and wherever it is displayed, it will remind us of your record of commitment and dedication to the judicial system you have served so well.

I would like to take this opportunity to thank all of the persons whose generosity made this painting possible for the presentation here today. Thank you all.

JUDGE CIRILLO: Thank you, President Boyle.

I now take great pleasure in calling upon my colleague, Judge William Cercone, for some remarks.

JUDGE CERCONI: I have been trying to restrain myself from being reduced to a tearful, lachrymose, tear-stained recipient here with all these wonderful comments and which I so deeply appreciate.

I want to thank each one of you for being present this afternoon at this most collegial, congenial and familial kind of ceremony.

It's congenial because out of the presentation of the portrait comes this wonderful gesture of friendship from the lawyers of my own county, the members of the Allegheny County Bar Association and the members of the Academy of Trial Lawyers. It allows me to become part of the history of portraits together with my other colleagues who have already received a similar honor in years past for a service over a significant length of time, either as a trial judge or as an appellate judge, or both.

It's collegial because the ceremony of this event is emblematic of the great mutual respect that exists between the members of the Bar and of the Bench as we carry out our respective duties under our system of law.

Of course, it's familial because this is my own family here, all my friends, my colleagues, the members of the official family of the City of Pittsburgh and Allegheny County, my two great friends, Justice Zappala and Justice Papadakos, of the Supreme Court of Pennsylvania, who honor me with their presence today. All of you together make this a very joyful and memorable afternoon.

The only thing that saves it from my falling into tears here is that there's a special kind of caustic sense of humor that some of my friends have. During the last couple of days, a few have told me they would not miss coming to my hanging under any circumstances, of course, I assured them that that treatment would be afforded only to the portrait. Another friend of mine said, "You're lucky that this event is taking place in the latter part of the Twentieth Century."

And I said, "Why is that?"

He said, "Well, in an earlier civilization of man, when man roamed the earth, struggling against the harsh elements of nature, hunting and killing for survival, when a man reached your time in life," my friend said to me, "and that person way back there served 30 years with a tribe, as you have with the public, they followed a custom which they thought was a proper and fitting tribute to his life.

"What they did was to set aside a day during which followed a ritual of singing and dancing, songs and prayers for his heroics and then, slowly in a procession, take him down to the sea and put him on a raft or on an ice floe, depending on the time of the year.

"And then, after giving him a bowl of food, shoved him out into the ocean so he could sail away to meet his maker as best he could, ready or not."

I told my friend, "I'll tell you what, I'll take this ceremony of today any time."

First of all, I get a terrible sunburn under the sun anyway, let alone on a raft in the ocean and though I never sat on an ice floe, I knew I certainly would catch my death of cold from the wintry blasts of the ocean gales.

So, as a recipient at this beautiful ceremony, I can only express sympathy across the years to my brethren of an earlier society.

Judge Tamilia already expressed thanks to the committee and I'm not going to repeat the names, but I did want to thank particularly Jim Smith, the dynamic, energetic, tireless executive director of the Allegheny County Bar Association, who is the moving force always behind these wonderful ceremonies.

I would like to interpret this ceremony as meaning that despite the mistakes I might have made as a judge down through 30 years, and I am sure I have made some, I avoided the error of allowing the official in me to swallow the man.

Now, I don't mean by that that I am entitled to any great credit for so modest an achievement because in a Court whose tradition for courtesy and equity are so ingrained and inveterate as it is in the Superior Court, one would have to be a hard kind of sinner to be guilty of that kind of wrongdoing that has its origin in a pride of office.

When we listen to the lawyers who argue before us in cases on appeal, we ask very relevant, very critical, very pertinent questions, but we are never officious.

We judges together can discuss problems about the law, about the procedure of the Court, we can disagree on legal issues without being disagreeable. That has been a great tradition in our Court and I hope that it continues because collegiality is so important in the work of the Court.

It's not novel to say that you and I would not be able to enjoy this kind of society without the system of law that has developed in this country through the sacrifices of men and women and because of that development, the people are coming more and more to the courts for a solution to their problems. For the solution of problems to sustain personal liberty, to end community tension, to clear the air of the contaminants in the atmosphere and in the environment, to shield the people against public wrongdoing and private temptation, to penalize

or restrain transgression, to adjust private differences and, then most of all, to lift the spirit of the sick, the aging and the lonely.

For those solutions, in the last 30 years, at least, there have been great and dramatic changes in the law, both in the substantive law and in procedural law, all for the purpose of trying to meet the needs and demands of the people.

Benjamin Cardozo, when he was Associate Justice of the Supreme Court, said, and I paraphrase: "If a system of law existed to meet the needs of the people of the society of today, it would be inadequate to meet the demands of the people of the society of tomorrow.

So, the constant effort for seeking the opportunity to advance the principle of law a step farther so that it may meet the needs and demands of the people is always present in this dynamic social force we know as the law.

What about my 30 years as a judge? Well, I'll tell you, they've been exciting, memorable and challenging. I don't think you can find the kind of experiences and memories and impressions in any other discipline or profession that you can find in the life of a judge.

We have all faced the raw edges of human nature and we have all seen the strength and the beauty of human love. In my case, I have made countless decisions in the trial of cases as a trial judge and have written hundreds of opinions with my colleagues on the Appellate Court.

Cases involving catastrophes that may befall all of us, the landslides, the explosions, the fires, the devastation in industrial accidents, the injuries and the deaths on the highways or by the violent hand of the criminal, those are all within the category of the experiences of a judge.

I have done some things in my life which I would like not to have gone through. For instance, on three separate occasions I had to look down on men who were convicted of murder in the first degree, to tell them that they had to be strapped in an electric chair until pronounced dead by the officials of the prison.

I'll tell you, I wouldn't want any of you to go through that experience.

I have sat in custody cases where I had to look at the frightened faces of children who particularly didn't know exactly what was happening, but knew that whatever decision I made would change the course and direction of their lives.

Of course, everything wasn't so solemn and oppressive as that. As a judge, I was able to approve bonds in the millions of dollars for the construction of highways, bridges and public buildings.

In fact, I think one of my greatest achievements was performed in the winter of 1964 when I saved Santa Claus and Christmas shopping.

The transit employees were threatening to strike; the bus drivers, the streetcar operators were going to strike a few weeks before Christmas. The matter came before me and I locked those fellows into my courtroom and put them into my chambers for two days until finally they hammered out a settlement.

A day or so later, the Pittsburgh Post-Gazette printed a cartoon by that famous artist, Cy Hungerford, showing me with my robe spread-eagled in the air with reprieve papers, running and saving Santa Claus just as he was about to be hanged.

So, I was able to save Santa and the Christmas shopping that year.

It has been said that the judicial is pedestaled in fragile loneliness, and that is so, because the judiciary doesn't have great armies, it doesn't have great treasuries and it doesn't have great bureaucracies, and yet, out of that loneliness and out of that quiet, meditative, deliberative life come the opinions and the decisions that give us strength and vigor and the determination to free men and women to continue to preserve that freedom for themselves, their children and their children's children.

We who have served on the Bench for 30 years at least must leave the judgment of our work to others, but I would hope that some time when they look back on the work, they will say that Bill Cercone participated in helping advance the principle of law in order to meet the demands of the society today.

A word about the portrait. When I first met Mr. Malick, this very renowned artist, when he looked at me, I sort of detected an almost imperceptible shaking of his head as though to say, "What in the world do they expect me to do with a subject like that?"

But the great artist that he is and the great friend that he has become, I am very happy about that portrait, Mr. Malick, and I thank you and I am very grateful for it. Thank you very much.

God bless you. I'll see you later.

JUDGE CIRILLO: I want to thank each and every one of you who are here. In looking around the audience, I notice a lot of the staff of the Superior Court who came from Philadelphia, our librarian, our

Prothonotary, some of the law clerks, many of you who have come from all over the state. My court is elated and proud that our two justices, Justice Stephen Zappala and Justice Papadakos, have taken time out of their busy lives to honor our former President Judge and we thank each and every one of Bill Cercone's friends who have taken time out of their busy lives for coming here.

And, particularly, I want to thank the family of Bill Cercone, not only his dear wife, but his children, for the many hours that have been taken out of your lives where you couldn't spend them with your father because he was doing the business of the Superior Court, leading this Court and writing opinions in order to help us do the work he was elected to do.

We are going to honor Judge Bill Cercone with a small reception over at the Sheraton Hotel at Station Square and we invite each and every one of you to that reception, which will commence immediately following the conclusion of this ceremony.

I now call on Reverend Andrew Chura of St. Joseph Byzantine Catholic Church in Toronto, Ohio, for benediction.

JUDGE CIRILLO: This ceremonial session is now closed.

COURT CRIER: Court is Adjourned.

HONORABLE ISRAEL PACKEL

December 28, 1907 - July 8, 1987
Assumed Office: December 31, 1971
County: Philadelphia

TEMPLE LAW REVIEW DEDICATION

The Temple Law Review dedicates Volume 61 as a lasting tribute to Professor Packel, who died on July 8, 1987.

In the Fall 1987 semester, for the 92nd consecutive year, faculty and students of Temple Law School met to teach and learn the law. But this year the Law School family had suffered a loss. Israel Packel, associated with the school for more than 30 years, had died on July 8.

His death reflected the nature of his life. Despite illness, he calmly taught his Spring 1987 courses. Even after hospitalization and several operations, he completed grading more than half of his course examination papers.

He was 79 years old. His intellectual honesty and vigor, his amazing vitality, his distinguished career as lawyer, teacher, acting dean, former state attorney general, judge and justice, made him a remarkable

role model for hundreds of law students.

Justice Packel was born in 1907, the son of Russian immigrants and the first of their six children to be born in the United States. A student at Philadelphia's Central High School, he graduated in the top of the class in 1925. He received the B.S. degree from the University of Pennsylvania Wharton School in 1929, and the LL.B. and LL.M. degrees from the University of Pennsylvania Law School, where he was an honor student and Case Editor of the *Law Review*.

Combining the academic with the athletic, something he happily continued to do all his life, Israel Packel played basketball at Penn, pitched semi-professional baseball and worked as a referee for basketball games at the Friends Neighborhood Guild. He continued the association with the Guild until his death, as member, director and Guild attorney.

After entering practice, Israel Packel served as an attorney for the National Recovery Administration and later the Rural Electrification Administration, returning to Philadelphia and a law practice in 1938.

During World War II, he was appointed by the Office of Price Administration to be rationing attorney for the Commonwealth of Pennsylvania. But this was not enough for the patriotic 36-year old attorney. Despite his age and young family, he joined the Navy, serving in the Pacific theatre as a graduate of the Navy's radar school.

When peace came, Israel Packel returned to Philadelphia. He joined the firm of Speiser, Satinsky, Gilland & Packel, which merged with Fox, Rothschild, O'Brien & Frankel in 1960.

In 1970, Governor Milton J. Shapp, a former client who had a first-hand knowledge of Israel Packel's legal ability, invited Mr. Packel to Harrisburg to serve as Governor's counsel. In 1972, he was appointed to the Superior Court bench, and from 1973 to 1975 served as state Attorney General.

An interim appointment to the Supreme Court of Pennsylvania followed in 1977. Justice Packel was an active member of the high court until he reached the mandatory retirement age of 70 at the end of the year.

In any case, retirement was not part of Iz Packel's current plans. He had received an appointment as Visiting Professor of Law at Temple in 1975, and had taught that year along with another Packel—his son, John, a Temple Lecturer in Law. Now he once again resumed

teaching at Temple Law School, where he had been a part-time faculty member from 1956 to 1963. He taught Trusts & Estates, Conflict of Laws, Contracts and Property.

Soon further responsibilities claimed the Justice. In the summer of 1982, he was named Acting Dean of the School of Law, taking the reins from Dean Peter J. Liacouras, who that year became Temple's seventh President. When a new dean was named in January 1983, Justice Packel returned to his regular teaching chores. Also continued were his regular baseball and touch football games. Even after hip replacement surgery in 1985, he participated in athletics, pitching softball doubleheaders every Sunday morning.

He was author of *The Law of Cooperatives* and of various law review articles. The most recent was "Congressional Power to Reduce Personal Jurisdiction Litigation," which appeared in Volume 59 of the *Temple Law Quarterly*.

The Justice was a member of the American Law Institute and had been advisor to its *Restatements of Agency* and *Conflicts of Laws*. Most recently, he served as a member of the Board of Trustees of Albert Einstein Medical Center, a hospital he helped to found.

Professor Packel's students were beneficiaries of his 54 years of public and private practice.

In addition to his friends, former students and colleagues at Temple Law School and Fox, Rothschild, O'Brien & Frankel, he is survived by his wife, Reba Wesler Packel, three sons, John, Edward and Richard, nine grandchildren and two sisters.¹

The Temple Law Review is proud to reproduce the remarks from the Memorial Service held in honor of Professor Packel at the School of Law on October 22, 1987.

¹ The Law School is grateful to Janet Shea for her assistance in assembling the memorial program in honor of Professor Packel.

REMARKS OF JAMES STRAZZELLA
ACTING DEAN AND PROFESSOR OF LAW

Israel Packel was a learned man. He was also gentle, but firm. He was full of sincerity and integrity, and lacking in deceit. These and other qualities endeared him to us, so it is appropriate that his faculty and other university colleagues at Temple have gathered along with many friends of Iz to honor him in this collegial way.

We are pleased and honored that Iz's treasured wife, Reba, his sons John and Richard, his sisters Lottie and Ethel, his daughter-in-law Sandi, and his granddaughter Amy, are here to represent his family. We are also honored by the presence of members of his former firm, Fox, Rothschild, O'Brien & Frankel, as well as other admirers of Iz from the legal community, and most particularly, by the presence of his students.

Although this program will remind you of Iz Packel's wide and exceptional professional career, Iz said to me last Spring: "After all, I am a teacher. That's what I love to do." You might assume that last Spring, at age 79 and I'm sure not feeling particularly well, most people would be asking for a lightening of course assignments. Not Iz. He had come to volunteer to teach *more* courses, well above the normal load of a full time teacher. "After all, I am a teacher, That's what I love to do." He did love to teach, and he did it with ability and zest. His students will tell you that he was smart, witty energetic, caring, dedicated, knowledgeable and hard working. He was all that, and more, as you will see in the remarks that follow concerning this bright, talented, sensitive man who set (and met) such high standards and who left such a positive mark on wherever he went and whatever he did. In a world where too many people take the easy way out, Iz was just the opposite. He was a self-directed man with a drive to do things well. He never complained, but rather seemed to delight in all he did at Temple.

Israel Packel carried with him a sense of honor and dignity, and he brought this to Temple Law School.

He belongs to Temple in a very real and unique way.

We are pleased to remember him with warmth, affection, and a smile.

REMARKS OF PETER J. LIACOURAS
PRESIDENT, TEMPLE UNIVERSITY, AND PROFESSOR OF LAW

I knew Iz Packel in many forums. Like others of our law faculty, he was my colleague. Ironically, I took his “place” on the faculty in 1963. He had decided to spend more time in public service, in his law practice and with his family. I had never met him but heard year after year about “what a wonderful teacher Iz Packel was and what a terrible teacher you are.” So I didn’t exactly consider Packel as someone I would later come to look up to like my own father.

Murray Shusterman, for forty-five years an adjunct faculty member and now a Temple trustee, first introduced me to Iz Packel in 1966. I thus belatedly met the person behind the legend. Iz then went off and became Attorney General. While in this position, Iz asked the deans of three law schools to help him select a special prosecutor to weed out corruption in Philadelphia. It was a unique approach, at that time, to involve and even listen to non-partisan deans in such appointments. This incident and countless others convinced me that Iz Packel was honest and sincere. He didn’t have any agenda except the agenda he put directly in front of you.

Then in 1975 when he was leaving the Attorney General’s Office, it was a great honor for me to ask him to resume his earlier status as Professor Packel, this time full-time, and to return to Temple law School at the age of 70, some 12 years after he left this faculty. He became, again, a teacher for our students, for members of the Bar, and for anyone else who came in contact with him. And it was from then on that I really got to know him personally, to respect the ground he walked, talked and played on, and even to love Iz Packel.

An ironic final twist: Iz Packel took my place as dean of the Law School in 1982.

Israel Packel was first and foremost honest. He was civil. He was uncluttered in his approach to an issue. He was encyclopedic, but his mind was uncluttered. He was fair. He was kind and he was simple. He was also loyal in the best sense of that term. He was the kind of person who, when we first asked him to return and had a gap in covering trusts and estates, cheerfully volunteered to teach this course. “Let me look at the case book if you have a copy of it, and I’ll let you know tomorrow.” The next morning he told us: “I’m ready to go.” He

began to teach that course five days later. And he indeed was ready, as his students will always attest.

Generations of Temple law students will testify that he was a great instructor, faculty member, and mentor in trusts and estates. But he was the same in other courses.

He had the ability to learn, to absorb, never to be cluttered no matter what the endeavor. It was true on the football and softball fields. John and Biff will indicate that he liked simple plays with persons executing precisely what they were supposed to do. When in softball we were concerned about hitting the ball back through the box to him while pitching, it was not because we were worried about hurting him at the age of 70-plus, but because we knew he would field it and throw us out.

He had this ability to be simple, honest, direct and straightforward and with consummate skill and gentleness in everything he did. He was a peacemaker. Those of us who worked with him know that as great as was his reputation, Iz Packel was an even better person.

He was an inspiration in the true sense of the term. He was the closest thing to the perfect person that I have always thought my father was.

And so Reba, we thank you for sharing Iz, for those many years. We will always treasure the memories of Iz Packel.

Outside of this room in the hallway, there were students gathered in a circle a few minutes ago, talking. They are not in this room. You wonder why not? It isn't because they don't care. Many don't even know that there was an Israel Packel who graced this school and this room just a year ago. It's the way life is today. It is increasingly impersonal. It is hard to communicate from one group to another. But if anyone's accomplishments—and what he stood for—should be communicated to the next generation of law students sitting in those chairs in the hallway outside, it should be Israel Packel's.

This is our responsibility for the next generation: to reach those persons who themselves will carry on what Iz Packel taught us by his example.

REMARKS OF HONORABLE NOCHEM S. WINNET
PRESIDENT, SAMUEL S. FELS FUND,
FOX, ROTHSCHILD, O'BRIEN & FRANKEL

Judge Packel is a difficult man to categorize. I first met him when he began the practice of law. He was about ten years my junior. I got to know him as a friend, as a practicing lawyer before me, later as a partner, and always as a teacher. I knew him also as an author, as a colleague in the American Law Institute, a counselor to the Governor, and in the high judicial positions he held.

When Iz first became a Judge in 1972, I had occasion to write a short profile of him for *The Legal Intelligencer*. I said then that he was destined to be a judge. My article was headed by a quotation from Homer:

No man or woman born, coward or brave, can shun his destiny. He had for years all the qualifications necessary for judicial life. His scholastic and academic record was of the highest. He had a distinguished record at the University of Pennsylvania Law School. He had administrative experience in the NRA days and later as chief attorney of the Philadelphia Office of Price Administration. He was a student of law, a scholar, a teacher of law, an author, experienced in litigation with an unblemished reputation at the bar. I recall that in our partnership days we used to say "someday Packel will be a judge and a great one."

But even as we said it, we doubted it. After all, he knew no governor, he did not take part in politics; he aspired to no political office. He was a scholar who was a great lawyer or a great lawyer who was a scholar. Even when he served as counsel for a person by the name of Milton Shapp who had political ambitions, we doubted that his destiny would be a judge. For who would ever think in those days that Milton Shapp would become a governor. But he did and now, in 1972, Israel Packel was a judge of the Superior Court.

But fate had other plans for him. For a number of years because of the Governor's closeness to and dependence on him, Iz was tossed around like a cork in a stream of water. He was Judge of the Superior Court, an Attorney General, a Justice of the Supreme Court, the highest court in the state. To each of these roles, he brought his superb qualities. But superb qualities alone are not sufficient. Two elements

must coincide—timing and politics—and for the time being I am not using the word “politics” in any pejorative sense. The last few weeks the news media have reminded us of this. For the Supreme Court of the United States, another element enters into the qualifications for membership—“ideology”—popularly confused with and treated as politics. As a result of all these elements or factors, fate, which made Iz a judge, unmade him.

On reflection, I acknowledge that I was mistaken. Iz was not destined to be a judge. His fate was otherwise. He had a higher density—that of a teacher and I truly believe a happier life after his long distinguished career.

He taught school almost from the beginning of his legal career starting as an Instructor at the University of Pennsylvania Law School. As early as 1938, he published a book entitled *Law of Cooperatives*, which brought him international recognition. As a member of the American Law Institute, he was an active participant and advisor in the Institute on the law of Agency and Conflicts of Law. He was always a teacher, while he was a sole practitioner, when he was a partner, a judge, a Justice of the Supreme Court.

Approximately 50 years, he spent teaching at the Temple Law School. In my life time, I have witnessed the school emerge as a grade A law school and take its place among the leading schools of the country. Judge Packel’s years of teaching here were a factor in this progress. Here it was, he molded the lives of countless men and women to become lawyers. Here he was revered, respected, and held in great affection. Here he will always be remembered as a great teacher. This was his destiny. What could be greater!

REMARKS OF JANE B. BARON
ASSOCIATE PROFESSOR OF LAW

There must be a maxim in legal education that one need not know a subject matter area well in order to be hired to teach it. That is, I concluded that there must be such a maxim when, in 1984, I was hired to teach Trusts & Estates here at Temple. For not only had I never practiced in the T & E field, but I had not even taken basic T & E in law school.

Now a man like Israel Packel, who knew trusts and estates—and, I should add, several other legal subjects—backwards and forwards, inside and out, could have had many reactions to me and to my plight. He *could* have been peeved that students would be subjected to the double indignity of my ignorance and my inexperience. He *could* have been patronizing, reminding me at every turn of how little I knew in comparison to him. He *could* simply have ignored me, and not bothered to pay attention to someone so young and so green.

But Iz Packel responded in none of these ways. From the day we met, and from the moment he learned of my position, Iz reacted as only a true gentleman would: He was unfailingly, consistently, constantly helpful. I wanted to ask a question? Sure he had time. “Come in. Sit down,” he would say. “What is the Pennsylvania Rule?” I needed to know. “Funny you should ask,” he’d say, “there’s just been a new case on that point,” and he’d tell me about it.

I *now* know, having learned a bit of Trusts & Estates, that many of the questions I asked were downright dumb. It is a tribute to Iz that he never let on. Instead, he treated me like the colleague I was not yet capable of being.

And that remained true through all the years. As time went by, and I developed my own following among the students, he *could* have been resentful. But I never saw even the slightest sign of such a response. His office was next door to mine, and he was always there for me. He constantly made himself available to comment on my articles, to discuss my questions about the law, to give me advice.

A very fine visiting professor sits next door to me now; he is a charming man and fascinating scholar. But for me, no matter who happens to occupy it, Room 711 will always be Iz Packel’s office. I miss him.

REMARKS OF MARTHA A. VERBONITZ, ESQUIRE
CLASS OF 1986

Officially, Professor Packer taught two courses at Temple University School of Law: Trusts and Estates and Conflict of Laws. Unofficially, he taught a great deal more.

When I was one of his students, the Professor once told me that being a teacher was the best job he ever had. I was somewhat confused by his statement when I later learned of his distinguished career—Justice of the Supreme Court of Pennsylvania, Judge of the Superior Court, Attorney General, and member of a prestigious law firm. However, anyone who knew the Professor understands that he was always teaching—in whatever he did—and that the source of his material was not always a casebook. He taught me many things, not the least of which was trusts and estates. I'd like to relate to you three things I have learned from this man, and the characteristics for which I will remember him.

The first quality which drew me to him was his enthusiasm. Whether he was practicing law, teaching class or pursuing his passion for playing softball, he did it with gusto! Primarily, however, he loved to teach. We, his students, were a constant source of excitement for him, a daily challenge. Of course, his enthusiasm did not stem from the job alone; anyone can grow stale at a job after time. Rather, it was his character that set him apart—his inner drive to move our minds and to force us to recognize our own potential. That is what made the difference. And, what a difference it made.

I was fortunate to have been a part of his class here and, in my mind, I can still see the Professor jaunting into class (he didn't walk, he would jaunt down the steps and up to the lectern), always towing an enormous pile of casebooks that he never needed to open. And, I can remember how he would cheer, "Well, how about it?" and clap his hands when our answers to his questions approached some minimal level of correctness. Not even during the difficult semester when he had hip surgery did he lose the enthusiasm and the excitement of being here. Yes, surgery slowed his gait and interrupted his softball season. Yet, his physical limitations couldn't dampen his spirit—he wouldn't permit it!

The second characteristic I need mention is the professor's knowledge and, more important, his willingness to share his knowledge. He and I spent a lot of time in his office reviewing and criticizing appellate opinions and articles. Sometimes, the topic of our conversation would tickle a "war story" from his past, and he would lean way back in his chair, hands clasped behind his back. And he would talk, the memories still fresh in his mind. In this way he introduced me to the law that cannot be found in a casebook or taught in a classroom. "Armchair law," he used to call it. That body of law or, more accurately, that way of questioning, thinking, and, above all, seeking to make the law not just good, but right.

The third quality I need mention is integrity. Professor Packel lived by a higher code than that which governs most others—that higher code was of his own making. Kindness, sincerity, optimism, frankness, honesty, humility, humor, and, above all, respectfulness. These are the characteristics I have admired in him. I consider myself fortunate to have had him influence my life.

Mrs. Packel, family members and friends, I offer you my deepest sympathy. But, take solace in knowing that because Professor Packel touched my life and the lives of others, we shall always remember him and miss him.

REMARKS OF JOHN W. PACKEL, ESQUIRE
CHIEF OF THE APPEALS DIVISION,
DEFENDER ASSOCIATION OF PHILADELPHIA

I am John Packel, the oldest of Iz's three sons, and I speak for the three of us.

Thank you, Jim and Peter, for inviting us to say a few words about our dad, Iz Packel, who taught for thirty years at Temple Law School. Iz loved the law and loved teaching the law. It is not well known but Iz's legal teaching career really started before he graduated from law school at the University of Pennsylvania in 1932. Iz was always a fine student and he apparently displayed such a knowledge of contract law that by his second year in law school he was persuaded to give a pre-final examination lecture on contract law to members of his Law Club. By the third year he was reviewing contracts for most of the first year class. This continued the following year when he stayed at Penn as a Gowen Fellow to obtain his Masters Degree.

I still have Iz's 50 year old lecture notes; a very, very concise statement of the law of contracts in a few pages of jagged handwriting. Frankly, though, neither I nor anyone else will probably ever read them again. Iz's principal legacy lies not in these notes, or his work for the American Law Institute's Restatements of Agency and Contracts, or even in the knowledge he imparted, or attempted to impart, to thirty years of Temple students in a wide variety of courses. Iz's legacy is the life he led, the memories we all have of him and, most significantly, the impact, whether subtle or profound, he had on our lives.

I hope it is not trivializing his accomplishments to say that Iz lived his life like the games he loved to play. Although it might be appropriate to say that Iz's greatest joy was being at Temple with all of you and teaching, this would not be true. Iz's greatest joy was probably playing baseball or football, or sitting down at a table and playing nickel-ante poker with a group of friends. He also enjoyed his family; his wife Reba, his three insane sons and his nine grandchildren. You would have realized this in a second if you had seen Iz on the floor with a couple of his six- or eight-year old grandchildren trying to teach them to shoot craps.

So the law, and teaching it, was probably only his third love. Unhappily the statement that Iz lived his life like a game does not

provide enough insight into his life. I say unhappily because it seems that in this country, in the legal profession, in the business world, and on the athletic field, the meaning of “playing the game” has changed in the last 30 or 40 years. Many of you students, in the next few years, will begin careers at the bar and, again unhappily, will have the attitude that your careers and life is a game, but a game that must be won at all costs. Perhaps Vince Lombardi best summed up the prevailing attitude when he said: “Winning is not the most important thing, it is the *only* thing.”

This is *not* how Iz “played the game.” For him if life was the game, ethics and the law, not simply their letter, but also their spirit, were the rules by which one scrupulously abided. This led Iz to a long life that was centered, productive and won him the respect of all those who knew him. If there is one principle, one feeling, one bit of impact that I would like to see passed on from Iz to each of you and to everyone who knew him, it is a little bit of that spirit which compelled him to strive not for some kind of victory, but rather to do his best, abide by the rules and, most of all, to care about his fellow players.

Each winter Sunday morning until he was 77 and had an artificial hip implanted, Iz played touch football. No matter what the score, and regardless of whether he was on the winning or losing team, when the time to go home came close, Iz would holler “Next touchdown wins,” and everybody would continue the game with renewed enthusiasm and pleasure. It was indeed refreshing during our game just last Sunday, when the time came to go home, to hear an echo of Iz’s cry—“Next touchdown wins”—from the guys who had played with him for so many years. Clearly, they did learn some of Iz’s lesson.

Forget Vince Lombardi. Remember Iz, and Grantland Rice, who, somewhat melodramatically said:

When the One Great Scorer comes to write against your name—
He marks—not that you won or lost—but how you played the game.

TEMPLE LAW REVIEW
TRIBUTE TO ISRAEL PACKEL
BY JOSEPH W. MARSHALL
PROFESSOR OF LAW

*Oh! somewhere in this favored land the sun is shining bright;
The band is playing somewhere hearts are light;
And somewhere men are laughing and somewhere children shout,
But there is no joy in Mudville—mighty Casey has struck out.²*

Nor is there any joy at Temple Law School because mighty Israel Packel has finally struck out. Mighty, indeed, was Professor Packel. Brilliant lawyer, dedicated government official, distinguished jurist, outstanding law scholar and teacher, and not a bad ball player. I sit here in a quandary as to how to refer to this outstanding man. Counsellor? Attorney General? Judge? Justice? Professor? Israel Packel, a person who has done so much more than any member of the legal profession could hope to do. No problem. Having known this individual for quite a long while, I'm sure he would have it no other way than for me to call him "Iz." After all, he would frequently call me Bob, or Bill, or Jim. Remembering names was not Iz's strong suit.

I have many fond memories of Iz. From time to time we would end up on the same "C" bus together. Philadelphians know that the "C" bus travels south from the Law School to City Hall in center city. The trip takes about 15-20 minutes. For some reason, our conversations on these trips would frequently focus on Iz's early career—his days with the federal government during the administration of President Roosevelt, the formation of his original law firm, Speiser, Satinsky, Gilland & Packel, and its merger into Fox, Rothschild, O'Brien & Frankel. Fascinating stories.

Iz was a person of simple directness. Many a time, when the focus of our law faculty meetings might go a bit astray, Iz would make a gentle suggestion that perhaps this or that was truly at the heart of the issue and perhaps Road C was the road to resolution instead of Road A or Road B. Road C would be seriously considered and many times would solve the problem.

Iz Packel was Acting Dean of the Law School during the interregnum following the appointment of our former Dean, Peter J. Liacouras, as President of the University. Acting Deans are rather

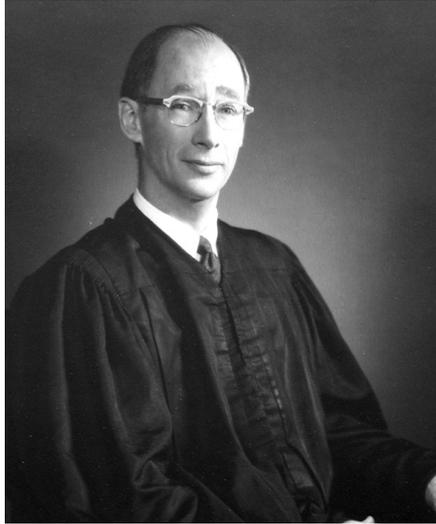
abruptly given a key to the Dean's office but not much help as to how to find a personnel file or how to make out a payroll. There is a mighty great temptation to keep the door to that office closed as much as possible. I know. I have been there a couple of times. Not Iz. The door was always open. For faculty, students, or staff, on matters great or small, he was always available to share his wise counsel and to keep the law school on its destined course.

Iz and I shared a rather special bond. Two years before his death, Iz had his hip replaced. Without fanfare, off he went and had it done. During his recovery, I learned that I needed the same procedure and naturally consulted with him. I was terrified at the prospect. With Iz's simple directness, he said it was no big deal, that I would feel better after it was over and not to worry. He was correct. The difference, however, was that he was back to his softball games in a rather short time and I must admit with some shame that I have yet to run around the bases. Little wonder about Israel Packel's accomplishments.

Yes, there is a lack of joy at Temple University School of Law. Our revered and cherished colleague and friend is gone. Iz, we miss you.

² E. L. Thayer, *Casey at the Bat* (1888), reprinted in M. Gardner, *The Annotated Casey at the Bat* 23 (1967).

THE HONORABLE EDMUND B. SPAETH, JR.



*June 10, 1920 –
Assumed Office: January 2, 1973
President Judge 1983-1986
County: Philadelphia*

PRESIDENT JUDGE INDUCTION

**OCTOBER 6, 1983
EN BANC COURTROOM
OLD FEDERAL COURT HOUSE
PHILADELPHIA, PENNSYLVANIA**

PROCEEDINGS

JUDGE CERCONO: You may open Court.

THE COURT CRIER: The Honorable, the Judges of the Superior Court of Pennsylvania.

Oyez, oyez, oyez, all manner of men who stand bound by recognizance or otherwise have to do before the Honorable, the Judges of the Superior Court of Pennsylvania here holden may now appear and they shall be heard.

God save the Commonwealth and this Honorable Court. The Honorable William F. Cercone, Presiding.

JUDGE CERCONI: Good morning. I am very happy to preside at this Special Session of the Superior Court of Pennsylvania convened for the happy purpose of inducting into office the new President Judge of this Court, our esteemed and revered colleague, Judge Edmund B. Spaeth, Jr.

Judge Spaeth will be the thirteenth President Judge in the history of this court, and it is interesting to note that he will be the first Philadelphian to hold this honored place.

So this is truly a significant and proud day not only for the people of Pennsylvania in general, but also for the people of the great City and County of Philadelphia in particular and as it is for his colleagues, as it is for Judge Spaeth and his family.

I would like to introduce this morning my colleagues on the Bench of the Superior Court. I think you will all agree with me as you look at them that they make for the finest looking group of Judges anywhere although we are not going to hear any arguments on that issue today. But if we did, I'm certain, at least I think I am, that the Court would be in unanimous approval of my personal opinion of them.

So I'll begin at my far right:

Judge John P. Hester.

You may applaud if you like.

Judge Harry M. Montgomery.

Judge Zoran Popovich.

Judge Justin M. Johnson.

Judge Vincent A. Cirillo.

Judge Donald E. Wieand.

Our official photographer, Judge John G. Brosky.

Judge James R. Cavanaugh.

Judge J. Sydney Hoffman, from whom we'll hear a little later.

On my far left:

Judge Abraham H. Lipez.

Judge Robert Van der Voort.

Judge G. Harold Watkins, past President Judge of this Court.

Judge Frank J. Montemuro, Jr.

Judge Phyllis W. Beck.

Judge Stephen J. McEwen, Jr.

Judge James E. Rowley. We refer to Judge Rowley as “Old Plain Speak.”

And Judge Richard B. Wickersham.

There is an understandable excitement about the investiture of a new President Judge because it heralds a new beginning. There is that exciting expectation of new milestones of progress to be achieved under the leadership of one person.

This historic occasion marks the leadership of that one person, our dear and revered colleague, Judge Edmund B. Spaeth, Jr.

It’s a great moment for all of us, historic both from the standpoint of its importance to the work of the Court and it is in tribute to Judge Spaeth and the honor we pay him as colleagues.

It’s a great moment for the members of his family, his colleagues from the State and Federal courts, the local and state public officials and friends to gather and wish him well as he takes up these great challenges which I, from my standpoint, having been President Judge, know that they are immeasurable in scope and breadth of subjects.

There was an earlier time in the history of the judiciary, speaking from the administrative standpoint, that the President Judge’s responsibility was mainly ceremonial in nature. The President Judge attended state functions and public events as a representative of the Court. Those days are long gone.

Today the President Judge is confronted by an awesome avalanche of supervisory and administrative functions as appeals come cascading into the modern appellate court.

Judge Spaeth is possessed of those qualities so necessary to meet the challenges of his new office. He possesses an alert and brilliant mind with a talent for hard work. We who have the privilege of working with Judge Spaeth know him to be of stout and cheerful demeanor with a finely tuned sense of humor which I can say will keep him in good stead on occasions when we make requests of him.

In his work as a Judge, he is meticulous in his research and in his analysis of issues and eloquent and articulate in his opinions as he resolves and decides the issues before the Court.

Judge Spaeth will enhance the image and the respect for this Court in the years ahead as he and his colleagues determine the course and direction of the law of Pennsylvania necessary to meet the needs and demands of the people of Pennsylvania.

As his predecessor, I want to take this opportunity to extend to Judge Spaeth my heartfelt congratulations on what I know will be a great era in the history of the Superior Court under his leadership.

I am happy at this time to recognize William R. Klaus, Esquire.

Mr. Klaus. (Applause)

MR. KLAUS: If the Court please, President Judge Cercone, members of this Bench, judges of the other courts, other guests, I'm uncomfortable, having faced the Bench for so long, in turning my back to it, and I apologize. But, in many ways, the things I have to say are more pertinent to the audience than to this Court.

It's a time-honored custom we serve today, joining together, taking time from our busy schedules, to honor the elevation of a friend and colleague to high office.

It's very easy to say nice things about Judge Spaeth. But as I thought about him blushing and squirming under sugary praises that could so easily flow, I decided to take a slightly different tack and to rethink just what we are doing here today.

It occurred to me there was a message for the leadership of our judiciary, the leadership of the Bar and of the community that are here today about this Court in this place, because it's not just a happy occasion, it's a very serious one.

You are here to witness a transfer of power from one man to another, a power which could be used poorly or could be used well. In view of the problems of this Court, it must necessarily be used well if our community is to have a viable source of appellate justice, for this is a troubled Court.

Did you know that it is considered by the American Judiciary Society to be the most overburdened Court in the United States? Last year it issued three thousand written opinions—over two hundred per judge, more than three times the recommended case load, that its docket of appeals and petitions is growing at a rate of over ten per cent a year, that the delays in the delivery of opinions are nine months instead of the ideal thirty days. This despite the doubling of the size of this Court in 1979.

The Judiciary Act which allows the Supreme Court selectivity in the appeals it accepts makes this Court the court of last resort for the vast majority of criminal and civil matters that come before our lower courts. As such, it bears a most important place in a system which

guarantees an appellate process to every litigant.

And yet somehow these problems must be met. To further expand the Court means a continuing loss of time for collegial debate so necessary to reduce the number of dissents and conflicts between the panels which in turn further impacts the case load problem. Somehow these conditions must be alleviated if the quality of delivered justice by the Court is not to deteriorate.

Now, into this maelstrom is placed a new leader. What kind of man is he? How will he handle this new role? What are the qualities we expect of him as a judge, as administrator, as a collegial leader, as a man?

It would seem that experience is a major factor. How experienced can one man be at the art of judging? Thirty-five years he has served the law, sixteen as a trial lawyer in the rough and tumble of the Philadelphia trial court system where he achieved the great respect and admiration of his peers (overcoming the terrible burden of having gone to Harvard Law School), and from there to the trial court itself where he was poured into that very fiery crucible of day to day jury trials—criminal, civil matters of all kinds—and then ten years here, ten years on this court. He has delivered something like two thousand written opinions for this Court in that time.

And yet somehow he has found time to write extensively in the field of intermediate appellate court problems. If you'd like a preview as to what his leadership will be like, read some of his publications in the field. There is no need to cover them here. They relate to detailed matters that will adjust the flow of cases. They go to the utilization of even more sophisticated computer record-keeping and recall. They go even further to do the depth of thinking of the problems of this kind of appellate court, their collegiality and maintaining their contact with each other and with all facets of the law to provide an even, steady voice to the community. While he's done all this, he's managed to teach evidence at Penn Law School and to serve in many roles as a community leader.

From 1974 to 1979, he led the Philadelphia Commission for Effective Criminal Justice, chairing a team of civic leaders, community leaders, people from the minority and oppressed communities of the city, knowledgeable trial lawyers who understood the system and how to change it. Privately funded, its objective was to improve criminal justice in Philadelphia. Supported by a wonderful staff and with

volunteers from Penn Law School for over a three-year period, the Commission produced a forbiddingly large and detailed report. Like many other similar works, it's gathering dust, rejected by the political leadership.

Yet it remains a clear guide for change in our criminal justice system that would provide swifter justice, more effective justice, and more humane justice from arrest to appeal at substantial cost savings to the city. All it would take is a little courage and leadership to put into effect. I suggest that this community reexamine that work. Read the opinions. That's enough.

But experience without "judgment" (a word so close to the Art of Judging as to have taken its name) is of little use. It is possible to judge for a lifetime without ever piercing the surface of the law. A great judge has more. If you read Judge Spaeth's opinions, you will see that he has a "Cardozian Eye," that ability to pierce through the surface, analyze and dissect legal issues and then reassemble the dissected parts in light of legal precedents, yet with a perception of the latent energy within the decision and how it will play its light on the screen of the future.

Add to the qualities that of social commitment and the courage to do what is right. He is deeply involved in society in its broadest sense. He has courage. There are many young people in this courtroom who will not remember the unrest during the early Seventies in this city. Racial and social tensions were rampant.

Into this cauldron David Rudovsky and lawyers from Community Legal Services acting on behalf of a class of men and women detained at Holmesburg Prison instituted *Jackson v. Hendricks* before the Common Pleas Court requesting an injunction against the alleged inhuman treatment of prisoners at Holmesburg Prison.

After taking testimony amid the political furor of the time—it was tried in the papers as much as the courts—Judge Spaeth writing for a unanimous three-judge court declared Holmesburg Prison a cruel and barbarous place unfit for human habitation, better designed to bring out the worst in man than reform him.

The opinion went on to enjoin the city from the continued operation of Holmesburg Prison in its then present state, with its caloric deficiencies in food, vermin-ridden cells, overcrowding and other virtually undenied charges. The Court appointed a Master to oversee the Prison's compliance with its order, thus reaching through

the City Administration to supervise compliance directly—a most dramatic and compelling decision.

I worry today about what's happened since the glare of publicity has been withdrawn from that place. But I do hope that enough good things were injected by the Master into the routine administration of the Prison—which is largely run by rote—that some portion of those more humane rules remain intact today. One more thing for those of us here today to examine again in our own time.

It was a tremendous act of courage. That and Don Jamieson's jailing of two Teachers' Union leaders, very popular and powerful men, for failing to obey an injunction, I consider outstanding examples in my time, of judicial courage in light of political controversy, especially in a jurisdiction which still, unfortunately, requires its judges to be hung out for political elections instead of selection on merit alone.

Well, what manner of man is he? He possesses all those qualities we all admire. There is not a man in this room who wouldn't secretly like to have the qualities that Judge Spaeth has as a human being, his general impeccable reputation, his modesty and humility, all these wonderful qualities we reasoning humans cherish.

But there are others, less sensitive than those in this audience, who will mistake modesty and humility for weakness. They will equate balanced judgment as being 'soft on criminals.'

Weak? He's not weak. In fact, this man is made of iron when it comes to matters of justice. Is he soft on criminals? I would suggest to you that he is not troubled by appropriate sentencing, but will attempt to rationalize it, and to bring some order and predictability to this particularly difficult judicial problem; but that he will not be soft on a person adjudged as a criminal after proper procedures are followed.

But controversy may arise in the area from arrest to appeal as he believes like Sir Thomas More: "If you tear down the trees of the law to find the Devil, where does the honest man hide?"

And like Thomas More he is a man for all seasons and the man for this time. I commend him to this court, to the Judiciary of this City, and to the Bar and the community, and wish him well on behalf of all of us here today.

Judge Spaeth, there is no more trusted or respected jurist in this state. Providence has once again placed you in a preferred position to continue your life-long pursuit of a better and more humane system of

justice. I speak with assurance for all of us here today in wishing you Godspeed in that search. Thank you. (Applause)

JUDGE CERCONO: Thank you, Mr. Klaus. We are certainly grateful for what we all know of the heartfelt expressions of the great respect you have for our dear friend, Judge Spaeth.

Each of you present this morning is a distinguished guest and you honor us by your presence, and I know Judge Spaeth will be appreciative always for your attendance today.

We have some distinguished guests who grace the Bench behind us, and I'd like to introduce them to you. I don't know if all of them have found the Courthouse at this time, but I will announce their names, nevertheless.

I would ask those who are present to rise when I introduce each of them so that we would have the pleasure of seeing them.

The first distinguished guest is the Chief Judge of the United States Court of Appeals for the Third Circuit, the Honorable Collins J. Seitz.

And his colleagues: first, the Honorable Arlin M. Adams.

The Honorable James Hunter, III.

The Honorable A. Leon Higginbotham, Jr.

The Honorable Edward R. Becker.

From the United States District Court for the Eastern District of Pennsylvania, the Chief Judge, the Honorable Alfred L. Luongo.

And his colleagues: first, the Honorable John P. Fullam.

The Honorable John B. Hannum.

Judge Hannum, as you know, is a former member of our Court. We're happy to see him today.

The Honorable Clifford Scott Green.

The Honorable Louis H. Pollak.

And a new arrival on the Court, the Honorable Thomas N. O'Neill, Jr.

We're honored to have the Chief Justice of the Supreme Court of Pennsylvania, the honorable Samuel J. Roberts.

The President Judge of the Commonwealth Court of Pennsylvania, the Honorable James Crumlish, Jr.

We have with us the Court Administrator of the Pennsylvania Court System, the Honorable Abraham J. Gafni.

And we're greatly honored by the presence of a number of

President Judges of the Courts of Common Pleas of Pennsylvania:

The Honorable Isaac S. Garb of Bucks County.

The Honorable Dominic T. Marrone of Chester County.

The Honorable Francis J. Catania of Delaware County.

The Honorable Edwin M. Kosik of Lackawanna County.

The Honorable James Marsh of Monroe County.

The Honorable Richard D. Grifo of Northampton County.

The Honorable Edward J. Bradley of Philadelphia County.

And the Honorable Harold A. Thomson, Jr. of Pike County.

The Honorable Eugene H. Clarke, Jr.

The Honorable Victor J. DiNubile, Jr.

The Honorable Lois G. Forer.

The Honorable William M. Marutani.

The Honorable Lawrence Prattis.

The Honorable Anthony Scirica.

The Honorable Theodore B. Smith, Jr.

The Honorable Juanita Kidd Stout

The Honorable Harry A. Takiff.

The Honorable Judith J. Jamison.

Of course, there is always the danger of a presiding officer omitting someone. I hope if I have omitted someone they will forgive me for it.

We have some public officials here:

Jay Waldman of the Governor's Office.

The Attorney General of Pennsylvania, LeRoy S. Zimmerman.

The Secretary of Welfare, Walter W. Cohen.

Senator Michael A. O'Pake.

I see walking in Associate Justice of the Pennsylvania Supreme Court, Robert N. C. Nix, Jr.

And our dear friend and colleague, former Associate Justice of the Pennsylvania Supreme Court, Bruce W. Kauffman.

Michael T. McCarthy and Michael C. McLaughlin.

Mark A. Aronchick, Philadelphia City Solicitor.

Benjamin Lerner, Philadelphia Public Defender.

Richard E. McDevitt, Executive Director of the Pennsylvania Judicial Inquiry and Review Board.

And we are also especially honored by the presence of the university presidents and deans of law schools:

President Peter Liacouras of Temple University.

Dean Gerald Abraham of Villanova Law School.

Dean Richard Gaskins of the Graduate School of Social Work and Social Research of Bryn Mawr College.

Dean Robert Mundheim of the University of Pennsylvania Law School.

Dean Carl Singley of Temple Law School.

Dear friend and former colleague of ours, the Honorable Perry J. Shertz who is sitting in the audience.

Another former colleague, Richard DiSalle.

Judge Joseph O'Kicki of Cambria County.

Judge William Vogel of Montgomery County.

Howard Gittis, Chancellor of the Philadelphia Bar Association.

I can't think of anyone who is better able to respond to the remarks of Mr. Klaus than our distinguished and esteemed friend and colleague, Judge J. Sydney Hoffman. (Applause)

JUDGE HOFFMAN: If it please the Court, my colleagues on the Bench, dignitaries in the audience and on the dais, friends all, and, of course, Judge Spaeth and his beautiful family as Judge Cercone said, it is really exciting and a happy experience to welcome Edmund Spaeth, Jr.

This is where I have to note a dissent as he is the thirteenth President Judge of the Superior Court of Pennsylvania.

Judge Cercone, forgive me.

I found this morning that Judge Jacobs' name was inadvertently eliminated from the manual, and there are actually thirteen President Judges of our Court, and Judge Spaeth is the thirteenth Judge.

Judge Spaeth assumes his office during a decade that has literally revolutionized our Court. We have expanded from seven to fifteen members. We have seen the number of docketed appeals grow in astronomical proportions. Our Judges must now rule in areas of the law—for example, asbestos cases and products liability cases—that weren't even taught in law schools ten years ago. And with the addition two years ago of Orphans' Court matters, our broad jurisdiction continues to grow and becomes at times almost unmanageable.

The legal pioneer who forged this path was President Judge Spaeth's immediate predecessor, former President Judge William F. Cercone. Bill was the first President Judge of the fifteen-member Superior Court. He came into office and faced the really monumental task of overseeing our court's fundamental transition. He expeditiously

guided the Court's revitalized, yet unpolished potential into a cohesive, dynamic force. Proof of his greatness lies in the legacy of innovations and creative additions to the world of appellate law that have become and will remain an integral part of our existence.

Somehow or other, this notable Court seems to have been continually blessed. If we pause for a moment to reflect—to enumerate all those honorable men who have served as President Judge—it isn't difficult to place a star next to each name; for stars they were, and stars they will remain, each one brilliant—each one great judicial temperament—and each one a legend in the Legal Hall of Fame.

The name we add today, Edmund B. Spaeth, Jr., rightfully belongs on this esteemed roll call, for Edmund Spaeth was destined to be President Judge.

We need only make a cursory examination of his ancestry and credentials for clues to his greatness. Through each generation, his has been a family of service, dedication and caring—a family of extreme humanitarianism—a true Quaker heritage.

He is the son of an internationally renowned ophthalmologist, Dr. Edmund B. Spaeth, Sr. His mother, Mrs. Lena Spaeth who I'm just delighted is in the audience today, a most gracious lady, and I know that she is a very proud witness to these ceremonies. He is the brother of Drs. George and Philip and Attorney Karl.

Ned and his charming, delightful Nancy are the parents of young people steeped in the same Spaeth tradition. Ted is a social worker who has served both in Philadelphia and abroad. Ellie is concerned with the problems of urban housing, and Suzy has ably followed in her father's footsteps, teaching the scholars of tomorrow.

Our new President Judge is a quiet man, Lincoln-esque in stature, of great modesty and dignity, a man of simple elegance and truth. Trust and integrity are his creed.

He is a man of culture and the arts—of wide and diverse interests—a trustee of Bryn Mawr College, the Diagnostic and Rehabilitation Center of Philadelphia, and the Lewis M. Stevens Conference Trust.

A graduate of Harvard University and its School of Law, Ned served in the Navy and returned to Philadelphia, soon becoming a superior litigator.

But the real Edmund Spaeth, Jr. has had his greatest impact as a

Jurist. Both on the Court of Common Pleas and later as a member of the Superior Court, Ned Spaeth has dared to be a courageous Judge with a unique sense of fairness and truth. In every area—family law, criminal law, tort law, evidence—his impact on the thinking of jurists and lawyers alike is unparalleled.

Although I risk embarrassing our modest new President Judge, I venture to say that the Bench and Bar of Pennsylvania appreciate and hold in awe his vast contribution to the entire judicial system.

Ned, you and I have been colleagues, ideological partners and friends for many years. Each of the Judges of our Court has sat with you—to the left of you and on your right. We are all eminently aware of your judicial scholarship, your knowledge and your sensitivity.

Indeed, we know you are equipped temperamentally and judgmentally to crystallize and to mechanize the creative plans outlined and initiated by President Judge Cercone. We trust you to further the objectives of our Court through your incomparable ability to energize ideas.

You have the strength and wisdom we need at this crucial time. You have the ability and dedication to mold us, to shape us into that finely tuned chorus—an appellate symphony, as it were.

As we place a star by your name, President Judge Edmund Spaeth, Jr., we, indeed, welcome you to the Court. We need you. Your destiny has, most certainly, become ours. (Applause)

JUDGE CERCONO: Thank you very much, Judge Hoffman, for your kind remarks.

I'd like to acknowledge the presence in the audience of Frank B. Boyle, President of the Pennsylvania Bar Association.

I can't think of anyone who is better able to give that special meaning and warmth to this occasion than the next person I'm happy and privileged to introduce who will read the Judge's Commission, the lovely wife of our new President Judge, Nancy.

Nancy.

MRS. SPAETH: In the name and by the authority of the Commonwealth of Pennsylvania Governor's Office, Edmund B. Spaeth, Jr. of the County of Philadelphia in the Commonwealth of Pennsylvania, Greetings.

Whereas a vacancy has occurred in the office of President Judge of the Superior Court of Pennsylvania by reason of retirement of the

Honorable William F. Cercone effective on the Tenth day of August, anno Domini One Thousand nine Hundred and Eighty-Three; and

Whereas it appears by the record in the Office of the Secretary of the Commonwealth that you shall be the Judge longest in continuous service and by virtue of the provisions of the Constitution of this Commonwealth, you will be entitled to hold the office of President Judge of the Superior Court of Pennsylvania for the remainder of the term for which you were elected and commissioned.

Therefore, know ye that in conformity to the provisions of the Constitution and laws of the said Commonwealth in such case made and provided, I do by these presents commission you, Edmund B. Spaeth, Jr., to be President Judge of the Superior Court of Pennsylvania, to have and to hold the said office until the first Monday of January, anno Domini One Thousand Nine Hundred and Eighty-Six, that being the expiration of your term of office as you shall so long behave yourself well;

This Commission to take effect on the Eleventh day of August, anno Domini One Thousand nine Hundred and Eighty-Three.

Given under my hand and the Great Seal of the State at the City of Harrisburg this Ninth day of August in the year of our Lord One Thousand nine Hundred and Eighty-Three and of the Commonwealth the Two Hundredth Eighth.

Signed, Dick Thornburgh, Governor;

William R. Davis, Secretary of the Commonwealth. (Applause)

JUDGE CERCONO: Now, Nancy, until you read that Commission, I always accepted that phrase which appears in the Commission which reads "... as you shall so long behave yourself well" as an official direction from the Governor of the Commonwealth of Pennsylvania.

Now I realize that it carries an additional warning.

Before I administer the Oath of Office to Judge Spaeth, I would like to introduce some special persons, and I'd like them to at least rise so that we'll have the pleasure of seeing them.

First, of course, if that wonderful young lady, Judge Spaeth's lovely mother, Lena, 92 years young. (Applause)

That's a special thrill for the judge, I'm sure.

His brother, Karl, Esquire, and his wife, Anne. Will you please stand? (Applause)

The Judge's three children: Eleanor, Suzanne and Ted. Will you rise please? And Ellie's stepson, Derek. (Applause)

Let us all rise, please, for the Oath of Office.

Judge Spaeth, will you raise your right hand?

Do you, Edmund B. Spaeth, Jr., appointed and commissioned by the Governor of the Commonwealth of Pennsylvania to be President Judge of the Superior Court of Pennsylvania in and for the Commonwealth of Pennsylvania, solemnly affirm that you will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth of Pennsylvania, and that you will carry out your duties with fidelity?

JUDGE SPAETH: I will. (Applause)

JUDGE CERCONI: Judge Spaeth was assisted in his robing by his three children, Eleanor, Suzanne and Ted. Looking at the trouble he had getting that robe on, I think it's time for him to get a new one. This one has been worn ever since 1964 when he was first appointed to the Bench.

Ladies and gentlemen, it is my pleasure to introduce the new President Judge of the Superior Court of Pennsylvania, our dear friend and colleague, Judge Edmund B. Spaeth, Jr. (Applause)

JUDGE SPAETH: I am most grateful to all of you. Somewhere—I think it's in one of his sonnets—Shakespeare says that his mistress really isn't beautiful, but in his eyes she is because he loves her.

You must bear in mind that you have heard things said about me by very old and dear friends.

I am especially touched by the presence of my family, many dear friends, judges with whom I have sat, lawyers with whom I have been partners, have tried with and against. Every one of you is very important to me.

I am very grateful for the presence of my staff and so many of my law clerks, both past and present.

But in thanking you for your presence, I don't mean to suggest that I think this day is to honor me. For after all, it isn't any individual merit that makes me President Judge. It is the happenstance of seniority. Had I and the rest of us had our way, the President Judge would have been Gwilym Price. It is our continuing sorrow, especially felt today, that that decision was taken from our control.

But it is not my day, it is the Superior Court's, and by your presence

you do the Court great honor. And in thanking you, I thank you not only for myself but for every member of the Court.

Let me read you something that the critic Malcolm Cowley wrote: “Going back to Hemingway’s work after several years,” he wrote, “is like going back to a brook where you often fished and finding the woods as deep and as cool as they used to be. The trees are bigger, perhaps, but they are the same trees. The water comes down over the black stones as clear as always with the same dull, steady roar as it plunges into the pool. And when the first trout takes hold of your line you can feel your heart beating against your fishing jacket. But something has changed, for this time there are shadows in the pool that you hadn’t noticed before, and you have a sense that the woods are haunted.”

My father was a trout fisherman, as I know some of you are. He would have understood the passage.

As with trout fishing, so with the law. Our first encounters with the law’s discipline, our first plunges into the adversary process, our increasing number of successes and our growing self-confidence, all set our hearts beating.

But then, something changes, and we sense that the woods are haunted. As never before, we are pulled by the power of the law’s vision of a just society. But, also, as never before, we sense the difficulties of attaining that vision.

I should agree that our society is more just than many. It is, nevertheless, unjust. Were you to examine the dockets of the Superior Court, or of any court for that matter, you would find reflected there stories of ruined lives—lives broken by inequities, indifference, and ignorance that no society may permit and still call itself just.

And so the courts are haunted by a dream. It is the same dream as the dream that haunted Martin Luther King: “No, no,” he said, in his great speech from the steps of the Lincoln Memorial, “We are not satisfied and we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream.”

“Though we face the difficulties of today and tomorrow, I still have a dream ... that one day this nation will rise up and live out the true meaning of its creed ...”

Of course, the courts can’t by themselves achieve a just society. That’s work for many hands—some of them more powerful than any

judge's, some of them in this room. But by our law we both define and try to make real our vision of a just society. And it is the Court's special responsibility to hold that vision before us, like a lamp, steady and high. By your presence today, you strengthen our determination to fulfill that responsibility.

In closing, I should like to speak of my colleagues. I have been wonderfully helped, in assuming my new duties, by Judge Cercone, who as president Judge presided over the Superior Court's transition from a seven-judge court sitting only en banc to a fifteen-judge court sitting in panels. He has already marked out the direction I expect to follow.

A further special thanks is due to our Senior Judges. By any reasonable ratio of number of judges to number of cases, the Superior Court should be much larger than it is. Without our Senior Judges, who accept assignments as though they weren't Senior but in full service, the Court would be lost.

Finally, to all of my colleagues: It is both a privilege and a delight to be with you. A court is a sort of tiny society, where no one has any power over anyone else except the power of persuasion. To be a member of such a society is a privilege indeed. And when one adds, what is true of the Superior Court, that every member enjoys the affection and respect of the other members, the privilege becomes a delight. The opportunity to serve as President Judge is therefore particularly welcome.

And now the Court hopes that you will join us in the back here just in the side conference room. We'll go around the front into the Library which many of you not long ago dedicated to our beloved Judge Hoffman so that we may see you and have a few moments with you and thank you again for all that you have done. (Applause)

JUDGE CERCONO: We've caught a quick glimpse of the caliber of personality of our new President Judge whom we are so fortunate to have.

There are a few introductions I'd like to make before we adjourn.

Albert P. Massey, Jr., Vic-President of the Pennsylvania Bar Association.

David H. Marion, Vice-Chancellor of the Philadelphia Bar.

Robert C. Daniels, Past Chancellor of the Philadelphia Bar.

Michael C. Rainone, Assistant Secretary of the Philadelphia Bar Association.

Anthony “Skip” Minisi, Vice-Chairman of the Board of Governors of the Philadelphia Bar.

Kenneth Shear, Executive Director of the Philadelphia Bar Association.

And I wouldn’t forgive myself if I didn’t mention the presence today of our good friend and esteemed colleague, the Honorable Israel Packel.

I see seated back in the corner Marvin Comisky, Past President of the Pennsylvania Bar Association.

The Honorable Nochem S. Winnet.

The Honorable Paul A. Dandridge.

Paul Wolkin of the American Law Institute.

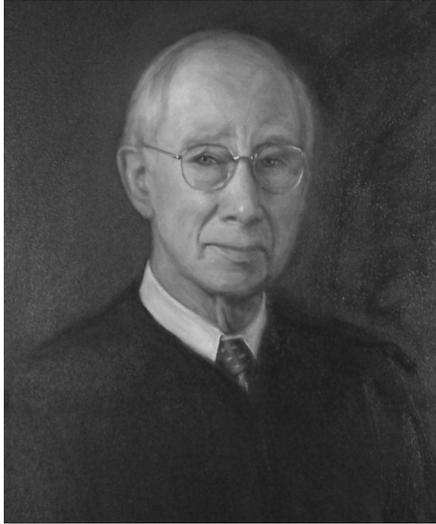
Rendell Davis of the Pennsylvania Prison Society.

Fred Voight of the Committee of Seventy.

I want to thank each and every one of you for your kind attention to each of the speakers this morning. The minutes of this ceremony will be made part of the permanent record of the Superior Court in the Official Reports of the Superior Court so that in the future when a young law student or law clerk or members of the public read the Report, they will know that there was a bright day in Philadelphia when a favorite son of Philadelphia became President Judge of the Superior Court of Pennsylvania, as I’m reminded, the thirteenth.

All right. We’ll adjourn now, and we’ll see you in the reception room.

THE COURT CRIER: This Court is now adjourned.

THE HONORABLE EDMUND B. SPAETH**PRESENTATION OF THE PORTRAIT**

**SUPERIOR COURT OF PENNSYLVANIA
PORTRAIT CEREMONY
WEDNESDAY, MAY 11, 2005**

Portrait Ceremony for the HONORABLE EDMUND B. SPAETH, JR., held at the Pennsylvania Superior Court, 510 Walnut Street, 17th Floor, Philadelphia, Pennsylvania, commencing at 9:25 A.M. on the above date.

Judges of the Superior Court of Pennsylvania

Honorable Joseph A. Del Sole
Honorable Kate Ford Elliott
Honorable Michael T. Joyce
Honorable Susan Peikes Gantman
Honorable Jack A. Panella
Honorable Frank J. Montemuro, Jr.
Honorable Phyllis W. Beck
Honorable Stephen J. McEwen, Jr.

JUDGE DEL SOLE: We are meeting in ceremonial session for the purpose of recognizing and honoring our distinguished colleague, President Judge Emeritus, Edmund Spaeth, known as “Ned.”

When I first came on the court, Judge Spaeth was our president judge at that time and I had the privilege and honor of serving with him for a couple of years before he went off to the never, neverland of practice, got wealthy and now summers in Maine. But having said that, many of us on the bench had the opportunity to serve with Judge Spaeth when he was on the Court and many of our colleagues on the bench have come on since he ended his service in 1986 on the Court.

But, just as a little bit of background, Judge Spaeth was born in Washington, D.C., a graduate of Harvard College, Phi Beta Kappa, Harvard Law School; was a commander in the Navy; was in the naval reserves; a member of the American Bar Association, American Law Institute, American Judicature Society; was a judge in the Court of Common Pleas in Philadelphia and a judge on the Superior Court; has been a professor at the Penn Law School. He is now an accomplished author but, more importantly, as a colleague of ours and a friend and family man.

I will have to tell you this story when we were setting out this program to recognize Judge Spaeth to unveil this portrait of him, in typical Judge Spaeth fashion, he said, “I don’t want anything special. Instead of having a major ceremony, we can do it just before a three-judge panel in Philadelphia and I will just have my family come down and have a very quiet, very personal ceremony.” But, then, of course, as we were setting this up, many of his former employees and colleagues and law clerks who worked on the Court in different capacities, started spreading the word that this was going on and, I think, we have probably about 25 or 30 former employees of the Court who are here today by word-of-mouth to recognize you and to share with you this tribute to your service as judge of this Court and for that, we thank you and we thank them for coming this morning.

As I said about Judge Spaeth, he didn’t want to have a formal ceremony, so there was no specific program, although we have passed out a little program that you are not allowed to see until after the ceremony because you have not seen the portrait yet. There are no set speeches, no speakers. There is just going to be the unveiling of the portrait and then some remarks by Judge Spaeth. So, with that, I will

ask Judge Spaeth's wife, Nancy, to come up to the portrait along with the artist, Robert Daley, and unveil the portrait.

President Judge Spaeth's portrait and a tribute to his service as president judge will hang in a permanent location.

(Applause from the audience.)

JUDGE DEL SOLE: He is satisfied. Nancy, are you satisfied? That's the important thing.

MRS. SPAETH: It's just wonderful.

JUDGE SPAETH: If it please the Court, one measure of an artist's skill is his ability to transcend the materials that he has to work with. By that measure, I think Bob has done a perfectly extraordinary job. Just see what he did with a perfectly egg-shaped head and a nose like a ski jump. Thank you very much, Bob.

When the President Judge asked me if I would sit for a portrait, he explained that he wanted to complete the court's portrait collection of past president judges. That was a project that I was glad to participate in because when a court preserves its history, it reaffirms its mission and I like to be part of that because recent events have suggested that some are determined to undermine the mission of the courts.

It's almost twenty years since I served with the Court. After I left the bench in January of 1986, I had the pleasure of practicing with a wonderful law firm in Philadelphia, Pepper Hamilton, and so I saw the Court from a different perspective than I was used to.

If this isn't the most important intermediate appellate court in the United States, it is surely one of the most important. You decide thousands of cases and most of your decisions are final because very rarely does the Supreme Court allow further appeal.

Since 1973, when I joined the Court, it has more than doubled in size and its jurisdiction has been greatly expanded. Our proudest boast is Chief Justice Marshall's dictum that we are a government of laws, not of men, and so far as the every day citizen of Pennsylvania is concerned, this Court is clearly responsible for insuring that they enjoy the rule of law because your decisions touch almost every aspect of their lives: the enforcement of the criminal law, the integrity of commercial transactions, compensation for injury and the relationships between spouses, lovers, parents and children, and children and those entrusted with their custody.

As I reflected on the comprehensive jurisdiction of this Court, I

was reminded of Auden's elegy, "In Memory of W.B. Yeats." Among other things, you will recall, Auden speaks of the duty of the poet: "Follow, poet, Follow right To the bottom of the night In the deserts of the heart let the healing fountain start."

Every litigant in this courtroom is in some distress, sometimes devastating distress, and in order to adjudicate their disputes, the judges of this Court have to empathize with that intensity, but no matter how deep a judge's feelings, the decision may not be rested on sympathy. Instead, the Court must constrain its feelings within boundaries set by the law. Nobody who hasn't been a judge knows how difficult that may be.

We are told, however, that the judges have run amuck and are governing this country. Upon examination, it turns out that such statements mean that the judges have made a decision that the speaker doesn't agree with. It also turns out that the speaker is ignorant or defiant of the structure of our government.

As Chief Justice Marshall explained in 1802, "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the law," and he added that, "Under our Constitution, it is emphatically the province and the duty of the judicial department to say what the law is."

I don't suggest that judges won't sometimes disagree about what the law is, nor do I suggest that it won't sometimes be difficult to determine what the law is, but we have staked our nation on the proposition that these difficulties may be overcome. Our belief is that judges learned in the law, knowledgeable in our history, and sympathetic to our social ideals may derive from the decisions of their predecessors and from the provisions in the Constitution, general rules which will accommodate the need for stability with the need for change as we learn more information. At any rate, that was the faith of our founding fathers, faith in reason and in the law.

The challenge today is from those who have lost that faith, or never had it, and who would bully people who disagree with them and by naked force or threats would impose their own views on others.

If I were a sailor, I should predict that the waters ahead would be stormy and, I confess, sometimes I regret that I won't be with you when you navigate those waters. But as that cannot be, I must content myself with extending to the Court my affectionate respect and, again, my thanks to the artist for his skill and to the Court for its generous

courtesy in making this occasion possible.

Now, with the Court's permission, I should like to declare my time at an end and withdraw from the rostrum.

JUDGE DEL SOLE: Thank you. We really have enjoyed this day and I particularly find your remarks very thoughtful and I recall as a new judge coming on the Court and having my first conversation with the president judge at the time, Judge Spaeth, welcoming me and being very gracious and saying one thing which has remained with me over twenty-some years, namely what you have to do on this court is learn to disagree without being disagreeable and he epitomized that view. I think we have all tried to emulate that concept and, I think, it is the collegiality of the institution, much of which has been created by Judge Spaeth and his successors that allows us to handle the case load and to get along with each other and, nonetheless, disagree with each other in the form of our decisions, but not personally.

With that, I will ask my colleagues on the bench to make any statement or congratulations to Judge Spaeth.

JUDGE FORD ELLIOTT: I guess I would. I hold a particular place in my heart for Judge Spaeth. Over the history of courts, courts are often identified by the leadership of the judge who served during any particular time and I had the great honor and privilege to serve the Spaeth Court back in the 1980s as the chief staff attorney and I say honor and privilege because you can identify very quickly from Judge Spaeth's remarks, that was very much the leadership that he brought to the Superior Court in those days. It was a very difficult time for the Court because of tremendous caseloads that this Court was saddled with over the eighties and we had a great deal of work to do and the judges were extraordinarily burdened and busy, but there was one guiding light that the judge also maintained. It was a directive which he delivered to all of the staff who served the Court. That was that justice is a search for the truth and that we must do justice with all deliberate speed, but with a very healthy dose of sensitivity and compassion and I would like to think that that is a lesson that I learned from Judge Spaeth and I would like to hope that I have been able to bring it onto the bench and I want to thank you for that today.

JUDGE BECK: We were all very sad when Ned left the Court. He was our intellectual giant. There was nothing we could have done to have kept him on the court, although we would have loved to see him

extend his service.

Judge Spaeth never abandoned the judiciary; so, I want to make a comment about one of his major activities since leaving the bench. Judge Spaeth has been a leader in a group called “Pennsylvanians for Modern Courts” which has shown enormous concern of the direction of the courts in Pennsylvania. To this day, he continues in that role. It is a very important role and the people of Pennsylvania are most grateful to him.

JUDGE McEWEN: I am in his debt, first, because after I arrived at the court in 1981, during the next five years he, simply by his presence, guided, counseled, and mentored. Secondly, it served me well when I became the president judge to have observed his soft, quiet, and effective manner of leadership during his tenure as president judge. The fact is that he set the standard, and set the tone, both as judge and as president judge. For that I am grateful to him. Thank you, Ned.

JUDGE DEL SOLE: I want to point out a couple of things: One, we are having a transcript made of these proceedings for Judge Spaeth. They will be in the reports of the Superior Court and we, obviously, will provide you with a copy.

We have portraits on display of the president judges and in the room off of the center hall, you are invited to view them.

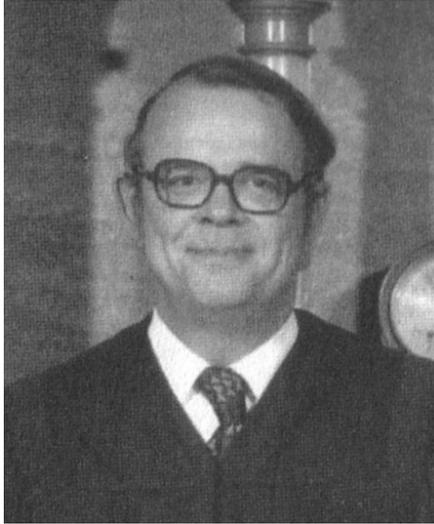
Judge Spaeth is the last president judge of the court to have been selected based on seniority. Following Judge Spaeth’s retirement from the Court, the president judges since then have been elected by the members of the Court and we will be doing that again this year and we will see how it goes. It’s a great institution.

Judge Spaeth, we honor you for your service. We thank you for your presence today. We hope you have enjoyed the program.

JUDGE SPAETH: Thank you.

JUDGE DEL SOLE: Anything else? With that, we will adjourn. The regular session of the court will commence at ten o’clock.

(Proceedings concluded, 9:44 a.m.)

THE HONORABLE GWILYM A. PRICE, JR.

*July 1, 1922 – Jan. 1983
Assumed Office: January 7, 1974
County: Allegheny*

The Induction Ceremony of
The Honorable Gwilym A. Price, Jr.
and the
President Judge Induction Ceremony for
The Honorable G. Harold Watkins, P.J.E.,
were both held together as one on
January 7, 1974.

*The ceremony has been divided so that
the portion pertaining to
The Induction of
The Honorable Gwilym A. Price, Jr., appears below.*

*The portion of the ceremony pertaining to
The Induction as President Judge of
The Honorable G. Harold Watkins, P.J.E.
is located separately at the appropriate section of this volume.*

INDUCTION

PRESIDENT JUDGE CURRAN: The Court recognizes
Gwilym A. Price, Sr. Esq.

GWILYM A. PRICE, SR., ESQ.: If it please the Court, MR. CHIEF JUSTICE JONES, PRESIDENT JUDGE WATKINS, The Honorable Members of the Superior Court, and all of the Judges of the Commonwealth who are here assembled: I am appearing before you today to present the commission of my son, JUDGE PRICE. My name is also Gwilym Alexander Price, and I have known this gentleman for some fifty-one years, but I have never practiced law with him. As a matter of fact, I haven't appeared before the Bar of any Court as an advocate since January 1, 1923, at which time I left the practice of law for economic reasons (one of which was the Judge, age 1 year plus) and regretted it for quite a few years. However, time went on and the Judge was educated in the public schools of Allegheny County, Allegheny College, and Dickinson Law School. His education was interrupted by forty-five months in the military service, entering as a private and leaving as a first lieutenant. He served in this country and the Pacific Theatre. I might say too that when I was admitted to the Bar in the summer of 1917, I was in the uniform of a first lieutenant of the 53rd Infantry, Sixth Regular Division, United States Army, just before leaving with the American Expeditionary Force for service in France and Germany.

Bill's career as a lawyer started in 1950 when he became associated with Mahlon E. Lewis, Esq., in Pittsburgh, and there met his great friend and future partner, Loyal H. Gregg, who is in the Courtroom today. Among his other activities and the civic duties during his practice of law, he also served as a football official. I think he is just about as proud of that as he is of any other distinctions.

Just ten years ago, approximately, I sat in a happy state of euphoria in the Assignment Room of the Court of Common Pleas in Allegheny County and heard his friend and my friend, Mr. Gregg, give a stirring, and I thought eloquent, tribute to my son, Bill. I wish I could do the same task so well today; but as I say, I have known this man for fifty-one years, but I never practiced law with him. That might have been the end of a very strong friendship. During my twenty years in the banking

business, it was part of my duties to keep in close touch with the Members of the Bar where I renewed old friendships and made many new ones. In the past ten years, many of these men have volunteered comments about Bill's work in the Court of Common Pleas. They have reported to me that he was diligent, able, learned in the law, courteous, friendly with lawyers who appeared before him, but firm, and they invariably ended with the comment – "he is a judge of great integrity." From my personal knowledge, I can say that he is and that he does have character, courage and faith. In presenting his commission to this Court, I would like to say with conviction that in addition to character, temperament, and faith, he has a great desire to do a good job. I think he will pull his oar in this very important and prestigious Court, and you will like to work with him, and he will do everything he can to uphold the traditions of the Court and keep the scales of justice balanced with a firm and even hand.

I think I have said everything I need to say, but I am sure some people in the Courtroom would be disappointed if I didn't introduce them. As you can judge, Bill comes from a rather closely knit and relatively happy family. I would first like to introduce – and I hope when I mention their names they will hold their hand up to indicate where they are – first I would like to introduce Marian Roberts Price, my mainstay, guide and mentor of some fifty-three years, and also the principal knitter of the family. Next, and this is her important day, Nancy Schlegel Price, his cheerful partner of some thirty years. If you think Nancy is attractive, as I know she is, you should have seen her about thirty years ago. I would have fallen in love with her myself – and did. Nancy has another distinction today. She was born in Schuylkill Haven, just a few miles from here. Next I will mention her mother, Mrs. Frank Schlegel, whose maiden name was Oneida Kauffman, also from Schuylkill Haven. I think I should mention at this point the Price children, Gwilym III, who enters Dickinson Law School next September. Ellen, who is a sophomore at Grove City College. Deborah Gregg Price, who is a senior in Mount Lebanon High School in Pittsburgh. Then I pass to my doctor son, Bob Price, and his pert wife, Joan. Joan is the wife of a very busy general practitioner with all the chores appertaining thereto, and yet she finds some time to do some church and civic work; and dare I mention it here, she is a Republican Committee Woman. Bob is not appearing in

this ceremony, but I am sure this evening he will be administering tranquilizers to some members of the family, particularly his mother and father. Their son, Robbie, a student at Allegheny College, is not here today because this is the second day of classes in this new semester. Otherwise, they were all present in the Court of Common Pleas just ten years ago. Now I move to my son, Richard Martin Price, Esq., who is a practicing lawyer in Richmond, Virginia, a member of the Pennsylvania, New York and Virginia Bar. In addition to practicing law, along with other educational and civic duties, Dick is very busy trying to make Virginia a safe place for the Republicans. His sweet and attractive wife, Nancy, is the mother to these four very beloved grandchildren, Jeffrey Llewellyn Price, Cassie Price, Lizzie Price and Marion Price. Marion Price (age eight) was not, of course, here ten years ago, so she wasn't in the Assignment Room in Pittsburgh.

Now, with the Court's permission, I will read the commission: In the name and by the authority of the Commonwealth of Pennsylvania, Governor's Office. To Gwilym A. Price, Jr., of the County of Allegheny in the Commonwealth of Pennsylvania, Greetings: Whereas, it appears by the certificates and returns made according to law of the election held on the Tuesday next following the first Monday of November, Anno Domini, 1973, and now on file in the Office of the Secretary of the Commonwealth, that you have been duly elected a Judge of the Superior Court of Pennsylvania; And Whereas, it appears by a certificate filed in the Office of the Governor of the Commonwealth and pursuant to the provisions of Article V, Section 101E of the Constitution of the said Commonwealth that in conformity thereto the two persons who were elected to be Judges of the Superior Court of Pennsylvania at the same time cast lots for priority of the commission, and the said casting of lots resulted in favor of the HONORABLE GWILYM A. PRICE, JR., to be a Judge of the Superior Court of the Commonwealth of Pennsylvania with priority of the commission as to judges of the Superior Court elected at the same time, to have and to hold the said office, together with all the rights, perquisites, and emoluments thereto belonging by law in otherwise appertaining for the term of ten years, to be computed from the first Monday of January, Anno Domini, 1974, if you shall so long behave yourself well. This commission shall have priority over the commission issued to the HONORABLE ROBERT VAN DER VORT as a Judge

of the Superior Court of Pennsylvania bearing even date herewith. Given under my hand and great seal of the state, at the City of Harrisburg, this 27th day of December in the Year of Our Lord, 1973, and of the Commonwealth the one hundred and ninety-eighth. Signed by Milton J. Shapp, Governor and D. DeLores Tucker, Secretary.

CURRAN, P.J.: May I congratulate Gwilym A. Price, Sr. for a very fine presentation under what I know must have been a very pleasurable and yet somewhat difficult circumstance. CHIEF JUSTICE JONES, will you swear in the Judge.

(The Oath of office was administered to JUDGE PRICE.)

JUDGE PRICE: I am very honored to be on this Bench and to take my place with this Court; and as my wife and I walked late last night on some of the streets of Pottsville, we couldn't help but reminisce about the times we had walked there together and the times she had been there before I knew her. I like the President Judge's suggestion that we come back to Pottsville again as a Court, but I certainly am going to come back to Schuylkill Haven and Pottsville whether we come back as a Court or not. I like their hospitality. I like this County, and I'm particularly proud of the native daughter of this County that I married some years ago. I cannot tell you the honor that it gives me to be here with this Court, with my colleagues, and in the tradition of the many judges before, I hope that I will earn the support that so many of you who are here today have given me – my family, my secretary, my law clerk – I see they made it out there. There are friends here from New Jersey, from Allentown, I see so many of them. I am afraid I will miss somebody. To all of you, and particularly to that Price gang that took over the hotel last night, thank you very much. It is a pleasure to be with you all.

July 1, 1922 – Jan. 1983
Assumed Office: January 7, 1974
County: Allegheny

MEMORIAL SERVICE

William F. Cercone, President Judge, Presiding
Eulogy by Loyal H. Gregg, Esquire
And
W. Edward Sell, Esquire

Pennsylvania Supreme and Superior Courtroom
Eighth Floor, City-County Building
Pittsburgh, PA
Monday, March 28, 1983
11:00 a.m.

United States District Court Judges in Attendance:

Honorable Joseph F. Weis, Jr.
Honorable Edward Dumbauld
Honorable Maurice B. Cohill, Jr.
Honorable Carol Los Mansmann

Supreme Court Justice in Attendance:

Honorable Stephen A. Zappala

Superior Court Judges in Attendance:

Honorable William F. Cercone, President Judge
Honorable Edmund B. Spaeth, Jr.
Honorable John P. Hester
Honorable John G. Brosky
Honorable James E. Rowley
Honorable Donald Wieand
Honorable Stephen McEwen
Honorable Vincent A. Cirillo
Honorable Justin M. Johnson
Honorable Zoran Popovich
Honorable Harry M. Montgomery

Honorable J. Sydney Hoffman
Honorable Robert Van der Voort

Common Pleas Court Judges in Attendance:

Honorable Michael J. O'Malley, President Judge
Honorable James F. Clarke
Honorable Marion K. Finkelhor
Honorable Livingstone M. Johnson
Honorable Lawrence W. Kaplan
Honorable James R. McGregor
Honorable John L. Musmanno
Honorable Emil E. Narick
Honorable John W. O'Brien
Honorable Ralph H. Smith, Jr.
Honorable William L. Standish
Honorable Eugene B. Strassburger, III
Honorable I. Martin Wekselman
Honorable R. Stanton Wettick
Honorable Paul R. Zavarella
Honorable Richard G. Zeleznik
Honorable Samuel Strauss
Honorable Patrick R. Tamilia
Honorable Thomas A. Harper
Honorable Hugh C. Boyle
Honorable Nathan Schwartz

IN MEMORIAM

PRESIDENT JUDGE CERCONE: Good morning. This morning the Superior Court of Pennsylvania convenes in special session in honor and memory of our deceased colleague, Judge Gwilym A. Price, Jr.

In this memorial service we commemorate his dedicated and distinguished service as a Judge, his important contributions in the law of Pennsylvania and the many bright pages he has added to the record of accomplishments of the Superior Court of Pennsylvania.

It is proper at this time for the record of this memorial service to reflect the names of the judges who are here to pay honor to the

memory of our deceased colleague. And I will acknowledge their presence.

First, of all, from my extreme right, Judge Zoran Popovich, Judge Vincent Cirillo, Judge Donald Wieand, Judge John G. Brosky, Judge Edmund B. Spaeth, Jr. From my extreme left, Judge Justin Johnson, Judge Stephen McEwen, Judge James E. Rowley, Judge John Hester and Associate Justice of the Supreme Court of Pennsylvania, Justice Stephen A. Zappala.

To my extreme right in the second row, from the United States Circuit Court of Appeals for the Third Circuit, Judge Joseph Weis. Judge Ruggiero Aldisert, also from that court, would be here this morning except for his convalescence. Judge Maurice Cohill, Jr., of the United States District Court for the Western District of Pennsylvania, who is also representing President Judge of that court, Hugh Teitelbaum. Judge Ver der Voort of our court and Judge Harry M. Montgomery of the Superior Court.

To my left, in the second row, Judge J. Sydney Hoffman of our court, and the President Judge of the Court of Common Pleas of Allegheny County, Michael J. O'Malley. We have also in the audience the Judges of the Court of Common Pleas of Allegheny County; Judge Marion K. Finkelhor, Judge Lawrence W. Kaplan, Judge Emil E. Narick, Judge John W. O'Brien, Judge Ralph A. Smith, Jr., Judge William L. Standish, Judge Eugene B. Strassburger, III, Judge I. Martin Wekselman, Judge R. Stanton Wettick, Judge Paul R. Zavarella, Judge Samuel Strauss, Judge Patrick Tamilia, Judge Hugh C. Boyle, Judge Nathan Schwartz, Judge Thomas Harper and Judge John Musmanno.

We also acknowledge the presence of the Commissioner of Allegheny County, the Honorable William R. Hunt.

We acknowledge the presence this morning of the former Associate Justice of the Supreme Court of Pennsylvania, the Honorable Thomas Pomeroy, Jr., and the presence of the Honorable William L. Wilks, Dean of the Dickinson Law School where, of course, Judge Price was a student, and before his untimely death, was a member of the Board of Trustees of Dickinson College.

We acknowledge the presence of the members of the Allegheny County Bar Association, its President, George M. Wise, and its Executive Director, James T. Smith, who assisted us so diligently in

preparing this memorial service.

We acknowledge also, with gratitude, the members of the Academy of Trial Lawyers together with the Lawyers Association of Allegheny County and the members of the staff of the Superior Court who are present this morning.

In his work as a Judge, Judge Price evidenced a strong and finely balanced judicial mind, characterizing his opinions with a demonstration of intense effort, scholarship and clarity of expression. Many of his opinions will be referred to by the members of the bench and bar as authority in the future in many areas of the law.

During the transition years of our court, when we were faced with so many administrative challenges, Judge Price contributed so very significantly to the solutions of our most difficult problems. What gave Judge Price added significance to the work of our court was his exemplification of the qualities of the scholar, the gentleman, and of one who always possessed a lively sense of humor and goodwill towards others. His death leaves a void among all of us, his colleagues of the Superior Court, and his colleagues in the courts of Pennsylvania. But we have been privileged in having had the opportunity to work with this distinguished and dedicated jurist and citizen. All of us extend to Judge Price's family our deepest sympathy.

We are privileged at this time to recognize Loyal Herman Gregg, Esquire, who was Judge Price's law partner in the practice of law.

Mr. Gregg.

MR. GREGG: May it please the Court, members of the Price family. Judge Price was only 60 years old when he died. He had spent a third of those years as a Judge.

A few more days more than 20 years ago, on March 14, 1963, I had the honor of presenting Bill's commission appointing him as Judge of the Court of Common Pleas of Allegheny County. And at that very happy occasion there were four generations of the Price family present. Unhappily, some of those appearing then are not with us now. Bill's grandmother, Mrs. Roberts; Bill's mother, Mrs. Marion Roberts Price; and Nan's mother, Mrs. Onita Schlegel, have died.

Today, however, there are four generations of the Price family here. Mr. Gwilym A. Price, a member of the bar of this court for more than 50 years, and Mr. Price's wife, Mrs. Patty Cramer Price. Bill's brother, Dr. Alfred Price and his wife, Joan. Bill's youngest brother, Richard

Price, and his wife Nancy. Richard is a lawyer practicing in Richmond, Virginia, and is also a member of the bar of this court.

Bill's devoted wife, Nancy Schlegel Price. This coming December, Bill and Nan would have celebrated their 40th anniversary. Bill's son Gwilym A. Price, III. And his wife Kathy, and Bill's daughters Ellen and Debra Gregg Price, and Bill's granddaughter, Leah Kathleen Price. And Bill has a little grandson, Evan Robert Price, but he is too little to sit still and he is not here.

Bill was born in Allegheny County on July 1, 1922. His home has always been in Allegheny County. He attended Langley High School and West Nottingham College when World War II interrupted his education.

He enlisted in the Army as a private and served 46 months. He served in the Philippines, the Pacific and finally in Japan. He was discharged a first lieutenant. He was married to Nancy Schlegel on December 4, 1943. When he was discharged from the service, Bill finished his education, obtaining his law degree from Dickinson School of Law. And he was admitted to the bar in 1950.

I first met Bill in early 1950 when he came to work at the offices of Nicholas & Lewis, where I was working. Mr. Lewis had been a professor of law at the University of Pittsburgh Law School for many years. He was a brilliant lawyer, and he was an excellent teacher for young lawyers. That office was later to become known as Lewis, Drew, Gregg & Price. In addition to Mr. Lewis, it included the late Judge John Drew, Clyde Donaldson, Walter Horwarth, Robert Maxwell, John Kunkle, the late Phillip Huss, Jr., Bill and me.

In 1955, Bill and I formed our own firm with offices in the Grant Building and that is where we practiced until he went on the bench in 1963.

When I look back over the years that we practiced law together, I don't think about the cases that we worked on, necessarily. I remember the happy relationship we had. Bill was a very happy person. And he made you happy to be with him. I never knew him to hold a grudge. He always respected and liked the attorneys on the other side of the case.

During those years, somehow we found time every day to stop work and have a cup of coffee together. That practice continued, whenever possible, after he was on the bench. During those years of practice there was one thing that was very important to Bill, and I have to mention it. Bill was a young lawyer building practice in a town where

it seemed that everybody knew Bill's dad. Bill's dad had been president of one of the largest firms. He was president and chief of Westinghouse, he was on the board of several large corporations and was president of the trustees of the University of Pittsburgh. And Bill had the same name as his dad. That situation seemed beautiful, but it can be troublesome if it is not handled properly. Bill was very insistent that our law firm would never represent a client who simply wanted an entrée to Mr. Price. He was also very careful that our firm didn't get tangled up in some case that might cause embarrassment to his dad in the business world.

I never knew anybody like Bill who loved and respected his father as much as Bill did. There is a story I have to tell somewhat related to this last subject which Bill and I had several good laughs about. Early when we were practicing, we made a decision to buy season tickets to the Pitt football games for our wives and ourselves. Now, that was a big decision, because our fees weren't that great in those days. But after we made that decision Bill said, "I think I better write the letter, because those people at Pitt might get my name confused with my dad's. Well, he wrote the letter, and I know he put the "Jr." on the end of his name. When we went to our first game, Bill and Nan and Theresa and I were talking, and I won't tell you where our seats were, but nobody at Pitt recognized our names. I sort of nudged Bill and I said, "Bill, if you had any more pull than you have, I don't think they would let us in this place." Well, that didn't bother Bill. He said, "I will write a letter to Frank Carver on Monday." Frank Carver was the athletic director. He wrote a letter to Mr. Carver saying, "I had hoped for seats close to the 50-yard line." Mr. Carver wrote a very nice letter back to Bill and he said, "Dear Bill"—I can remember this letter because we got so many of them—"Dear Bill: As you know, touchdowns aren't scored on the 50-yard line and with your seats you have a 50-50 chance of seeing all the touchdowns." Every year after that, Bill would write to Mr. Carver, and Mr. Carver would write the same letter back.

During Bill's years of practice he was very conscious of his civic responsibility. He spent a great deal of time working for the YMCA. He worked for the Salvation Army, United Cerebral Palsy and Family and Children Services. He ran and was elected Commissioner of Mt. Lebanon Township. As soon as he was elected Judge of the Common Pleas Court for the 10-year term, he took his first vacation and

attended the National College for State Trial Judges in order to be better qualified to handle his job. Later, in 1970, Bill taught at the National College of State Trial Judges.

During those years Bill and I both thought that we were a little too close for me to practice in his court. So although I don't have first-hand information, I knew he was doing an excellent job just from the way the members of the bar respected him. He liked being with lawyers. He always attended the annual Bench-Bar Conference, and many times he was a lecturer.

In 1972 Dickinson School of Law awarded him an Honorary Doctor of Law Degree, and in 1976, Allegheny College awarded him a Doctor of Law Degree.

In 1973, Bill was elected to the Superior Court of Pennsylvania. And on January 7, 1974, in ceremonies in Pottsville, Bill was sworn in at the same ceremonies that Judge Watkins was sworn in as President Judge of this court.

While Bill was on the court there came a time when a great deal of pressure was put on Bill to run for the United States Senate. And the pressure was strong. Bill refused because he considered his work on this court every bit as important. Now, I don't mean to represent to this court that the law was Bill's first love, because that is not so. Bill's first love was his family. He and Nan had a wonderful married life. For years Bill and Nan and Theresa and I used to celebrate our wedding anniversaries together.

Not too long ago he wrote a letter on my behalf and said he considered me as a brother. This was the highest compliment Bill could pay me, because I knew what Bill thought of his brother. No, Bill's first love was his family and then the law came next. He was very proud of the Court of Common Pleas. He was very proud of this Court. He respected all of his colleagues, and considered all of you his friends.

In 1963, when I presented Bill's commission, I said without equivocation, that in his courtroom the scales would be in balance. And that was the case for 20 years. Bill conscientiously served the people of this Commonwealth for one-third of his life. The people have lost a very valuable Judge.

Bill was my oldest and closest friend.

Thank you.

PRESIDENT JUDGE CERCONE: Thank you, Mr. Gregg. We

acknowledge this morning the presence of Judge Edward Dumbauld of the United States District Court for the Western District, and Judge Carol Los Mansmann, also from that very important court.

We now recognize Professor W. Edward Sell, former Dean of the University of Pittsburgh Law School and presently a distinguished Service Professor at the law school.

PROFESSOR SELL: Members of the family, may it please the Court: I became acquainted and developed a friendship with Judge Price long before he ascended this honorable bench. I valued that friendship and found in Judge Price a warm human being, filled with a zest for life and a deep respect for the dignity of the individual.

In preparing these remarks, I thought it fitting that I should review the majority opinions written by him while a member of this Court.

Aided by Lexis, I found that he had written 104 opinions during his tenure. Of course, his illness seriously impacted on his output near the end of that tenure.

I set out to read each of these 104 opinions, although most of them were not in my fields of concentrated study and teaching. However, it was an informative exercise, and led me to formulate a few conclusions.

First, I found that his opinions demonstrated a deep respect for *stare decisis*. His opinions were replete with citations of earlier opinions of either this Court or the Supreme Court of Pennsylvania. I, of course, did not find any cases in which there was any compelling reason to veer from the precedents. But nevertheless, he demonstrated a respect for the prior decisions and their impact on the case at bar.

Second, when the legislature had spoken, Judge Price always interpreted the enactment according to the fairly literal wording of the statute, never attempting to read into the statute some obtuse intent of the legislature. He felt that if the legislature meant something different from the generally accepted meaning of the words that were used in the statute, it was up to that body to amend its work to more clearly state that intent.

Within that framework, he evidenced deep concern for due process and for the delivery of justice in every trial. He was concerned about effective counseling of the defendant in several of the decisions involving criminal trials.

I always found Judge Price to be concerned about the conduct of lawyers and their adherence to the highest professional standards. He

expected lawyers to conduct themselves in a manner which would not bring disgrace upon them or the bench and bar. In his judicial duties, he was a no-nonsense jurist, but always fair-minded. A diligent worker and fully learned in the law, he always displayed courtesy to those with whom he came in contact, on and off the bench. I never heard a lawyer claim that Judge Price had demeaned or embarrassed a lawyer appearing before him, either in his lower court service or on this Court, even when he might have held private views which were in opposition to those being espoused.

In one of his opinions, he had to deal with a case where a lawyer failed to appear at a trial because of his attendance in another court, although giving no notice to the court of the conflict. Even though he dismissed the contempt charge against the lawyer, he closed his opinion with a paragraph, which I think, evidenced his view of the lawyer's obligations to his fellow lawyers and the court.

He wrote: "Certainly conflicts arise in an attorney's schedule, and cancellations, continuances and rescheduling become a way of life for a busy trial lawyer. However, one shows no respect for the court, opposing counsel or the parties when he fails to alert them that he cannot be present for scheduled court business. Where humanly possible, one must give all involved the benefit of prior notice of his unavailability so that alternate plans may be made and available time and resources may not be wasted. Failure to give prior notice is simply irresponsible and discourteous qualities not becoming one of the legal profession. Our only hope is those who pursue such conduct as in *Washington* and the instant case shall remain a decided minority of the bar."

In my conversations with him, Judge Price always viewed the work of the court as very important. He approached it with a character and temperament and a faith that should serve as an example to all who sat on this bench with him. He was diligent in his efforts at writing his opinions and giving them the full measure of study and attention required. He was an honored and distinguished lawyer and judge.

In thinking of him, I am reminded of Plato's statement about wisdom which, I think, characterized Bill: "Perfect wisdom hath four parts, namely, wisdom, the principle of doing things aright; justice, the principle of doing things equally in public and private; fortitude, the principle of not flying danger, but meeting it; and temperance, the principle of subduing desires and living moderately."

If the Court please, on behalf of Mrs. Price and the Price family, as well as the bar of this County and State, we mourn the passing of a respected family man, friend and distinguished lawyer and jurist. I respectfully move when this Court adjourns this date, we do so out of respect for the memory of Gwilym A. Price, Jr., late a member of this court.

Thank you.

PRESIDENT JUDGE CERCONO: Thank you, Dean.

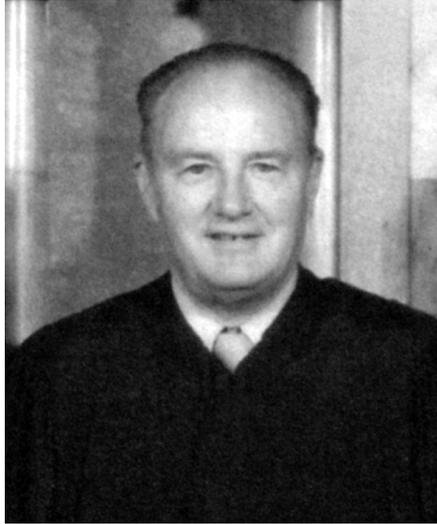
We want to acknowledge the presence of Judge James R. McGregor, and a former Judge of the Court of Common Pleas and colleague of Judge Price, the Honorable John McLean.

Also present are past-president of the Allegheny County Bar Association, Jack Feeney, and past-president of the Pennsylvania Bar Association, David Fawcett.

On the part of all the Judges of the United States Court of Appeals of the Third Circuit, the United States Court for the Western District of Pennsylvania, the Supreme Court of Pennsylvania, the Superior Court and the Common Pleas Court, we are grateful to you, Loyal and Dean, for the eloquent tributes you paid to Judge Price.

These proceedings will be made a permanent part of the record of our court and will be published in the Superior Court reports. A copy of these proceedings will be given to Nancy Price, beloved wife, to keep. The Court will now adjourn, but I am sure that immediately after we have adjourned, the friends present will be happy to exchange greetings and say hello to the members of the Price family.
Court is adjourned.

THE HONORABLE ROBERT D. VAN DER VOORT



April 15, 1909 – November 24, 1993

Assumed Office: January 7, 1974

County: Allegheny

INDUCTION

**PROCEEDINGS ON THE OCCASION OF
THE INDUCTION OF
HONORABLE ROBERT VAN der VOORT
AS A JUDGE OF THE SUPERIOR COURT
OF PENNSYLVANIA**

The induction proceedings held in the Supreme-Superior Court Room in Pittsburgh, Pennsylvania on December 28, 1973, were as follows:

COURT CRIER: Please rise, the Honorable Judges, members of the United States Court of Appeals, Supreme Court of Pennsylvania, the Superior Court, the Commonwealth Court and the Court of Common Pleas of Allegheny County, Superior Court Judge, the Honorable William F. Cercone, presiding.

HONORABLE WILLIAM F. CERCONO: You may open court.
(Court opened by Court Crier.)

JUDGE CERCONO: I am very happy to welcome you this morning to this ceremonial session which has been called for the purpose of administering the oath of office to a newly-elected judge of the Superior Court of Pennsylvania, the HONORABLE ROBERT VAN der VOORT. Present on this important occasion on the bench with me are a Justice and judges of the various courts in our area. Each of these Judges shares the esteem, affection and high regard of the good people of the City of Pittsburgh and the County of Allegheny. As I introduce them I suggest that we give each of them an equally thunderous applause.

Honorable Joseph Weis, United States Court of Appeal for 3rd Circuit (Applause)

Justice Thomas W. Pomeroy, Jr., Justice of the Supreme Court of Pennsylvania (Applause)

Honorable Harry M. Montgomery, Senior Judge, Superior Court (Applause)

Honorable Harry A. Kramer, Judge of the Commonwealth Court of Pennsylvania (Applause)

Honorable Henry Ellenbogen, President Judge of the Court of Common Pleas (Applause)

Honorable Gwilym A. Price, Jr., Court of Common Pleas Judge and Judge-Elect of the Superior Court (Applause)

Honorable Earl Keim, Judge of the Court of Common Pleas of Westmoreland County (Applause)

I know Judge Van der Voort appreciates the presence of this distinguished audience. Time does not permit the recognition of each one separately; however, we do want to acknowledge the presence of the lovely and charming wife of Judge Van der Voort, Dorothy Van der Voort. (Applause)

And I am also privileged in acknowledging the presence of the Van der Voort family. (Applause)

The Superior Court was created by the legislature in 1895, for the purpose of assisting in the work of the Supreme Court of Pennsylvania, and consisting of a President Judge and six associate judges. This is the court that entertains appeals from the Courts of Common Pleas of the 67 counties involving some of the most important problems

confronting people in the life of our state such as custody and support of children and the problems involved in divorce actions.

In 1968 the people of Pennsylvania adopted a new constitution which established the Superior Court as a constitutional Court and enlarged its jurisdiction in the fields of trespass and assumpsit actions, involving personal injuries, property damage and contractual obligation with no limit in the amount involved.

The court also hears appeals in every type of criminal case with the exception of felonious homicides which are heard by the Supreme Court of our state.

This comprises the bulk of work and all together presents a great challenge to the judges of the Court.

It is on this Court that Judge Van der Voort will take his place on January 7, 1974.

All of you are familiar with Judge van der Voort's impressive record and his fine judicial accomplishments. I will simply say that he enjoys the respect and confidence of the bench and bar throughout the entire Commonwealth and I confidently predict that he will continue to be a dedicated judge and will make an outstanding contribution to the work of the Superior Court, as will also Judge Price who is with us this morning.

Speaking for all the members of the Superior Court, we are honored to have Judge Van der Voort as a colleague, we wish him well, and welcome him wholeheartedly to our fellowship. (Applause) The court is happy to recognize an illustrious member of the bar, William H. Eckert, Esquire.

WILLIAM H. ECKERT: If the Court please, this eminent Court having lost through forced retirement two illustrious judges in Judge Montgomery and President Judge Wright, I have the great honor of presenting the commission of another illustrious judge to fill one of those vacancies: namely, the Honorable Robert Van der Voort.

After graduating from the University of Pittsburgh Law School in 1934, he actively engaged in the general practice of law in Allegheny County until he was elevated to the Bench 25 year later, except while serving overseas in the armed forces of our Country during World War II. During his practice, he was the solicitor for numerous municipalities and was a recognized authority on municipal law. He also had much experience in the criminal practice, as is illustrated by the fact that he

served four years as First Assistant District Attorney of Allegheny County. That he was an all-around able practitioner is proved by the fact that for the last dozen years of his practice he was the senior partner of the well known law firm of Van der Voort, Royston, Robb & Leonard. The high regard in which he was held by his contemporaries at the Bar is attested by the fact that they elected him President of the Allegheny County Bar Association.

He was appointed and then elected to the Court of Common Pleas of Allegheny County in 1959, and since then has served continuously on that Court until now, having been retained on the Bench by the voters in 1969. During his 14 years on the Common Pleas Bench in this metropolitan community, Judge Van der Voort has had wide experience with all types of litigation that are within the jurisdiction of the Superior Court, both civil and criminal. Most of his service has been in the Civil Division of our Common Pleas Court, which disposes of a broad and infinite variety of litigation. But because of his exceptional experience in the criminal field also, Judge Van der Voort served as Presiding Judge of the Criminal Division of our Common Pleas Court for about 4 ½ years until he was assigned to the Orphans' Court Division last spring. While Presiding Judge of the Criminal Division, Judge Van der Voort actively participated in introducing various salutary reforms in that Division, such as a much improved bail system, computerized record keeping which is more efficient, advanced rehabilitation, especially of youthful first-offenders in nonviolent crimes, and the revision of our local rules of criminal practice.

Because of his expertise in the criminal practice, the Supreme Court of Pennsylvania appointed Judge Van der Voort to its Criminal Procedural Rules Committee. Judge Van der Voort has served on that Committee for the last twelve years and is still on it. His familiarity with those rules should be of great help to the Superior Court because all criminal appeals go to that Court except those involving felonious homicide.

During his fourteen years service on the Court of Common Pleas of Allegheny County, Judge Van der Voort has demonstrated that he possesses exceeding ability, mature experience, judicial temperament, impeccable integrity, indefatigable industry, indomitable courage, uniform courtesy, and all other judicial qualifications. The Bench, the Bar and the public of Allegheny County will therefore solely miss Judge

Van der Voort from their local Court of Common Pleas. But this County's loss will be the State's gain, because now all the people of the great Commonwealth of Pennsylvania will enjoy the benefit of Judge Van der Voort's judicial talents in his new position on a state-wide court.

It is a safe prediction, therefore, that Judge Van der Voort will be a valuable addition to our esteemed Superior Court and that he will do his share to maintain the exemplary standard of that Court in the administration of justice.

Notwithstanding his faithful devotion to his judicial duties, Judge Van der Voort has found time to aid many worthy civic causes. For example, he is Chairman of the Board of Directors of the Lawrence Acres Children's Home, a member of the Corporate Board of the North Hills Passavant Hospital, and a member of many other civic organizations. Also in furtherance of the public interest, Judge Van der Voort has served as the Commanding Officer of the local Naval Reserve Unit.

Before closing it should be noted, as Judge Cercone has said, that Judge Van der Voort's charming wife, Dorothy, is gracing this ceremony with her presence. Also witnessing this memorable occasion are Judge Van der Voort's children David and Betsy Brown.

May I, therefore, present the commission to elevate the distinguished Judge Robert Van der Voort to the eminent Superior Court of Pennsylvania, and respectfully move that the oath of office be administered to him.

THE HONORABLE HARRY M. MONTGOMERY administers the oath of office to Judge Van der Voort. (Applause)

JUDGE CERCONE: His son, David, will assist the Judge in his robing.

JUDGE CERCONE: Judge Van der Voort, will you kindly come forward to take your place on the bench? (Applause)

JUDGE CERCONE: Now I think it only fair to call on Judge Van der Voort to defend himself.

JUDGE VAN der VOORT: Fellow judges, ladies and gentlemen, because of a most severe cold and near loss of voice, I am unable to defend myself too well.

I am very happy in becoming a member of this wonderful Superior Court of Pennsylvania and I am looking forward to joining with my

colleagues in the Court's important work.

I want to thank all of my friends who have come here this morning to help in these swearing in ceremonies and make them so pleasant.

JUDGE CERCONI: This court is about to adjourn but we wish to announce that immediately following the adjournment, Honorable and Mrs. Van der Voort will stand in front of the lectern where I am sure they will be happy to greet you and where you may extend your felicitations to them.

Court is now adjourned.

RESOLUTION

At a meeting of the Board of Judges of the Superior Court of Pennsylvania held in Pittsburgh on April 28, 1995, it was moved, seconded, and unanimously approved that the following resolution, commemorating the life of Robert Van der Voort, Judge of the Superior Court, who died November 24, 1993, be adopted.

RESOLUTION

We the members of the Superior Court of Pennsylvania are met today to honor the memory of our friend and colleague, Judge Robert Van der Voort, who was born in Crafton Borough, Allegheny County, Pennsylvania, on April 15, 1909, the son of Attorney Carl and Elizabeth Cleeland Van der Voort. He died on November 24, 1993, in Mars, Pennsylvania, leaving to survive him his lovely wife Dorothy, two daughters, now Ellen Huet of Houston, Texas, Mrs. Betsy Brown, of Iowa Falls, Iowa and a son David of Franklin Park. In these resolutions we memorialize his career and the many contributions that exemplified his life of service to the law and to the people of Allegheny County and the entire Commonwealth of Pennsylvania.

WHEREAS, IT IS RESOLVED that we, the Judges of the Superior Court of Pennsylvania, sitting in special session, express our profound sympathy to the family of the late Judge Robert Van der Voort.

WE THEREFORE ACKNOWLEDGE his dedication to and love for his wife Dorothy and the three children, Ellen, Betsy and David and the love and affection he received in return from them during his lifetime, his dedication to public service, his leadership qualities and beneficent influence which he exerted upon his fellow citizens, colleagues, clerks and students.

WE ACKNOWLEDGE his distinguished career marked by fifty years of public service as lawyer and judge. Of the fifty years, twenty-five were given to judicial service. From 1959 to 1973, he served as a Judge of the Court of Common Pleas of Allegheny County and from 1973 to 1984, he served with equally great distinction as Judge of the Superior Court of Pennsylvania. Bob Van der Voort was a man who looked upon life in a favorable light. He was warm-hearted, kind and

gracious in all his activities whether they be judicial, civic or charity-related. His time given to civic and charitable events were many and most beneficial to the life of community and state. His fifty years of public service are instructive of the satisfaction and significance that can come from one's life dedicated to the well-being of family, community, state and nation. Because of his aptitude for in-depth study and research, he moved easily through the process of his formal education, from public school to law school at the University of Pittsburgh.

WE ACKNOWLEDGE his distinguished years of life-long and wide-ranging activities in the community where he served as Allegheny County Bar Association President for the 1949-50 term. His presidency of the Lawnvue Home for Orphaned Infants, financed by the late Philanthropist, Attorney Ben Paul Brasley, who was so impressed with Bob Van der Voort's work in church, charity and civic affairs. He was a long time member in the State and American Bar Associations. He served as a member of the Ingomar United Methodist Church and was always interested in service on behalf of those who experienced life's hardships because of poverty or age: these activities being a few examples of his humanitarian efforts.

WE FURTHER ACKNOWLEDGE his service in the Pacific theater of War in the United States Navy during World War II. He entered service as a Lieutenant (jg) and retired after the war as Commander in the United States Naval Reserves and Commanding Officer of a local reserve unit during which time he continued to teach the importance of discipline and dedication to one's assignment.

WE ACKNOWLEDGE his service as Assistant District Attorney of Allegheny County beginning his work there in 1939 and rejoining that office after the war as First Assistant District Attorney under District Attorney William S. Rauhauser. It did not take long for his assistants to recognize his leadership qualities and to appreciate his constant counsel and advice which elevated their efforts in carrying out their duties in the highest tradition of the office. It was during those years that the leaders of the communist operatives in Western Pennsylvania were brought to trial for their nefarious work in our community and state.

WE ACKNOWLEDGE his great reverence for the law. To him it was the most noble way to recognize and protect the rights of the

people. To him one of the purposes of the work of the Superior Court was to take the principles of law as laid down by the trial judge and possibly advance it one step further in order to meet the needs of an advancing society. On both levels of service, the Court of Common Pleas of Allegheny County and the Superior Court of Pennsylvania, Judge Van der Voort, always soft-spoken and gracious, brought the full force of his wide knowledge of the law into his hundreds of opinions in all phases of criminal and civil law. He was a judge with a fine intellect with the ability for meticulous research that enabled him to bring to his judicial work that measured cadence of clear and concise reasoning which are found in his decisions.

WE FURTHER ACKNOWLEDGE his constant meeting some of the exciting challenges of life such as learning to fly an airplane for which he received instrument and gliding licenses and ratings in single engine land, single engine sea, and twin engine land.

WE ACKNOWLEDGE ALSO the words of three of his colleagues who express compositely the sentiments of how they remember Judge Robert Van der Voort. Those three being Judge Harry M. Montgomery, Judge J. Sydney Hoffman and Judge William F. Cercone, past President of the Superior Court, all of whom are serving the court as senior judges presently:

“Bob Van der Voort had the unique quality of establishing his position and convincing others without heat, rancor, or argumentativeness. He was kind, thoughtful and considerate. He was admired, respected and loved by his colleagues and friends who were legion. Those of us who knew him well will never forget his decency, integrity, and selflessness. He will be in our hearts forever.”

Their words speak eloquently of the life of Judge Van der Voort who dedicated his career to the advancement of his fellow man in the pursuit of liberty under the principles of law.

WE FURTHER RESOLVE that the Court Reporter be instructed to transcribe these resolutions in their entirety upon the Court’s permanent record and that the same be presented to his family.

THE HONORABLE JOHN P. HESTER

August 2, 1913 – September 24, 2004

Assumed Office: January 3, 1978

County: Allegheny

BIOGRAPHY

The Honorable John P. Hester was a native western Pennsylvanian, born in 1913 in McKeesport to Jerry J. and Mary McLaughlin Hester. As the son of a working class family and living through the Great Depression as a young man, Judge Hester confronted life's challenges with his dry Irish wit, hard work ethic, and easy-going personality. Experiences in his boyhood shaped the person, and jurist, he would become.

Judge Hester spoke in particular of his paternal grandfather, John Hester, who had been killed in an industrial accident in McKeesport at the National Tube Company plant, which was part of the Carnegie Steel Company. At that time, his grandfather had ten children, including Judge Hester's father. Judge Hester's paternal grandmother was rendered destitute after her husband's death, because, at that time, there were no workers' compensation laws or insurance to protect working class families in such dire situations. Instead, the extent of the

remuneration offered by the company was to give Judge Hester's father a job as an apprentice machinist. Judge Hester's father was forced to leave high school to work at the company for ten cents per hour, twelve hours per day, seven days a week. Judge Hester was profoundly impacted by these events, which deprived his Irish immigrant grandparents and their children of a normal existence, including the opportunity to go to school. Judge Hester said that his father, who went on to become successful in his own field, always reminded him of the importance of protecting working class people, and that this could only be accomplished by electing legislators who would strive to do so. Many of Judge Hester's friends and colleagues agree that, because of the difficult challenges and experiences in his boyhood, Judge Hester served as champion of the working class person and stood steadfastly, with wisdom and empathy, for the best interests of the people he served in his community.

In 1936 to 1938, prior to becoming an attorney, Judge Hester was the Assistant Sergeant of Arms in the Pennsylvania House of Representatives. During that time, he had the opportunity to observe the legislative process first hand. Samuel A. Weiss was serving as a legislator in the General Assembly during that post-Depression era, and Judge Hester admired Representative Weiss's efforts to protect the average working class citizen in Pennsylvania by supporting collective bargaining efforts by employees and by supporting improvements to the Commonwealth's workers' compensation laws. Accordingly, "Sammy," as he was known, become an important mentor to Judge Hester. Eventually, Samuel Weiss served in Congress and then, in 1946, he became a judge in the Allegheny County Court of Common Pleas. Samuel Weiss was the person who most influenced Judge Hester to choose a career in law.

After graduating from Duquesne University in Pittsburgh in 1940, with a bachelor's degree in business administration, Judge Hester attended the University of Pittsburgh School of Law where he earned his law degree in 1943. At one point, he became Samuel Weiss's first non-salaried law clerk.

Judge Hester also served as the solicitor of various local communities including Glassport, Millvale, Dravosburg, and Heidelberg. He was a Glassport counsel member from 1942 to 1950. Judge Hester served as solicitor to various school districts throughout

his early career, including Glassport, Millvale, Heidelberg, North Fayette, South Park, and West Allegheny. He also served as Deputy Attorney General for the Commonwealth of Pennsylvania, prior to ascending to the bench.

Judge Hester exemplified the same devotion to family as he did to his community, including his wife Marion H. Haube Hester, whom he married on October 5, 1946, and his sister Catherine Bonebrake. After his brother died while serving in World War II, Judge Hester raised his brother's children, two girls and a boy, as if they were his own. In later years, the walls of his judicial chambers were covered with family photographs of his nieces, nephew, and their children. Interestingly, after the war, the Pennsylvania General Assembly enacted a bonus payable to all World War II veterans, but no provisions were made for veterans' widows and their children, who had to proceed with normal estate administration. Thus, in conjunction with the Disabled American Veterans and other veterans' groups, Judge Hester rallied a group of young lawyers to organize proceedings that would permit the bonus to be paid to the widows and children outside of the normal estate procedures. The proceedings, forms, and documents they created were soon duplicated and utilized throughout the Commonwealth.

Judge Hester's career in the judiciary began in February 1960, when he was appointed to the Old County Court of Allegheny County by Governor David L. Lawrence. Shortly thereafter, in 1963, he was elected to a full term as a judge in the Allegheny County Court of Common Pleas and was re-elected for another term in 1976. In 1976 and 1977, Judge Hester served as administrative judge of the civil division of the Court of Common Pleas. While in the Court of Common Pleas, Judge Hester was instrumental in introducing arbitration and mass conciliation to Allegheny County, which served to relieve the grossly overcrowded docket of the court. During his tenure there, the civil division of the court was rated as one of the most outstanding in the United States.

Judge Hester was elected to the Superior Court of Pennsylvania in 1977 and sworn into office on January 3, 1978. A registered Democrat, his addition gave the party their first six-to-one majority in the history of the Court. He once explained that he was motivated to become a Superior Court judge in order to improve the methods and time-frame in which appellate court opinions would be rendered, so that trial court

judges would receive the much needed guidance they were seeking in areas of law undergoing development at that time, such as comparative negligence.

When Judge Hester first ascended to the Superior Court bench, the Court had seven judges, who sat en banc and heard argument in every appeal. At that time, the judges did not receive briefs prior to oral argument. Judge Hester explained that they would hear 25 arguments per day at times because submit panels, in which cases would be submitted on written briefs without oral argument, did not yet exist. Judge Hester served on the Court during a number of key transitions that improved the functioning and efficiency of the Court. First, the Court was expanded from seven to fifteen judges; second, judges began to sit in panels of three rather than en banc for every case; third, the Court instituted submit panels; fourth, the judges received briefs well ahead of oral argument, giving them much needed preparation time; and fifth, they were given more staff to assist with consideration and adjudication of cases. Judge Hester credited Judge William F. Cercone, who was serving as President Judge when the Court expanded to fifteen judges, with effectuating much needed changes in the Court and successfully campaigning for each judge to have four law clerks.

In 1983, after reaching the age of 70, Judge Hester became a senior judge on the Superior Court. He served as senior judge through the end of 2002, when he retired from the bench.

Judge Hester's career is replete with accomplishments and recognition for those accomplishments. He was an active participant in advancing legal studies, as he lectured at the Institute of Legal Medicine at the University of Rome and at the International Institute of Comparative Law in Rome. Duquesne University honored him as one of its 100 most outstanding graduates in its first century. A devout Roman Catholic, Judge Hester received the prestigious Saint Thomas More Award in 1979 for his service to the courts, his community, and the legal profession.

Mostly, however, he avidly supported his local community in direct and tangible ways, such as serving on the Board of Trustees of Mercy Hospital and Mercy Health Foundation. He was an original member of the Allegheny County Hospital Financing Authority, where he served as vice president. He was president of the Stephen Foster Community Center, president of the Catholic Youth Association, and

chairman of the Allegheny District Chapter of The National Multiple Sclerosis Society. He received a citation from the American Legion, and he received the National Service Award from the Disabled American Veterans.

Judge Hester passed away on September 24, 2004, at the age of 91. Judge Hester's longtime friend, Judge Patrick R. Tamilia, lunched weekly with him in the Grant Building in Pittsburgh, where they both had chambers. Judge Tamilia knew Judge Hester from the time Judge Tamilia was a law clerk in the Old County Courthouse in 1960. Judge Tamilia described Judge Hester as a "judge of the old school" and as a "no-frills judge" who demonstrated good sense as a jurist. Judge Tamilia stated that Judge Hester had "a lot of dignity, a lot of character and personality" and described him as "the kind of guy you would be glad to have as a friend."

Judge Hester is remembered by another colleague, Judge John L. Musmanno, for his basic sense of fairness and good heart. Judge John T. Bender, who knew Judge Hester from the time he was a law clerk on the Court in the early 1970's described Judge Hester as "very friendly, very humorous."

Undoubtedly, Judge Hester made a positive impact on the law, on his community and colleagues, and on his friends and family. He is remembered fondly by those who were fortunate enough to have the opportunity to work with him and know him.

*We thank Judge Tamilia for providing most of the above information about Judge Hester.

THE HONORABLE JAMES R. CAVANAUGH



August 26, 1931 – August 13, 2004

Assumed Office: July 31, 1979

County: Philadelphia

MEMORIAL BY
THE HONORABLE, STEPHEN J. MCEWEN, PJE

The Honorable James R. Cavanaugh
Judge of the Pennsylvania Superior Court
Judge of the Philadelphia Common Pleas Court
t/d/b/a Jimmy Cavanaugh

—
Husband, Father, Lawyer
Scholar, Philosopher, Humorist and Friend
1931-2004

As today we assemble – in sadness because of his death, and in joy because of his life – our first thoughts are of the bright and gracious lady who shared his times of triumph, his days of distress, and whose love and faith have been an inspiration to all who have known them. We salute you for all of that, Pat, and share the sadness which you do

and will suffer.

And as the sage pronounced, no crooked bough ever a straight lance made. To judge the worth of a man or woman, look not to the words or the public deeds, but look instead to their children. It is the people's offspring who, unbidden and involuntarily, speak the greatest truths about the nature of their parents; and the most unimpeachable truths about Pat and Jimmy Cavanaugh are spoken when you meet their three children: Denise, Mark and Martha. Instantly, as you view them, you realize from the unwavering eye and the steady handshake and the open smile that they were raised in love and discipline, and it shows. Jimmy ... Pat ... you both *dun* good!

Heaven happily bestows upon the sensitive and the caring a penchant for nostalgia, which is usually a blessing, since nostalgia only inspires happy and pleasant recollections. Perhaps, in these few minutes, it would smilingly serve to provide soft beats upon the drum of nostalgia by sprightly skipping through the decades past with mention of scenes and sites of yesteryear:

ST. MARTIN OF TOURS PARISH SCHOOL, which Jimmy attended with our esteemed Celebrant, Father Peter Harvey, and where Jim would first learn the doctrine, as basic as it is profound, set forth upon the first page of the Baltimore Catechism: *God made me to know Him, to love Him, to serve Him in his world, and to be happy with Him forever in the next.* Today, Jimmy is doing just that. NORTHEAST CATHOLIC HIGH SCHOOL, where Jimmy formed his lifelong reverence for and bond with the Oblates of St. Francis deSales, his teachers and mentors, and where he would learn another fundamental message, although one not quite as profound: *Emo, Emo, Enickademo, aaah! ... Northeast Catholic, rah, rah, rah!*

THE COLLEGE - and who doesn't know that this refers to St. Joseph's College, the institution the Jesuits now call *University*, but for most of us will always be *The College* - where Jimmy's excellence earned him the distinction of membership in Alpha Sigma Nu, the National Jesuit Honor Society.

UNIVERSITY OF PENNSYLVANIA LAW SCHOOL, which annually, in the 1950s, would admit three graduates from The College, a practice which some have termed the original Ivy League affirmative action program.

Since I was a year behind Jimmy, each year through law school he would give me his textbooks and course notes, which were of invaluable assistance for cramming at examination time – a kindness I attempted to return when I delivered to him a pair of my Army combat boots at the end of my military career, boots which he wore for the next 47 years, although it took him a while to break them in, because they were almost new... but that's another story.

But all was not school and studies during that decade of the 50s, for there was time to woo and win his cherished Pat, through winters at Chestnut Hill College and through summers on the Malloy porch at 14th Street and Wesley Avenue in Ocean City, where Jimmy perfected his artistry and engineering skills by building pyramids of Esslinger beer cans. However fervent his pursuit of Pat, there was still time for the guys at such scenes as the Sunken Gardens, at the 14th Street beach in Ocean City, at Joe DiOrio's Circle Café in Somers Point, The Old Tavern in Margate, and when in an athletic mood, the Germantown Cricket Club.

Jim, during the decade of his journey to the Bench, became the splendid advocate and a compelling orator upon the political scene, a period that recalls:

- Tenure as Counsel to the Philadelphia Local of the International Upholsterers Union.
- Partnership in Richter, Lord, Levy, Toll and Farage, where he learned from the legendary counsel for the victim, Nate Richter, many lessons you wouldn't learn in law school.
- U.S. Senator Hugh Scott recruited Jimmy in 1962 to seek a seat in the U.S. Congress, and although he did not prevail, his campaign so pleased Billy Meehan that he became Billy's 1965 candidate for Philadelphia City Controller. But the Bench beckoned, and he joined the Philadelphia Common Pleas Court in 1968 following his election on the ticket of *both* parties at age 37, the youngest Judge in the city at that time.
- And then, following a decade of distinction and awards while a trial judge, he joined the Superior Court in September 1979, after prevailing once again on both tickets in the primary election that year.

We *all* knew Jimmy as gentle, wry, amused, amusing, witty, clever, thoughtful, kind, intelligent, perceptive, attentive and loyal.

Those people who knew Jimmy as a Judge marveled at his swift, penetrating, comprehensive mind which was always grasping at the root of every question ... for his eye ranged far ahead of the obvious ... and he was always hunting in the field beyond. While admired for his intellect, he was saluted for his gentle, tolerant spirit, since Jim was on the side of the angels, whatever their gender or their color, and, while wary of those who considered themselves elite, he blessed those who were heart-warm, compassionate, generous, and gentle – and even those who would have been, if they had not been so long deprived.

But legions more knew him as a *friend*, and for Jimmy, friendship was a faith, and, as with family, to care and to nourish is to cause to flourish. Two thousand years ago, Virgil declared: *Amicitia Est Beatus Sol*, and Jimmy's four, five and even six decades-long friendships exemplify the lesson of Virgil, namely: *Friendship is indeed the warmest, richest sunshine.*

Through recent years, Jimmy rose above the health challenges which persistently pursued him ... never bending to self-pity or whine, because he was blessed with a spirit which soared above setback ... but let it be clear that his great personal strength, this deep resolve, all flowed from what the Baltimore Catechism of our youth defined as : *The gift of faith.* That gift of faith in God and in the teachings of the Catholic Church served as inspiration and as aspiration for Jim Cavanaugh – and even prompted a few friends to pursue a better path. Attendant that deep Catholic faith was an unswerving commitment to the Natural Law and its principles of morality, standards which are subject to neither shift nor shade. It was of just such resolute of individuals that John Henry Cardinal Newman counseled:

While the applause and recognition accorded the enlightened fades quite quickly, the rich respect accorded the resolute is as marble. Literature and history lesson the need for the steadfast, for while the clever inspire respect, the steadfast are inspiration.

And Jimmy was certainly every bit of that.

Red Smith, the greatest American sportswriter, who was enchanted by the culture and colorful slice of life at American racetracks, tells us of the insight of “Finish Line” Phelan, a respected trainer and stable area philosopher who once mused, when rendering tribute upon the passing of a fellow trainer:

Yes, Clocker is gone ... Clocker left us.

But, ya know ... dyin' ... that ain't no big deal ... the least of us is going to manage that.

But, livin' ... ah, now that's the trick ... and Clocker certainly lived life ... a full, good life!

Similarly, we can say about Jimmy: He lived the faith. He lived the law. He lives in his family. He lives in his friends. Heaven does not ask for more. And so he is within that Kingdom.

Jimmy, we thank you ...

We thank you for it all ...

We *already* miss you.

And, oh, yeah, Jimmy, one more thing – a favor, if you can ...

Save some space close to you for us ...

'cause we'll be seeing you ...

Steve McEwen

August 19, 2004

THE HONORABLE RICHARD B. WICKERSHAM

April 4, 1929 - April 30, 2008
Assumed Office: December 20, 1979
County: Dauphin

BIOGRAPHY

Richard Brewster Wickersham served seven years on the Pennsylvania Superior Court. He was an assistant district attorney for Dauphin County and for eight years a judge of the Common Pleas Court of Dauphin County.

Wickersham was born on April 4, 1929 in Pittsburgh, Pennsylvania, to Robert Wickersham and Ruby Suter Wickersham.¹ Richard Wickersham's family connections, including James P. Wickersham, Pennsylvania's first Secretary of Education, George W. Wickersham an attorney general of the United States, and Frank B. Wickersham, a long-time judge of the Common Pleas Court of Dauphin County,² prepared him for the study of law and a life of public service. His uncle, F. Brewster Wickersham, who was also an attorney, served as president of the Pennsylvania Bar Association.³ Richard Wickersham's mother, Ruby Wickersham was active in the public sphere as well, helping to promote the events of the Tuesday Musical

Club, which offered prominent women an outlet for their musical talent; she later was a founding member of the Pittsburgh Opera Society.⁴

Richard Wickersham spent his childhood years in Pittsburgh and graduated from Peabody High School. He remained close to home during his college years attending the University of Pittsburgh and then Dickinson College from which he graduated in 1951.⁵ He continued his education at the Dickinson School of Law, where he was a member of the editorial board of the Dickinson Law Review. During his law school career, Wickersham authored three articles in the law review: "Constitutionality of Using the Complaint as a Method of Original Process," "Constitutional Law: Gross Receipts Tax on Interstate Carriers-Constitutionality of the Gross Receipts Act of 1931 as Amended in 1951," and "Hotelkeepers Liability for Negligent Loss of Property of a Guest."⁶ Academically, Wickersham excelled and earned membership in the Woolsack Society, which recognized the top 15% of the class. He graduated in 1953, and subsequently served for two years in the Judge Advocate General's Corps (U.S. Army).⁷

In 1957, Wickersham settled in central Pennsylvania and began working as assistant district attorney for Dauphin County. He continued to serve the public as solicitor of the Board of Supervisors of Lower Paxton Township and for eleven years represented the Pennsylvania Association of Township Supervisors as their general counsel.⁸

Engaged in private practice as an active trial attorney, Wickersham specialized in insurance defense and medical malpractice representing numerous insurance companies.⁹ He was a member of the International Association of Insurance Counsel and served on various committees of that organization, including the standing committee of Federal Rules of Civil Procedure (1964, 1965) and the Professional Liability and Malpractice Committee (1966, 1971), as well as the Men's Golf Committee (1967) and the Convention Site Committee (1970).¹⁰ He also brought his legal skills to such organizations as the Pennsylvania Bar Association, where he served as chairman of the Insurance, Negligence, and Workman's Compensation Section, the Dauphin County Bar Association's Pro Bono Program, and the National Arbitration Forum.¹¹ Locally, he was a member of the Lower Paxton Township Lions Club and the American Legion Post 27.¹²

Wickersham was elected to the position of judge of the Dauphin County Common Pleas Court in 1971. This must have been a milestone achievement for Wickersham, whose grandfather served as a judge for the county for 22 years.¹³ He continued as a county judge for eight years and in 1979 looked to obtain a position on the Pennsylvania Superior Court.

The statewide race for Superior Court judge pitted Wickersham, a Republican, against Democratic candidate Donald E. Wieand of Allentown, who was currently sitting on the court as an appointment to fill the vacancy created when J. Sydney Hoffman reached senior status. After a full-year of tough campaigning, the candidates, who hoped that election day would decide their fate, were stunned when voting machines in Carbon County malfunctioned. "It was like running a marathon, hitting the finish line, and having the judge tell you that you had to run another mile," commented the son of Donald Wieand. It seemed that the machines were not reset after the primary and voters, therefore, were unable to split their ballots. Across the state the election was too close to call, with the polls showing Wickersham had a small lead totaling anywhere from about 5,550 to 8,400 votes; with the potential of 23,455 votes from Carbon County's registered voters, the candidates were forced to campaign for two more weeks while county commissioners organized a special election. Wickersham was ultimately victorious, winning the election by only 4,500 votes.¹⁴ He was commissioned a Judge of the Superior Court on December 20, 1979.¹⁵

During Wickersham's tenure two important events happened to the Superior Court. The first was the move of the Superior Court from its meeting location in the Philadelphia Supreme Court Room at City Hall to a new site at Ninth and Market streets. President Judge William F. Cercone expressed the sense of nostalgia the members of the court held for the location the court had occupied for 85 years; Cercone pointed out the numerous contributions to Pennsylvania law by Superior Court jurists over the years. "I am certain," commented Cercone, that the present judges "will also receive the accolades of the legal profession in general and the public in particular." In the election of 1979 Pennsylvania voters had also approved an amendment to the state constitution increasing the size of the Superior Court from seven judges to fifteen. In the spring of 1981 when many of these new judges sat for the first time, Wickersham was among those judges sitting and

present on that “auspicious occasion,” as President Judge William F. Cercone noted.¹⁶

Wickersham resigned from the Pennsylvania Superior Court in March 1987 to return to private practice. He joined the firm of Baskin, Flaherty, Elliott & Mannino, one of the largest statewide law firms. “Judge Wickersham,” declared Edward Mannino, “brings the firm and its clients the benefit of the substantial judgment and effective legal insights that come from a distinguished sixteen-year career as one of Pennsylvania’s top trial and appellate judges.” Wickersham assisted in the growth of the firm throughout central Pennsylvania.¹⁷

In 1958, Wickersham married Joann Graham Neilson and they subsequently had three children. His son, Bruce Wickersham, continued a long-standing family tradition by entering the legal profession upon his graduation from the Dickinson School of Law in 1987.¹⁸ Richard Wickersham continues practice in law in Pennsylvania, and is rated AV by Martindale-Hubbell.¹⁹

¹ *Pennsylvania Manual* (1980), 105:418.

² This court served as the state’s Commonwealth Court before that court was created under the 1968 Constitution (Patrick R. Tamilia and John J. Hare, *Keystone of Justice; The Pennsylvania Superior Court*, (PHMC: Harrisburg, PA, 2000< 222.)

³ Richard B. Wickersham, resume, National Arbitration Forum.

⁴ Tuesday Musical Club History, <http://tuesmc.smartforliving.com/history.html>.

⁵ *Pennsylvania Manual* (1980), 105:418.

⁶ *Dickinson Law Review* (October 1951, October 1952) 56:469-72; 57:160-64, 348-356.

⁷ Richard B. Wickersham, resume, National Arbitration Forum; *Pennsylvania Manual* (1980), 105:418.

⁸ *Pennsylvania Manual* (1980), 105:418.

⁹ Martindale-Hubbell, <http://web.lexis-nexis.com/universe/printdoc>.

¹⁰ *Insurance Counsel Journal*, 31:522, 32A:518, 33:477, 34:187, 37:452, 38:472. His wife Joann Wickersham was also active in the association serving on the Ladies Golf Committee (1966) and the Junior Entertainment Committee (1967, 1972) (*Insurance Counsel Journal*, 33:185, 34:188, 39:157).

¹¹ Richard B. Wickersham, resume, National Arbitration Forum; Pro Bono Program, Dauphin County Bar Association, <http://www.dcba-pa.org>.

¹² *Pennsylvania Manual* (1980), 105:418.

¹³ Richard B. Wickersham, resume, National Arbitration Forum; William A. Schnader, “Judge Wickersham and Fox – Two Decades on the Commonwealth Court,” *13 Pennsylvania Bar Association Quarterly* (October 1941): 72-79.

¹⁴ Bob Laylo, "1979 Saw 2nd Vote After Glitch in Carbon: Dem Says Ruling Can Be Applied to Florida. No Way, Independent Experts Say," *The Morning Call*, 12 November 2000, National. A year later Wieand received an appointment to the Superior Court and he won his seat outright in the election of 1981 (*ibid.*; *Pennsylvania Manual* (1980), 105:418).

¹⁵ Dauphin County Commissioner's Book, V, 2:335.

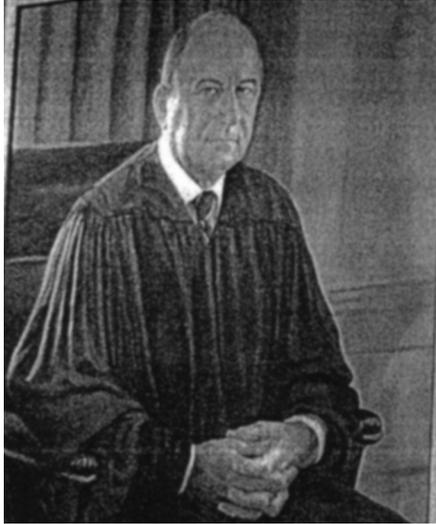
¹⁶ 272 PA Sup. Ct. Reports XXXI, XXXV, XXXVII.

¹⁷ Richard B. Wickersham, resume, National Arbitration Forum; "Casey Nominates Phila. Judge to Fill Superior Court Vacancy," *Philadelphia Inquirer*, 6 June 1987; Frederic N. Tulsy, "Pittsburgh Lawyer Pulls Ahead in Democrats Superior Court Race," *ibid.*, 27 April 1988 "Baskin, Flaherty, Elliot & Mannino," PR Newswire, 27 February 1987, Baskin, Flaherty Firm Announces Withdrawal of Daniel Beren," PR Newswire, 31 January 1989.

¹⁸ Wickersham heads to Post & Schell," *The Legal Intelligencer* 229 (1 December 2003):3

¹⁹ *Pennsylvania Manual* (1980), 105:418; Martindale-Hubbell, www.martindale.com.

THE HONORABLE JOHN G. BROSKY



*August 4, 1920 –
Assumed Office: January 7, 1980
County: Allegheny*

PORTRAIT PRESENTATION

**IN THE SUPERIOR COURT OF PENNSYLVANIA
IN SPECIAL SESSION AT PITTSBURGH
ALLEGHENY COUNTY, PENNSYLVANIA
PRESENTATION OF THE PORTRAIT
OF THE
HONORABLE JOHN G. BROSKY
DECEMBER 9, 1986**

PROGRAM

Opening Court.....	COURT CRIER
Invocation	REV. HENRY J. McANULTY
Pledge of Allegiance	
Welcoming Remarks.....	PRESIDENT JUDGE VINCENT A. CIRILLO Superior Court of Pennsylvania
Greetings.....	IRA B. COLDREN, JR., PRESIDENT Pennsylvania Bar Association MICHAEL J. BOYLE President, The Allegheny Bar Association JOHN T. MCLEAN, JR. President, Academy of Trial Lawyers Allegheny County
Reminiscences	ROBERT RAPHAEL, ESQUIRE Past Chairman, Family Law Section The Allegheny County Bar Association
Presentation of Portrait....	HONORABLE JOSEPH A. DEL SOLE Superior Court of Pennsylvania
Unveiling.....	MRS. JOHN G. BROSKY AND ARTIST RAY FORQUER
Acceptance for the Bar Association	HARRY J. GRUENER, ESQUIRE Chairman, Family Law Section
Response.....	HONORABLE JOHN G. BROSKY Superior Court of Pennsylvania

Benediction.....REV. ZYGMUNT V. SZARNICKI

Adjournment.....COURT CRIER

RECEPTION

The family Law Section of The Allegheny County Bar Association will host a reception for all in attendance immediately after the ceremony at the Rivers Club, Oxford Centre.

JUDGE CIRILLO: I wish to welcome all of you to this very auspicious occasion in the Allegheny County Bar Association, Family Law Division of the Allegheny County Bar, honoring my esteemed colleague, John Brosky.

On behalf of the Superior Court, I cannot tell you how proud we are today that the Allegheny County Bar is honoring him while he is still alive.

I left Sydney Hoffman in Philadelphia. He is representing the Court in another matter down there. He said if you would, mention that he is so happy that you are honoring John Brosky, while he can still smell the roses. Many people say that, you know, it is a shame that so and so wasn't alive when they gave him a certain honor. And I am happy that we did this while John is still sitting on our bench and putting out over 200 cases a year.

We are proud of John Brosky, as you are. He is one of your native sons. You know that he has served the people of Allegheny County in the last 30 years as a trial Judge and as an appellate Judge.

He lends a certain bit of humanity to our court. One of his attributes—he has many of them—is that he is a very human person, and he advises us many times when we are in conference that there are different ways of doing something. Many times you want to chastise a lawyer or Judge, but he would say the lawyer or Judge doesn't mind being mistaken or committing an error, but you don't have to hang him to tell him he made a mistake.

We are glad to have this teacher of ours here, a man who believes in God, family and country. Those of you who know John know what a religious person he is. He has been very active over the years with the Catholic War Veterans. He received Man of the Year many times with various Catholic War Veterans Posts. And ten years ago he was named Man of the Year by the Catholic War Veterans of Pennsylvania.

I could go on and on. You will see a little summary of all his activities in the program. John also served his country during World War II. He went in the service as a lieutenant in the artillery. After serving in the South Pacific and making a lot of landings and being a leader, John came out of the service as a Captain. He volunteered for the Air National Guard and the Air Reserves, and today John Brosky is a Major General in the Air National Guard. And he is now retired from that post. John has traveled all over the world in the performance of his military duties.

As a family man, he has been good to Rose. He has taken her on a lot of those trips. And we will introduce Rose to the Court. They have three wonderful children. His son, Capt. David, came up from Service at Dover Air Force Base, Delaware, to be here while you honor, and we honor, his father.

Last night the Philadelphia Bar Association was honoring the Superior Court of Pennsylvania. And in order to come up here and attend the dinner given by your Bar Association last night, our court—you can see them here—came to join John Brosky being honored, rather than us being honored ourselves, because we have plenty of opportunity to be honored.

Judge Brosky is a worker. He has two more years to go on his commission, and we are hoping that John runs again and stays on as a senior Judge to keep lending us aid. Our court really appreciates having such a good worker, such a good man, an honest man who brings dignity and respect to our court.

John was an athlete, but I never knew that until I saw him jumping up and down on his toes between cases. He was a track star at the University of Pittsburgh. When I went over his resume, I thought I knew this fellow had to be an athlete sometime, but I am sure that he was much lighter than he is today. But John, as I say, is the epitome of man serving God, family and country and has done such wonderful things.

I have a list here of honors he has received, too many to mention. Man of the Year in so many ways and many distinguished service awards. It would take me a long time to go over all those things, but you look them over in your program. There are many important people here who are going to say a few words about our honored judge.

Two of John's very good friends flew in from Philadelphia, where they served last week and had a conference yesterday. And there are two

justices from the Supreme Court of Pennsylvania; Justice Papadacos and Justice Steve Zappala.

Also present is a person all of us have admired for years. He is one of your neighbors here, Chief Judge Ruggerio Aldisert of the United States Court of Appeals for the Third Circuit. We also have Chief Judge Maurice Cohill of the District Court for the Western District of Pennsylvania.

Judge Robert Dauer is here. He is the Administrative Judge of the Criminal Division, Court of Common Pleas of Allegheny County. Judge William Standish is here. I remember when I ran for office; he was running on the same ticket in this area. Judge Ralph Cappy of the Allegheny County Common Pleas Court. Welcome. Judge Nathan Schwartz is here. Nathan Schwartz has served with our honoree today for many years and he told us many stories about him.

Judge Samuel Rodgers is here from Washington County. Judge Maurice Louik of Allegheny County and Judge Joseph Jaffe of Allegheny County. Judge Norman Shaulis is here from Somerset County. I know I will miss somebody, but my colleagues won't let me. Judge Weis of the Third circuit Court of Appeals is also here.

We also have with us the President of the Pennsylvania Bar Association, Ira B. Coldren, Jr. who will say a few words on behalf of the Pennsylvania Bar Association.

IRA B. COLDREN, JR.: President Judge Cirillo, Members of the Court, distinguished guests, ladies and gentlemen. I am not sure whether I am supposed to face the court or the audience, but in this case I take the hint from the microphone. And you are absolutely right—I am always willing to say a few words.

A portrait is said to depict not just the physical appearance of a man, but his personality and character as well. As we review the remarkable portrait to be unveiled here today, we should always be reminded of the qualities and accomplishments which have brought Judge Brosky to this day. I would like to mention some of these.

John G. Brosky has distinguished himself in the law. He has served on this Court since 1980. Before ascending to the Superior Court, he was a Judge in Allegheny County Court, and later on in the Court of Common Pleas. It included 10 years as the administrative Judge of the Family Law Division.

Judge Brosky is a past President of the Pennsylvania Conference of

Trial Judges. He served on the Juvenile Court Judges Commission from 1973 to 1979 and was a member of the Joint State Government Commission Task Force on Military Laws. He also belongs to the American Academy of Matrimonial Lawyers and is a long-time active member of the Pennsylvania Bar Association.

In fact, he is the official photographer for all of our functions and holds the world's record for taking snapshots of smiling lawyers and judges.

Judge Brosky has also distinguished himself in the military service. An ROTC graduate from the University of Pittsburgh, he entered active service during World War II as a second lieutenant. He served as a battery commander in the Pacific Theater, taking part in historic actions on Bora Bora and Guadalcanal. Later on the island of Luzon in the Phillipines he was appointed commander of the 800th Military Police Battalion.

After World War II, Judge Brosky transferred to an army reserve unit in Pittsburgh. In 1966 he joined the Pennsylvania Air National Guard with the rank of Major. Over the years he continued to serve in the National Guard as a Judge Advocate and Assistant Adjutant General for Air. He was promoted to Brigadier General in 1979 and is now retired as a Major General.

John Brosky has also distinguished himself in the community. A columnist, author, and advisor, he has given his time and talent to a wide variety of public and charitable interests. He has been active as a volunteer in the Leukemia Society of America, the American Cancer Society, the YMCA, Boy Scouts and many more.

It is our hope that those who view this portrait in the future will see not just the likeness of an outstanding Judge, but also the exceptional talent, dedication, and spirit of a great citizen and soldier.

The lawyers of Pennsylvania are proud to honor their respected leader and good friend, John G. Brosky.

General, we salute you.

(applause)

JUDGE CIRILLO: I would like to note the presence here in the audience of Mr. Thomas Foerster of Allegheny County; Judge R. Stanton Wettick, Administrative Judge of the Family Division of Allegheny County, State Senator James Romanelli, Jury commissioner Jean Milko, Judge James McGregor, and Judge Lawrence Kaplan.

And I also note in the back of the courtroom a friend of Judge

Brosky's who drove 300 miles to be here today. He is a friend because they take vacations together, but he and his wife made the journey to participate in this ceremony. They are Raymond Pearlstein and his wife from Norristown, Pennsylvania.

The court will now recognize Michael J. Boyle, President of the Allegheny County Bar Association.

MICHAEL J. BOYLE: Thank you, President Judge Cirillo.

May it please the Court, it is a special pleasure to extend greetings on behalf of the Allegheny County Bar Association to all assembled here who have come to participate in these proceedings honoring The Honorable John G. Brosky. In a few short moments we will unveil the portrait as painted by the talented artist, Mr. Ray Forquer.

It is not, however, the unveiling of the portrait which lies at the heart of our reason for assembling here today, but the recognition that the man in the portrait is a very special person by reason of the service he has given to the people of this community and of the Commonwealth over a period of 30 years as a trial Judge and as an appellate court jurist.

No one who has ever practiced in the area which today we call Family Law can deny the singular difficulties faced by judges and lawyers—not because of the application of special principles of law, but because of the high charge of emotion with which each situation seems to be fused. Whether the case be one of divorce, support, or custody, it not only tears at the fabric of our society, but upsets the mental and emotional stability of the parties, and particularly the children.

The management and handling of these cases calls for a unique judicial temperament, delicate understanding, compassion, and a recognition that it is the family, and not government, which forms the basic unit of society. Judge Brosky, both as a trial Judge in our Family Division and as a Judge of our Superior Court, has demonstrated that temperament, that special understanding and compassion for those whose lives have suddenly unraveled before them. The place and importance of the family in society has not been forgotten.

While no portrait can capture the true inner spirit and quality of the subject, hopefully the portrait which we are about to view has captured in good measure the spirit and quality of the man depicted, so that wherever it may hang in the halls of justice, we will remember him and recall his significant contributions to our system of justice.

Judge Brosky, we extend to you, your family, your friends, and your colleagues our best wishes on this happy occasion. Thank you.

(applause)

JUDGE CIRILLO: For further remarks, I recognize now Harry J. Gruener, Chairman of the Family Law Section.

HARRY J. GRUENER: Mr. Raphael was to deliver these remarks today and, may it please the Court, I am here on his behalf, as he is ill and unable to attend.

From this long association with Judge Brosky I can think of probably no other event that he would hate to miss more than this one. And those of you who know Bob, know that. However, he did send along his remarks and ask me to read them to you.

It was only when I started to prepare for this reminiscence that I realized that I have known John Brosky for almost 40 years. In the fall of 1947 when I began attending Pitt Law School, John was one of those revered students who had qualified for the second year. In those days that was a real attainment, and we freshmen looked up at the upper classmen with great admiration.

My clearest recollection of John in law school took place at the end of his third year. It was a tradition, at least I think it was, for the law school students to have a dance near the end of the school year, senior students providing the entertainment.

Charles Nutting was the acting Dean at the time. The Dean, an excellent teacher and administrator, was a bald man who wore a watch chain which stretched across his vest, the chain prominently dangled a Phi Beta Kappa key.

The 1949 senior entertainment consisted of a parody of the faculty. And, of course, who stole the show—John Brosky. John came out dressed very much like the Dean, with his head covered with a rubber cap which gave him a bald appearance. John had much more hair then. Hanging from a chain draped across his middle was a very large reproduction of a Phi Beta Kappa key. As John mimicked Dean Nutting's lecture techniques, the Phi Beta Kappa key, activated by a device in John's pocket, would light up and flash on and off. Of course, John's familiar smile and infectious laugh accompanied the presentation.

I next knew of him when he ascended to the County Court bench in 1956. Up to that time he was an assistant county solicitor specializing

in governmental and municipal law.

From County Court he was appointed and later elected in 1961 to the Common Pleas Court where he began hearing what was called “domestic relations” cases. This ultimately led to his becoming the administrative Judge of the Family Division of the Court in 1970. It was at this time that I really got to know Judge Brosky. I was chairman of the Family Law section and, once a month, five or six of us who primarily practiced Family Law would meet at the Bar Association to discuss the problems associated with this area of the law.

It was shortly after becoming administrative Judge that Judge Brosky began attending our meetings, discussing our concerns, asking for assistance, and working with us to improve the maelstrom that had previously existed.

At this point, domestic relations stood on the lowest rung of the legal ladder. There were no state-wide rules. In fact, there were very few local rules. Judge Brosky, working with Abe Fingold, his law clerk who later became the Family Court Administrator, set up procedures for running the Family Court.

And dramatic changes then began to take place. Local rules were established, the quality of the counseling office was improved. In a great many ways, this was the beginning of our modern Family Court system. In the midst of all this, the United States Supreme Court decided the case of *Boddie v. Conn*, which declared that an indigent person was entitled to obtain a divorce without having to pay the cost of such litigation.

Faced with the problem of who was going to pay the filing fee, the cost of service, the advertising, if necessary, and legal representation, Judge Brosky called a meeting to which he invited the members of the Prothonotary’s, the Sheriff’s Office, the Pittsburgh Legal Journal, and the papers of general circulation, as well as representatives from the Family Law Section of the Bar Association.

He prevailed upon the Prothonotary’s Office, the Sheriff’s Office and the Pittsburgh Legal Journal to waive the charges in the indigent cases. When the other newspapers would not agree to place a free advertising for unlocated defendants, Judge Brosky set up a system for posting notices, which negated the need for such advertising.

He worked out a system with the lawyers in the Family Law Section whereby they would provide free legal services to the indigents,

and they would be appointed as masters in other cases and be compensated.

Judge Brosky is also responsible for setting up in Allegheny County the program for HLA blood testing to determine paternity. When he first heard about this new procedure, Judge Brosky traveled to Texas to learn about this subject and then worked out a relationship with the University of Pittsburgh medical centers to perform these tests for the courts.

Throughout his tenure as Administrative Judge of the Family Court, he remained involved in Family Law activities. He attended meeting and workshops of the Allegheny County Bar Association., as well as Pennsylvania Bar Family Law Section. He served for approximately four years on the Supreme Court Domestic Relations task force. He was a faculty member of the Supreme Court College of Judiciary, where he lectured to judges and Domestic Relations officials on Family Law. He was elected to the American Academy of Matrimonial Lawyers.

One cannot reminisce about Judge Brosky without mentioning his ever-present camera and his love of telling a funny story and the chuckle that accompanies the punch line.

I could go on forever about this good man, but Jim Smith runs a tight ship. I must bring this portion of the program to a conclusion.

If you know nothing else about John Brosky, you know about his integrity. It is this unwavering, unmoveable integrity combined with his humanity, common sense, and wisdom that has served the citizens of Pennsylvania for 30 years. With wholehearted pleasure, we honor his service.

The best way I can describe John Brosky is by resorting to the Yiddish word ‘*mensch*.’ Leo Rosten, the author of the Yiddish book ‘*The Joys of Yiddish*,’ defines ‘*mensch*’; to be an “upright, honorable, decent person. One who has a sense of what is right, responsible, and decorous.’ That describes John Brosky. Thank you.”

(applause)

JUDGE CIRILLO: I notice in the audience Judge J. Quint Salmon. Judge Salmon is sitting all week in Philadelphia, and he came back to Allegheny County to honor our good friend John Brosky. Also in the audience is the Clerk of Courts, John Kyle.

I would like to introduce to those of you who don’t know the members of our court who are present. To the right of John Brosky and

to my direct right is Judge James Rowley. To his right is Judge Peter Paul Olszewski. To his left is Judge Joseph Del Sole. To his left Judge Stephen McEwen. Back row: You all know one of your own judges, Judge Jack Hester, Judge Justin Johnson, Judge John Kelly, Senior Judge Harry Montgomery, Senior Judge and former President Judge and Administrative Judge, Bill Cercone, whom we honored last year, and we were proud of that; and Judge Frank Montemurro; and our lady of the Court, Judge Phyllis Beck. Judge Patrick Tamilia and Judge Zoran Popovich are next.

I neglected to tell you—I guess I was awed by this large audience—that John Brosky has some other duties on our court. And one is he is the “reverend” of the court. Whenever we need prayers, John is there to lead us in prayer, always saying benediction and grace. And it’s no joke with us that John has a wealth of prayers that he keeps in his repertoire just for us.

He is also Secretary of the Board of Judges, keeping the board minutes of all of our meetings. And as you already heard, he is an amateur photographer and supplies us with reams and reams of pictures on what we have done.

I now call upon Judge Joseph A. Del Sole.

JUDGE DEL SOLE: One of the pleasures that I have in this program is to introduce the family of John Brosky. I am going to start with his children who are here with us today. First, his eldest son John and his wife, Martha. Would you stand, please.

(applause)

To give you an idea of how strong a family this is, John is an attorney specializing in patent law following along in his father’s footsteps.

His daughter Carol. Carol, would you stand, please.

(applause)

Carol, of course, is a family counselor in the Family Court Division of Allegheny County.

His son David and David’s wife, Dana.

(applause)

David is a captain and assistant Judge Advocate General in the Air Force. So the family seems to be following to some degree in the footsteps of the father. John’s two brothers are here.

Stanley with his wife, Marge. Stanley is a retired scientist.

(applause)

John tells us his brother George came the furthest. I think, to be here. His brother George from Hawaii. George is a hospital administrator.

(applause)

He also points out that George is six feet five inches. Much taller than everybody else in the family. Three sisters are here: Helen Daube, Ann and Bertha, a retired school principal.

(applause)

He has also here a nephew, Stanley Brosky, from Harrisburg, a museum curator.

(applause)

And his son David's mother- and father-in law, Anthony and Marge Fallone.

(applause)

His nephew, Mark Kieler, a scientist-engineer at Westinghouse. His nieces, Bertha Daube and Theresa Condit and her daughter Amy. Bertha is a schoolteacher and Theresa is a food dietician.

(applause)

Each of us during our lifetime plays many roles, some simultaneously, others at one time, but not another. These are roles such as a child and a parent, student and scholar, father, husband, soldier, peacemaker and, in our honoree's case, lawyer and Judge. There are other roles too numerous to mention.

Our honoree, John Brosky, has performed all of these roles, but it is in his role as a Judge that we honor him today.

Among the fine remarks made by the various presenters, they have touched upon John's professional life as a lawyer and trial Judge. Since January 7, 1980, when he assumed the office of Judge of the Superior Court of Pennsylvania, John Brosky undertook a new role in his chosen profession of the law.

It is a more contemplative and scholarly role, detached from the day-to-day activities of a trial Judge in the trial court, removed somewhat from the administrative burdens as head of the Family Division of the Court of Common Pleas of Allegheny County, and he was thrust into the appellate role that many times is referred to as the ivory tower of the judiciary.

During John's seven years on the Superior Court he has authored

over 1,200 opinions and participated in the consideration and decision of an additional 2,400 cases. Many of these decisions which he authored are what we call in the trade unpublished or memorandum decisions, those determinations by our court which decide the issues raised by the parties to the litigation, but which do not represent a new or novel question that warrants publication to the bench and bar in general.

However, a substantial number of our cases are what we call published, and from which we can glean the philosophy and legal bent of the author at the time.

In John Brosky's case, the contribution to the law of the Commonwealth which he has generated has been substantial, scholarly and laced with the understanding of the human condition. He has applied these legal principles to that condition to achieve fundamental justice and fairness.

In a leading products liability case, *Mackey v. Maramount Corporation*, Judge Brosky wrote the opinion known as the Government Contracts Defense in product liability cases. It was a determination that where a manufacturer produces a product in compliance with government contract plans and specifications, and having raised concerns relative to the safety of the product, the manufacturer can be protected by the government's insistence that the produce be built as specified.

In order to see that the children of parents who separated are supported by those parents, John Brosky wrote the opinion that held Social Security retirement payments paid directly to the children can be used to offset child support that that parent may have to pay, once the payments are made directly to the child.

In a case where the parties sought to recover expenses incurred in reliance upon the promise to marry, our colleague, in upholding the Heart Baum Act, held that expenses incurred in planning a wedding reception and claims of emotional distress are not recoverable where one party decides not to go through with the ceremony.

In the area of criminal law, John wrote the court's majority opinion in the case that held that a person who, for whatever reason, voluntarily consumes alcohol and becomes intoxicated, is not entitled to use that intoxication as a defense.

In that case he recognized there is a distinction between being

forced or tricked into consuming alcohol and doing so on your own.

I have only shared with you some of those opinions where John has written the decision. However, the role that an appellate Judge plays in dissenting or concurring in the opinions of his or her colleagues is as vital a function as that of writing a majority opinion. It is by the reasoned exchange of ideas as expressed by letter or dissent that our colleagues challenge us, our reasoning, our philosophy, and our decision and, hopefully through this process, emerges considered judgment that benefits the citizens of the Commonwealth.

In this regard, no one on the Court is more conscientious in his role as a raiser of ideas and issues, as an expresser of different points of view than our colleague, John Brosky.

Through his tireless efforts, and the deliberative appellate process continues to strive for decisions to guide the laws of the Commonwealth. But through it all, John maintains the respect, affection, and love of his colleagues.

John, on behalf of your colleagues on the Court and those who have served with you but cannot be here today, I express to you the love and affection that your colleagues have for you. And our congratulations to you on your 30 years of judicial service to the Commonwealth of Pennsylvania.

(applause)

Now, in introducing the family, there was one person that I didn't introduce because I am going to take the opportunity to introduce her now. And that is Rose Brosky, wife of our honoree, loyal friend of John and a joy to everyone that knows her.

(applause)

Rose, if you would step over here, I am going to take the opportunity to introduce to you the artist who painted the portrait of Judge Brosky in a few moments to see whether or not he did justice to John or took poetic license.

Mr. Ray Forquer, of Washington, Pennsylvania.

(applause)

We will now, Rose and Ray, if you would, please unveil the portrait.

(Official unveiling)

(applause)

JUDGE CIRILLO: Mr. Gruener will now accept the portrait on behalf of the Allegheny County Bar Association.

HARRY J. GRUENER: Thank you. I am honored to receive on behalf of the Bar Association this elegant portrait of our eminent jurist, the Honorable John G. Brosky. It reflects not only the likeness of the Judge, but also captures the man that we have come to respect.

To the future generations passing through this courthouse it will serve as a reminder of his wisdom and dedicated public service; but to those of us privileged to know him, it will serve also as a reminder of his humanity and gentleness.

(applause)

JUDGE CIRILLO: I now present to you, my colleagues, your friend and our friend, a great public servant of Pennsylvania, Judge John Brosky.

(applause)

JUDGE BROSKY: President Judge Cirillo, my distinguished colleagues on the court and on the bench of Common Pleas Court, Father McAnulty, and Father Szarnicki who will appear for the benediction, Justice Papadakos and Justice Zappala of the Supreme Court, my very good friend and distinguished jurist now serving as the President Judge of the Third Circuit, Judge Aldisert; distinguished public officials, President Ira Coldren, President Michael Boyle, and members of the Allegheny County Bar Association, Attorney Harry Gruener, members of the Family Law Section, honored guests on the program, dear friends and ladies and gentlemen.

How nice it is to see so many nice people here this afternoon.

I am deeply appreciative of the many fine things that have been said about me by President Judge Cirillo; by my colleague, Judge Del Sole, Ira Coldren, President of the Pennsylvania Bar Association; Mike Boyle, President of the Allegheny County Bar Association; Harry Gruener, Chairman of the Family Law Section, who read those fine remarks on behalf of Attorney Bob Raphael, Past Chairman of the Family Law Section.

All of you had a meaningful part in my life.

The very kind remarks made by these folks just enumerated reminds me that one of the virtues of a Judge is humility. Oliver Wendell Holmes expressed it this way: "Humility is the first of virtues—for other people."

I am also mindful of the response I received from a witness in a trial many years ago. Sometime ago I shared this with Chief Judge

Aldisert and Judge Joe Weis and several of my fellow judges. It was a difficult case. The witness was on the stand for a very grueling cross-examination. After about four hours there was a lull in the proceedings, so I just casually leaned over and whispered to him: “You know, you handled yourself very well.” He looked at me and whispered back, “Thanks, Judge. If I wasn’t under oath I would say something nice about you.”

So I hope that someday, President Judge Cirillo, I will be able to reciprocate and say something wonderful about you and our participants who made pleasant comments about me today. And, I would be remiss if I didn’t especially express my gratitude to President Judge Cirillo for calling a special session of the Superior Court here in Pittsburgh so that we could have our court sitting in conjunction with this wonderful ceremony.

And, of course, it was nice to have the former President Judge of our court, Judge Cercone, as well as the former President of Duquesne University, Father McAnulty, who gave us the invocation to be with us. I am also happy to note the presence of the pastor from my church, Father Szarnicki, who will give the benediction, and Judge Shaulis with his wife, Jan, from Somerset County.

I am grateful to Mike Boyle, President of the Allegheny County Bar Association, and his Board of Governors and the great number of attorneys present today. All of us congratulate you Michael in having a most outstanding year as President of the Bar Association.

MICHAEL J. BOYLE: Thank you, Judge Brosky.

JUDGE BROSKY: These fine folks, together with the members of the Family Law Section, are responsible for commissioning this great artist, Ray Forquer, who unveiled the portrait.

He is an outstanding local artist whose portraits, as you can see, are strikingly realistic. In fact, it’s better than the real product. I have a misconception I guess of what a portrait should be. I can only say, Ray, that it is a wonderful portrait if His Holiness was considering me for canonization as a saint. I am sure I would never make a Hollywood set. I like it very much.

This fine artist, ladies and gentlemen, has taken on this responsibility with very few sittings. I cannot see the finished product from here since I am looking at it sideways as are all of us judges. I hope to see it in its entirety later. We thank Ray for his patience in

bringing forth this wonderful portrait.

And, last, but not least, ladies and gentlemen, anything pertaining to the legal system in the Allegheny County Bar Association, with its great success and accomplishments is due to that very efficient and respected coordinator of legal activities in Western Pennsylvania, the Executive Director of the Allegheny County Bar Association, Jim Smith. He is that wonderful tall guy standing here to the right. He is due a nice applause.

(applause)

It is quite clear here today that accomplishments are always made through the collective efforts of good people.

Alex Haley—many of you remember his dramatic production called “Roots”—had in his book a wonderful paragraph that is so fitting here today. He recognized the spirit of collective strength when he said, “If only we could all come out together and learn more about each other, we couldn’t help but benefit. It would show us our future as a collective people—relating but being proud of our differences but coming together in collective strength. And there,” he said, “is the hope of America.”

If you want to go back a few more years, Plato tells us that no one can be a good citizen alone. And nobody knows that better than our public officials, especially Commissioner Tom Foerster, Senator Romanelli and our political leaders who are here today.

I am proud to see in the audience people of all walks of life—in business, in the social field, in the athletic arena, the academic and university world, the legal field, the military and even friends from the neighborhood.

I have already singled out my good friend chief Judge Aldisert, Circuit Judge Joe Weis, and also Justice Papadakos and Justice Zappala of our Supreme Court. Here on stage is Judge Tamilia, who started in our Family Division as a probation officer and later became my Executive Director of the Family Division. After he became a Judge, he joined another distinguished colleague in the Juvenile Division, Judge Cohill, who is in the audience, now serving as Judge in the Federal District Court.

Judge Cohill and Judge Tamilia, along with Attorneys Harry Gruener, Robert Raphael, Ron Ecker, James Ecker, James Voss, Al Bluestone and A.S. Fingold, Jack Bailey, to name a few, helped me

establish the real framework and stability of the Juvenile Court system and our modern Family Court. Thank you, Judge Cohill, for being with us today. And to my colleague, Judge Tamilia, I thank you also.

Bear with me, ladies and gentlemen, as I recognize in the audience Mr. Joe Mulach, President, Mulach Steel; Ed Witzberger, President, E.W. Tire Company; Al Fulton, President, Fulton Buick Company; Dr. Leon Reid, Executive Director, Guild for the Blind, William Walker, President Union National Bank; Kolman Vesely, President, Kolman Jewelers; and his close associate, Attorney Harry Lentchner, Dr. Bernard Kobosky, Vice President, University of Pittsburgh; and Jim O'Brien, the Sports Director of the University of Pittsburgh.

And we have a group of attorney friends that went with me to China and Russia. Over here is Earl Hollinshead; Tom Barbor from Indiana County. Get to know Tom Barbor, folks, he represents that great actor, Jimmy Stewart. Ray Pearlstein and his wife Gladys, from Philadelphia; Carl Glock and his wife; and from Sunbury, Carl Rice. Did you hear that folks? I am told that the principle industry in Sunbury is jury duty.

(applause)

Carl Rice is very active in the legal profession in Sunbury. Now in his seventies, dynamic and strong as ever, he took the mountains and the foothills of China much better than some of us. Carl, nice to have you with us. On the military side, you folks should see my first Commander in the Air National Guard, General Phillip and his wife, Eleanor. Please stand up and take a bow.

(applause)

I got to know that distinguished fighter pilot of World War II while he was a Major in the National Guard and had set the international speed record from California to Washington, D.C. Meet the present Commander of the Air National Guard at Greater Pittsburgh Airport, General Chrisjohn and his lovely wife.

(applause)

Coming into the room is our Sheriff, Gene Coon, and Jury Commissioner, Jean Milko, and our Clerk of Courts, John Kyle. I also recognize in the audience Dean Nordenberg, Acting Dean of the law school of the University of Pittsburgh. Take a bow, sir. And, Professor John M. Burkoff, a distinguished author and teacher at the University law school.

(applause)

I would be remiss if I did not recognize Carl Long, President of Carl Long Associates and his wife, Gladys. He is the architectural engineer for lighting in most of the large buildings in downtown Pittsburgh as well as the Civic Arena. And he is seated with Tillie Metzger and Bob Carr who are State and National officers of the Air Force Association.

There are a number of representatives from the areas nationality groups. From the Polish Falcons of America is Bernard Rogalski, National President; Secretary, Theresa N. Klasnick; Treasurer, Joseph Dolegowski and John Wisniewski, President Kosciuszko Foundation. Meet my great staff, ladies and gentlemen, my two secretaries, Bernice Koepke and Jill Christy; my law clerks, Dawn Terak, George Mizak, Kathleen Dolegowski and Ann Shapiro.

I know I am missing many fine friends, forgive me for the omission, but we will still try to recognize others as we go along. Whether you are named or not all of you here are my friends. I would be remiss if I didn't say "Hi neighbors" to the great folks who live on my street.

Last, but not least, the collective support and the collective strength that I received in my household from my wife, Rose, and our three children: John, the patent lawyer, David, a lawyer and Captain in the United States Air Force; my daughter, Carol, a counselor in Domestic Relations Division of the Common Pleas Court.

Only those who have been on the political circuit know full well the suffering and patience the family must have to put up with guys like us. Then, too, I believe that the hope of our judicial system is really the collective strength of the legal profession. You may notice that I am coming back to that collective strength in whatever we do. This ceremony would not be possible today if it were not for the collective efforts and collective strength of all of our members in the Bar Association.

Last week, Chris Gillotti, the newly incoming President of the Bar Association, told a new group of admitted lawyers,—after he got through his erudite remarks, by saying, "And as lawyers, we must stick together." Chris is standing over here. Chris, wave your hand. Our new incoming President.

Bernard Shaw once said, "Every profession is a conspiracy against the laity." So we must stick together. But we must meet the high

standards of competence, uphold integrity and preserve what I like to say are the unchangeable values that have made America great.

That is only one facet of our profession. Along with knowledge of the law and integrity, we must have the courage to stand by our convictions, to have conscience, to listen to it, to trust one another and be respectful.

Most of us know Ralph Nader. One of the nicest statements he ever made was that if lawyers would spend more time helping people they would have a higher reputation in society. I would like to talk to you just for a minute or two about an important element in our profession—the appreciation of values and standards of what is right and wrong.

I do have some concerns about this. You and I both know the collapse of judgment and the erosion of values is quite evident among other elements of our society today.

My generation has fought through three wars. We lived through the depression. We lived in fear over internal unrest and violence and the struggle to secure civil rights. We wrestled with the energy crisis, pollution, unemployment, strikes among school teachers and governmental employees, pornography, drugs, crime, delinquency.

With all this, is it any wonder that our judicial work is exciting, challenging and fascinating? President Judge Cirillo can cite you statistics about the ever-increasing load on our court. I look forward to each day with a moment of curiosity. However, no type of case touches me more, nor was I ever more sensitive to the problems of people than those dealing with custody, juvenile delinquency, child abuse and domestic relations problems.

In my 30-some years on the bench and as an appellate judge, I have sensed creeping destructive forces that are digging away at the values which are so important in our relationships with one another.

Associate Justice of the United States Supreme Court, Louis F. Powell, Jr., expressed a similar concern when he said, “Everyone wants to do his own thing. Self-assertion seems to be the modern aspiration, to be independent of, if indeed not to reject, the familiar disciplines and values of the home, the school, the church, and the community.” “The new ethic is that the individual owes little loyalty or obligation to authority and to traditional values. Rather, ones’ chief allegiance is to be his own conscience and his own desires.”

Attorneys have told me in arguments that we should not consider certain cases to adjudicate their problems because these cases are 50 years old or more, and are out of tune with our thinking today. Maybe so.

Oliver Wendell Holmes, however, would have turned over in his grave if he heard that comment, because he defined the law as prophecies of what the courts will do. And, even Benjamin Cordoza would also shudder because he defined the law as “A rule of conduct so established as to justify a prediction that it will be enforced by the courts.”

In the audience is the Borough and Township Police Association and the Fraternal Order of Police. Their officers and President Richard Danko and Secretary Richard Ford and the several directors who are here are very keenly interested in knowing what the law is so they can follow it in the performance of their duties.

Be that as it may, lawyers and judges can project themselves into the future. We can set aside inadequate, outmoded procedures and instruments in administering the law, but we cannot become insensible, indifferent and rejectful of the values that are deeply rooted in the law. Freedom has disappeared in nation after nation because too many persons played fast and loose with their individual responsibilities, and they failed to carry out their obligation to each other.

As our lifestyle becomes more sophisticated, more technical, more computerized—I shouldn’t use that word in the presence of Judge Del Sole and my colleagues who are going through a great technical computerization phase,—the challenge for lawyers and judges is to humanize the technology of the law.

We need lawyers who remember that they are dealing with human beings and will, therefore, preserve these unchangeable values that we hold so dear in our society.

I like to call it, as you heard President Judge Cirillo refer to it today, the human touch for the legal profession.

There is a poem that says it all. It goes like this:

“It is human touch in this world that counts,/the touch of your hand in mine. /It means so much to the aching heart;/much more than shelter, bread or wine. /For shelter is gone when the night is over,/ and bread lasts only a day. /But the touch of your hand/ and the sound of your voice/goes on in my soul always.”

Ladies and gentlemen, thank you so much for this wonderful

portrait and presentation. It is the highlight of my legal career. I hope the Good Lord will bless all of you with good health, happiness and success in all things. Thank you.

(standing ovation)

JUDGE CIRILLO: Also sitting here is a former member of the House of Delegates of the Pennsylvania Bar Association, Vice-President of the Pennsylvania Bar Association, Carl Brueck.

(applause)

On behalf of my colleagues of the Superior Court, I want to thank each and every one of you for attending. You are all John's friends and you are our friends.

The Family Law Section of the Bar Association, in appreciation of your attendance, is hosting a reception at the Rivers Club at the Oxford Center immediately following these ceremonies.

Senator Tom Lamb is in the audience and has just been recognized. There are just so many of you, and we regret that a list could not have been prepared in advance of all of you who are attending.

I now call upon Reverend Zygmunt Szarnicki to give the benediction.

(Benediction service held.)

(These proceedings are closed.)

**IN THE SUPERIOR COURT
OF THE COMMONWEALTH OF PENNSYLVANIA**

FINAL SESSION
In
SUPREME COURT ROOM
December 3, 1980

In the Superior Court of Pennsylvania
FINAL SESSION IN SUPREME COURT ROOM

Remarks of Honorable William F. Cercone, President Judge of the Superior Court of Pennsylvania on December 3, 1980 in the Pennsylvania Supreme Court Room, 456 City Hall, Philadelphia.

It is with a sense of sadness that we announce that today marks the final time that the Superior Court of Pennsylvania will hold its sessions in this beautiful Philadelphia Supreme Court room. Ever since this Court was established in 1895, it has sat in its Philadelphia sessions here.

During these 85 years there have appeared before this Court some of the great lawyers and legendary figures in the legal history of Pennsylvania who came and argued their cases before this Court. Just to mention a few—Justice Owen Roberts, Senator George Wharton Pepper, C. Brewster Rhoads, Justice Thomas McBride, John R. K. Scott; and we must not omit that lovable, quixotic personality—Chippy Patterson.

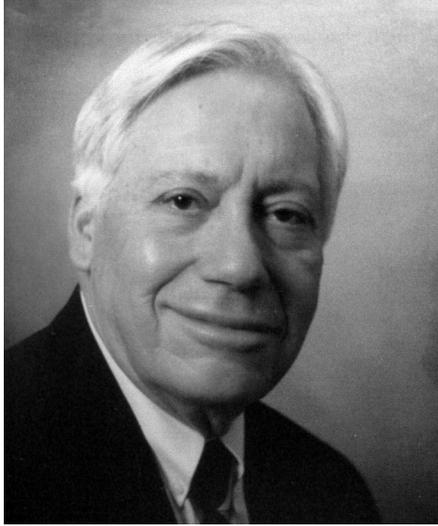
These lawyers and hundreds of others argued before members of this Court now have also become legendary. Again, to mention a few of the names of those jurists who contributed to the development of the law in Pennsylvania: Judges Keller, Rhodes, Cunningham, Trexler, Hirt, Flood, Watkins, Montgomery, Hoffman, Spaulding, Hannum, Carr, Irvin, Woodside, and Jacobs.

As I look at my other brethren on this Court, Judges Price, Spaeth, Hester, Brosky, Cavanaugh and Wickersham, I am certain they too, will also receive the accolades of the legal profession in general and the public in particular.

So we leave with sense of nostalgia that goes with being a part of the great history and tradition of this courtroom.

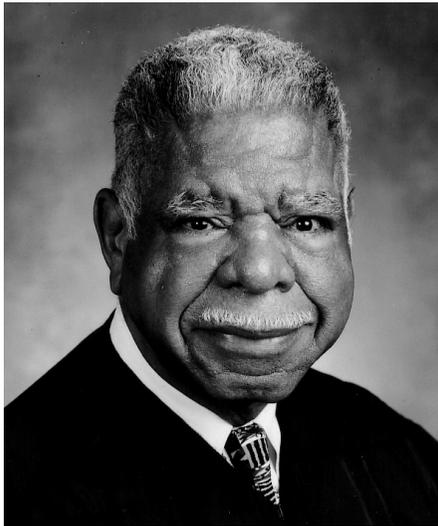
[The new site for the Superior Court Sessions in Philadelphia will be in the old Federal Building at 9th and Market Streets, Philadelphia, Pennsylvania 19105.]

THE HONORABLE RICHARD DI SALLE

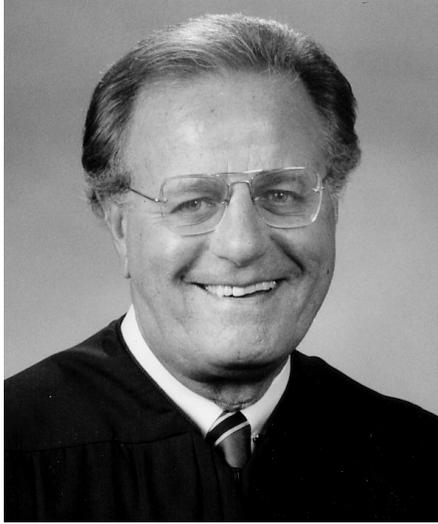


*January 16, 1927 –
Assumed Office: December 16, 1980
County: Washington*

THE HONORABLE JUSTIN M. JOHNSON



*August 19, 1933 –
Assumed Office: December 16, 1980
County: Allegheny*

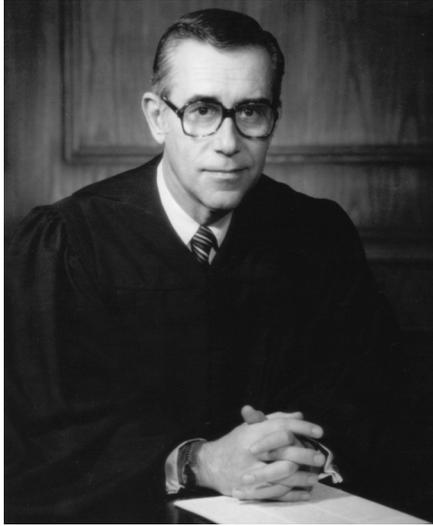
THE HONORABLE FRANK J. MONTEMURO

*October 27, 1925 –
Assumed Office: December 16, 1980
County: Philadelphia*

THE HONORABLE ZORAN POPOVICH

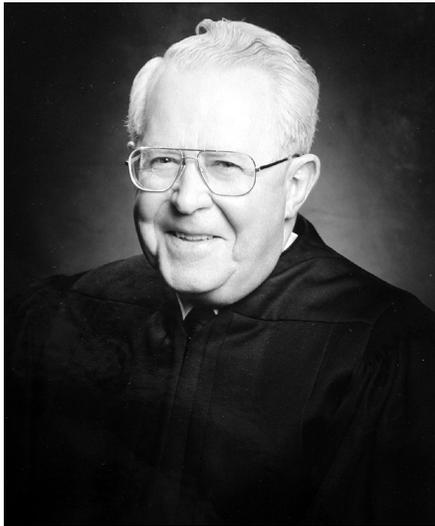
*February 4, 1930 –
Assumed Office: December 16, 1980
County: Allegheny*

THE HONORABLE PERRY J. SHERTZ



*May 26, 1928 –
Assumed Office: December 16, 1980
County: Luzerne*

THE HONORABLE DONALD E. WIEAND



*September 18, 1926 – April 11, 1996
Assumed Office: October 1978
County: Lehigh*

IN THE SUPERIOR COURT OF PENNSYLVANIA

INDUCTION PROCEEDINGS

December 16, 1980

PROCEEDINGS ON THE OCCASION OF
THE INDUCTION OF:

HONORABLE RICHARD DISALLE
HONORABLE JUSTIN M. JOHNSON
HONORABLE FRANK J. MONTEMURO, JR.
HONORABLE ZORAN POPOVICH
HONORABLE PERRY J. SHERTZ
HONORABLE DONALD E. WIEAND

AS JUDGES OF THE SUPERIOR COURT
OF PENNSYLVANIA*In the Auditorium of the William Penn Museum**Harrisburg, Pennsylvania**Tuesday Afternoon, December 16, 1980**At 3:30 p.m.*

PROCEEDINGS

(The invocation was given by the Most Reverend William H. Keeler.)

PRESIDENT JUDGE CERCONE: Good afternoon. We have called this special session of the Superior Court of Pennsylvania for the purpose of administering the oath of office to the new Judges who are very honored to welcome as esteemed colleagues of this court. I know as I introduce them, you certainly would give them your kind applause, but I kindly ask you to hold your applause until I introduce each of them at this time.

They are the Honorable Richard DiSalle of Washington County; the Honorable Justin M. Johnson of Allegheny County; the Honorable Frank J. Montemuro, Jr., of Philadelphia County; the Honorable Zoran Popovich of Allegheny County; the Honorable Perry J. Shertz of Luzerne County; the Honorable Donald E. Wieand of Lehigh County.

(Applause.)

It is a great and special honor to have with us this afternoon the Chief Justice of Pennsylvania, Mr. Chief Justice, the Honorable Henry X. O'Brien. With his permission, it will be our privilege to call upon him to express greetings to the new Judges and to all of us in the court of these proceedings. We are most happy to have you join us Mr. Chief Justice in this ceremony.

It is also my honor to introduce to you my colleagues of the Superior Court according to their seniority. The normal procedure is to call the Judge on the right of the President Judge and then the next Judge in seniority to the left of the President Judge. So you'll be shifting your eyes from right to left as I introduce them.

Judge Gwilym A. Price, Jr.; who is to the immediate right of the Chief Justice. Judge Edmund B. Spaeth, Jr., who is next to me. Judge James R. Cavanaugh who is to Judge Spaeth's immediate left. Judge John G. Brosky who is to Judge Price's right. Judge Richard B. Wickersham who is to Judge Cavanaugh's immediate left. We have our senior Judges with us today of the Superior Court and I'm happy to introduce them to you. Judge Harry M. Montgomery, to the left of Judge Wickersham; Judge J. Sydney Hoffman, next to Judge Montgomery; and Judge Abraham H. Lipez, next to Judge Hoffman. The vacant chairs to my right are waiting to be occupied by the new Judges who I'm sure are waiting to do so.

We most deeply appreciate the presence of this distinguished audience. Time will not permit the introduction of each of you but be assured we are grateful for your attendance: the family members, the friends of the new Judges from all parts of the state, public officials, leaders from the public and private sectors, all in honor of our new Judges. Your attendance also acknowledges one of the most important events in the history of the Pennsylvania Judiciary—the realization of the long-needed increase in the number of Judges on our court.

The American Judicature Society, a nationwide institute for the study of administrative problems confronting State Appellate Courts of Pennsylvania, found in its 1978 study and report that the Superior Court, and I quote, "Is perhaps the most overburdened appellate court in the United States and the Judges are doing work above and beyond what can reasonably be expected of any human being." The American Judicature Society found an appellate court judge working at full

capacity can be expected to write between 30 to 35 opinions per year, 40 opinions maximum. Our Superior Court Judges have been writing in excess of 200 opinions per year and yet are not able to cope with the great volume of appeals that come into this Court.

Those of us who came to his court in the late 1960's found that there were 1,700 appeals filed in 1969. In 1980, we're approaching 5,000 appeals. And we can envision in the future for 1981 and 1982, even a larger volume of appeals.

I had a friend of mine ask, "Judge, are 5,000 cases a lot of cases?" I said, "Well, suppose you and six of your friends were each asked to read 5,000 novels a year. Do you think it could be done?" He said "I don't read seven or eight novels a year." He said, "You know I didn't realize what it meant to review 5,000 cases on appeal."

So, we are most happy to have this day arrive. We've been waiting for a long time for it, this increase of the Court by six Judges. Through the combined wisdom of the Governor of Pennsylvania, Dick Thornburgh, the members of the Pennsylvania Legislature, the Senate Judiciary Committee, the House Judiciary Committee, headed by Senator Michael O'Pake and Warren Spencer, respectively, former Chief Justice of the Supreme Court of Pennsylvania, Michael J. Eagen, and in a small way, your speaker, and finally by the wisdom of the people who voted in the election of 1979 to approve a constitutional amendment for the enlargement of this Court, this day has been made possible.

We are also grateful to the Pennsylvania Bar Association under the leadership of former President, Sidney Krawitz, and the now President of the Association, David Fawcett, Jr., Peter Roper, the Executive Director of the Association, his entire staff and other past Presidents of the PBA including Louis L. Goffman, Esq., and Joseph E. Gallagher, Esq., the news media that gave this concept its support, the community leaders and various study groups nationwide and statewide who have given their support. We include also in this group civic leaders together with Bernard G. Segal, former President of the American Bar Association. As a result we are here to administer the oath of office to the new Judges who come to this Court highly recommended by the Appellate Court Nominating Committee resulting in the Governor's appointments and the consent of the Senate.

They come to our Court today with the respect and confidence of

the Bench and Bar. With their excellent knowledge of the law, their judicial temperament and their high sense of dedication to public service, we of the Pennsylvania Judiciary congratulate and welcome them on this occasion of their induction.

At this time, I am very proud and privileged and honored to introduce to you the Governor of this great Commonwealth of Pennsylvania, Dick Thornburgh.

GOVERNOR THORNBURGH: Mr. Chief Justice, President Judge Cercone, members of the Superior Court, may it please the Court. It has for nearly 25 years been a privilege of mine to be a member of the Bar of both of the courts represented here today. And I am very much in awe of the opportunity to have participated in the processes which you have described, Mr. President Judge, that have brought us to this happy occasion.

This administration was pleased and proud to be supportive of the constitutional amendment and enabling legislation which has brought the court to its present strength and which has altered the process of review giving the Supreme Court its due certiorari power and creating in the Superior Court more strength and importance as an appellate court within our judicial system.

It falls to the Governor, under our present system, to appoint for the approval of the Senate those Judges who are to fill vacancies when new positions are created on our courts, be they appellate or trial in nature. I am extremely proud of those individuals to whom it fell to me to nominate for positions on the Superior Court. I recommend them to you as I did to the Senate of Pennsylvania and to the people of Pennsylvania. These men are of outstanding character, legal experience, integrity, and industry.

I am also proud of the process which produced their appointment here today. As a former lawyer, I guess I must characterize myself, I feel no greater responsibility than the appointment of good judges, for the men and women who grace our Benches are a Governor's most important legacy. Their terms in office and their tenure on the Bench will long outlast my term of office as Governor.

Under our present system, it is entirely proper for a Governor to call upon only his personal or political circles for the choosing of candidates for the Bench. It has long seemed to me that the pool of talent from which judicial selections should be made should be enlarged

far beyond that personal and political circle. Since 1963, I have been a supporter of a merit selection process for our Judges in Pennsylvania.

Indeed, as a delegate to our Constitutional Convention in 1967 and '68, I introduced as the first proposal to appear before that convention, a constitutional provision that would ensure that Governors thereafter should make their judicial selections from those persons certified by a bipartisan panel made up of lawyers and layman alike as being fit to hold the high office of Justice or Judge in Pennsylvania. I have long since learned that that particular type of judicial reform, merit selection process, is no sport for the short winded. It languishes again today, enacted by our General Assembly and unapproved by the voters of Pennsylvania.

When I became Governor in January of 1979, my first executive order was issued to establish as best I could a counterpart for the constitutional provisions that were recommended and which have become necessary for us to have a full merit selection process. As Judge Cercone noted, it was through that process and through the painstaking examination by a citizen panel established to provide nominees for this court, that those who are presented today for induction into office were brought to my attention, carefully scrutinized, and recommended to the Senate of Pennsylvania.

I still, of course, believe as many of you do, that a constitutional amendment is necessary to implement a true merit selection, non-partisan method of providing for Judges in Pennsylvania, but unless and until that step becomes a part of our constitution, I think it is important to continue the process that has been set forth by my predecessor in office, and hewed to by this administration of appointing to our courts in Pennsylvania, only those persons who have passed muster with their fellow citizens. I again congratulate those of you who assume office today. You will, I am sure, understand my pride in knowing you, in giving you the opportunity to serve on this great court, the Superior Court of Pennsylvania. Many of you have distinguished yourselves in prior judicial positions, others in the practice of law, all of you as Pennsylvanians.

Mr. President Judge, Mr. Chief Justice, I thank you for the opportunity to appear today and to be part of this ceremony. I commend wholeheartedly to you, President Judge Cercone, and the members of the Superior Court, your new colleagues. I'm sure you have

ample work for them to undertake immediately following these ceremonies and I'm sure you will see they will attend to their duties with dispatch. Thank you.

PRESIDENT JUDGE CERCONE: Thank you, Governor Thornburgh. We are deeply appreciative of your impressive message.

I'm happy and privileged and honored to introduce our Chief Justice of Pennsylvania, Henry X. O'Brien.

CHIEF JUSTICE O'BRIEN: Your Excellency, Governor Thornburgh, President Judge Cercone, honored and distinguished guests, and friends of the new Judges:

On behalf of the Judiciary of Pennsylvania, I welcome you to the Judiciary on the Superior Court of Pennsylvania, that most important court. That court will now take over the general appellate jurisdiction in this Commonwealth. The Supreme Court will act by certiorari only; the burden of the appeals from the various courts in Pennsylvania will be handled by the Superior Court.

It has always been a distinguished court with outstanding jurists, and we welcome the distinguished gentlemen to the Superior Court and congratulate them and wish them well in the future. Thank you very much.

PRESIDENT JUDGE CERCONE: Thank you very much, Mr. Chief Justice. I will now call on the President of the Pennsylvania Bar Association, David Fawcett, Jr., who will make remarks and also present the commissions of the new jurists.

MR. FAWCETT: May it please the Court, Mr. Chief Justice O'Brien, Governor Thornburgh, Judge Cercone, distinguished Judges, ladies and gentlemen.

I am honored by this opportunity to bring greetings and congratulations on behalf of the nearly 20,000 members of the Pennsylvania Bar Association. This is an event that we have looked forward to for a long time. It is an important and historic day for the justice system of our Commonwealth.

The Pennsylvania Bar Association feels especially good and proud of this occasion. It was our special committee on the appellate court which helped to bring into focus the overwhelming need for an enlarged Superior Court. That need was underscored by the prestigious American Judicature Society. They reported that the Pennsylvania Superior Court was among the most overworked in the nation as

President Judge Cercone has pointed out in terms of both caseload and opinions produced. The numbers of these judges has been locked at seven since 1895.

The necessary transformation of the Supreme Court to a certiorari court points to an even more dramatic caseload problem soon. Fortunately, the Pennsylvania Legislature, the news media, and most importantly, the voters, recognized the dimensions of the problem and all acted wisely in moving towards a solution.

One year ago, the electorate removed the constitutional barrier which has prohibited any enlargement of this distinguished court. This Association was in the forefront of the statewide communications effort to convince the voters of the absolute need for the change and that they were going to be the prime beneficiaries of an enlarged Superior court. The efforts of Former Chief Justice Higgins to accomplish the enlarged court were outstanding.

The number of new judges was set at eight by the Legislature. The Appellate Court Nominating Commission submitted a list of possible appointees to the Governor; the nominations came to the Senate from the Governor. Six persons were confirmed and those are the people that we honor here today.

Our judiciary committee conducted an extensive review of the nominees. Eleven were found to be qualified. The scope and structure of that effort were unprecedented. As a result, I am absolutely confident that the six new Judges before you are of the highest caliber and that each will serve both wisely and well.

I would like to say to the new Judges that hard work is one of the penalties of your excellence. You will have to make a supreme effort to keep your heads above water. Your numbers are still too few and the workload is too great but that fact in no way diminishes the luster of this day.

I have known President Judge Cercone for many years. I can tell you that he is a hard worker, a persistent taskmaster, a loyal friend, and an outstanding public servant. He has done much to bring this state of being. We extend to him our thanks and congratulations.

The Pennsylvania Bar Association wishes to pay Governor Thornburgh a special tribute. He has demonstrated often his commitment to a strong and independent judiciary. He has a unique understanding of the needs of our judicial system and the wisdom to

seek solutions that benefit all Pennsylvanians. We applaud him for his efforts.

Finally, I want to say a special word of appreciation to the Court Administrator, Judge Barbieri, and his staff and the Superior Court staff for their good work in putting this ceremony together. It is also a pleasant duty to remind each of you of the reception sponsored by the Pennsylvania Bar Association which will follow immediately after this ceremony.

Now it is my very great privilege to read the commission of the office of the six new Judges. (Reading):

Commonwealth of Pennsylvania, Governor's Office, Richard DiSalle, Justin M. Johnson, Frank J. Montemuro, Jr., Zoran Popovich, Perry J. Shertz, Donald E. Wieand, Greetings:

Whereas, the appointment of additional Judges to the Superior Court of Pennsylvania is provided by Act 1980-63 approved June 11, 1980.

Therefore, know ye, that reposing especial trust and confidence in the prudence and integrity and ability of all the persons I have previously named and under authority of the constitution and laws of the said Commonwealth, in such case made and provided, I have appointed and do, by these presents, commission you to be Judges of the Superior Court.

To have and to hold the said office together with all the rights, powers, privileges, emoluments, thereunto belonging, or by law and in any way appertaining, and until the first Monday or January, for various terms described in the individual commissions, if you shall so long behave yourself well and perform the duties required by law.

This appointment to compute from November 19, 1980. Given under my hand and the Great Seal of the State, at the City of Harrisburg, this second day of December in the year of our Lord One Thousand Nine Hundred and Eighty, and of the Commonwealth, Two Hundred and Fifth.

By the Governor: Dick Thornburgh.

William R. Davis, Secretary of the Commonwealth.

I move this Court, President Judge Cercone, that the oath of office be administered to these Judges in the order that their names appear in the program. Thank you very much.

PRESIDENT JUDGE CERCONE: Thank you very much, Mr. Fawcett. We deeply appreciate your most appropriate and significant

remarks.

Before we begin the administering of the oaths, I see in the audience some of our colleagues from the Commonwealth Court and I'd like to acknowledge their presence. Judge Roy Wilkinson, Judge Genevieve Black, Judge John A. MacPhail. We also have the honor of the presence of the Attorney General Elect Roy Zimmerman. We are very happy and honored to have you with us today.

Also with us is Mr. Justice Samuel Roberts of the Supreme Court of Pennsylvania; the former president of this Court, Judge Bob Jacobs, and his lovely wife Ann, are with us. Thank you very much for being here with us today, Judge and Ann.

It is now my pleasure and great honor to call upon the Honorable James C. Crumlish, Jr., President Judge of the Commonwealth Court of Pennsylvania.

JUDGE CRUMLISH: Your Excellency, Bishop Keeler, Dr. Patrick, and other members of the clergy; Governor Thornburgh; Chief Justice O'Brien; President Judge Cercone; Judges of the Supreme, Superior, and the Commonwealth Courts; President Fawcett; Judge Designate; distinguished guests; families and friends of these inductees:

If the Court pleases, I think that we should pause for a brief few minutes as we jubilate to consider how Richard DiSalle will apply his special talents, heritage and experience to this new adventure. Justice in this country, like an adolescent straining for maturity, has been struggling recently for consistency, order, and enlightenment without fully understanding what strange rational and emotional processes are occurring within it.

The influence of modern technological genius has broadened the philosophy of the law. Its teachers, writers, and that very special breed of the judiciary have likewise been straining to come to grips with the perplexities of intellectual revolution. Constant challenges to the stability of the universe and the people who seek to orderize it is reaching gigantic, indeed awesome dimensions. The less spirited adventuresome might falter but the traditional Yankee resourcefulness, self-assurance, and reliance of the American legal profession, coupled with an inbred sensitivity to human needs makes a good judge just a cut above the advocate.

Simplistically said, a good judge must have in his soul that indispensable ingredient which I call humanism. This humanism I speak

of: where is its origin? How does one recognize it, use it, or abuse it?

Richard DiSalle: what manner of man is he? How does he meet that definition? I see a judge devoid of provinciality, partisan political maneuvering, blind philosophical adherence, avaricious ambition, or pettiness. I see a warm, understanding, collegial person who is strong but gentle, and totally devoted to the judicial process.

At the same time, I see another man of an earlier generation, a young visionary, forte and genteel in the patrician, academic town of Sulmona sharing the vivacious romance of Ovid "not satisfied but to dream." And in him is determination to explore the spirit of the new world in the pursuit of the American Dream.

We are told by historians that foreigners, as the 19th Century immigrants came to be known, had little opportunity for social or professional recognition here but intellectual curiosity, perseverance, and romantic optimism drove this man from Abruzzi to fashion with his beautiful lady, a generation reared in family discipline, old-world tradition, and the noble morals standards which have seemed to have fallen behind in the procession of personal achievement.

Humanism is that facet of Richard DiSalle, that son of the foreigner, which reflects in his distinguished career as Chief Assistant District Attorney and as a trial and as an Appellate Judge. It is his consuming dedication. Devoted to spiritual conviction, his marital partner, Joan, and their handsome children, his mother, father, and brother, who are here, share with him his latest achievement. We fellow sons and daughters of the foreigners salute and rejoice with Richard DiSalle.

(Whereupon, the oath was administered to the Honorable Richard DiSalle.)

PRESIDENT JUDGE CERCONE: Thank you, Judge Crumlish for your inspiring remarks.

We are now honored to call upon the Honorable K. Leroy Irvis, member of the House of Representatives.

REPRESENTATIVE IRVIS: Mr. Chief Justice O'Brien; Mr. President Judge Cercone; Excellency, The Governor of the Commonwealth; members of clergy; ladies and gentlemen:

I have sat here listening to the President Judge and the Chief Justice and looking at the men who sat before me, I remembered how many of them I had worked with and worked for. And remember the

years when I was a beginning lawyer in Allegheny County, never dreaming that the time would come when I would present a judge to the Superior Court. And wishing to thank men like Justice O'Brien who was on the Common Pleas Bench when I was a law clerk, Judge Brosky who saw me leave the Assistant District Attorney ship and go on to the Legislature, and Judge Cercone who encouraged me as a relatively young whippersnapper who thought he could change the law, who gave me a lecture about it one time in his chamber; Judge Price with whom I have worked for years.

It occurs to me that people are measured to a great extent by their judges. Wild animals have executives. They are called tribal leaders or pack leaders. But only civilized man has developed a parliament in which I serve and a judiciary. The measurement of people seems to me is the measure of the type of men and women whom we elect to the Bench.

This afternoon, I have the honor of speaking briefly in favor of a new Judge, Justin Johnson, whose father encouraged me all through law school, whose father was a man of great integrity and great intellectual capacity. Justin now stands before you ready to be enrobed, a man of equal integrity with his father, a man of superior intelligence, a man of unquestioned legal ability.

A judge, it seems to me, Your Honors, must be human. He must have emotions, he must have faults, failures, terrors, fears, loves, dislikes. He must understand the people who stand before him in his courtroom. If this be not so, then we would put computers in our courtrooms: emotionless, mechanical, electronically correct, and we would be making a disastrous mistake.

Judge Justin Johnson will be no computer. He will understand the human beings who stand before him and the causes they plead. They will not be white or black. They will not be Republican or Democrat. They will be human beings, their origins unimportant, their wealth not considered, the justice of their cause being the only measure by which he will pronounce judgment.

This is the sort of man I am proud to endorse, to introduce, and to support. This is the sort of man who will shortly be enrobed in our most honorable court. Thank you, Your Honors.

PRESIDENT JUDGE CERCONE: Thank you, Mr. Irvis. It is a pleasure to have you speak to us on behalf of Judge Johnson.

I now have the honor to introduce the brother of our new Judge, who is also a Judge of the Court of Common Pleas of Allegheny County. It is my great honor to present to you the Honorable Livingstone M. Johnson.

JUDGE JOHNSON: Mr. Chief O'Brien; His Excellency, The Governor, Dick Thornburgh; Mr. President Judge Cercone; reverend clergy; ladies and gentlemen:

May it please the Court.

Four years prior to the establishment of the Superior Court of Pennsylvania, Oliver Livingstone Johnson was born on March 11, 1891, in a little country town of White Hall, Albemarle County, Virginia, to William Bellefield Johnson and Georgianna Blakey. Overtaken by Father Time and his second bout with cancer, he died on July 10, 1971. Had he had lived just ten years longer, he rather than I, would be honored to appear here before you today as a member of the Bar of the Commonwealth of Pennsylvania since March of 1922 and on behalf of our family present a few remarks on the induction of his son and my brother, Justin Morris Johnson, as a member of this distinguished Court.

As I've visited Dad in the intensive care ward of the Western Pennsylvania Hospital, two days prior to his death, he mentioned to me with a smile on his face, "You boys just keep doing what you're doing and in five years you'll both be on the Bench if you want it to be that way. You're fine lawyers and you're fine sons." Though we buried Dad's body in a World War I veteran's plot nine years ago, his memory and his spirit live on and are present with us today.

Indeed my brother Justin's achievement as recognized here today is, as has been my own, a monument not only to dad's memory and spirit, but to the untold and unknown sacrifices which both my mother and my father have made over more than two generations. Though Dad is not here, our Mother, Irene Morris Johnson, enjoying her 87th year, will assist Justin's wife, Florence Lester Johnson, in enrobing my brother. Were Dad here today, he would approach this moment with the greatest of pride in my Mother and himself and even greater pride in Justin.

We, members of Justin's family who are present are filled with that same pride in him. With that pride, however, we feel the same humility which always reminded our parents of their modest beginning. We

accept this occasion as a fitting time to, along with Justin, give thanks to Him who is the Supreme Judge of us all. We ask that you pray with us that God bless Justin with that continued wisdom, compassion, dedication, and integrity that he and all of us may enjoy and benefit from his long service on the Bench.

We are thankful to God that He has given Justin the good health, strength, and wisdom as well as vitality to successfully complete the Wilkesburg, Pennsylvania School System, and to earn a Bachelor of Arts and Juris Doctorate Degree from the University of Chicago.

We give thanks to God that Justin had the good judgment and common sense to marry Florence Elizabeth Lester. They have been blessed with three very fine, healthy, and educated children. William Oliver, a second-year student at Westminster College; Justin Llewellyn, a freshman at the University of Chicago; and Elizabeth Irene, a senior at the Ellis School.

Our older brother, Oliver Morris Johnson I, died of wounds in action of February 12, 1945, during the Battle of the Bulge in World War II. He remains buried in the Veteran's Cemetery in Hamm, Luxembourg. Were he living, he too would be present for this great occasion.

Many more of Justin's relatives are in attendance today including my wife, Lee Brun, and our three youngest children, Judith Lee, Livingstone James, and Patricia Lee. College final exams prevent our two eldest children, Lee Carol and Oliver Morris Johnson II, from attending. Our Sister Justine Morris Gutzmer, and her husband, Ricardo, along with their three children Michelle Olivette, Arturo Livingstone, and Justin Enrique, have flown here from Los Angeles, California, for this occasion. Our sister, Irene Morris Johnson, is here from Morristown, New Jersey. Justin's father- and mother-in-law, Mr. and Mrs. William Lester, have flown here from Chicago. Our aunts, Josephine Morris Rayford and Lois Morris Maxwell, have arrived from Charleston, West Virginia, and Monongahela, Pennsylvania.

Other relatives present are Billy Morris Maxwell, from Brownsville, Pennsylvania, a cousin; and Mr. and Mrs. Charles Franklin, cousins from Monroeville, Pennsylvania; Mrs. Ruth Poindexter, a cousin from Wilkesburg, Pennsylvania.

Before closing on behalf of Justin and the family, we give thanks to Governor Dick Thornburgh for having nominated Justin and we give

thanks to the Senate of Pennsylvania for having confirmed him, and to the Courts of the Commonwealth of Pennsylvania and the Pennsylvania Bar Association for having planned this grand ceremony. Justin will bring along with his many other talents and attributes, a unique culture, background, and heritage which has existed on this court only in the recent past and then only for a brief while. His presence in your midst will add color to your ranks and in the best sense, give even greater meaning to the oft-repeated phrase, "equal Justice under law." I thank you.

PRESIDENT JUDGE CERCONE: Thank you, Judge for your warm and inspiring remarks.

It is now my great honor to introduce to you Jerome B. Lieber, Esquire.

MR. LIEBER: Mr. Chief Justice, President Judge, Governor Thornburgh, Justices and Judges, clergy, ladies and gentlemen:

My last appearance before this court was in 1958 as counsel for the appellant in the case of *Commonwealth v. Taub* in which the court decided against the appellant with two well-reasoned dissents. I waited 22 years to bring a more meritorious cause to this Honorable Court, the elevation to the court of my firm's esteemed partner, Justin Johnson. I would like to speak for a couple of minutes about Justin's heritage, Justin's accomplishments, Justin as a partner, and Justin as a person.

Justin's mother, Irene, and late father, Oliver, were among the first blacks to graduate from Braddock, Pennsylvania High School. His father attended Harvard Law School, served overseas in World War I and graduated from Pitt Law School in 1922, practicing law in Allegheny County for 49 years, the partner of various distinguished lawyers, and the first black Assistant District Attorney. In fact, he was sworn in by the President Judge's late uncle, Justice Musmanno. Then he was the partner of his sons, Livingstone and Justin, until his death in 1971.

Justin's brother, Livingstone, was appointed to the Allegheny County Common Pleas Bench in 1973 and elected to a ten-year term in 1975. Now we will have Justin on the Superior Court. We have searched for statistics but the dearth of the same leads us to believe that there is no other family in Pennsylvania's history honored to have two attorneys on the Bench at the same time and probably a first in the country for black lawyers.

While practicing law full time, Justin nonetheless is dedicated to so many Bar, community, and church activities that I can regretfully only cite a few. In his services to the Bar, he is Vice President of the Pennsylvania Board of Law Examiners, a member of the Pennsylvania Crime Commission, Chairman of the Hearing Committee of the Pennsylvania, a Supreme Court Disciplinary Board, and serves on many, many committees of all the Bar Associations.

In his service to the community, Justin is equally dedicated. He is a member of the Board of Mercy and the South Side Hospital of Pittsburgh, the United Way, Homer S. Brown Law Association, Hill House Association, Business and Job Development Corporation, and many others. In his church activities, Justin is a ruling elder of the Bethesda United Presbyterian Church and Chairman of its Personnel and Policy Committee, a member of the Presbytery's Permanent Judicial Commission.

He served the Armed Service with distinction and achieved the rank of major. He is a past president of the Neighborhood Legal Services Association and as long as ten years ago, he received the Martin Luther King, Jr. Citizen's Award. Truly a man who loves his fellow man and above all, honors the law.

Justin was an excellent addition to our partnership, Berkman, Ruslander, Pohl, Lieber, and Engel.

His background as a litigator and the Solicitor of the Pittsburgh School Board and general legal experience got him totally involved with our firm's clients. He and I practiced together constantly and successfully on many complex corporate legal matters. From that relationship I grew to know Justin, the person.

A man with a brilliant and logical mind and a very persuasive ability; always objective and never subjective; never guilty of premature mind set, but when his own research pointed the way, steadfast the purpose; never lacking his dry humor except when I would kid him about his weight when driving home together. Justin lives the name chosen for him by his mother, the derivation of which is the Latin *Justus* or *Justinus*, an upright and just person.

With a sense of personal loss for me and our firm, but with pride and honor for our profession and with assurance of his continued contributions to the law, the senior partners of our firm, Allen Berkman, Julian Ruslander, my brother Marvin, Bela Karlowitz, and I

have traveled here to introduce to this great court our partner, Justin Morris Johnson.

PRESIDENT JUDGE CERCONE: Thank you very much, Mr. Lieber. This time you have the unanimous Court in support of your remarks.

(Whereupon, the oath was administered to the Honorable Justin M. Johnson.)

PRESIDENT JUDGE CERCONE: I would like to acknowledge the presence of the Court Administrator of Pennsylvania, the Honorable Alexander Barbieri. We also have the new Prothonotary of the Supreme Court, Carl Rice, and the Deputy Prothonotary, Erma Gardner. We also have our Prothonotary, Joe Henry, and the Commonwealth Court Prothonotary, Mr. Darlington.

It is my pleasure and honor now to call upon the Honorable Jerome Zaleski, of the Court of Common Pleas of Philadelphia.

JUDGE ZALESKI: Bishop Keeler; Reverend Patrick; Your Excellency, Governor Thornburgh; Mr. Chief Justice; President Judge Cercone; Judges of the Superior Court; honored guests; public officials. May it please this august court:

It is indeed my special privilege to have the honor of introducing Judge Frank J. Montemuro, Jr., prior to his official swearing in as a Judge of the Superior Court of the Commonwealth of Pennsylvania. In Philadelphia County, Judge Montemuro's name is a household word. I have had the distinct good fortune to serve under him for nine years and I can vouch safe that his judicial abilities are only exceeded by his lofty reputation in our community. He is a native Philadelphian and he received his undergraduate training in Philadelphia, Temple University.

During World War II he served for two and a half years in the United States Navy and the Pacific Theatre of Operation where he participated also in the occupation of Northern China. After his discharge, he graduated from the Law School of Duke University and he practiced law in Philadelphia, thereafter winning high respect among his colleagues at the Bar as an assiduous trial advocate.

Sixteen years ago almost to the day, Governor Scranton appointed him to the Philadelphia County Common Pleas Bench. Since then he has occupied a leadership position among his associates. In September, 1968, he was elected to be the Administrative Judge of the Family

Division. In 1973 and again in 1978, he was re-elected as Administrative Judge. This fact alone speaks volumes for it is clear that in a ten-year period in a County the size of Philadelphia, the constituency of the Bench changes, yet Judge Montemuro continued to command the respect of his colleagues.

His administrative abilities have been widely acknowledged and acclaimed. In an era when all too often we observe that rules and programs only represent the sum total of their exceptions, Judge Montemuro has guided the Family Division with common sense, continuity, and stability. You undoubtedly are aware that the Administrative Judge of the Family Division in Philadelphia supervises 19 other judges and 700 employees with an annual budget in excess of \$8 million. Despite these demands, Judge Montemuro continued to hear cases on a regular basis.

He has a well-earned reputation throughout the Commonwealth as a consummate expert in family court law. He is personally responsible for numerous innovations in Philadelphia, many of which have been implemented throughout the Commonwealth.

The commissions, committees, and organizations, both community and legal, to which he has been appointed and serves, would require me to exceed my allotted time if I simply recited them. Three former Governors of this Commonwealth and two former Chief Justices recognized his legal and administrative abilities by appointing him to important statewide judicial committees.

He is the International President of the Order of Sons of Italy in America. For his efforts in furthering friendly relations between the United States and Italy, he has been twice decorated by the President of the Republic of Italy, a country that all mankind refers to with affectionate regard as the art gallery of the world.

He is the recipient of the Humanitarian Award from the Bridge, which is a therapeutic drug community for juveniles in Philadelphia of which he is a founder. He has received the Humanitarian Award from the Justice Lodge of the B'Nai Brith in Philadelphia.

He has received the highest commendation from the National Foundation of the March of Dimes for organizing the Philadelphia Walkathon for Birth Defects. He is very much in demand as you might expect, as a speaker and teacher in Philadelphia.

He is an accomplished author having published many articles in

leading law journals. His decisions and speeches frequently appear in the *Legal Intelligencer* which is our daily legal newspaper in Philadelphia. Although it is difficult to imagine a busier person than Judge Montemuro, his service and labors are always distinguished by complete dedication to the task before him.

He is a religious man and this is manifested in his total commitment to his wife and family. Twenty-six years ago, he married the former Margaret Gigliotti. They have been blessed with three fine young men, all of whom are here today. In addition, Judge Montemuro's mother, his two sisters, his brother, his mother-in-law and father-in-law, as well as other members of his family, are all present.

In conclusion, if I may borrow from Emerson, "one man's sweet is another's sour." We in Philadelphia are very sorry to lose Judge Montemuro's leadership but we rejoice in the knowledge that the Superior Court is gaining a gentleman of very outstanding stature. Thank you very much.

(Whereupon, the oath was administered to the Honorable Frank J. Montemuro, Jr.)

PRESIDENT JUDGE CERCONE: Thank you, Judge Zaleski, for your fine remarks regarding our colleague, Judge Montemuro.

One of our Judges was delayed in travel and he's sitting with us now. I am privileged and honored to introduce him to you, my colleague, the Honorable John Hester, who is to the immediate right of Judge Price.

Twenty years ago, in my early years as a Judge of the Court of Common Pleas, I interviewed a young lawyer for the position of law clerk. The interview revealed him to be a bright, articulate, and highly competent young lawyer. As a result of the interview, I selected him among a number of others as my law clerk. His name is Zoran Popovich.

His work substantiated my appraisal of him at the interview. I found him to have a fine legal mind, a capacity for hard work, and an understanding of the purpose and philosophy of the law. He had the ability to discuss the issues of a case upon which final decisions are predicated.

After his year as a law clerk with me, he entered the new world of the legal profession in the practice of law, establishing his office in the City of McKeesport where he practiced for 16 years. During that time,

the good people of McKeesport recognized his good qualities and elected him as their mayor. His dedication to public service and to the civic and charitable institutions of that great city won for him widespread recognition throughout the County of Allegheny and in 1973, when he ran for the Judgeship of the Court of Common Pleas of Allegheny County, he finished first on both the Republican and Democratic ballots leaving 63 other candidates.

Now 20 years later, not as a judge and law clerk relationship, not as a teacher and student relationship, but as equal colleagues, we will again have the opportunity to discuss the principles of law which culminate in the final decision of a case. Judge Popovich brings with him that capacity for hard work, fine knowledge of law, and acceptance of the great challenge of this new high judicial post.

Judge Popovich is married to the former Helen Bodnar and they reside in McKeesport with their fine children, Peter, Michael, Nicholas, and Julie. Their oldest son, Peter is a plebe at the United States Military Academy at West Point where he is on the basketball team. Judge Popovich is the son of the late, very Reverend, Doctor Milan G. Popovich, and Zoritsa Popovich. Dr. Popovich was the Priest of the St. Sava Serbian Church in McKeesport.

It is my great honor to administer the oath of office to Judge Popovich.

(Whereupon, the oath was administered to the Honorable Zoran Popovich.)

PRESIDENT JUDGE CERCONI: It is now my great honor to introduce the Honorable Max Rosenn, Judge of the Court of Appeals of the Third Circuit.

JUDGE ROSENN: Mr. Chief Justice O'Brien; President Judge Cercone; Your Excellence, Governor Thornburgh; members of the Superior Court of Pennsylvania; ladies and gentlemen:

In one of my last appearances as a lawyer before the Superior Court of Pennsylvania at its quarters in Philadelphia, the electrical system unexpectedly broke down during my presentation and total darkness fell upon the courtroom. As I pursued my arguments in the blackout, I realized that the Judges were also in the dark about my case. When the Court announced its decision several months later, I discovered to my dismay that my presentation had shed little light.

I hope that my remarks today will provide greater illumination.

Your Honors have been gracious in permitting me to participate in this history-making ceremony as this Court is about to expand its numbers and vastly enhance its influence and role in the judicial process in Pennsylvania. It is a great personal privilege for me to have some small role in these induction proceedings when you claim as one of your own, a cherished friend, a former professional colleague in the practice of law, and a distinguished public servant.

President Theodore Roosevelt, when considering an important judicial appointment many years ago, described the eminent person he had under consideration as a most gallant soldier, a most able and upright public servant, in public and private life, a citizen whom we like to think of as typical of the America character at its best. In my mind, Perry J. Shertz possesses these qualities. He has the high character and legal skills which should attach to a person who is about to be elevated to an important appellate court, especially one such as this about to meet serious and extensive challenges under Pennsylvania's new constitution.

Everyone who comes to know Judge Shertz quickly realizes that he is truly wedded to the law despite an adoring wife, three lovely daughters, and a handsome son. Only a zealous interest in the law would have inspired him to attend school while at the same time pursuing a livelihood to support himself and his wife and to meet the financial burdens of his legal education.

He brings to the court the advantages of more than 20 years of active experience at the Bar. His skills as a renowned trial lawyer ultimately led to his chairmanship of the litigation section of his law firm and trial work in many counties of the Commonwealth.

The Wilkes-Barre Law and Library Association, the fifth oldest Bar Association in the United States, elected him as its president and the America College of Trial Lawyers honored him as a fellow. For a number of years he served as Vice Chairman and Chairman of the State Bar Association's insurance, negligence, and compensation section and in various other activities and leadership roles of the State Bar Association, and the Pennsylvania Trial Lawyers' Association.

Despite his love for the law and for his wonderful family, there are two other aspects of Judge Shertz's life that have commanded his attention: military service and public service. His military career exceeds in time his legal career, spanning a period of about 30 years in the

United States Navy, United States Marine Corps, and their respective Reserves. He retired in 1976 with a rank of lieutenant colonel in the Marine Corps.

His commitment to the public interest is almost an equal measure in intensity to his military service. Fraternal and religious activities have absorbed much of his non-professional life. He has served in community leadership capacities, in city planning on the city municipal authority, and in the United Way. He has served on boards of many organizations at the local, state, and professional level, and each have profited from his vast experience, interest, and commitment.

This court is a distinguished court and I predict that Judge Shertz will follow in the footsteps of those who have given it dignity, and thoughtful service. In thought and judgment, he is richly endowed with patience, understanding, and wisdom which are tempered by the fires of experience and the delicate sense of compassion. You will find him able, industrious, and painstaking in whatever he does. He may disagree with you but he will never be disagreeable.

Judge Shertz is well organized and has legal instincts but he is never over confident and does not presume to know all the answers. As a member of the Panel Court I know from my own experience it is of the utmost importance that in an effective and efficient administration of justice, each Judge must bear his load consciously, diligently, and with dispatch.

My professional experience with Perry Shertz when we were law partners, convinced me that he will never shirk his responsibility as a Judge, that he will ever be mindful of his challenges and keep the image of the court as an institution uppermost in his mind. And that is as it should be if the court is to be held in high esteem by its sister courts, the legal profession, and the public.

Finally, your new colleague also possesses a deep religious spirit which gives him an inner strength and purpose. He will keep uppermost in his mind the admonition of the prophet Micah, to do justice, love mercy, and walk humbly with his God.

With the utmost pleasure I present to you your new colleague, Perry J. Shertz.

(Whereupon, the oath was administered to the Honorable Perry J. Shertz.)

PRESIDENT JUDGE CERCONE: Thank you, Judge Rosenn.

It is an honor to have you participate in these proceedings and we deeply appreciate your kind remarks regarding Judge Shertz.

Two of our Senior Judges are not here because of circumstances beyond their control but they asked me to extend to the new Judges their greetings and hearty congratulations. They are: Judge G. Harold Watkins, who is the former President Judge of this Court; and Judge Robert Van der Voot.

It is now my honor to call on our colleague, Judge J. Sydney Hoffman.

JUDGE HOFFMAN: If it pleases the Court, Chief Justice O'Brien; Governor of the Commonwealth of Pennsylvania, Dick Thornburgh; and members of the Court; ladies and gentlemen:

It has been 25 years since I have addressed the Court from this side of the Bench and believe me, I can now understand and appreciate the apprehension of attorneys because from here, my dear black-robed colleagues, you really do look formidable.

Since the moment I knew that Donald Wieand would be returning to the Superior Court, I have had that catchy tune running through my mind. At first I was going to sing it but by unanimous accord I was dissuaded so I will word it. "Hello, Donny. Well, hello, Donny. We're so glad to have you back where you belong." And Don, you really do belong on this court, because your experience, your background, and your training have preeminently fitted you for this moment.

As our attorney friends would say, suppose we look at the record.

Donald Wieand was graduated first in his class and was editor-in-chief of the Law Review at Dickinson Law School. Prior to his election, he was a partner in the illustrious Lehigh County Law Firm of Butz, Hudders, Tallman, and Wieand. He served almost 15 years as a Judge on the Court of Common Pleas of Lehigh County and the President Judge of that Court for the last several years.

The unanimous accolades from the members of that Court sounds like a press agent's fantasy. They describe him as patient, hard-working, learned, brilliant, impartial, fair, and understanding. Many of the same Bar expressed their ambivalence to me when they said that although they were proud of his elevation to the Superior Court in 1978, they were saddened and distressed to lose their intimacy with him.

At that time that Donald served with us for a year and a half, all of the judicial associates who were on the Bench at that time will agree

that his good humor, self-effacement, and scholarly opinion made him one of our most valuable assets.

From my experience, I have found that those persons who are involved and concerned with civic and communal affairs have an extra dimension which translates itself into humanism and sensitivity. I know no one in the judiciary that has been more concerned with and more dedicated to his community than Judge Donald Wieand.

He is on the board of three colleges, occupies leadership positions in the Boy Scouts, YMCA, Kiwanis, and Salvation Army. He has received honors and awards from literally dozens of organizations including the prestigious Pennsylvania Trial Lawyer's Association award for service to the profession in 1979 and is listed in *Who's Who in American Law*.

He is a deeply religious man. He is an elder of the First Presbyterian Church of Allentown and is a commissioner of the Lehigh Presbytery.

The Superior Court, I am really happy and thrilled to say, has long been a Court of collegiality, congeniality, and affability, and our relations with each other go far beyond our professional responsibilities to a kind of social camaraderie.

His wife, Wilma, who is affectionately known as Wink, and their children, Donald, who is a member of the Pennsylvania Bar, and Teresa, were welcomed warmly when Donald was a member of the Court and they, too, quickly became an integral part of the Superior Court family.

I have listened carefully and intently today when five previous speakers have lauded and have given tremendous accolades and commendations to the qualifications of the new Judges of the Superior Court. They made me indeed very proud to be associated with such extraordinarily talented and capable men. I am delighted and thrilled as were all the other speakers who made presentations to have been a part of these historic ceremonies.

It gives me great pleasure, President Judge Cercone, to introduce to you and to the Court, Judge Donald E. Wieand, so that you may administer the oath of office to him that he may assist this great Superior Court in pursuing society's urgent search for truth and justice. (Whereupon, the oath was administered to the Honorable Donald E. Wieand.)

PRESIDENT JUDGE CERCONO: Thank you, Judge Hoffman

for your eloquent remarks.

Now that we have heard so many eloquent remarks spoken in behalf of these six Judges, we're going to ask Judge Wieand to speak in their defense, not only for himself, but for each of his colleagues.

JUDGE WIEAND: Chief Justice O'Brien, President Judge Cercone, Governor Thornburgh, my colleagues of the Bench and the Bar, reverend clergy, ladies and gentlemen:

Today at this very moment, the Superior Court of Pennsylvania enters a new era in its history. Created by statute in 1895 as a court of limited appellate jurisdiction, it has become by constitutional amendment, by statute, and by supervisory rule of the Supreme Court, a court of general appellate jurisdiction. To most litigants, it has also become the court of final appeal.

The Judges have been able and industrious but they have been literally overwhelmed by the more than 4,000 appeals which have been filed annually. Now for the first time in its history, the court consists of more than seven regularly assigned Judges. The voters and the Legislature have enlarged the court so it may better hear and determine appeals promptly and at the same time give to each case the careful, thoughtful consideration which the litigants and the profession have a right to expect.

Special commendations are in order for Governor Thornburgh, members of the Senate, the Appellate Court Nominating Commission, and the Pennsylvania Bar Association. Because of their cooperative efforts, the merit selection process has worked well. It has brought this court Judge Richard DiSalle, a former trial and appellate judge, highly regarded by his former colleagues of the Commonwealth Court and the Court of Common Pleas of Washington County; Judges Frank Montemuro and Zoran Popovich, able, experienced and respected trial judges in their counties of Philadelphia and Allegheny. Judges Justin Johnson and Perry Shertz, both of whom have been active trial lawyers in their respective communities of Pittsburgh and Wilkes-Barre. I speak to you on their behalf, not because they could not have done just as ably and probably more articulately than I, but because they surrendered the pleasure of speaking individually in the firm belief that each of you would benefit if we acknowledged the old proverb that the mind can only absorb what the backside can endure.

The late Justice Felix Frankfurter, writing of the highest court of

the land in a work entitled, "Of Law and Men" spoke, I think, with equal meaning for us today.

"What is essential for the discharge of functions that are almost too much I think, for any mortal men," he said, "is that you bet men who bring to their task first and foremost, humility and an understanding of the problems of their own inadequacy in dealing with them. Also disinterestedness and allegiance to nothing except the effort amid tangled words and limited insights define the path through precedent, through policy, through history. For the best judgment that fallible creatures can reach is that most difficult of tasks, the achievement of justice between person and person, between person and state through reason called law."

The responsibility of the Superior Court is indeed the achievement of justice through reason called law. To that goal, we who are newly appointed join with our colleagues of the Superior Court in dedicating ourselves today. This is not a goal easily achieved or a challenge ever to be taken lightly. It imposes upon each of us a responsibility which is far deeper and more weighty than merely taking your duties seriously or wanting to be right. Perhaps it lies as it should for all Judges in the knowledge that our decisions in some way become a part of the huge fabric which is the moral law by which mankind is governed.

What I'm trying to say, I suppose, is that there's something sacred about justice. When a case is decided upon by an appellate court, the Court not only decides the case then before it, but contributes either constructively or destructively to the fabric of the law which determines the rights, the privileges, and the responsibilities of all citizens of this great Commonwealth.

During the years in which I have been privileged to serve as a trial judge and also as a member of this Court, I have frequently felt inadequate to know best how to achieve justice in cases coming before the Court. On those occasions, I have invariably been able to find help from two sources which I believe can be of substantial inspirational value to us today.

The first of these is the inscription which appears above the portal of the Supreme Court of the United States which refers to the edifice as the temple of justice under law. This has meant for me that there can be no justice in our society, which is a society of law and not of men, except as it's founded in and defined by law. Only by reflecting

upon this in a meaningful way, can a Judge in his or her effort to achieve justice minimize the misdirection which can be caused by deciding case on an ad hoc basis according to one's own preconceptions, predilections, or prejudice.

The other source of comfort and advice which has been meaningful for me is found expressly and by implication in the charge delivered to the Judges of the Hebrew nation in the 17th verse of the first chapter of Deuteronomy. It is there written, "Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; for the judgment is God's: and the cause that is too hard for you, bring it unto me, and I will hear it." With God's help, this Court in the new era which begins today will continue as it has in the past to strive for justice between person and person, and state through reason called law.

On behalf of the new Judges, may I thank you all for coming. We appreciate your interest and we covet your prayers as we undertake the assignment which has been given us to do.

PRESIDENT JUDGE CERCONE: We are deeply grateful and appreciative Judge Wieand for your inspiring remarks.

If each of you practice law, how would you like on occasion to argue a case before this group? You would have to be very convincing. Mr. Lieber, would you want ten majority of eight dissents? (Laughter)

This is truly one of the most historic moments in the annuals of the Pennsylvania Judiciary. With this enlarged Court, we can better meet the impending social and economic problems that come before this Court, problems which make it difficult to predict the future but which have a tremendous impact on the course and direction of the law. Judge Wieand said with God's help, this Court will carry out its work in accordance with the expectation of the people.

Before we adjourn and have benediction, I would like to say that I know that you would like to come up on the stage here and extend your congratulations to the new Judges, but since the Pennsylvania Bar has so graciously arranged to have a reception for all of us on the next floor, I should kindly ask you to extend your congratulations and good wishes to the new Judges at the reception which will follow immediately upon adjournment of this Court. The reception will be held on the next floor up. You will exit the rear doors, ascend the escalator, and I'm sure you'll see the arrangements on the next floor. So instead of taking the time,

here, we can more leisurely extend and welcome and congratulate the new Judges up there.

After the benediction, the photographers would like the Judges to remain for a few moments for some photographs. We will now have the benediction by the Reverend LeRoy Patrick, D.D., of the Bethesda United Presbyterian Church, who is the personal pastor of our new Judge, Justin Johnson.

(Whereupon, the benediction was given by the Reverend LeRoy Patrick, D.D.)

PRESIDENT JUDGE CERCONE: Court is adjourned.

(Whereupon, the proceedings concluded at 5:19 pm.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this copy is a correct transcript of the same.

Sandra K. Zentmeyer
Reporter

THE HONORABLE DONALD E. WIEAND

September 18, 1926 – April 11, 1996

Assumed Office: October 12, 1978

County: Lehigh

INDIVIDUAL INSTALLATION

In the Superior Court of Pennsylvania

PROCEEDINGS ON THE OCCASION OF THE
INSTALLATION OF HONORABLE DONALD E. WIEAND
AS JUDGE OF THE SUPERIOR COURT
OF PENNSYLVANIA

Met, pursuant to notice, on Friday, January 8, 1982, commencing at 3:30 P.M., in Courtroom No. 1, Old Lehigh County Court House, Allentown, Pennsylvania.

In Attendance:

HON. WILLIAM F. CERCONE, P.J., presiding
HON. EDMUND B. SPAETH, Jr.,
HON. JAMES R. CAVANAUGH,
HON. JOHN G. BROSKY,
HON. STEPHEN J. McEWEN, Jr.,
HON. VINCENT A. CIRILLO,
HON. PHYLLIS W. BECK,
HON. JUSTIN M. JOHNSON,
HON. J. SYDNEY HOFFMAN,
HON. ABRAHAM H. LIPEZ, JJ.

PROCEEDINGS

FOR THE RECORD: The court crier, Russel K. Shaffer, opened this special session of court.

By JUDGE CERCONE: Good afternoon. The court is happy to recognize Robert K. Young, Esquire, President of the Bar Association of Lehigh County.

BY MR. YOUNG: May it please the court: Today we can set aside the usual duties with your Honors because we have the happy occasion of installing Judge Donald E. Wieand as a member of your court. Thank you.

BY JUDGE CERCONE: Let us all rise for the invocation by Reverend Dr. Grant Harrity of St. John's United Church of Christ.

BY REVEREND HARRITY: Almighty God, whose governing hand is upon all the institutions of man, we ask your special blessing upon our courts and upon our judges, and especially upon Judge Donald Wieand, who has been chosen by his fellow men to this high calling.

May he be equal to the high trust we have placed in him, may he be reverent in the use of freedom, just in the exercise of power, and vigorous in pursuing justice for all.

Grant unto him, and to all of those who sit as judges, the humility to see themselves as servants, that they may act responsibly and honorably, so that all of us may have confidence in them and the decisions they make.

To You, O Lord, be all honor and glory. Amen.

BY JUDGE CERCONE: I want to say at the outset that we judges of the Superior Court are certainly honored and privileged to hold this ceremonial session in the Lehigh County Court House in Allentown, because one of your own sons will be sworn in momentarily as Judge of the Superior Court of Pennsylvania.

With me are colleagues of mine, and I would like to introduce them to you. To my immediate right is Judge Edmund B. Spaeth, Jr., to my immediate left is Judge James R. Cavanaugh, to Judge Spaeth's right is Judge John G. Brosky, and in front of us, in front of the bench, I would introduce my colleagues Judge Stephen J. McEwen, Jr. to my far right, Judge Vincent A. Cirillo to the judge's left, and we have Judge Phyllis W. Beck, Judge Justin M. Johnson, Judge J. Sydney Hoffman and Judge Abraham H. Lipez.

At this time I recognize William S. Hudders, Esquire, formerly a partner of Judge Wieand's in the practice of law.

BY MR. HUDDERS: Thank you very much.

With your Honor's permission, I should like to say that to have the Superior Court of Pennsylvania sit in Lehigh County is an historic occasion. The more so because by coming here each of you has delayed your weekend return to your homes for a well earned two day rest.

Let me say that by coming here again to install Judge Wieand, you have conferred upon him a significant mark of your esteem. After Judge Trexler and Judge Reno, he is the third son of Lehigh County to now sit on what is the Lehigh County seat in the Superior Court.

We in Lehigh have known, loved and respected Donald Wieand over the years. We deeply appreciate the mark of honor you are bestowing upon him by again coming here to install him as a judge of the Superior Court of Pennsylvania.

After a distinguished career in his undergraduate years and at Dickinson Law School, Donald Wieand was admitted to the Lehigh County Bar in 1951. Two years later he joined Butz, Hudders, Tallman & Rupp as an associate. Early on he distinguished himself by his ability and his reliability. We soon learned that when a partner assigned a matter to Donald Wieand, it was in good hands. It was certain to be well handled.

By 1953, in just two years, he earned partnership, the shortest time in which any associate, before or since, attained that status. In due time the firm name was changed to include his name under the style Butz, Hudders, Tallman & Wieand. It so remained until 1964 when he went to the bench here in Lehigh County and became Judge Wieand.

As a lawyer Donald Wieand was a first rate trial lawyer and a thorough office lawyer. He was then, as he is now, a hard worker. Looking at the volumes of Superior Court reports in our library the other day, I found that early on his name appeared in every volume of the reports from Volume 189 through Volume 198.

Now, that does not mean that he argued that many cases before this court over those years. On the contrary, Donald spent his efforts in careful preparation for trial and winning in the lower courts. Few were his cases that went up on appeal, and when they did he was mostly the appellee. And the same strategy stood him in good stead as appellant. But you ask, how is it his name appeared in all those volumes of court reports from 189 through 198 when he argued so few cases in this court? The answer is in the Superior reports in our library where on the inside cover of the book plate appears the name Butz, Hudders, Tallman and Wieand.

Judge Wieand is a man of many priceless qualities. He is a man of impeccable integrity and a gentleman. He has common sense. Some time ago I was with a wise old physician who, when in the presence of

a younger man, heard that younger man bemoan his wasted time in school and the fact that he had not attained any academic distinction. The doctor's comment, with a good Pennsylvania German accent, was "Yes, well, if you are hard working, you don't have to be bright". Now, Donald Wieand combines both of those qualities. He is hard working and he is bright.

Judge Wieand, the past few years have been undeservedly difficult for you, and all of us have somewhat shared those difficulties and those anxieties with you. Now, at long last, we would say to you:

May the road rise up to meet you,
May the wind be always at your back
May the sun shine warm upon your face,
The rain fall softly on your house, and
May God always keep you in the palm of His hand.

BY JUDGE CERCONI: Thank you very much, Mr. Hudders, for your remarks.

BY MR. HUDDERS: Thank you, your Honor.

BY JUDGE CERCONI: We are honored to introduce at this time the Honorable Kenneth H. Koch who for twelve years was President Judge of this Court of Common Pleas of Lehigh County and during the time Judge Wieand served on this court.

BY JUDGE KOCH: If it please the court—Judge Wieand—ladies and gentlemen: As a member of the bar and bench, it has been my pleasure to attend many installation ceremonies for judges. I am gratified to be present at this one and to speak briefly. There is something unique about Judge Wieand's installation because I believe it sets a record. Let's look at the history.

We welcomed him to the Common Pleas bench in 1964, installed him again after a retention election in 1974, and then on October 12, 1978 we witnessed his inauguration as the third Superior Judge in Lehigh County, his predecessors having been Judge Trexler and Judge Reno.

It's not too long ago—December 16th, 1980—that he was installed again. The last two events became what I call "tentative installations." This third installation in such a short period of time has somewhat of an adhesive quality about it. And this time it is going to stick. Truly, Judge Wieand must be the most installed judge in Pennsylvania, and I hope he carefully preserves those commissions as exhibits.

When Judge Wieand was appointed to the Superior Court we expressed regret that Lehigh County was losing a fine judge. Nevertheless, we applauded the wisdom of the choice and predicted that he would be an excellent appellate court judge. We now note that he has performed admirably and is indeed worthy of a ten-year term. Lawyers and judges, being what they are, may not always agree with his opinions. But we must be realistic and recall the observation of a Mississippi judge who said, and I quote, “Judges at least are but men encompassed by error, seasoned with sin, and fettered by fallibility.” I hasten to add that we judges are not too ready to admit that we are seasoned with sin, but that most judges are encompassed by error and fettered by fallibility seems only too evident when we read the opinions of our appellate courts.

Judge Wieand has devoted eighteen years of his life to the judiciary. When he became a judge he commenced a day-by-day life that is not altogether enjoyable. But when he gave up being a lawyer it was a conscious choice to devote the remainder of his years, not by the profitability of a practice, but by the immense satisfaction to be found in public service.

He has demonstrated that he possesses the character, the professional qualifications and, above all, the necessary common sense to be a good judge. I emphasize common sense, because there is no substitute for it, with all due respect to the fine law books and the computers to which we are now referring for aid in the decision-making process.

Judge Wieand’s state-wide campaigns were difficult chiefly because he wasn’t very well known state-wide. His professional qualifications were acclaimed in Lehigh and surrounding counties. In the recent campaign a majority of voters finally learned that the judge’s name was “Wieand” and not “Wiand,” and, most important, that he was performing splendidly in the important work of the Superior Court.

I cannot close without paying tribute to “Wink” Wieand. Wives make many sacrifices during their husband’s campaigns, and I am persuaded that she was almost as happy as her husband when the final vote was tabulated.

Wink, you can now relax a bit. But I hope you will accept just one word of advice from me. You know, sometimes the responsibilities of the judgeship cause us to take ourselves too seriously. Now, when this

is observed I hope you will say “Don’t get too judgey.” I can guarantee this works because I am well-acquainted with a wife who in those circumstances will give an alternate injunction. She just says “Climb off that bench.”

Judge Wieand, today you are ascending the bench of the Superior Court. We all pray that your tenure will continue to be a happy and meaningful one. May God bless you in your every day undertaking. Thank you.

BY JUDGE CERCONO: Thank you very much, Judge Koch. I don’t know that I should concur in the one sentence about the appellate court. I am reminded of the appellate judge who in the conversation with a Common Pleas judge said to him “Your Honor, I’m amazed you make so many rulings during the trial so instantaneously and you make so few mistakes,” and the Common Pleas judge said “What amazes me is you have so much time to write an opinion where you make so many mistakes.”

I’m very happy at this time to recognize Thomas A. Wallitsch, Esquire, who is chairman of the Committee to Retain Judge Wieand on the Superior Court.

BY MR. WALLITSCH: May it please the court: Thank you, Judge Cercone. Judge Wieand, distinguished judges of the Superior Court, distinguished members of the judiciary, colleagues and friends. Someone who had a philosophical inclination once said “One ought never forget the road that brought him to where he now stands.”

Judge Wieand, I doubt that you shall ever forget the election campaigns that have finally brought you here. Some parts of that journey you may wish to forget since the road was long and tortuous. Other parts of that journey provided enrichment and pleasure for you, your friends and your family.

In a few brief minutes this afternoon, perhaps it would be appropriate for all of us to re-travel parts of that road. In doing so, we may see even more of the man that is Judge Donald E. Wieand. As I worked in the campaign, I was constantly asked “How does a relatively unknown judge from a small county, one who has no great family fortune to bankroll his efforts, expect to win a statewide election?” And the questioners had reason to be skeptical.

Lehigh County has only about two percent of the population of the entire state. In statewide judicial elections over the past number of

years, the great majority of the elected appellate judges have come from more populated areas. Moreover, the cost of running statewide campaigns has been astronomical.

But those who questioned with skepticism did not know Don Wieand. To others, the improbable becomes the impossible. To Judge Wieand, the impossible becomes the attainable.

Despite more lucrative offers of returning to private law practice, and despite the relative security of a seat on the local bench, he chose to pursue the extremely difficult task of running for statewide judicial office on the Superior Court of Pennsylvania.

Few people really understood the magnitude of Judge Wieand's task in conducting a statewide campaign. Pennsylvania, the third largest state in the nation, has more than twelve million people spread over 45,000 square miles in 67 counties. A statewide candidate is expected to visit each one of those counties. In each county, a judicial candidate must meet as many people as possible since he cannot issue controversial statements which make good headlines for the local news media. A statewide election in this state is not a task for the fainthearted.

Moreover, Judge Wieand went through this process not once, but twice. None of us, least of all Judge Wieand, will ever forget the year 1979. In the primary election that year, he faced seven opponents in a campaign that took five months of his life. He was successful in the primary election and campaigned for an additional six months until the November election. I vividly recall leaving the judge's home that night believing that victory was secure, only to awaken to the news that Judge Wieand was behind.

Yet, it was not over. Problems arose in Carbon County which required a special election. Judge Wieand and many volunteers from Lehigh County campaigned day and night for two weeks in that county. But it was not to be. Although he won by a landslide in Carbon County, he lost by about 7,400 votes out of millions of votes cast statewide, a difference of less than one vote per voting precinct.

After being subjected to this heartbreaking defeat and the sacrifices that he had to endure during the 1979 campaign, it would have been very understandable if Judge Wieand had decided not to run again. Yet his perseverance and tireless energy permitted him once again to announce his candidacy for the Superior Court in 1981.

I am sure that numerous times this past year Judge Wieand wondered about that decision. I am sure the judge remembers that day at the Sullivan County Fair when it was pouring rain and he trudged through mud greeting people, shaking hands. He has been stranded in unfamiliar cities. His name was repeatedly mispronounced on radio and television as he traveled the campaign trail. There were countless days that began at 6 o'clock in the morning and ended after midnight. No candidate running in this past general election could have worked harder than Judge Wieand. He shook thousands of hands and made hundreds of speeches. Never did he complain. Never did he reveal the fatigue that I am sure he felt.

However, there were many bright spots during the election year. First, there were the countless numbers of people whom he met and who gave him support and encouragement. There were the endorsements from many political and professional organizations that showed the extent of his support from those who are concerned about the judicial process. There were the opportunities to speak about issues which are important to him.

Then there was the final vote tally which showed that the people of Pennsylvania had elected him to the Superior Court. As importantly, the vote tally showed that the Lehigh Valley had overwhelmingly supported him in this quest. No votes are as dear as those that are received in your own backyard.

Judge Wieand, on behalf of the entire election committee, let me make two offers of thanks. First, I wish to thank each of you in this audience this afternoon. You have been invited to this ceremony because you have made this day possible. Each of you, in your own way, has played a critical role in the success of this campaign.

Finally, judge, I thank you. Your tireless energy, your courage, your perseverance, had made the job that we had possible. We wish you well and we know that you will well serve the people of the Commonwealth of Pennsylvania.

BY JUDGE CERCONE: Thank you very much, Mr. Wallitsch. We are now happy to introduce Frank Boyle, Esquire, Vice President Elect of the Pennsylvania Bar Association and Chairman of the Judiciary Committee of the Pennsylvania Bar Association.

BY MR. BOYLE: If the court please, it is a distinct pleasure for me to join with this distinguished gathering, not only as a friend but as

a representative of the Pennsylvania Bar Association, to honor yet another distinguished individual.

We would all agree, I think, that Winston Churchill was an articulate statesman whose life was laced with a large measure of exposure both to war and politics. At one point in describing their relationship he said:

“Politics are almost as exciting as war, and quite as dangerous. In war you can be killed once, but in politics, many times.”

Mr. Churchill obviously implied that in politics one is more fortunate because he could continue to come back. It occurs to me how apt and fitting this is in our situation today. Churchill was killed many times in the political process and came back to be honored yet another day. And while Judge Wieand was disposed of only once, so to speak, in the political process in 1979, fortunately for all of us, with a dedication and perseverance that characterized Churchill, he, too, has returned to a fitting triumph.

There is an honest difference of opinion among people regarding the election of appellate court judges. There are those—and they are many—who subscribe to the direct political process. At the same time, there are many who are committed to the merit selection of judges, and I am happy to say that the Pennsylvania Bar Association is in the forefront of this effort.

While the road to a true merit selection process appears to be a long one, the Pennsylvania Bar is confident that it is the right one, and that the final result will be positive. But whether one subscribes to a true merit selection process or whether one subscribes to the direct political process, there are certain truths that are self-evident, and those truths involve the qualities necessary to the making of a good judge and the dispensing of that quality of justice contemplated by our Constitution. Some months ago an article appeared in one of our newspapers, written by a Common Pleas Court judge, entitled “What Makes A Good Judge.” Let me quote certain guidelines contained therein:

“A judge must know the law and follow it. On the other hand, the law is not static, and a good judge must discern basic legal principles and apply them to changing conditions without slavish adherence to outworn shibboleths. This requires understanding of social and economics conditions, a mind open to new facts and concepts, courage to attempt the new, and humility in recognizing the limitations of

innovation.”

Applying the criteria of expertise, or experience, sound reputation, legal scholarship, communal concern and integrity to these guidelines insures for all of us a sound judiciary. Judge Wieand exemplifies all of these qualities.

As Chairman of the Pennsylvania Bar Association Judiciary Committee, it was my privilege to participate in the merit selection process in 1981, following Judge Wieand’s nomination to the Superior Court, when I presented testimony on behalf of the Committee at confirmation hearings before the Senate Judiciary Committee. This testimony was preceded by an in-depth investigation by my Committee in which no facet of his life was left unturned, and I am delighted to read to you in part the Committee’s report following the investigation:

“His colleagues on the Court and members of the profession who practice before him are effusive in their praise of his qualities. Judge Wieand is industrious, polite, has a discerning mind and exhibits a fine judicial temperament. He possesses a thorough knowledge of the law and prepares well for the issues argued before him. His opinions clearly reflect a perceptive and incisive mind. He brings to the Superior Court a wealth of trial and judicial experience.”

It was again my privilege to participate in the political process, as Chairman of the Merit Selection Political Action Committee, raising funds to advertise around the state in the primary and general campaigns the attributes he so sincerely espouses. In this effort we joined many who felt as we did, and fortunately a combination dedicated to a sound judiciary unlocked the door to success.

We in the bar are proud to have been part of this process and we congratulate Judge Wieand and his family on this achievement. We look forward, as I am sure he does, to a long and rewarding experience. BY JUDGE CERCONI: Thank you, Mr. Boyle.

I would like to recognize, and it is my honor to do so, my colleagues on the Court of Common Pleas of Lehigh County and the others courts in the neighboring counties who are here. It has always been my belief that the trial judge and the trial bar make up the keystone of the judicial system because they are the first to meet the challenge of the every changing social, environmental and economic problems that come cascading down upon the lower court at the trial level.

The trial judge is the first one to write what the law is on a certain

case and has a great impact on what the law will be as it is finally established. To that extent we certainly owe a great debt of gratitude to the trial judge.

It is my honor to introduce the President Judge of the Lehigh County Common Pleas Court, the Honorable Martin J. Coyne.

BY JUDGE BACKENSTOE: Your Honor, I believe he is tied up with other business.

BY JUDGE CERCONO: The President Judge of the Northampton County Court of Common Pleas, the Honorable Alfred T. Williams, Jr.:

The Honorable Edward N. Cahn, Judge of the United States District Court for the Eastern District of Pennsylvania;
Judge John E. Backenstoe, Court of Common Pleas of Lehigh County;
and

The Honorable Maxwell E. Davison, Judge of the Court of Common Pleas of Lehigh County.

We have other dignitaries here I would like to introduce. First, the Mayor of the City of Allentown, the Honorable Joseph S. Daddona; Senator Henry C. Messinger, Senator from Lehigh County; and William H. Platt, District Attorney of Lehigh County.

At this time I would like to introduce and have the pleasure of doing so, Anthony M. Muir, Esquire, who will read the judge's commission.

BY MR. MUIR: Thank you, your Honor.

May it please the court: This commission is issued in the name and by the Authority of the Commonwealth of Pennsylvania from the Governor's Office, to Donald E. Wieand of the County of Lehigh, in the Commonwealth of Pennsylvania.

GREETINGS:

"WHEREAS, It appears by the certificate and returns made according to law, of the election held on the Tuesday next following the first Monday of November, one thousand nine hundred and eighty-one, and now on file in the Office of the Secretary of the Commonwealth, that you have been duly elected a Judge of the Superior Court of the Commonwealth of Pennsylvania:"

"THEREFORE, KNOW YE, That in conformity to the provisions of the Constitution and laws of the said Commonwealth in such case made and provided, I do by these presents commission you,

Donald E. Wieand, to be a JUDGE OF THE SUPERIOR COURT of the Commonwealth of Pennsylvania.”

“TO HAVE AND TO HOLD the said office, together with all the rights, powers and emoluments thereunto belonging or by law in anywise appertaining, for the term of TEN YEARS, to be computed from the first Monday of January, one thousand nine hundred and eighty-two, if you shall so long behave yourself well.”

“Given under my hand and the Great Seal of the State, at the City of Harrisburg, this twenty-second day of December, in the year of our Lord one thousand nine hundred and eighty-one, and of the Commonwealth the two hundred and sixth.” (signed) The Honorable Governor Richard L. Thornburg of the Commonwealth of Pennsylvania.

BY JUDGE CERCONI: Thank you, Mr. Muir.

BY MR. MUIR: Excuse me, your Honor. I am going to present the Commission to Judge Wieand, if I may.

BY JUDGE CERCONI: Please do that.

FOR THE RECORD: Attorney Anthony M. Muir handed the commission to Judge Donald E. Wieand.

BY JUDGE CERCONI: I now have the pleasure of calling on Alan M. Black, Esquire, who will present the judge to the court for the administration of the oath.

FOR THE RECORD: Judge and Mrs. Donald E. Wieand approached the bar of the court.

BY JUDGE CERCONI: Mrs. Wieand will hold the Bible.

BY MR. BLACK: May it please the court: It is with a great deal of pleasure that I present to your Honor at this time for the administration of the oath a truly exceptional judge, one who exemplifies the finest ideals of our judicial tradition. I present the Honorable Donald E. Wieand.

BY JUDGE CERCONI: Let us all rise, please.

Place your hand on the Bible and raise your right hand.

Do you, Donald E. Wieand, appointed and commissioned by the Governor of the Commonwealth of Pennsylvania to be a judge of the Superior Court in and for the Commonwealth of Pennsylvania, solemnly swear that you will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth, and that you will carry out your duties with fidelity?

BY JUDGE WIEAND: I do.

BY JUDGE CERCONI: I would like to have the judge's son and daughter, Donald E. Wieand, Jr. and Teresa Wieand Reilly, enrobe their father.

FOR THE RECORD: Donald E. Wieand, Jr., Esquire and Teresa Wieand Reilly placed the robe on Judge Donald E. Wieand.

BY JUDGE CERCONI: I would like to request James G. Kellar, Esquire and William C. Wickkiser, Esquire to escort Judge Wieand to the bench.

FOR THE RECORD: James G. Kellar, Esquire and William C. Wickkiser, Esquire escorted Judge Wieand to his seat on the bench.

BY JUDGE CERCONI: Thank you.

In December, 1980 on the occasion of the swearing-in exercises for the eight new judges who came to our court at that time, Judge Wieand spoke in their behalf, and as part of his eloquent remarks there was one passage that impressed me very much and I would like to read it to you at this time:

“The responsibility of the Superior Court is indeed the achievement of justice through reason called the law. To that goal, we who are newly appointed join with our colleagues of the Superior Court in dedicating ourselves today. This is not a goal easily achieved or a challenge ever to be taken lightly. It imposes upon each of us a responsibility which is far deeper and more weighty than merely taking your duties seriously or wanting to be right. Perhaps it lies, as it should, for all judges in the knowledge that our decisions in some way become a part of the huge fabric which is the moral law by which mankind is governed.”

To my mind when Judge Wieand expressed those thoughts he epitomized for me and my colleagues the kind of person, husband, father, citizen and judge he is.

It has been said that a man's life is like a drum. You strike it anywhere and it resounds everywhere. The speakers who spoke so eloquently today about the facets of Judge Wieand's life to this point related a most inspiring story that augurs well not only for the future of this court but for the vitality of the law in general which is constantly in search for better ways of meeting the problems and needs of the people.

We are certainly proud today that we are now assured that Judge

Wieand will serve on our court for a long time in accordance with the high standards he sets for himself and which he keeps bright and inviolate for each of us to see and follow.

Judge, it was a great honor for me to administer the oath of office to you.

BY JUDGE WIEAND: Thank you.

BY JUDGE CERCONI: I think it is only fair, after all these nice things are said about the judge, that he be called upon to defend himself.

BY JUDGE WIEAND: Thank you very much, Judge Cercone. Colleagues of the bar and bench, Reverend Clergy, members of my family, and friends: I recently asked one of my law clerks what she thought I should say on this occasion. She replied “Why don’t you tell them, ‘Whew, I’m glad it’s over.’” That suggestion may very well be more descriptive of my feelings than anything else I could say to you on this occasion.

One year ago, as many of you will recall, I was torn by the need to make a decision. That decision was whether to be a candidate for a seat on the Superior Court or whether to choose the seemingly less arduous route of campaigning for a vacancy on the Common Pleas court in Lehigh County. The decision was not an easy one to make. For fifteen years I had been a trial judge and had enjoyed it every bit as much as I had enjoyed the appellate work of the Superior Court.

Many of my friends argued against another statewide campaign. “You lost once,” they said, “and coming from a small county, there’s a good chance you’ll lose again.” Others, such as Bob Kohler, who is here today, the President of the Lehigh County Labor Council, and Tom Wallitsch, disagreed. They recommended that I run again for the Superior Court. But it remained for my father to be the most persuasive. While I was in this period of flux, he clipped and sent to me words that had been authored by President Teddy Roosevelt, and that clipping I carried with me throughout the campaign.

“Far better it is to dare mighty things, to win glorious triumphs, even though checkered by failure, than to take rank with those poor spirits who neither enjoy much nor suffer much because they live in the gray twilight that knows not victory nor defeat.”

Well, after the primary election, as Tom Wallitsch told you, I wasn’t certain that I had made the right decision. The unofficial vote count,

if it had held, would have placed me in the number four ballot position on the second line. Frankly, I was discouraged and so were some of the members of the campaign committee. Others, such as Tony Muir, John Milliron, Stan McCormack, Carl Nunley and Glenn Moyer, as well as my wife, Betty Kuhnsman and a host of enthusiastic friends, remained confident, and believe me, they were able to give me a real lift when it was needed badly. And across the state I found an army of very wonderful people, friends, volunteers from both political parties, who were ready, willing and able to help. I know I will never be able to thank them enough. I was encouraged also by the endorsement and support received from the Pennsylvania Bar Association, as well as labor, and the endorsement by major newspapers throughout the Commonwealth.

But despite the tremendous help, just as two years earlier, the election turned out to be a real cliffhanger. For more than a month after election day I found myself reading want ads in legal periodicals. I even made several tentative job inquiries. In retrospect, when I consider the relatively poor ballot position and the Republican sweep engineered by Judges Cirillo, McEwen and Rowley, I consider it almost miraculous that I was able to squeeze into the fourth vacant seat. I think that is an assessment with which Judge Hoffman agrees fully.

Perhaps the uncertainty which has been part of my life as a candidate was most appropriately concluded by Justice Samuel Roberts of the Supreme Court who, in a succinct but beautiful congratulatory note, wrote:

“Congratulations—Sorry it took so long—Time for prayers to work.”

But today, I agree with the clerk who said “Whew, I’m glad it’s over.”

And what of the future? I probably know better than most the staggering workload under which the Superior Court Judges are laboring. The American Judicature Society, called upon to make a study of the appellate court system in Pennsylvania, reported in 1978 that the Superior Court is “perhaps the most overburdened appellate court in the United States, and its judges are doing work above and beyond what can reasonably be expected of appellate court judges.”

This has not changed. With close to five thousand appeals being filed annually, you can tell that those of us who campaigned for office

this year were not seeking rest from judicial labors. Nor will we find it. Judge Cercone, as President Judge, has decreed "Let none be without work." And so it will be.

"All agree that we want good judges," said Professor Evan Haynes in his work on the Selection and Tenure of Judges. "All agree, surely," he continued, "on the primary qualities that a good judge must have: honesty and courage, wisdom and learning; the kind of humility that enables a man to rise above the faults and prejudices of his own inner self, and to see and think and decide on higher ground."

Certainly, Professor Haynes speaks for all of us when he describes that kind of humility, which is so necessary to a good appellate judge, but which requires a constant, conscious effort to attain.

It has been said that there are no easy cases. This, of course, is not entirely true. But it is true that the good judge encounters a far higher percentage of hard cases than does a judge who is indifferent. In multi-judge courts of review, the responsibility for decision making is shared. However, no appellate court judge worth having derives much comfort from the fact that the judgment is that of the court and not his or hers alone.

One can readily see, therefore, that some of the things which the future holds are difficult decisions, heavy responsibilities and hard work. I find comfort, as I have frequently done in the past, in the Biblical admonition found in the first chapter of Deuteronomy:

"Ye shall not respect persons in judgment: but ye shall hear the small as well as the great; ye shall not be afraid of the fact of man; for the judgment is God's, and the cause that is too hard for you, bring it unto me, and I will hear it."

That sounds good, you say. But what about your philosophy? How will you approach the issues of our time which are bound to come before the court? Are you liberal or conservative? Are you an activist or a strict constructionist? Are you pro-business or pro-labor? Pro-choice or anti-abortion? Where is it, Judge Wieand, that you stand? Well, if you have been listening to what I have been saying, perhaps you have acquired some idea of what my philosophy is. I would add merely that to the extent I can consciously achieve it, my goal, my striving will be as expressed by an anonymous poet in these lines:

"The bread that bringeth strength I want to give,
The water pure that bids the thirsty live:

I want to help the fainting day by day;
I'm sure I shall not pass again this way.

"I want to give the oil of joy for tears,
The faith to conquer crowding doubts and fears.
Beauty for ashes may I give away:
I'm sure I shall not pass again this way.

"I want to give some measure running oer,
And into angry hearts I want to pour
The answer soft that turneth wrath away;
I'm sure I shall not pass again this way.

"I want to give others hope and faith,
I want to do all that the Master saith;
I want to live aright from day to day;
I'm sure I shall not pass again this way."

As I undertake full time responsibility as a member of this great court, I covet your prayers and your patience, your continued support and your good will. And thank you, thank you one and all, for your help in making it possible and for being here as it begins.

Having said that, I would like to express a special note of thanks to some of the people who are here. Judge Cercone has introduced some of them to you.

Judge Mellenberg of the Court of Common Pleas is here.

Jim Ritter from the City of Allentown, who is the Representative in the General Assembly is here.

I especially want to recognize and thank Judge Scheirer so much for being here with us today. I don't know how many of you know it, but Judge Scheirer was released from the hospital just yesterday and made a very difficult trip to this courtroom to be here today.

Judge Scheirer, thank you very, very much.

Again, I say thanks to all of you for your help in making this possible and for being here as it begins. Thank you.

BY JUDGE CERCONO: Now you can understand why we are enthusiastic about having Judge Weiland on our court. All of us who have worked with the judge have gathered insight into his character

and personality, and I think it is only proper that I call on one of our number to say a few words.

I would like to call on Judge James Cavanaugh.

BY JUDGE CAVANAUGH: President Judge Cercone, I would just like to say how thrilled I am to be here in this marvelous old courtroom which is such a part of the noble and rich tradition of the Lehigh County bench and bar, and as a citizen I would like to thank the people of this community for giving up one of its sons, even one of its favorite sons, to serve the people of this entire Commonwealth on the Superior Court of Pennsylvania.

Finally, as a friend, Don and Wink, I know what you have been through, and I say to you God speed. I wish for you many happy and fruitful years in your future work and endeavors. God bless you.

BY JUDGE CERCONE: All right. Before we have the final prayer and benediction, on the part of all the judges here of the courts of Pennsylvania and the Wieand family, we want to extend to each and every one of you our thanks for your attendance in paying honor to the judge, and to also extend our best wishes to you for the New Year, for every health and happiness.

We will all now rise for the benediction by the Reverend John Stoner, Associate Pastor of the First Presbyterian Church.

BY REVEREND STONER: Let us pray. From the rising of the sun to the going down of the same, let the Lord's name be praised. O God of all truth, God of justice and God of mercy, we are glad that You have called us to be the children of Your creation. We know that apart from Your strength and guidance we cannot be good stewards. And so we ask Your blessings and Your benedictions upon the courts of this land, upon all of those who lead us and guide us. We especially ask Your benediction, Your guidance and Your blessing upon Donald Wieand, his wife, Wink, his children and parents, and all those who are his friends, that together we may be strengthened and encouraged as we seek to fulfill and enjoy the life which You have given to us. And so we ask that the graciousness of Your goodness and the mercies of Your ways may be with us, each one, this day and always. Amen.

BY JUDGE CERCONE: I am sure you all want to come forward and extend your best wishes to the judge. The judge will stand out in front of the bench and you may come forward.

This court now stands adjourned.

(Thereupon, at 4:35 P.M., E.S.T., court was adjourned.)

MEMORIAL CEREMONY
For
HONORABLE DONALD E. WIEAND

*Monday, June 24th, 1996
Courtroom 1-A
Old Lehigh County Courthouse
Allentown, Pennsylvania*

PRESIDENT JUDGE McEWEN: Good morning. The Superior Court is very grateful for the opportunity to appear in Lehigh County for this Memorial Session in honor of our dear, dear colleague, Judge Donald E. Wieand.

We gather for this memorial celebration to salute a very special individual. Judge Wieand was upon the court for 15 years and the entire membership of the court has been the beneficiary of his wonderful efforts.

He was admirable for his distinct ability to immediately grasp the issue, tirelessly conduct a search for expression of supporting authority, and express his own conclusions in a most compelling fashion.

While the special focus of today's service is to remember the superb quality of his contributions to the jurisprudence of Pennsylvania, the Judges of this court are especially grateful for the attentive, sincere friendship, which he always displayed.

Judge Wieand suffered the pain of a dreadful illness in his last years. Some people have the strength to endure physical difficulty. Judge Wieand was unique because he was blessed with a remarkable human spirit and courage, which was truly inspirational.

Poet Hilaire Belloc once mused:

Courtesy is much less
than courage of heart or holiness.

And yet in my walks, it seems to me
that the grace of God is in courtesy.

Judge Wieand could well have inspired this refrain as well as others upon kindness, helpfulness, or friendship. And how blessed the members of this court have been to be able to share that friendship.

So it is that we, his colleagues of the Superior Court, salute this man for the abundance of personal characteristics with which he

enriched us by association with him, and conduct this morning, in this magnificently restored courtroom, a memorial session in Lehigh County, the jurisdiction of his birth, of his life, of his years of practice of our profession, and of his splendid career as a trial judge, a performance which inspired the voters of Pennsylvania to send him to this court.

We are grateful this morning to have, to memorialize Judge Wieand, speakers who were his friends and colleagues from Lehigh County, and to do so in his forum, the Common Pleas Court of Lehigh County.

The first speaker will be Chief Judge Edward E. Cahn of the United States District Court for the Eastern District of Pennsylvania. Chief Judge Cahn, please.

JUDGE CAHN: May it please the Court, distinguished judges, members of the bar, relatives, and friends of Judge Wieand.

Donald E. Wieand was a formidable trial lawyer, a superb trial judge, and an outstanding appellate jurist. Let me assure you, Your Honors, that I make this statement not based on hearsay, but on direct personal knowledge.

I tried cases against Don Wieand; I tried cases before Judge Wieand; and after he joined your Court, I would frequently confirm my understanding of Pennsylvania law by discussions with him over the lunch table. He was my primary luncheon companion for the last 20 years.

At his funeral, we learned that Don Wieand was highly competitive, even at Monopoly, I can attest to his competitiveness because when Don Wieand was your opponent, the phrase adversarial proceeding took on an enhanced significance.

In January of 1964 in this courtroom, Judge Wieand assumed the seat of Judge Henninger on the Court of Common Pleas of Lehigh County. There he graced the bench with dignity and scholarship. As a trial judge, he treated lawyers, litigants, and witnesses with courtesy.

During his tenure as a trial judge, the Supreme Court of the United States and the Supreme Court of Pennsylvania made many procedural and substantive changes in the law. Judge Wieand adapted to these changes very well. He often disagreed with the direction the law was taking, but he clearly understood the impact of the changes and the reasons for them.

Perhaps the best evidence of Judge Wieand's competence and fairness as a trial judge can be found in an adage, which may be apocryphal, from the Lehigh County Prison. There the inmates said: "You want to be tried by Wieand; but sentenced by one of his colleagues." The inmates recognized that Judge Wieand was a scrupulously fair trial judge. Although one of his colleagues had a reputation for lenient sentences, I do not recall any unduly severe sentences imposed by Judge Wieand.

As a member of your Court, Judge Wieand was given an opportunity to engage in extensive legal scholarship. He enjoyed this task immensely and frequently commented about the high standards of your judges in the scholarship area. In regard to scholarship, he held Judge Hoffman and Judge Spaeth to be particularly astute.

He recognized that the Superior Court of Pennsylvania has two primary functions. One is to correct errors made by trial judges. The other is to set policy on unsettled issues of law where the Supreme Court of Pennsylvania has not made a final decision. The judge worked assiduously on both assignments. He frequently worked evenings and weekends to stay current with his docket. Because of the level of your case load, he was required to issue reasoned opinions on a daily basis.

Judge Wieand found challenging the conceptual problems involved in the development of the law of products liability. He found it difficult to reconcile the decisions of the Supreme Court of Pennsylvania with the obligation of a trial judge to give a jury specific instructions on how to determine whether or not a design of a product is defective and dangerous. I understand Judge Wieand's concerns are being addressed by academicians who are well along in the process of revising Section 402A of the Restatement of Torts.

Only a few members of the Lehigh County Bar have had the privilege of serving as appellate judges. Judges Trexler and Reno preceded Judge Wieand on your bench. Judge Madeline Palladino, whose portrait hangs in this historic courtroom, was a member of the Commonwealth Court. Judge Wieand recognized the rarity of the honor bestowed upon him and continued as an active judge on your court until God mercifully relieved him of the torment of his last illness.

As immersed as Judge Wieand was in the arduous work of your court, I believe his predominant interest was in the drama of the trial

court where juries are given the task of resolving factual issues to adjudicate human controversy. He often observed that the rules of procedure and evidence have a paramount importance in insuring that the judicial process is fair and just. As both a trial and appellate jurist, he devoted his life to bringing justice to the people of this Commonwealth. We praise his efforts and let all of us here today rededicate ourselves to this purpose as a fitting memorial to Superior Court Judge Donald Wieand.

PRESIDENT JUDGE McEWEN: Thank you very much, Judge Cahn.

Next is Common Pleas Court Judge William H. Platt, Former District Attorney of the County and close friend of Judge Wieand.

JUDGE PLATT: President Judge McEwen, distinguished judges of the Superior Court, Chief Judge Cahn, Judge Palladino, my colleagues on the Court of Common Pleas, distinguished public officials, guests and friends and family of the late Judge Wieand. May it please the court.

It is a personal honor and privilege to be able to participate in this ceremony to pay tribute to a distinguished jurist and friend, Judge Donald E. Wieand. Thank you, President Judge McEwen, for bringing the Superior Court back to Lehigh County one more time to honor a most famous and favorite son of our community. Thank you also for inviting me to participate in these proceedings.

Donald Wieand joined the Lehigh County Bench in 1964, the same year the cornerstone was laid on the then-new Lehigh County Courthouse, and the year I graduated from law school. I have often said the new courthouse and Judge Wieand were there especially for me.

Obviously, I did not practice with him while he was a lawyer; but those who did, such as Judge Cahn, always spoke highly of his preparation and advocacy skills.

My first professional recollections of Judge Wieand go back to my preceptorship. In those days, new lawyers-to-be were required, among other things, to observe a certain number and variety of court proceedings.

I found myself gravitating to one courtroom more than any other. It was a courtroom where the law and rules of procedure reigned supreme. It was a courtroom where justice was truly done. It was a

courtroom presided over by a jurist of extraordinary skill and ability. It was the courtroom where the Judge Donald Wieand sat.

Through his more than 15 years on our local bench, those who practiced before him knew this was a unique and special man, one learned in the law, able to immediately get to the heart of the issue, and one with a temperament ideally suited for the bench.

Judge Wieand was the last surviving judge who served on our Common Pleas Court at the time of my admission to the Lehigh County Bar.

Early in my career, I had the pleasure of being the case editor of the *Lehigh Law Journal*, a position Judge Wieand often reminded me he also held. It was during that time that I came to recognize the judge's skills at honing a written opinion.

His were the easiest to headnote. The points of law came right off the page and hit you between the eyes. He had a precise and insightful writing style which was to serve him well later on the Superior Court.

As a trial judge, he really was the "Judge of Choice." President Judge Koch always seemed to assign him to the tough ones. I preferred to try my cases before him, both while I was the Public Defender and later as District Attorney of Lehigh County.

Admittedly, his sentences were a bit easier to take in the latter role. Judge Wieand was totally predictable. His only agenda, if I may call it that, was to follow the law. If you were prepared and knew the law applicable to your case, the rules of procedure and the rules of evidence—you knew exactly how he would rule on the issues.

The fact that he would scrupulously follow the law gave me a dubious distinction, one that Judge Wieand would never let me forget. I was the only lawyer ever to have him reversed on a trial ruling; of course, he followed the law.

I had submitted a point for charge involving the burden of proof in an insanity case. And the Supreme Court of Pennsylvania, after the trial, changed the law. That court ultimately awarded my client a new trial based on that; however, I am happy to note, as was Judge Wieand, that the Supreme Court eventually changed the law back to Judge Wieand's way.

I learned as much law over lunches with Judge Wieand as I did from any other source. I know Judge Cahn feels the same way, and he said so today. I hope that Judge Cahn's opinions, when they involve

Pennsylvania law, will continue to be as insightful as they were when he was having lunch with Don Wieand.

To a great extent, I am a judge today because of Judge Wieand. Not only is he a role model, the kind of judge I will always hope someday to become; but also, he is one of the prime reasons why I entered public service. But for him, I probably would never have been appointed District Attorney back in 1976.

Incidentally, Sue Shellenberg would probably not be our Court Administrator either, since Judge Wieand was also instrumental in her hiring as a Deputy in that office.

Judge Wieand swore me in after my first election as District Attorney, and that was at a time when he was leaving the Superior Court for the first time. I had hoped that he would do so after my election as a judge. Unfortunately, he was not physically up to that. Our mutual friend, Chief Judge Cahn, filled in very nicely.

Judge Wieand has brought distinction to his family, to this community, and to the courts which he served so well. His legacy and the law he has defined and articulated so well will be with our citizens long into the next century.

Judge Wieand was always a hard worker. I recently checked the computer and found that during his tenure on the Superior Court, he authored over 1,665 published opinions; and I believe that there are still some in the mill, because he did not stop working, even after his health made it physically difficult to continue.

Based upon a quick estimate, and this is a guess, that published opinions constitute approximately 12 percent of the Superior Court's written opinions, that would mean during his tenure on the court, Judge Wieand may have authored as many as 13,000 opinions.

All of us will miss him, but none will forget him nor the fine work that he did on behalf of law and justice in this community and in this State.

JUDGE McEWEN: Thank you, Judge Platt. Before we move to our next speaker, since this proceeding will be a matter of publication in the Pennsylvania Superior Court Reports, I will seek to make that record complete by noting for it that present this morning are Judge Wieand's wife and our distinguished Wieand three generations, I guess.

We have the daughter, Terri; son, Don; and we have what, I guess, Judge Wieand would call the issue. Well, that's what Judge Wieand

would say, but Don Wieand would say cherished grandchildren as well from the front row.

Over in the jury box, we have the outstanding jurist after whom this courtroom has been named, and I salute the judges of this county and the county executive for restoring this courtroom to its magnificence.

Lehigh County was in vanguard. It was at the cutting edge really in moving in this country toward reflection and recollection, and that is worth sharing what was in the past. And, of course, they have achieved magnificent restoration of this courtroom. We visit this courthouse with that thought, one that is magnificent; and one that is second to none in the Commonwealth.

While continuing with the jury box, we have Judge Platt's colleagues of the Common Pleas Court and President Judge James Diefenderfer, Judge William Ford, Judge James Knoll Gardner, Judge Carol McGinley, Judge Ed Reibman, and Judge Tom Wallitsch.

Judge Platt, we've heard from, and Mr. Davis, a former colleague on the Common Pleas Court, I note is a body of the courtroom. And as well, we are pleased to have and welcome in the county, County Executive, Jane S. Baker, as well in the body of the courtroom.

The next speaker and final speaker will be a woman who is somewhat family of the Superior Court because while she is a member of your bar here in Lehigh County and not just a pillar of your bar, but a former President of the Lehigh County Bar Association and Registered Service at the Bar, she was a clerk with the Pennsylvania Superior Court. So now, may I present Gwin Marie Krouse.

MS. KROUSE: May it please the Court. Thank you, President Judge McEwen. Distinguished Judges of the Superior Court, Distinguished Members of the Judiciary, Colleagues, and Friends.

I was honored and, frankly, humbled when President Judge McEwen called me and asked me to speak today as a representative of the bar. So much has been said about the man whose memory we honor that I'm not sure that I can add anything to the eloquent words spoken already by Judge Cahn and Judge Platt. But perhaps you would indulge me if I offer a different perspective of Judge Donald E. Wieand, that of a boss.

I started my legal career as a law clerk with the former Superior Court President Judge Robert Jacobs. Judge Jacobs was planning to

retire at the end of December of the year that I started working with him, so another job search loomed before me.

But in a stroke of good fortune for me, a man with a funny name from Allentown was appointed to the Superior Court about the same time I was beginning my job search. After a few phone calls between him and Judge Jacobs, Judge Wieand acquired me in the free agent draft.

It was a good match, a fresh-faced kid right out of law school who needed a job, and a new Superior Court Judge who needed a law clerk with a bit of experience in the appellate realm.

I moved to Allentown, never having met Judge Wieand and not knowing a soul in this city. Little did I know when I walked through that door on the fifth floor of the Lehigh County Courthouse on my first day what I was in for and how the direction of my legal life would be forever altered, and dare I say improved.

As everyone knows, Judge Wieand was a man of keen intellect, superb articulation, remarkable industry, and insightful common sense. But the man on the bench became something else behind the bench—he was a teacher. Like most superb teachers, the judge taught by example, that example being a life devoted to legal scholarship and justice.

As clerks, our job was to research the law and draft the opinions which accompanied the decisions in most every case. Now, this was in the dark ages, that is to say, before the days of computers, and we four clerks hand-wrote our opinions on yellow legal tablets. Invariably, as the draft was returned to us after the judge's review, it was marked up on almost every single paragraph in his rather scrawling long hand notes and editing.

This was the start of a back-and-forth process, which eventually would result in one of the judge's opinions; and these were truly the judge's opinions, for they often bore little resemblance to the draft first submitted to him. I quickly learned not to be hurt or offended with all the changes because it always meant a better end product.

Often, as the drafts circulated, the other clerks and I would review them with the judge, an occasion for discussion and sometimes lively argument. The judge didn't always agree with our positions; and occasionally, our round table talks got rather heated. But the discussions always led to better legal research, clearer articulation of concepts, and

stronger precedential value.

Our discussions were very much like those Socratic processes, which we all suffered through in law school; and as with law school, we clerks always learned a lesson. Such was the manner of this fine teacher.

It was always fascinating to watch the judge and how he thought his way through the difficult issues but eventually arrived at a very clear result. I may not have always agreed with his final decision. After all, I was an idealistic, young liberal, and Judge Wieand was a conservative law and order advocate before it became politically fashionable. But we respected each other's positions, and I always learned the lesson in the process.

Judge Wieand also taught by challenging—challenging each of his clerks to think more clearly, write more concisely, and speak more cogently, not to mention to work a lot harder. As a boss, he was a taskmaster. He was, for himself, a perfectionist, and he expected no less from his staff.

But he did not do this in a mean or uncaring manner. It's just that he wanted us to be the best that we could be. He wanted us to be good researchers, good writers, and hopefully some day, good lawyers. I hope that I am able to live up to the high standard that he set for me.

That's not to say that we didn't have fun in the office. Along with his fine mind, Judge Wieand had a quick wit, a hearty laugh, and a huge capacity for enjoying life. Despite the serious issues that we dealt with day in and day out, Judge Wieand enjoyed the lighter moments in the office, sharing banter and personal thoughts. And those of us who came to work for him quickly learned that the judge never met a polka that he didn't like.

These qualities of legal scholar and teacher became evident to me soon after I began working with him. But during the two and a half years that I was with the judge, I saw another side of the man, that of a politician, a role he did not particularly relish.

These days, politician seems to be a dirty word. But during those years, Judge Wieand interpreted politician to mean "public servant," in every sense of the word. As you all know, Judge Wieand had to go through not one but two grueling campaigns until he achieved his goal of election to this Superior Court.

He had to go through a lot during those two trying years, doing things you really don't expect a distinguished legal scholar to have to go

through, like sloshing through the mud at county fairs and handing out Chiclets in factories and hamlets across Pennsylvania. Yet like everything else in his life, he didn't give up; and he devoted himself to this job. He persevered. And he eventually won, and so did the people of the Commonwealth.

You would think that with all his honors and his elevation to a high judicial office that Judge Wieand might have become just a bit full of himself. He certainly was entitled to be, but he remained a humble man who never forgot his roots; and he never forgot the meaning of his position.

It never seemed to bother him, I was always amazed, that while he was sitting with the Court in Philadelphia and staying at the elegant Barclay Hotel in Rittenhouse Square, I would pick him up every morning to take him to the court sessions in my beat up old Datsun. He never hesitated to get in when the man at the Barclay was opening the door for him.

He also displayed this humility in his elective campaigns and while dealing with the cases he heard, every person was valuable, every person was important. And perhaps this is one of the greatest lessons that this fine teacher left for me; the law is, in the end, about people, about their needs, about their right to justice, and about their dignity.

I owe a never-ending debt of gratitude to Judge Wieand for giving me the right start in my legal career and for following me and showing such a personal interest in me as I moved on in my practice.

He took the same kind of personal interest in all of his clerks, an interest which generated our loyalty and our respect. The presence of most of his past law clerks at his funeral was a testament to that. People came in from points far and wide to pay last respects and tribute to the man who was more than a boss for us.

Of course, he was a scholar. He was a jurist. But for me and for many others, he was a teacher. He was a mentor, and he was a friend. He will be sadly and sorely missed.

PRESIDENT JUDGE McEWEN: Thank you, Gwin Krouse. As we conclude, I must declare how moved I am, and all of us are, by the number of people in attendance on this glorious day, this great summer day, a day upon which we both memorialize Judge Wieand and celebrate his memory because he was everything special as a man, as a lawyer and, of course, as a judge.

And so, as the members of this Court extend:

A salute to the members of the Court of Common Pleas for joining us this morning in this special commemoration,

A formal expression of appreciation to the individuals who completed the arrangements for this memorial service, President Judge James Diefenderfer and County Executive Jane Baker,

A special note of affection and admiration to Commonwealth Court Judge Emeritus Madaline Palladino, the legend to whom this courtroom has been dedicated,

A particular gratitude to our speakers for their particular insight and quite obvious, as well as deep, affection for Don Wieand, and

A special embrace of warm and sincere friendship from all of the members of this court to the Wieand Clan,

I ask Crier Cassidy to adjourn this Memorial Session of the Pennsylvania Superior Court.

THE HONORABLE FRANK J. MONTEMURO



*October 27, 1925 –
Assumed Office: December 16, 1980
County: Philadelphia*

SUPERIOR COURT OF PENNSYLVANIA
PRESENTATION OF PORTRAIT
HONORABLE
FRANK J. MONTEMURO, JR.

BY THE GRAND LODGE OF PENNSYLVANIA
ORDER SONS OF ITALY IN AMERICA
AND
THE JUSTINIAN SOCIETY
APRIL 8, 2003

COURT CRIER ROBERT MORRISSEY: The Honorable
Judges of the Supreme and Superior Court of Pennsylvania.

Oyez, Oyez, Oyez.

Let this ceremonial session of the Superior Court of the
Commonwealth of Pennsylvania, President Judge Joseph A. Del Sole

presiding. Let all manner of person rise and attend. Let the family, friends and associates of the Honorable Mr. Justice Frank J. Montemuro, Jr., be joyful, as we convene for this special session of the Superior Court of Pennsylvania. God save the Commonwealth and this Honorable Court.

JUDGE DEL SOLE: Be seated everyone, and good afternoon. Today we are here for the joyful purpose of honoring an outstanding member of the Pennsylvania judiciary, Mr. Justice Frank Montemuro.

There are many who will speak today who will detail much of his judicial life, but I always think of him as a fireman. The reason is that when Governor Casey needed someone to fill a vacancy on the Supreme Court, he called on then Judge Montemuro. When the Supreme Court needed to keep a vacancy filled, it appointed Justice Montemuro as a senior justice. When the people of Pennsylvania needed a chairman for the last Legislative Reapportionment Committee, once again the Fireman was called forward.

Justice Montemuro has served not only as a judge, but he has served the citizens of the Commonwealth with great distinction; and we are proud to be here today to share in this wonderful tribute to his service to the citizens of Pennsylvania.

Before I call on some of our speakers, I do want to recognize some of the people who appeared today. We have with us from the Supreme Court of Pennsylvania, Mr. Justice Ronald Castille, Mr. Justice Thomas Saylor, Mr. Justice Michael Eakin. I know that Justice Lamb, Justice Newman and Justice Nigro have all expressed regret that they can't be here at this time, but we wish you well for them.

I also see from the Commonwealth Court the President Judge, James Colins. And I would point out that Judge Colins and Justice Montemuro and I, a short 20 years ago, ran together for our first terms on the appellate court. It's good to have you.

I also note the President Judge of the local courts. I see President Judge Prensenza from the Municipal Court; I believe that President Judge Messiah-Jackson is here. Very good to see you; and some of the Administrative judges: I believe Administrative Judge Fitzgerald; Judge Field is here from the Family Court. I just mention the people that I can recognize. So if anybody else feels that they're important enough to be recognized, stand up now, and we'll get it over with and get on with the program.

Ladies and gentlemen, it is my deep pleasure and high honor to introduce our first speaker today, the Chief Justice of Pennsylvania, the Honorable Ralph J. Cappy.

CHIEF JUSTICE CAPPY: Thank you, President Judge Del Sole, esteemed colleagues, friends of Justice Montemuro. I can't tell you what a pleasure it is for my wife, Janet, and I to be here today to memorialize the long and distinguished career of our colleague, Justice Montemuro.

If you would just pardon my friends of various ethnicities, just pardon my moment of ethnic pride, I just thought as I looked over to my left at President Judge Del Sole, what an extraordinary event this is for those of us who are Italian Americans in this community and across Pennsylvania. It is not often that you sit with such distinguished colleagues and have a common ethnic background.

When I first came on the bench in 1978, it was unheard of in Allegheny County that this number of people of Italian American heritage would have had the opportunity to serve in these distinguished posts. And it is with some pride that I sit here and share this bench with my colleagues. I have to admit to them, and they already know, I'm half Serbian, so I only get half the pride that some of you do.

But as I said, I am terribly honored to be a part of this ceremony where we memorialize the distinguished career of our friend, Frank Montemuro.

As Joe had alluded to, in 1992 Frank came on to the Supreme Court of Pennsylvania at a time when there was some consternation on the court, at a time when we needed a steadying influence. We needed a rudder to the ship which was not necessarily floundering, but wasn't on its true and direct course.

And Frank provided that exact stability by coming on the court. Not only did he bring with him an exceptional intellectual prowess, not only as a human being, but as a lawyer; and he also brought with him that kind of humanity for which he is known in this community and across Pennsylvania.

And with that steadying influence, he directly influenced the proper course of the court in the years that he served with us on the Supreme Court. And for that, Frank, we are ever grateful.

It's not often that I—in fact I think this may be the first occasion in my adult public life as a Justice of the Supreme Court that I have spoken before my esteemed colleague to the left, Chief Justice Zappala.

So it is somewhat unusual for me to go first. Now he'll have the same feeling about following my comments.

But I know Steve would share with me the sentiments that I've expressed with regard to Frank's contribution to the well being of the Supreme Court of Pennsylvania.

There is one anecdote that you might enjoy. When I first met Frank Montemuro, he was campaigning for a position on this court. As happenstance would have it, if I recall, Frank, and I hope I'm correct, his opponent in that race was one, Rolf Larsen. And many of us in Allegheny County were rallying to Frank's cause.

That campaign didn't go so well. Eventually, he worked his way onto our court and brought with him the charm that all of you know he has. And as he came on the court, I said, Frank, we have a little lack of collegiality on the court at this time. Would you mind helping to instill some collegiality and friendship on the court? And, of course, all of you know how well Frank does in that area.

So he and I invited a very nice person, John Flaherty, who was not yet Chief Justice, out to dinner one night. And in Frank's inimitable way, he selected the restaurant. And you will all know that that was a restaurant with great Italian food. And we didn't know quite what to expect because John is small in stature, but he had a voracious appetite. And Frank took that opportunity that evening to introduce him to the fine culinary delights of an Italian cuisine. Well, let me tell you, the man ate over a pound of spaghetti. And every time we had session after that, he would always whisper in my ear, are we going to dinner tonight because Frank couldn't come along. So that began the process of repair when Frank Montemuro arrived.

More substantively, however, his contributions are well defined in the annals of our court. He was given very tough assignments while on the court. Among them the shared duty of creating internal rules that made sense and that were public; of refining other rules of procedure, so that we operated more efficiently; of helping to redesign the nature with which we did our work.

So not only were his contributions formal in the sense of his written opinions and his collegiality and his friendship, but they were substantive and remain in effect today as we operate in what we hope is a rejuvenated court with a purpose to serve the people well.

So, Frank, from the bottom of my heart, and on behalf of our

esteemed colleagues who are here and those who are unfortunately absent, it is with distinct pride that I congratulate you on this honor. It is well deserved, and I can't think of anyone that I've met in this profession who deserves it more. Congratulations.

(Applause.)

JUDGE DEL SOLE: Our next speaker will be Chief Justice Emeritus Stephen Zappala. But before he gives his remarks, I just want to mention that in 1979 in Allegheny County, Chief Justice Cappy, Chief Justice Zappala and I were elected to Common Pleas Court. And I have to say that when I sit between them at a time like this, I feel like an underachiever.

Ladies and gentlemen, a good friend of mine and a good friend to all of us in the legal profession, and a very good friend of Justice Montemuro, Chief Justice Zappala.

(Applause.)

CHIEF JUSTICE EMERITUS ZAPPALA: Thank you, Judge Del Sole. Before I get into any formal remarks, Frank, I want you to know I'm happy to be here. Since my retirement, I haven't been invited anywhere. And to think that I have this captive audience is unbelievable. And I said I'll be damned if I'm going to sit up front.

And while I was waiting for this great occasion to occur, in walks the Chief Justice; and he said to me, typically, Steve, what are you going to say? And I said, none of your damned business. And he said, do you have any prepared remarks? I said no. I said, do you? He said no. So he came in here now this evening, this afternoon, and gave a ten-minute speech. Do you believe this?

Also before we get into my formal statements, Justice Montemuro, I'm looking at the wall, and it's either my age or your age, but I can remember my dear friend, Jim McDermott, who served with us. I remember the distinguished young lady who served with us, Juanita Juanita Kidd Stout. Of course, Robert Nix who was our Chief Justice. And then I can't understand how this Puerto Rican got on that wall. So I would figure that by the time we're done, if the picture stays here, please move Nelson's picture to the left wall so you can occupy that spot and we'll have all the Supreme Court people on the back wall.

Indeed it is an honor to be here this afternoon. I, like Ralph's first contact with Frank, was when he first ran for the Supreme Court of Pennsylvania. I remember at that time there were certain lightening

rods which interconnected his thinking with my thinking.

Frank was one who spoke with such glowing terms of his family. He spoke with such glowing terms as to his court. And he spoke with more glowing terms as it relates to his nationality. Now remember we're talking about 1977. It was not fashionable to be part ethnic and part American. But I saw through the dedicated leadership of Frank Montemuro the status which he brought to this community as an Italian and as an American of Italian decent.

Ralph passed off to a certain degree some of the great achievements that Frank Montemuro has been involved in. True Frank joined us in 1992. And I remember to this day he pulled me aside, and he said, hey, Steve, how can I get the hell out of here because this is crazy. And I said, Frank, just hold the rudder steady. You'll do the job and you'll do a great job.

And in the annals of juris prudence, Frank I think was the only one and will be to the best of my knowledge the only one that went down in history as being appointed Senior Jurist to the Supreme Court of Pennsylvania. Of course we fought with the legislature, but we had the final say.

After Frank's departure, and I remember this vividly, when we were really having a problem as to where the court system of this state is to go, after the diligent review by Justice Cappy at that time, not Chief Justice. And by unanimous approval, we said get Frank on the phone, and we're going to appoint him as the master to review and to submit to this Court a workable plan which for the first time in the entire court's history would have a unified judicial system.

Let it be said that the report that Frank had submitted to us was one of genius, one of pliability and one that some day will come to fruition. We have already adopted, if I recall correctly, the first phase of the plan. And if it weren't for the legislative inaction as it relates to the finances, probably the entire program would have been approved.

We stand here today, really, in great thanks to the man who traveled from Erie to Chester, from Scranton to Pittsburgh, and did a report which still sits as one of the finest in the State of Pennsylvania.

Perhaps the most important part about Frank is that when he talks about all his achievements, he will eventually go back to his roots. And he will tell you probably the finest time he had, and the greatest ability he had was when he was the Administrator of the Family Division of

Courts of Philadelphia. And sitting to my left, I know, is the gentleman who took the reigns following Frank Montemuro. And I think from the last I heard, and it hasn't been that long, Philadelphia had probably one of the finest Family Court Systems in the country. But the underpinning belonged to that gentleman, seated to my right.

As Ralph Cappy, I do not have prepared remarks, nor do I intend to keep you much longer. Except I hope the next time, Frank, that you hang your portrait, you will then invite Phyllis and I to dinner to the same place you took John Flaherty.

Thank you very much.

(Applause.)

JUDGE DEL SOLE: Thank you, Chief. I also want to acknowledge Mrs. Janet Cappy and Mrs. Phyllis Zappala who are also here and who are friends of Frank and Frank's family and traveled here today for this event. And I wish to acknowledge or introduce to you the members of the Superior Court many of whom have come from other parts of the state to share in this day with our dear friend and colleague. Because when it's all said and done, he does work on the Superior Court of Pennsylvania. Judge Ford Elliott from Allegheny County, Judge Maureen Lally-Green from Butler County, Judge Richard Klein from Philadelphia. Judge John Bender from Allegheny County, Judge Mary Jane Bowes from Allegheny County, Judge Robert Graci from Cumberland County, Judge Phyllis Beck from Montgomery County, and Judge James Cavanaugh, formerly of Philadelphia County, formerly of Common Pleas Court here and now in Chester County.

And also we have letters from some of our colleagues, Frank, who aren't here, and I will see that they are added to the record that the reporter is making for us. But most particularly it's a letter from President Judge McEwen, but because of physical problems can't be here today.

Chief Justice Emeritus Zappala alluded to a mentor of Frank's who is here with us today. And he's been a mentor to many of us in the judiciary. And it is with great pride that I introduce the Honorable Nicholas Cipriani, Judge of the Court of Common Pleas, Philadelphia County.

(Applause.)

JUDGE CIPRIANI: Thank you, Judge, Mr. Chief Justice, Judges of the Superior and Supreme Courts of Pennsylvania, my colleagues of

the Common Pleas Court, members of the Montemuro family, ladies and gentlemen.

It was over a half century ago when I first met Justice Montemuro. We were both young lawyers. And since that time, I have come to know him and his family. I worked with him in the community, and I served in the Family Division of our Court when he was the Administrative Judge.

In all these associations, certain personal attributes were evident. He has the determination to learn and to achieve. And he diligently studies every situation. He properly prepared for every action undertaken and never relied on chance or circumstance. These qualities have served him in good standing.

Prior to his ascending to the bench of the Superior and Supreme Court of Pennsylvania, he was the Administrative Judge of the Family Division of our Court of Common Pleas. It was during his administration that dynamic changes in family law emerged, starting with the Gault and tenet decision, running to the juvenile procedural due-process rights, and among other changes in family law came about the right of legal representation for all parties in child abuse cases, rights of punitive fathers, protection from abuse, and the new divorce code.

To meet these dynamic changes, his guidance was firm and resolute. When he presented his views, he had a single steadfastness but never inflexible. He pursued his complex conviction with determination, but did not shut out other views and opinions.

The historian, Arnold Toynbee wrote, "life and law must be kept closely in touch as you can't adjust life to law; you must adjust law to life. The only point in having law is to make life work; otherwise, there would be explosions." By his leadership, Justice Montemuro labored to have the law make life work.

Justice Montemuro, for your leadership in the courts and in our community, we come today to pay tribute and to salute you. God bless you. Thank you.

(Applause.)

JUDGE DEL SOLE: Thank you, Your Honor. I noticed in the audience another judicial member, and I'm going to introduce him because he served with Frank on the Superior Court, and that's James Melinson, I believe the Chief Magistrate Judge for the Eastern District of the United States District Court. Judge, it's nice of you to be here today.

And now I call upon Robert A. Messa, the National President of the Order Sons of Italy in America.

(Applause.)

MR. MESSA: May it please the Court, I'd like to thank President Judge Del Sole and the members of this great Court, along with the members of the Justinian Society, for the privilege to speak on behalf of my Grand Council and the 600,000 members of the Order Sons of Italy in America, to convey to our brother, Justice Montemuro, their sincere congratulations on the great honor being bestowed on him today.

You all know the Justice has a well-rounded life. We know that his family came first, and that he is a great husband, father, grandfather. We all know he is an avid and very competitive golfer. And the Lord knows I have a lot of scars to prove that. We played with him several times.

We know his great love is the law. The very evidence of the success that he's had, first serving on the Philadelphia Court of Common Pleas Court, the Pennsylvania Supreme Court, and the Superior Court of Pennsylvania.

However, there is one great love the Justice had, the very secret love, and that's the Order Sons of Italy in America. He served two terms as National President. And during those terms of office, he successfully moved the order ahead. One by increasing the membership across the country, and as well as establishing new categories of members.

He then took on our Sons of Italy Foundation to reorganize. He reorganized it to the success that it has today, that being the sum total of 44 million dollars we have given in scholarships to young men and women across the country. The determination in leading the fight against anti-defamation and bigotry against Italian Americans and any American or group has been very outstanding. And it was his determination within the order to then organize what is now known as the Commission for Social Justice in which he now holds the title of President Emeritus.

He's the driving force of raising funds for birth defects. Over a ten-year period, we've raised 12 million dollars. He also was National Chairman for Earthquake Relief following the horrendous earthquake that devastated Southern Italy in 1980. He raised in excess of 2 million dollars to build housing and provide federal funds and assistance to the Italian families.

Justice Montemuro has been a man of all seasons. He deserves the title of Mr. Sons of Italy. We're very proud of him and all of his accomplishments. I'm very proud and honored to speak for this man who I hold in the highest esteem.

He has been my mentor, my counselor, my friend, and most of all my brother. My wife and I are very proud to know him and his family. And we wish him good health. And may God continue to bless him and look over the Montemuro clan.

Thank you very much.

(Applause.)

JUDGE DEL SOLE: Thank you, Mr. Messa. Our next speaker is the State President of the Grand Lodge of Pennsylvania, Order Sons of Italy in America, Mr. Eugene V. Morabito.

(Applause.)

MR. MORABITO: [Council, gentlemen,] Honorable Joseph A. Del Sole, President Judge of the Superior Court, members of the judiciary, Justice Montemuro, members of the Montemuro family, friends.

In this display of once poor judicial hall or any other significant institution, any form of recognition of the distinguished service that includes quality such as outstanding scholarship, intellect and wisdom, dedication, respect of colleagues, respect of clients, of the institution, a work ethic beyond normal expectations, leadership skills, and strength, courage, and high moral values.

The ultimate basis for recognition is that the institution is a better place because of the service provided by the individual whose portrait is being displayed.

If we objectively examine the quality of service provided by Justice Frank J. Montemuro, Jr., all would agree that he has absolutely the right of having his portrait displayed in the judicial setting of his choice.

In Justice Montemuro's case, we add to the list of general qualities needed for such honored recognition, those associated with him such as highly regarded various subjects, strong, fair and attentive, role model and mentor, highly respected administrator, highly productive and willing to accept new and difficult challenges, and long and distinguished service as a juror.

It is indeed an honor for the Grand Lodge of Pennsylvania, OSIA, in America, with the Justinian Society, in extending this portrait to

Justice Montemuro.

In addition to his outstanding service on the bench, he has served the general community by accepting difficult assignments and his leadership role of the level of local, state, and national in the Sons of Italy.

Through his leadership, thousands of dollars have been collected for various charities. He has led highly successful national efforts to secure funds to rebuild and supply medicine for the people of Italy after its devastating earthquake. No one among his contemporaries has done as much as he has through the Sons of Italy. By making the Sons of Italy strong and influential, this paternal organization has taken and been able to help the needy, protect the rights of individuals, and provide millions of dollars for scholarship and assistance.

It is indeed and truly an honor of the Grand Lodge of Pennsylvania to sponsor and participate in the unveiling ceremony of Justice Montemuro's portrait. Congratulations, Justice Montemuro.

(Applause.)

JUDGE DEL SOLE: I believe that present with us today, is the former President Judge of Philadelphia Court of Common Pleas, with whom I served, President Judge Bradley. And also former Administrative Judge of the Trial Division, and a personal friend of the Justice, and that's Judge Bonavitacola.

Now, for those of you who are paying attention to the program, you'll note that I'm not going to deviate from it somewhat and call on Gabriel Bevilacqua, Esquire, past Chancellor of the Justinian Society and Chancellor-elect of the Philadelphia Bar Association.

Mr. Bevilacqua.

(Applause.)

MR. BEVILACQUA: Thank you, President Judge Del Sole, Mr. Chief Justice, judges, friends and colleagues, brothers and sisters.

I have prepared remarks, but I must say I am truly honored to speak for our honoree today. I don't know how this happened, but it is a singular honor, and I do appreciate it.

Who was Albert Einstein's arithmetic teacher in junior high school? Billy Graham's religion teacher? Jim Thorp's coach? When Abraham Lincoln met Harriet Beecher Stowe, the author of *Uncle Tom's Cabin*, he remarked, so this is the little lady who started the big war.

We may very well ask ourselves what big war we may have started. A while ago some reporter was interviewing Boris Yeltsin asking him

what gave him the courage to stand firm during the fall of communism in the former USSR. Interestingly, he credited the electrician, Michael Laslowski (ph), who started the downfall of communism in Poland. When Laslowski (ph) was interviewed and asked who inspired him, he said it was the Civil Rights Movement in the United States led by Martin Luther King. When Dr. King was interviewed and asked what inspired him, he said it was the courage of one woman, Rosa Parks, who refused to move to the back seat of a bus. How valuable the little things that we do, the people that we influence. I am fortunate to be one of the many that has been vitally influenced by Justice Montemuro.

In the early 80's the very pithy observation about an alternate career path I was then considering led me to Saul Ewing. And not long after, Justice Montemuro's support in the face of a legalistic bylaw challenge set me on the path of over 20 years of fighting discrimination and bigotry as President of the Commission of Social Justice.

Justice Montemuro has worked tirelessly to uphold the culture of our beautiful Italian heritage. And he has courageously fought whenever and wherever the denigration of that heritage appeared. I have been inspired by his commitment to this cause and it has been an honor to stand alongside him, not only in defending our history, but in celebrating it as well.

There is an old Italian saying, (spoke in Italian), "With hard work you may climb a mountain. But only with imagination and faith can it be moved."

Who was Einstein's second grade arithmetic teacher? I really don't know. But I'm certain we're all grateful for their inspiration and for Justice Montemuro's inspiration and leadership.

Thank you, and the best, the very best.

(Applause.)

JUDGE DEL SOLE: There are a number of judges from the Court of Common Pleas of Philadelphia County here and from the Municipal Court. And, unfortunately, I can't see them all, and I wouldn't be able to recognize them all. In the interest of caution, I'm not recognizing any more than I already have. But I do ask you, that are here, if you would at the end of today's presentation give your name to the court reporter so that you are present and can be noted in the official reports which will be provided to Justice Montemuro and in which will be presented in the Superior Court reports. And you can

read your name in the Atlantic Second Edition of West.

And now I would like to introduce Denise Gentile, Esquire, the Chancellor of the Justinian Society.

(Applause.)

MS. GENTILE: Thank you. Esteemed members of the bench, members of the Montemuro family, distinguished friends and guests.

At this time I would like to introduce our artist, Mr. Joseph Routon. Mr. Routon is a third-generation artist from Tennessee. He studied portraiture in New York City at the Art Student's League and also at the National Academy of Design, from which he received the Ralph Widener prize.

In 1982 Mr. Routon moved from New York City to Haddonfield, New Jersey. He continued his art studies at the Pennsylvania Academy of the Fine Arts. He served on the board of directors of the Pennsylvania Academy of Fine Arts Fellowship. And he even was the editor of the Academy Magazine.

Mr. Routon's subjects are too numerous to mention: however, I would like to highlight a few such as our own Honorable Nicholas Cipriani, and the Honorable Alex BonavitaCola of the Courts of Common Pleas of Philadelphia.

Before becoming a professional artist, Mr. Routon earned a Bachelors in music and a Masters in sacred music. And in 1990, he founded Caring Hearts Ministry which is an interfaith ministry that assists children in South Jersey who are living with HIV virus and aids.

Mr. Routon, please stand.

(Applause.)

At this time I would like to ask Mr. Routon along with Mr. Morabito from Sons of Italy to join me as we present the moment that we've all been waiting for.

Justice Montemuro, can you please take center stage with us as we unveil the Justice's portrait.

(Portrait was unveiled.)

(Applause.)

JUDGE DEL SOLE: One of the problems with being on the bench is you don't get to see the portrait.

For those of you who my not be aware, this portrait was commissioned by the Sons of Italy and the Justinian Society. And no matter what Mr. Chief Justice Zappala says, this portrait is not hanging

in room 653 of City Hall. It will hang in the Superior Court facility on the 17th floor of the Penn Mutual Building in Philadelphia.

And now we'll hear from our honoree, our dear friend, Frank Montemuro.

(Applause.)

JUSTICE MONTEMURO: Do I hear a motion to adjourn? President Judge Del Sole, Chief Justice Cappy, Chief Justice Emeritus Zappala, my good friend, Judge Nicholas Cipriani, Justices of the Supreme Court, Justices of the Superior Court, President Judge James Colins, President Judge of the First Judicial District, Frederica Messiah-Jackson; Administrative Judges, James Fitzgerald, Trial Division, and Joseph O'Keefe, Orphan's Court Division, Myrna Field, the Family Court Division, and Louis J. Prensenza, the President Judge of the Philadelphia Municipal Court; Denise Gentile, the Justinian Society Chancellor; Bob Messa, National President, and one of my golf students; my good friend Eugene Morabito, State President of the Grand Lodge of Pennsylvania; Gabriel Bevilacqua, Chancellor-elect of the Philadelphia Bar Association and great, great friend; the members of the judiciary and city government; esteemed Counsel General of Republic of Italy, Dr. Lorenzo Mott.

Fellow Justinians and sisters and brothers of the Order, today I enjoy the happy status of one whose friends thought he had somehow earned the right to have his portrait done. There was a saying or there should be, the greater the gratitude, the shorter the speech.

You know in listening to the remarks preceding mine, I sometimes had difficulty realizing that some of the references were to me. I think with all the warts removed and all the rough edges removed, the remarks not only touched me, but I feel that they retouched me. I sincerely thank all the speakers for their very kind and generous remarks. And today I feel like the most fortunate person in the world. I owe so much to so, so many.

And may I introduce my family, my son Frank and my daughter-in-law, Paula.

Please stand so that everyone may see you. My granddaughters Nina and Cara.

And their grandpop, Stanley Zaborowski.

My son, Michael, and my daughter-in-law, Pamela.

And my handsome grandsons, Michael and Gabriel.

My sister Marie and my brother-in-law, Romeo.

My sister, Lorraine, and my brother-in-law, John Fitzgerald. She is the baby, but she talks the most.

And Giovanna is my sister Lorraine's youngest granddaughter. I told Giovanna she was going to be asked to speak, and she said, "oh really." I said you keep it short. And her grandmother, Dr. Gilda Crozier.

My niece, Kathy Bray.

My sisters-in-law, Rosalie Montemuro and Mary Jane Montemuro.

My nephew, Albert Montemuro.

I have a great, great family. And my other son, Anthony, and my daughter-in-law Ariane and my grandson, little Tony, live in Savanna, Georgia. He's a busy gastroenterologist and his schedule did not permit him to be with us today. Although I know they certainly wanted to be here today.

My wife of 49 years, Peggy, I am assured, has guaranteed direct and immediate entrance into the Promised Land. To err is human, to forgive divine. Peggy and I are both counting, but I assure you that her forgiveness is measured in terms of degrees of latitude and longitude.

I would also like to introduce to you, if I may, my law clerks. My chief law clerk, Ellen Killen, Kristin Gress, Eileen Voegle, and Michele Kaminsky. About Michele Kaminsky, her people come from Regio di Calabria, and she'll be going there soon for a short visit.

My personal secretary, some people call her my second wife, Antonella Cahill. And my judicial secretary, Nancy Clark.

I want to thank Larry Caniglia, Director of the Grand Lodge of Pennsylvania and Barbara Picchini, who worked so hard to bring this to fruition. And my sister, Lorraine Fitzgerald. And the guy who really did most of this and asked me not to introduce him, Mike Spaziano.

I can remember going back, I guess maybe 31, 32 years, thinking about my good friend Jim Cavanaugh. We both came from the Frankford section of Philadelphia. Jim Cavanaugh was the calendar judge at the time, or whatever they called them in those days. Jimmy called me and he asked if I would try a murder case. I said a murder case? At that time I was the Administrative Judge of the Family Division. I thought, what is this Irishman getting me into? But I said sure.

And low and behold I was to try the first planned assassination of a police officer in the City of Philadelphia, actually a Fairmount Park guard, Frank Von Coln, and it was tried right here in this courtroom. And that was before my good friend of Blessed Memory, Justice McDermott, made this his home. We all know the great work that Justice McDermott did. I could go on and on and on.

And I know there are people in this room that I should introduce, but if I do that then someone is going to be slighted.

But with your kind indulgence and understanding, I do want to recognize an undergraduate classmate at Temple University. He and I then went to Duke University School of Law together. We stayed in the Law Cabins, 8 law students to a cabin, four bedrooms with bunk beds, one closet, two desks and two waste baskets and I had to look at his big feet hanging over the upper bunk. I had the lower bunk. And he has about a size 15. But he's been a good fraternity brother, a good friend, and a great and respected Judge, Peter Scuderi, and of course his lovely wife, Dr. Loretta Scuderi. And beyond that, I won't go any further.

I want to thank all of you for being here today. You're all my friends. You will hopefully continue to be my friends. But thank you all again, and you really outdid yourselves.

(Applause.)

JUDGE DEL SOLE: Ladies and gentlemen, on behalf of the Superior Court of Pennsylvania, I thank you all for coming. I want to remind you as it said in the program that there is a reception in Conversation Hall, on the second floor of this building. We thank you again. We'll give an opportunity to pay your respects to Justice Montemuro. Those of us on the bench want to go and take a look at the portrait.

COURT CRIER ROBERT MORRISSEY: This very special session of the Superior Court of Pennsylvania is now adjourned.

(Whereupon, the proceeding was concluded.)

THE HONORABLE STEPHEN J. McEWEN, JR.



Assumed Office: May 15, 1981

President Judge 1996- 2001

County: Delaware

PORTRAIT PRESENTATION

PRESENTATION OF PORTRAIT
STEPHEN J. McEWEN, JR., PJE
PRESIDENT JUDGE EMERITUS
FOUNDERS COURTROOM
PHILADELPHIA, PA
NOVEMBER 20, 2001

PROCEEDINGS

COURT CRIER, BOB MORRISSEY: All manner of persons having business before the Judges of the Superior Court of Pennsylvania shall draw near, their attention give, and they shall be heard. God save the Commonwealth and this Honorable Court. President Judge Joseph A. Del Sole presiding.

PRESIDENT JUDGE DEL SOLE: Today, we the members of

this court draw near and lavish our attention on our friend, Stephen J. McEwen, Jr.

This court has met in times of peace and war; on happy and sorrowful occasions, but it has never met on a more joyful, more deserved special occasion than the one today to pay tribute to our friend and colleague Steve McEwen.

Over five centuries ago Sir Thomas Noon Talford said, "Fill the seats of justice with good men but not so absolute in their goodness they forget what human frailty is." Steve McEwen is such a man.

From his days as District Attorney of his beloved Delaware County, his service on the Judicial Inquiry and Review Board and his leadership as President Judge of the Court of Judicial Discipline, he has continually demonstrated an understanding of the human condition. His family, his friends, his education at St. Joe's helped him develop this understanding at an early age.

As a student of history and, some might suggest a maker of history, Steve knows much of what we now see is but what occurred at a previous time.

I leave it to the others today to detail his many accomplishments as father, grandfather, friend, and jurist. Today we, his colleagues and compatriots on the court celebrate and thank him for his tenure as our President Judge. He led us by example and with friendship, causing us all to be better judges and people, and the court to better serve the citizens of Pennsylvania.

During his time of service the court was recognized by the American Bar Association as one of the most current intermediate appellate courts in the country. He expanded the court's educational programs to encompass both substantive and theoretical aspects of the law. He professionalized the court's administrative staff and all whom he selected for positions still serve the judiciary of Pennsylvania. This magnificent courtroom and facility were the result of his vision and leadership. Truly his many accomplishments would be reason enough for this ceremony.

However, there is one legacy of the tenure of President Judge McEwen which surpasses all others, the legacy of congeniality. Steve has taught us how to be a family, even when we have disagreements. He nurtured the bonds among us like no other President Judge in my memory. He fostered gentleness, while expecting strength in our legal

reasoning. He was a most brilliant and effective leader.

Steve, today your friends here and those with us in spirit, join in thanking you for your leadership but mostly for your friendship. You are the consummate jurist, one whose example enriches us all... and makes us better for having known you.

Thank you, Steve.

We do have some guests in the audience. I would like to introduce them first before calling on our next presenter. I see Mister Justice Cappy, Mister Justice Castille and Madam Justice Newman. I believe Mister Justice Nigro just came in as did Administrative Judge John Herron. I see Judge Berle Schiller from United States District Court, President Judge Ted Doyle of Commonwealth Court, Chief Magistrate Judge Jim Melinson from Federal District Court for the Eastern District, and the former colleague of Steve's on the Court of Judicial Discipline, former Judge Marty Weinberg. I want to thank you all for being with us here this morning.

If I may take the opportunity to introduce Mister Justice—to be next Chief Justice of Pennsylvania, Stephen Zappala.

JUSTICE ZAPPALA: Thank you, Joe.

I was quickly told that this is not our forum—this is the Superior Court. We must abide by their rules. When the green light goes on, Steve, watch what you say when those lights are blaring. We don't have that luxury in the Supreme Court, so we really don't care what is said.

I think that initially many words can be said about you, Steve, but I think the people who are surrounding you now by their physical appearance says more than any words which I can put into an essay form or some elongated speech.

I take great pleasure in having my colleagues here, Sandy Newman, Ron Castille, Ralph Cappy, Russell Nigro. On behalf of Tom Saylor—who indicated he would have made it but I believe he is in California—to you he sends his best. Of course, John Flaherty very seldom travels after two in the morning, so he wouldn't make it anyway.

It is with great trepidation that when I look at you, I say but for the grace of God, so go I. I remember Steve, when we had our first encounter back in the great Delaware County, when you showed this kid “the ropes” as far as Delaware County politics. I still don't know what I was doing there. I met John McNichol at that time and the rest of the cohorts from Delaware County, but suffice to say he was still a

Republican politician, and I still lost the county. Not by that much, but I still lost the county.

I saw, Steve, as your tenure grew in maturity, one thing always fascinated me—that was your great love and drive to make this the best judicial office in the country. I think your whole life has been dedicated to that—to be nothing but the best. I watched with great admiration the method in which you handled not only the colleagues with whom you served (and you have fifteen, I only have six) but also the legislators with whom you work and that have so aptly assisted both Ralph Cappy and me in doing so much for the judicial system. I was just taking it all in, and you didn't realize how much you were actually training me.

Today, I look at you surrounded by your wife, your grandchildren, and your daughters—a sight which exemplifies my belief that there is nothing finer in life than family. As you know, I have ten grandchildren, and I sit exactly like you do. I always remember saying the words, “When are they going to go home?”

After what your present President Judge has stated about you personally, there are no additional words that could be added. The bottom line is when you came into this court, the real question was and will always remain, “is it better now than when you first arrived?” As I look to my right, then to my left, behind me, and out at the audience, there is no doubt that this court is far better off today than when you first arrived.

I wish you well, but like McArthur, you ain't about to fade away. We've got other things for you to do next year.

Good luck to you, God bless you, and I wish you well.

PRESIDENT JUDGE DEL SOLE: Thank you, Mr. Justice Zappala. Our next speaker is a long-time friend of Judge McEwen. I am pleased to welcome the Speaker of the Pennsylvania House of Representatives, the Honorable Matthew J. Ryan, Mr. Speaker ...

MR. MATT RYAN: Honorable Judges of the Supreme, Superior, Commonwealth Court and the Federal District Court, I wish my clients could see me here in this crowd, they would really be impressed.

I was just a kid, and that's sometime ago, Steve and I used to play football and in those great school games I played against a big, tall, red-headed guy from St. Philomena's Parish in Lansdowne. He was long-legged, long-winded, and clever. He still is. He was smart and he still is. He could engage anyone, any age, in conversation about any number

of topics, and he still can.

When we were young, his honor, President Judge Emeritus Stephen J. McEwen, Jr. could make me laugh so hard that my stomach hurt. He still can. If you are here today, every one of you who knows Steve knows that what I say is the unexaggerated truth. He loves to entertain, he loves to make people happy, he loves to make things up. That comes as no surprise. Like Einstein, Franklin, DaVinci, Monty Python, he is a world class inventor.

How could someone with such a distinguished lifetime of achievements as a prosecutor, a jurist, someone with looks and charm on the one hand, be such a quirky, wacky, off the wall character on the other? The twinkle in his eyes scares the hell out of me most of the time.

You sir, Mr. McEwen, are a piece of work. And I guess that's the only way I can describe it. And I am sure that will find its way into an opinion.

How many folks here this morning, as I look around this crowd, how many of you are members of the Natural Law and Justice Committee or the Monarchy League, the Order of the Door, how about the Justice Joseph McKenna Society or the YMBA, whatever that one means, or my personal favorite, the Caesar Rodney Society?

I have received letters, as you have on letterheads, from every one of these groups, strange letters, strange organizations, stranger yet most of the memberships or most of the members are members of the Delaware County bar. You will note I did not say Bar Association. All were dreamed up by our favorite Superior Court judge. His is clever, his is unrelenting. I would like to give you an example of that.

“Res Priori Res” or translated, “First Things First,” is the Latin motto of the Caesar Rodney Society. We all know the story of how Rodney stopped for a brief time on his way to sign the Declaration of Independence for—and I quote, “engagement of tender rapture,” enjoyment with a woman of youth and beauty.

Well, because of his relentless championing of Caesar Rodney, the United States mint coined a quarter with Rodney's image on one side. You all have them. When the coin came out, with deep pride in this accomplishment, Steve sent me one in the mail. On the coin is Rodney riding a fast galloping horse, an image that looks very, very close to the society's letterhead image. We don't know whether Rodney's image was

struck before or after his interlude, but Steve probably does. If he doesn't he will say he does.

Steve always looks so elegant. This may have something to do with the long black judicial robe he wears for court or his choice to personalize the robes with red or purple velvet collars. The collars, of course, are an unprecedented, subtle but tasteful innovation instituted by Judge McEwen, His Eminence, Judge McEwen. In other words why does he put stupid collars on his robes?

As a youth he looked elegant. We attended St. Joe's Prep together, and we rowed on the crew together. While pulling my oar I would grunt, sweat a little out and grimace. Cool, royal Steve on the other hand always looked alike a Thomas Eakins painting. When Jeanne Schmedlen of my staff—many of the members of the bench met Jeanne in Harrisburg—when she was making notes for preparation of my remarks, she said to me, "Give me one word to describe Steve." I promptly replied: "He is nuts."

But in addition to that, he is absolutely the most loyal friend a man could have. Like the heroes of *Band of Brothers* we have been watching on HBO, Steve is completely selfless when it comes to his comrades and his friends. That kind of fidelity is rare. I appreciate it.

A minute ago I mentioned my staff. I want to warn all of you here today: don't ever let Steve get hold of your staff. He will never let them go. Because of Steve—and this is again a true story, most of you know it to be true, I now sponsor each year a Speakers Millennium Lecture at the Capitol. This was one of his bright ideas. I grudgingly went along with it. It turned me into a hero because it worked. It was his idea. He pitched it and my staff put it together, printed programs that were then presented to me after they had raised ten thousand dollars from outside sources to pay a lecturer I didn't know anything about.

I also have an award winning children's video which features a tour of the Capitol, and guess who plays the role of explaining the judicial system in Pennsylvania? Wearing the robe with the goofy collar—Steve. Because of Steve, I have a coloring book that explains the work of the three branches of government. Who is this? (Exhibiting book.) Whose image appears on the coloring book? This is for real. I will leave it here.

I mean, if you look you will see that's not a bad picture of Steve but you should see mine in the book. The staff is just there to worry about Steve. So that's my coloring book, brought about by him.

There are other projects like these that were his idea, they are his creations, such as the way he created President Judge Emeritus. Now, I have searched the laws of the Pennsylvania Judicial system, have yet to find the title Emeritus applied to any other retired President Judge. Now it may be Steve did some deeper research, found something back in the Ben Franklin days. But I was unable to find it. But that's his great imagination.

His image in the coloring book wasn't enough for him, now he has imposed upon his good friend, Irene Nunn, to do a portrait. I asked Irene shortly before we began here today if she had a chance to put the big mustache on it yet. She said she is saving that. Enough!

I am thrilled, I am flattered and I am humbled at the opportunity to be here today with so many of Steve's friends and his family. I came down from Harrisburg, I wouldn't have missed this for the world. He is such a great guy. He called me yesterday and said, "You are in session tomorrow." He said, "I don't expect you to come down here for this." I wouldn't have missed this for the world.

The respect that this court has shown by commissioning your portrait is well-deserved and I am deeply flattered at being one of the few of many, many, many thousands of friends to be invited to be with you here today. And so may it always be.

Thank you, Your Eminence.

PRESIDENT JUDGE DEL SOLE: Mary Anne Eagan from Massachusetts, Mary and David, Stevie and Maura; daughter Maureen, her husband Charlie Reilly and their three children, Kate, Maggie and John; also Lisa McEwen, wife of Steve and Peggy's dear deceased son, Hap is here and, of course, the long suffering, wonderful wife of Stephen, Peggy, is here. We thank you all for coming. We are sure Pop-Pop was quite surprised by some of the people that have come in today. Colleagues on this court have a little special surprise for Steve this morning, and to present that surprise I am asking my colleague, Judge James R. Cavanaugh to speak.

JUDGE CAVANAUGH: President Judge Del Sole, colleagues and friends of Steve McEwen.

Five score and seven years ago, the legislature brought forth the Superior Court of Pennsylvania. As Judge Tamilia's recent history of the Superior Court reveals, the court was created to assist our Supreme Court because of the volume of cases before that court on appeal at a

time when population, industry and growth flourished in our great Commonwealth. Since its creation, it was no secret that our court has labored in the shadow of our Supreme Court. This is, of course, as it should be since the whole reason for our existence is to relieve the high court from some of its burden and to act as a filter for some of the cases that it will eventually hear.

It has always been through the continued good will of our Supreme Court that we have had the usage of the high court's facilities and conference rooms in Pittsburgh, Harrisburg and Philadelphia. Nevertheless, there has long been a striving for some separate home for the Superior Court in addition to its lonely courtroom in Lackawanna County which has been saved from near abandonment by the renewed annual usage which was revived by President Judge McEwen five years ago and was continued by President Judge Del Sole.

As part of our goal to create a home base, there were efforts made under the administration of President Judge Cirillo well over ten years ago when it appeared that we would be required to vacate the old Federal Courthouse on Ninth and Chestnut Streets. And it became known that this room, now our Founders Courtroom, might become available. For a variety of reasons, this initiative never came to fruition and it was not until the administration of President Judge McEwen that the idea was revived.

Again, there appeared to be insurmountable barriers until the President Judge, in typical McEwen fashion, undertook to meet with the Chief Executive Officer of the owner and, in one meeting, secured an agreement to lease the premises to our court.

We gather to honor President Judge Emeritus McEwen not only for procuring our courtroom, but for his service as our President Judge. Those who knew Judge McEwen from his academic days and his early days as a lawyer, long knew that Steve was destined for public service. His demeanor and bearing, his affection for his fellow man, particularly those in need or who are distressed, bespoke one who would inevitably be in public service. His early career as a District Attorney gave evidence of his skill in the executive branch, and while he considered legislative service, it happily is in the judicial branch of government that he has found his home. His career illustrates his characteristic sympathy for the underdog or the underprivileged.

While he flourished as a District Attorney, I suspect his most

fulfilling days in the criminal law were served in the office of the Voluntary Defender.

While he was a partner in a firm representing insurance and corporate interests, he has always been most sensitive to the plight of the needy and stricken in their pursuit of justice.

For Judge McEwen, obeisance to the Decalogue has never been enough for he has always found time to give succor to the poor in spirit, comfort the sick, give encouragement to the meek, and yes, on many occasions to visit the imprisoned.

Judge McEwen's service in government may be compared to that of Justice McKenna who is one of his exemplars and in whose memory Judge McEwen has formed a learned society. Justice McKenna's life is an interesting one since it illustrates the serendipity which often accompanies a felicitous public life. McKenna, son in an immigrant Irish family, lived with his family near where we sit today. For education, he attended the beginnings of St. Joseph's College in a still-existing building in Willing's Alley just about a par five away from here. In order to escape the Nativist and Know Nothing oppression which swept this city, the family fled to Panama, crossed the land and sailed to California. There, young McKenna caught the eye of one Leland Stanford and, following a political career, went to Congress where he sat next to Representative William McKinley. That friendship led to appointment to Attorney General and finally the U.S. Supreme Court where McKenna served from 1899 to 1925.

In one respect, I suspect that McEwen and McKenna would finally disagree. In 1912, Oliver Wendell Holmes, writing to his correspondent, Canon Sheehan, a priest in County Cork, Ireland, reported that, at a dinner the previous night, McKenna had opined that he believed that four years of the presidency was worth a lifetime on the bench. Holmes disagreed and, I believe that in the final analysis, McEwen would also. Again, with a nod to our Great Emancipator, it is altogether fitting and proper that we should gather here to dedicate this entire facility to its patriarch, Judge McEwen, but, again, as is his wont, he has resisted. So, today, we happily dedicate and name the handsome adjacent conference room, the McEwen Conference Room and retain at his insistence and in perpetuity the name Founders Courtroom for this splendid courtroom.

PRESIDENT JUDGE DEL SOLE: The door to the conference

room is now marked, and this plaque will be affixed to the wall. The plaque will read: "Stephen J. McEwen, Jr. Conference Center. Dedicated to the Sixteenth President Judge of the Superior Court of Pennsylvania whose leadership and wisdom created this facility."

We have received correspondence from some of our colleagues that are not here today, Judge Todd writes, "I would appreciate if you convey to Judge McEwen my sincere but low key congratulations. While I am certain the portrait will be stunning, I am equally certain it could not possibly do him justice recognizing that his keen intelligence and sense of fairness are nearly surpassed by his striking good looks."

Judge Brosky writes that he's unable to attend because of a medical commitment that he has with his wife Rose, and he asked his congratulations be given to President Judge McEwen, as do Judge Kate Ford Elliott and Judge J. Michael Eakin both of whom are taking a well deserved vacation following very hectic political campaigns here.

Now, at this time it is appropriate that we hear from the artist because she probably had to put up with Judge McEwen more so than we do, and I'm going to ask the artist, Irene Nunn, to come forward and offer a few remarks.

Ms. Nunn.

MS. NUNN: You will be really grateful to know I have very few remarks. I am also grateful to be an artist in this arena as I am expected to be inarticulate and eccentric. So, I have known Judge McEwen for about twenty years, having been involved with his first campaign for the Judgeship.

Our paths have crossed many times at various Delaware County functions. Your colleagues instructed me to tell everybody how impossible you were, how difficult you were to deal with and how I was last seen banging my head against a wall in frustration. That is not true.

When I first approached Judge McEwen for the portrait session I was astonished, I did not have to use a filmless camera to take a few phony pictures so that he would finally relax into a more realistic pose. I have a lot of pictures of Judge McEwen, more than he ever wants to know about, but he was wonderful, he was very cooperative and I can't say that many people are.

I was very honored to have been chosen and I was very honored to do it. I don't have much more to say than that.

PRESIDENT JUDGE DEL SOLE: Judge McEwen is not really

pleased that the court assembled in such a fashion to unveil the portrait. At one point he contemplated asking you to tell us the portrait would not be done in time, but I'm sure he realized you had a duty to complete.

Ladies and gentlemen, this is a time of great joy because we are going to ask the clans McEwen, Eagan and Reilly to come forward, all of the children and grandchildren, while our artist unveils the portrait of President Judge Stephen J. McEwen.

(Portrait unveiled).

PRESIDENT JUDGE DEL SOLE: Ms. Nunn, thank you, very much. It is a wonderful likeness of our dear friend we all cherish.

At this time I would call on a few friends of Steve for some remarks before we give Chief Steve a chance to respond. Initially I would like to call on Senator Joseph Loeper.

SENATOR LOEPER: Thank you, very much and it certainly is a special day for me today as much as it is for the Judge himself. To see all the friends of Steve McEwen here, but most importantly I think that the gathering today reflects exactly what Steve McEwen reflects and that is the love of his family, his grandchildren, surrounding him along with his children; the respect that each and every one of us in this room and thousands of others across the Commonwealth have for this fine gentleman.

It reminds me of 1981 when Governor Thornburgh appointed Steve McEwen to the Superior Court bench. At that time I served as majority caucus secretary and was responsible for managing the confirmation of Steve McEwen on the senate floor. We had some long hours and some long days, but we managed to get those 26 votes in order to get that confirmation done at that time.

And I will never forget that that year and every year thereafter to the present day on the anniversary of his confirmation date, regardless of where I am, Steve McEwen tracks me down and calls and says, Joe, I just want to say thank you again. Do you realize this is the fifth anniversary, the tenth anniversary, the eighteenth or twentieth anniversary, whatever it is. But you know, I think that just exemplifies the type of individual, the character, the dedication that this gentleman possesses, not only for those of us in the profession that share that with him, but certainly the way he deals with everyone in his every day life.

And I am particularly pleased to be part of the dedication of this

portrait and I think it is as someone referred to earlier today the new bonds that have been forged between the different branches of government, particularly the judiciary and legislative branches with the regional meetings that Steve has encouraged throughout the state, bringing together a new understanding of cooperation between the branches of government. And I think that certainly here is a gentleman that forever will leave his mark on the Commonwealth of Pennsylvania.

When Judge Cavanaugh was referring to and showing the new plaque that's going to go on the door here, and Matt and I conferred very briefly, said we thought we put that appropriation in last year's budget. But mention of the door here reminds me that one of his organizations is the Order of the Door. And that the old Delaware County District Attorney's Office courthouse door has been relocated as many of you know, and we think that there may have to be an additional appropriation in order to renovate that door one of these days in order that this door may be able to join that door in the future.

It has been a pleasure to be with you, Steve, it is an honor and privilege and we wish you and the family the best in the future. Thank you, very much.

PRESIDENT JUDGE DEL SOLE: Thank you, Senator. Now may I introduce Mr. John McNichol, a good friend of Steve's, a long time friend.

MR. JOHN McNICHOL: Thank you, President Judge Del Sole. I am glad that you called upon me because, as I got off the elevator this morning, someone asked me if I was a friend of Steve McEwen's. When I said yes, he replied: Good! We need someone to say something nice about him.

I do want to set the record straight; I had a dream that some day I would be speaking in a room like this, surrounded by judges, lawyers, prominent people. I was in an orange jumpsuit.

And, Justice Zappala, with regard to your comment about the results in Delaware County of your 1981 election campaign, there is new information: You did win the County—you lost the count.

Steve, it is a great pleasure for me to be here with you and standing next to this portrait. I understand we have some wallet size copies for distribution, together with a copy of your book, *Not Even Dicta*, which by the way, I have not yet read but it makes an excellent coaster.

Steve and I have been close friends for a long time, but neither of

us really knew Caesar Rodney. I knew Steve as a young, struggling lawyer, as a zany D.A. who put a hole in the ceiling when a gun he was handling exploded in the D.A.'s office, and as a 1974 candidate for Congress, the greatest primary ever witnessed, and the worst general election ever run. I have known him as a Judge upon the Superior Court, as well as an orthodontist in his ads, and at all times as a very, very close personal friend. He moved from Upper Darby a few years ago. His house at 1210 Concord remains vacant. I moved a family with six children in there, but they all live in one room. Of course, they are all registered. Maybe we should make it a Homestead.

Irene Nunn, the artist, specializes in portraits, and has done several community leaders who resemble Dorian Gray. But she specializes, quite frankly—I am not lying—in animals, and I think it's actually nice she captured the greatest pussycat around, my friend Steve McEwen.

PRESIDENT JUDGE DEL SOLE: Thank you, Mr. McNichol.

Now when we were putting this program together I really had some difficulty with this last section because I didn't know if we wanted to give President Judge McEwen the final word. But I will say that it is dictated by the history of this court, we will honor that history and we ask our good friend, Steve McEwen, if he has any remarks, a speech to make.

JUDGE McEWEN: It is a pleasure. I will start out by thanking my colleagues, the Supreme Court Justices here present, and friends, God bless you all.

There is no more sentimental journey than a trip through yesteryear. And so, at the risk of giving you a tin ear, may I mention some of the people who drove the van which brought me to this court and to this day: Sam Dickey, my patron, who first presented me with the sweet nectar of the patronage system when in 1962 I was named Solicitor to the Controller of Delaware County, and because his soft suggestion had the same effect upon the County Republican Committee as a command for General George Patton, I was elected D.A. in 1967.

John McNichol, Sam's grandson-in-law, who succeeded Sam's position of party influence, and whose close, close alliance with Bill Meehan, caused me to be a candidate for statewide judicial office.

Matt Ryan and Joe Loeper, whose high party and legislative office in Harrisburg convinced Governor Thornburgh that I could serve the

Superior Court well and worthily... Matt, capping this effort, when he and I conferred with the man who was the Governor's right arm one evening in July, 1980 at an establishment next to Strawberry Square, called The Office, and Joe, badgering, cajoling and relentlessly working upon the Governor and the Senate until on September 16, 1980, the Governor appointed me, and on April 28, 1981 the Senate confirmed me ... a Judge of the Superior Court!

Joe, John and Matt—I thank them for all their efforts and for the friendship they have displayed in their remarks this morning.

There are others not present: Dick Thornburgh ... who overlooked the bumps in the road of the confirmation process, and again nominated me for the Court in December, 1980 and Merc Hager, the President of the Senate who (1) teamed with Joe Leoper to secure confirmation by the Senate, and (2) from the podium of the President of the Senate at nine P.M. on Tuesday evening, April 21, 1981, called my home and enabled my precious son, Happy, of cherished memory, to hear the vote of confirmation over the phone.

On May 15, 1981, in the Ceremonial Courtroom of Delaware County Courthouse, I entered unto the flock of President Judge Bill Cercone, *My Chief*, and joined upon the Court my St. Joe and Law School pal and lifetime friend, Jim Cavanaugh, who had arrived earlier in 1979. The two of us welcomed John Kelly to the court in 1985, and we formed a Sunken Gardens Alumni—a watering hole on Cheltenham Avenue which in the '60's featured the Pabst Blue Ribbon fights on Wednesday nights and Piels, Shaffer, Genesee, and Schlitz all the other nights.

And so I was a Judge upon the Superior Court where I was born again, and found a further family, you, my brothers and sisters, who have made life upon the bench a rich, rewarding twenty year traipse of joy and fulfillment, and thereby provided a rich, rewarding, happy, joyful, and fulfilling personal life.

Now, as for the last five years, the tenure as President Judge, which in company with the tradition has inspired this portrait, may I mention certain individuals who were critical to that five year march: The central headquarters: Joe Mittleman, Mitch Gruner, and Dave Szewczak; the home office: Kathy Labrum and Diane Bohr.

May I ask the headquarters and home office pillars to stand and be recognized.

Sic Transit Gloria ... is, of course, the timeless caveat for those who are the focus of honor ... for as ancient Roman heroes were being cheered and saluted by all of Rome, a servant was behind the honoree matching breath for breath, the cheers and chants of the audience, and ceaselessly whispering, "This fame will be fleeting."

True it is, fame is fleeting, but not the honor conferred this morning since we have been joined, as participants in the ceremony by distinguished pillars of the Pennsylvania Temple of Justice, Justice Zappala, Justice Cappy, Justice Castille, Justice Newman and Justice Nigro.

As a result, this ceremony is the exception to that Roman rule for their presence renders the honor one of permanence, the distinction a lasting one, and the joyful memory an eternal one.

May I ask the Justices of our highest court to stand and be recognized.

Now, a few of my colleagues up there on the bench are at this moment worrying about me because they know me ... they know that I sometimes can overlook a basic item or two ... and they worry that I have forgotten to mention the nearest and dearest and sweetest and most cherished and precious of all, my family.

First, may I awaken the echoes by recalling the memory of my dad and my mother: My dad, who never finished high school, but did, after 25 years as an insurance company adjuster and carrying the bag of the house counsel, finally become a lawyer at the Bar, at an age greater than mine when I became a Judge of this Court—my mother, whose sagacity and firm determination became the talisman which enabled him to come to the Bar—my sister, Helen, who toils each day in an office while doting upon her grandchildren.

My dear and cherished Happy, our precious son, who would have been 37 this Friday, had Heaven not summoned him on May 16, 1996, after a four year struggle with that dread disease of the devil, but who is here both in spirit and in the person of his dear, cherished Lisa McEwen.

M & M, Mary Anne Eagan and Maureen Reilly, the forty-year old twin daughters of Peggy and myself; Mary Anne alias Fan Tan and Maureen also known as Reen Bean.

Mary Anne lives in Longmeadow, Massachusetts, but the school schedules of her four children, Mary or Mare Bear, David or Dao,

Stephanie or Stevie Sweet, and Maura or Maura Most, did not preclude them and their dear dad Larry from journeying here from that Commonwealth of the North.

Maureen and her dear Charlie Reilly, whose children are also present this morning; the twins, Kate alias Cupkate, and Maggie, also known as Magnolia, as well as their four year old little, but getting bigger every day, brother, John Stephen Reilly, whom I have always called Johnny Joy.

And, no, my dear worrying colleagues, I have not overlooked Peggy ... but when one climbs a mountain, the prize, the reward, the peak is at the end, at the top of the mountain ... and that is where each day, I and our children and our grandchildren find Peggy ... at the fitting and proper place ... be all, and end all ... the top of the mountain.

As this day approached, I felt compelled to review the twenty year old video of the May 15, 1981, Ceremony of the Oath when I first took this Bench ... and I can tell you that with all the happy thoughts and remarks which were expressed that day, a single notion stood out on the tape of that day ... and through all the days since ... and stands out today, namely, one of the verities that I pronounced about Peggy that afternoon, more than twenty years ago:

If to err is human and to forgive divine, then I have been abundantly human ... and Peggy has been oh, so abundantly divine.

It is said that the two most *beautiful* words in the English language are Spring afternoon ... may I tell you that I once told that to Jack Kelly, a friend of mine, and following pause and reflection, he observed: yes, Spring afternoon is quite nice, but I happen to think the two most beautiful words in the English language are open bar.

And, if Spring afternoon are the two most *beautiful* words in the English language, I am of the mind that the two *nicest* words are *Thank You*, for that verbal pairing includes the concepts of human togetherness, the notions of giving and gratitude, and a suggestion of the future.

So it is that I thank you ... all of you ... my colleagues upon the Court ... the Justices of the Supreme Court ... my dear friends ... my precious family. Thank you for all of it.

Thank you, President Judge Del Sole, for exercising every effort to make this a special day, for it has been just that.

Thank you all for all of it.

(Ceremony was concluded.)

THE HONORABLE PHYLLIS W. BECK



*Assumed Office: June 23, 1981
County: Montgomery*

INDUCTION CEREMONY

IN THE SUPERIOR COURT
OF THE COMMONWEALTH OF PENNSYLVANIA
INDUCTION CEREMONY

of
Phyllis W. Beck

*June 23, 1981
Courtroom 653, City Hall
Philadelphia, Pennsylvania*

PROCEEDINGS

JUDGE CERCONE: Good afternoon, everyone.

We have called a special session of the Superior Court of Pennsylvania this afternoon for the purpose of administering the oath of office to our newly-appointed colleague, Phyllis W. Beck.

Present with me on the bench are the Honorable Edmund B. Spaeth, Jr., to my immediate right; Judge James R. Cavanaugh, to my immediate left; Judge Richard B. Wickersham, to Judge Spaeth's right; and Judge J. Sydney Hoffman, to Judge Cavanaugh's left.

We also would like to acknowledge other members of our Court who are seated in the audience.

Judge Richard DiSalle.

Will you please rise, Richard.

Judge Donald Wieand, and Judge Stephen McEwen.

We deeply appreciate the presence of this distinguished audience. Time does not permit recognition of each one of you individually, but those who will participate in these ceremonies will only be representative of the sentiments and thoughts that I know you feel and would express for Phyllis Beck if you were called upon. The participants will also be representative of your distinguished presence today.

The Superior Court is a highly important Court to the public and a challenging and interesting one to its members. It was established in 1895 for the purpose of assisting in the work of the Supreme Court of Pennsylvania, and since that time has experienced a continuous enlargement both in its jurisdiction and in the volume of appeals that are filed before the Court annually.

Just recently by statute, the Superior Court now has jurisdiction in cases which were formerly within the jurisdiction of the Supreme Court of Pennsylvania involving homicides and Orphans' Court cases. It continues to have jurisdiction in all the family law problems, the field of negligence, and the criminal law cases.

It is a Court that is not remote from the daily life of the people. It is concerned with those daily problems, and sets forth by its opinions and the course and direction of the concept of law or the well-being and the general welfare of the people.

Today marks an auspicious occasion because we will soon swear into office for the first time in the history of this Court a woman as Judge and colleague, in the person of Phyllis W. Beck. She comes highly recommended to this Court by the process of the merit selection system, gubernatorial appointment, and the advice and consent of the Senate.

She brings with her an impressive array of honors and acknowledgments of her scholastic attainments; at Brown University,

were she was graduated magna cum laude and as a member of the Phi Beta Kappa Honor Society; at Temple University Night Law School she finished first in her class, all evidence of her capacity for hard work and high achievement.

I am certain that Phyllis will bring the breadth and depth of her understanding and knowledge to the great challenges she will meet in this Court and will add a bright page, and many bring pages, to the history of this Court.

On behalf of my colleagues, we extend to Phyllis our most heartfelt congratulations and a hearty welcome as a colleague to our Court.

I acknowledge the presence of the Honorable Louis H. Pollak of the United States District Court for the Eastern District of Pennsylvania.

JUDGE POLLAK: President Judge Cercone.

JUDGE CERCONO: Yes, sir.

JUDGE POLLAK: May it please the Court, it is with extraordinary pleasure and gratification that I have the opportunity to share in presenting to this Honorable Court your newest member, Judge Phyllis W. Beck.

This is, if I may say so, your Honors, a day of great consequence for the Commonwealth and for all of us who value the preservation of a free society built upon law.

The entry into office of a new judge is, in a sense, a measure of the solidity, the equilibrium of our system of laws. As you have said, President Judge Cercone, Judge Beck comes to her new office by nomination of the Governor and the advice and consent of the Legislators and Senate assembled, pursuant to the merit selection process, and in this instance, I think in a matter of public record, that Governor Thornburgh's selection of Judge Beck was one not only acquiesced in but strongly endorsed by our distinguished Mayor, William Green, and in this selection of judges, most especially those of high office and great consequence, partisanship in the narrow sense should have no place, because the selection of persons of great merit to fill a position which has devolved upon it responsibilities so great as those which in our country we impose upon our judges, is too consequential a process to depend upon narrow partisan consequences.

Judge Beck comes to this office after a successful and sustained career in the practice of law, in teaching, and in scholarship, and in a

high post of administration at one of our great law schools. It was my good fortune to be Judge Beck's colleague for the first several years of her regime as Vice-Dean at the University of Pennsylvania Law School, and I can testify at first-hand not only to her credentials as lawyer, law teacher and legal scholar, particularly in a field of growing consequence, the field of family law, which presents for your Court so many vital issues, and I can testify too to Judge Beck's fulfillment of her responsibilities as Vice-Dean in dealing with the future members of the Bar of this Commonwealth, law students, dealing with their concerns one by one, with a patience and a care and a responsibility and an affection and a firmness which betoken exactly the human qualities that one wants and wants most in a judge of high position.

Why do I stress these characteristics? Because, if it please the Court, the job of judging is a job of scholarship, yes, of precision, of concern, of intellectual authority and power, tracing the precedents, knowing the lines of doctrinal development, but it is more than that. It is the task of judging and understanding the human condition in all of its manifold conflicts.

Our greatest judge, Holmes, advised us in one of his great apothegms that great cases, like hard cases, make bad law, and with all due respect, I have thought that perhaps there our Justice was wide of the mark, wide of the mark in one sense, because the greatest case, *Marbury versus Madison*, made the best law, namely, setting the responsibility of judges to divide the outer limits of governmental authority under our Constitution.

But beyond that, there was the suggestion that there are small cases, and easy cases, and I think your Honors know that a judge who works hard at his job knows that there are no small cases, no easy cases. The ordinary tort case, the ordinary contract case, the ordinary misdemeanor, carries within it the seeds of ultimate dispute between citizen and citizen, between citizen and government. The judge who feels that any of these controversies is less than of major consequence because the case is so small, is not a judge who will do dignity to his office.

Phyllis Beck will serve as a judge with the same concern and compassion, the same vigor, and the intense interests in the individual controversy before her that she has displayed throughout her career at the Bar and at the lectern, and in her retainal office, caring within the

framework of the law about the people whose controversies are the stuff of the law.

Your Honors, I take pleasure and pride in commending to you your new sister, Phyllis Beck. (Applause.)

JUDGE CERCONI: Thank you very much, Judge Pollak. We certainly appreciate your excellent remarks.

It is my honor and privilege now to acknowledge the Honorable William J. Green, Mayor of the great City of Philadelphia, Mayor. (Applause.)

MAYOR GREEN: May it please the Court, thank you very much.

Judge I shall be very brief.

This is a joyous occasion for Phyllis Beck, for her family, and for those of us who have had the pleasure of knowing her.

There are few more important assignments in our society than that of judge. It seems to me that the three essential qualities that this woman has in abundance are necessary for this position, and are present in her, to be sure. Very briefly put, I think that someone, to be judge, must be intelligent. Her whole background, her career, her academic career, has indicated to all of us who have any knowledge of her the fact that she has more than the requisite intelligence and background necessary for this kind of position.

She has, in addition to that, the integrity that is so key and essential, as well as the temperament, and I think that the fact that she has these qualities, and in addition to that is a woman, and when one considers the fact that never before has a woman been elevated to this Court, it is an important breakthrough for justice I think in Pennsylvania as well as for this Court, so I am delighted to be here to share this warm personal moment with her and with her family, and congratulate her and to wish her well as she assumes her new duties. Good luck. (Applause.)

JUDGE CERCONI: Thank you very much, Mayor.

We are pleased and privileged to acknowledge the presence of the Honorable Genevieve Blatt, Judge of the Commonwealth Court of Pennsylvania. Genevieve. (Applause.)

JUDGE BLATT: President Judge Cercone, distinguished Judges of the Superior court, Dr. Beck and friends.

I share in the job which Mayor Green and Dean Pollak, Judge

Pollak, have expressed in this day, which is a significant day for all of us. I assume, though no one did delineate to me the reasons why I was honored to be asked to speak here today, that those reasons did include at least two to which I shall allude.

One is that I am a member and a very proud member of the sister Court of the Superior Court, the Commonwealth Court of Pennsylvania, and I am sure that I can speak for all of my colleagues on that Court in wishing Judge Beck well, and in congratulating our fellows on the Superior Court in having added to their number such a distinguished and able jurist as I know she will prove to be.

I might also say, though I have no authority for this, I hope that I can assume it, that my colleagues on the Commonwealth Court would say that if you will be able to stand the addition of a woman member, they have stood it. They seem to be surviving fairly well after nine years of my presence with them, which I have certainly enjoyed.

Indeed, they could even say to you that they have gone me one better and have two women now among their membership, and I commend that as a goal for which you might strive.

The other capacity in which I have perhaps been asked and honored to take part today is because I am a woman, and this is a historic day for women, and for all men who are desirous of seeing that fundamental fairness is done in our Government and in our society to its women members, and to all citizens regardless of sex or gender, who want to see the best qualified people in their public offices, and particularly on the bench, regardless of their sex or gender.

I spent last weekend in Washington at a conference sponsored by the American Bar Association entitled "TV Challenge for Judges in the Eighties," and I was very much impressed there by many things which there is not time for me to share with you today, but one of them certainly was the suggestion, borne out there by the presence of a great many women, that we have missed something in Pennsylvania in these three hundred years of our history by not having more women in our judiciary, and it seems to me that I could look around me there at California, whose Chief Justice, a woman, was present, and speaking at the meeting, at Michigan, where a friend of mine presides as Chief Justice of their Supreme Court, remembering North Carolina, which had a woman Chief Justice twice elected State-wide to preside over their Supreme Court, and looking at the other states represented, and

the Federal Courts represented there, which have, frankly a better record than we have in Pennsylvania in utilizing the resource of qualified, trained, judicially tempered women attorneys who could be making a great contribution to our Courts, and I mention this particularly today because, happy and pleased as we all are to see where Judge Beck has arrived this day, when it can be said of her that she was appointed by the Governor and confirmed in that appointment by the Senate, we must yet remember that there is another step facing her not too long from now when, if we want to continue to have the benefit of her services, it will be necessary that she be elected by the people.

That is a step which no woman, except myself, has yet been fortunate enough to take, although the late Judge Alpern did serve briefly on our Supreme Court, and well, but was not so fortunate, and my colleague, Judge Palladino, on the Commonwealth Court, has yet to meet the electorate this fall, and so I appeal to you in a nonpartisan sense, and speaking not as a woman but as a judge who wants to see good judges, that you remember and get your neighbors to remember at the polls, not as some of them did in this past primary election, that it is important to them who are their judges, very important.

I will conclude with an allusion with which perhaps I should have begun, but this is not a church assembly, and so, if I am going now to refer to a scriptural test, I need not have begun with it, I hope, but I will end with a reference to the Old Testament itself, where in the early days, when the Lord was given to naming his representatives to handle the affairs of his Chosen People, and for a long period, the representatives he chose were known as judges, not only because they did judge the disputes of the Israelites, but because they were likewise unlike today, the leaders of the community in all temporal affairs, one of those judges, one given very prominent mention in the Book of Judges, maybe to the surprise of some of you, was the woman Deborah, who sat under the tree that bore her name for many years after her death as the Palm of Deborah, settling the disputes that were brought before her, and who, in her other capacity as a leader of the people, when she received the message of the Lord that the Israelites were to go forth into battle under what seemed to be impossible conditions, and when she relayed that message to the military leader, Barak, who said to her that it could not be done, and he would not do it, with further persuasion on her part, he agreed he would do it if she came

with him, and she went into the battle with Barak, and it was won, and it was Solon, Deborah and Barak, which is, as recounted in the Book of Judges, still one of the great literary masterpieces of the time, that symbolizes I think what we have here today, the cooperation, the joint services of men and woman, each providing those insights and inputs of which he or she is particularly qualified to provide to make the society in which they live a better one, and, in our particular case, to make the administration of justice better.

I congratulate you, Judge Beck, and I congratulate you Judges of the Superior Court on the happy occasion that has brought us together here today, and I wish you all much success in carrying on this same principle, that men and women together, qualified and trained in the law, with the hope of administering God's justice to his people, can still do a great job, which I know you can. Thank you very much. (Applause.)

JUDGE CERCONI: Thank you, Judge Blatt.

With Judge Blatt being the great standard bearer and indomitable leader in the cause of women, I can foresee the day when it will be an auspicious occasion when a man gets appointed to the Supreme Court. We have enjoyed your remarks very, very much.

Now, I would like to introduce, and we have the pleasure of acknowledging the presence of, James O. Freedman, Dean of the Law School of the University of Pennsylvania. (Applause.)

DEAN FREEDMAN: May it please the Court, this is an auspicious occasion, and I would like to begin with one of the great remarks of Justice Holmes, who taught us that the theory of our Constitution, as he said, is an experiment, as all life is an experiment, and in that teaching I think lies an important truth, for the mysterious process by which free men and women govern themselves is, indeed, an experiment, a demanding experiment, and one that is hardly or routinely assured of success.

The experiment of democratic government continually is tested in the laboratory of everyday life. Its durability depends upon our self-discipline, upon our vision, upon our commitment to individual and social justice, and upon the quality of the men and women who we select to make our laws, to administer our laws, and to interpret and apply our laws.

The experiment of democratic government depends upon all of

these factors, but none is more important than the wisdom we invest in the selection of our judges, for it is our judges who remind us of our most fundamental values, and remain the guardians of our most precious liberties, not only in those great public moments when cases of ultimate national importance come before them, but also in those countless unheralded instances when the lives and fortunes of ordinary citizens are involved in the homely bits of private litigation that form the only association that most of our citizens have with the law.

The experiment in Constitutional government that Justice Holmes described can only succeed, generation upon generation, if we devote as much care to the selection to those judges who dispense justice regularly to ordinary citizens as we do to the selection of the judges of the highest Courts in the land.

It is, therefore, a source of great gratification to participate in this ceremony, because it renews one's pride in this Commonwealth's dedication to insuring that government as an experiment will endure and flourish.

This ceremony marks the elevation to the bench of a woman of extraordinary intellectual and human qualities. For the past five years, I have had the privilege of being Phyllis W. Beck's colleague at the University of Pennsylvania Law School. For the past three years, I have had the even rarer privilege of working closely with her as she performs so brilliantly her responsibilities as Vice-Dean of the Law School. During the period of her Vice-Deanship, Phyllis Beck administered the affairs of the Law School with a firmness of principle, a steadfastness of character, and a sensitivity of judgment that were entirely remarkable.

She dealt daily with a wide range of persons, faculty, students, administrators, alumni, with a keen intelligence, a high sense of purpose, a splendid sense of grace and a fundamental decency that earned her the most glowing respect.

If I sound perhaps like the Dean who is temporarily saddened to be losing the services of an outstanding Vice-Dean, I hope you understand that I speak as well as a citizen who is enduringly proud to live in a Commonwealth that is gaining the services of an outstanding Judge.

Phyllis Beck will now be called upon to direct her unusual qualities of mind and character and spirit to the work of the Superior Court of

Pennsylvania. Her professional qualifications for that high responsibility are beyond doubt.

She came to her career in legal education only after a successful career at the Bar. She is a recognized scholar in the area of family law, an area that supplies a significant part of the work of the Superior Court. Her professional training, her judgment and integrity, her idealism and compassion, would be the envy of any Court. She meets a standard of excellence that provides every promise that we are all witnesses today to the start of an important judicial career.

The investiture of Phyllis W. Beck gives reassuring evidence of this Commonwealth's understanding that Justice Holmes was right in describing our Constitution as an experiment, and of this Commonwealth's commitment to making that experiment work. At the same time, her investiture enriches that noble company of men and women who administer and shape those wise restraints that make men free.

It is therefore an honor, Mr. President Judge, to welcome my friend and colleague, Phyllis W. Beck, to the place she has earned on the Superior Court of Pennsylvania. (Applause.)

JUDGE CERCONO: Before I introduce our next speaker, I would like to acknowledge the presence of the Dean of Temple Law School, Dean Peter Liacouras. Dean, will you stand up a moment. (Applause.)

And some members of the Philadelphia Bar Association in the way of ex Bar Chancellors, Robert Landis. Robert, will you stand. (Applause.)

Robert is also the present President of the Pennsylvania Bar Association. Tom O'Neill. Tom. (Applause.)

Mitchell Kramer. (Applause.)

And Judge Judith Jamison. (Applause.)

And Judge Paul Dandridge. Judge, will you stand, please. (Applause.)

It is our honor and pleasure now to acknowledge Bernard G. Segal, Esquire, Past President of the American Bar Association. Mr. Segal. (Applause.)

MR. SEGAL: Judge Cercone, before I start, I want to give you the bad news in view of your concern whether the day will come when men will need affirmative action to get on the bench, that during the last administration in the United States Government, the President

appointed more women to the Federal Courts than all the presidents of the United States in the history of the country added together.

JUDGE CERCONO: Very good.

MR. SEGAL: And the same is true of his appointment of minority representatives to the bench.

And now, President Judge Cercone, and may it please the Court, it is a high privilege for me to participate in these ceremonies marking the induction of a cherished friend as a Judge of the Superior Court of Pennsylvania.

As you have heard, the event which brings us here today augurs well for the future. All of us must be grateful to Governor Thornburg for having nominated and renominated Phyllis Beck for this Court from a panel submitted to him by the Appellate Court nominating Commission pursuant to the merit selection system, continued by his Executive Order, when he became Governor.

We must also commend the Senate Judiciary Committee which, led by Senator Michael A. O'Pake as Chairman, voted unanimously to confirm the nomination without regard for political party, and the State Senate, which confirmed the nomination with but a single dissenting vote.

No one familiar with this Court and its history would gainsay the statement that the Court has always included very good judges, many of highest distinction, over the years, but the merit selection system provides the opportunity to assume the high caliber of future appointments to our Courts, as best evidenced by the highly gratifying fact that, with today's, officially eight judges are on this Court by virtue of merit selection, and now it is up to the voters, as has been said, to demonstrate their desire for the most desirable justice system by supporting the merit selection system at the election.

Judge Cercone and others, I have stated, and as has been so eloquently set forth by Judge Genevieve Blatt, another aspect of today's event makes it a truly historic occasion, since, as you have heard, Phyllis Beck is the first woman to become a Judge of this Court, which makes me very proud to be at this rostrum.

In 1966, I had a similar privilege when I spoke in this Court at the induction of Judge Theodore Spaulding, the first black Judge on this bench, or, indeed, on any Appellate Court of Pennsylvania.

I have always believed that an Appellate Court derives its strength from the variety of the backgrounds of its members. The first woman

on such a Court, the first representative of a minority, assures the capacity of our Courts to appreciate the varying aspirations and needs of all elements of our population. They assure further progress toward the achievement of our nation's most urgent goal, one society, united and equal.

I shall not burden you with the details of Phyllis Beck's career, since you have already heard them. From the time I first met her, I observed that excellence and dedication were her hallmarks. Whenever she came in to talk to me about some phase of her work, I was impressed by her ability and her zeal, her abundant degree of logic and analysis, her compassionate and understanding attitude toward life and toward people.

Obviously, Judge Pollak, by virtue of his former role as Dean of the University of Pennsylvania Law School, and incumbent Dean Freedman, talked with far greater authority than I about Phyllis Beck's work as Vice-Dean at her law school during the last five years. Accordingly, I shall say no more concerning Phyllis Beck as Vice-Dean than to say in my role as a long-time life trustee of the University of Pennsylvania, and as a member of the Board of Overseers of the law school, I have admired Dean Beck's administrative capacity, her ability to compose differences and solve problems, her uniformly cordial and cooperative relationships with students, alumni, faculty, administration, and that most difficult of all groups, trustees.

I mention too, again, without enlarging on them, how important for Phyllis Beck's work on the bench are the extent and the variety of her extracurricular activities in the legal profession, and in the community at large, the number and variety of her writings on a whole mass of subjects, the nature of her pro bono litigations, the enriching influence of her teaching at both Temple University Law School and the Law School of the University of Pennsylvania.

I need not tell you that this is a turbulent and troubled time in our nation's history. In this period of severe testing of the legal profession and of disillusionment as to the efficacy of the law, whether in preserving order or assuring equal justice, we need on the bench not merely impartial arbiters who will decide differences between conflicting parties, we require judicial statesmen too, and this is a role which Phyllis Beck has clearly demonstrated that she is qualified to fill.

An extraordinary rewarding activity for me in the past three

decades has been the very large concentration of my time and energies upon judicial selection, Federal, State and local. Supported by whatever expertise I may have acquired during the past thirty years by having investigated or participated in the appraisal of the qualification of more than four thousand men and women under consideration for judicial appointment, I give you my solemn judgment that the members of the Appellate Court Nominating Commission were unequivocally correct in recommending Phyllis Beck for nomination to this Court, that Governor Thornburg was wise and perceptive in making the nomination, and the Senate Judiciary Committee, and ultimately the Senate, for acting eminently in the interest of this Court, and therefore of the cause of justice, in confirming her nomination so that she may appear here today to take her oath of office.

Now, at so many of these inductions over the years I have mentioned the female spouses of the judicial nominees. It seems only fair now to mention the male spouse who so infrequently is brought up at these inductions.

Dr. Aaron T. Beck is an eminent professor of psychiatry at the University of Pennsylvania Medical School, and has been in that post, as teaching and participating in all the activities of the Medical School, until he chose to devote himself to research and writing in both psychiatry and inter-disciplinary fields, where he is really making enormous contributions. He surely will provide strength and inspiration to Phyllis Beck in the difficult and demanding role of Judge of the Superior Court of Pennsylvania, all the more because she doesn't have too many precedents as to how wives behave toward their husbands when the wives are the Judges.

Your Honors, I take this occasion, in behalf of all of us, to wish for Phyllis Beck, her versatile husband, and her four talented children, with divergent careers, Roy, Daniel, Judith, and Alice, all of whom are in the courtroom and are deserving of special mention, the fullest blessings of long life and good health and for Mrs. Beck, as she becomes Judge Beck, many, many years of satisfying and rewarding service in the lofty and critical office of Judge on this very highly regarded Court. Thank you. (Applause.)

JUDGE CERCONE: Thank you, Mr. Segal, for a most eloquent presentation.

I would like to acknowledge Judge Doris Mae Harris of the Court

of Common Pleas of Philadelphia County, who is in court with us today. Judge. (Applause.)

Judge Marvin R. Halbert of the Court of Common Pleas. (Applause.)

And another first, to show you how the people of Pennsylvania are aware of the importance of women on the Courts, Judge Anita Brody, who is the first woman Judge of the Court of Common Pleas of Montgomery County. Judge. (Applause.)

Phyllis, I would like to read a letter we just received:

“Dear Phyllis:

“I am sorry I cannot be in attendance at your swearing-in today. I had intended to be there, but unfortunately an emergency concerning electronic surveillance has cropped up and makes me unavailable for this festive occasion. Please accept the congratulations of both Midge and myself on your ascension to the Superior Court.

“Sincerely,
Edward G. Rendell,
District Attorney of Philadelphia”

We will now have the presentation of Phyllis’s Commission, to be presented by my colleague, Judge Edmund B. Spaeth, Jr.

JUDGE SPAETH: In the name and by the authority of the Commonwealth of Pennsylvania, the Governor’s Office.

“Phyllis W. Beck, of the County of Montgomery, of the Commonwealth of Pennsylvania, greetings.

“Whereas the appointment of additional Judges to the Superior Court of Pennsylvania is provided by Act 1980-63, approved June 11th, 1980, therefore, know ye that reposing a special trust and confidence in the prudence, integrity and ability of Phyllis W. Beck, of the County of Montgomery, and under authority of the Constitution and laws of the said Commonwealth in such case made and provided, I have appointed, and do by these presents, commission you to be Judge of the Superior Court, to have and to hold the said office, together with all rights, powers, privileges and emoluments thereunto belonging, or by law in anywise appertaining, until the first Monday of January. One Thousand, Nine Hundred, Eight-Four, if you shall so long behave yourself well and perform the duties required by law.

“This appointment to compute from April 28th, 1981.

“Given under my hand and the Great Seal of the State, at the City of Harrisburg, this 30th day of April, in the year of our Lord, One Thousand, Nine Hundred, Eighty-One, and of the Commonwealth, the two hundred and fifth.

“Dick Thornburgh,
Governor,
“William R. Davis, Secretary of the
Commonwealth.”

JUDGE CERCONO: Phyllis, will you raise your right hand.

Do you, Phyllis W. Beck, duly appointed and commissioned by the Governor of Pennsylvania to be a Judge of the Superior Court in and for the Commonwealth of Pennsylvania, do solemnly swear that you will support, obey and defend the Constitution of the United States, and the Constitution of this Commonwealth, and that you will discharge the duties of Judge of the Superior Court of Pennsylvania with fidelity?

How do you swear?

JUDGE BECK: I do.

JUDGE CERCONO: Congratulations. (Applause.)

Our new Judge will be helped with her robe by her husband, Dr. Aaron T. Beck.

(Judge Beck was enrobed.)

Phyllis, will you join us for your first case.

(Judge Beck ascended to the bench.)

I am sure we all would like to hear from our new Judge. Judge Beck.

JUDGE BECK: Since today is a first, I have to tell you that the women of this Commonwealth have established a bit of a precedent. This robe was worn by Norma Shapiro, who is the first woman Common Pleas Judge on the District Court, and I also want you to know that Anita Brody, who is the first woman Common Pleas Judge of Montgomery County, wore the same robe, and we hope to pass it down to other women.

Judge Cerccone, my friends on the bench, and my other friends, today I join this important illustrious Court. My unusual journey to this end melds a full and rewarding professional and personal life.

I went to law school in the early sixties—before the dawn of the

women's movement—because I thirsted for intellectual challenge and hungered for a battlefield on which I could compete. I confess I had no vision that almost fifteen years later I would be here among you—so honored.

Membership on this Court allows me to carry forward the challenges that have absorbed my professional career.

The delivery of legal services to the indigent has been a core concern. I have worked vigorously toward that objective on policy-making committees of the American Bar Association and as a member of the Board of Philadelphia's Community Legal Services. I have taught in the field as a teacher of clinical education and finally as head of the Civil Clinical Program at Temple Law Center. I am indebted to Dean Peter Liacouras for providing me that opportunity. Either through the law students or personally, I have been counsel for hundreds of indigent clients. I have played a modest role in representing the poor and assuring them the opportunity to be heard in court. In my new role, I will continue to champion rightful access to the Courts for all people.

Another interest has been with families and children. I have practiced, taught and written in this area. The family as a unit is the linchpin of social stability. Our moral values and behavioral standards have evolved so rapidly that we have been left breathless. The law must carefully and sensibly reflect that evolution. The Superior Court plays a pivotal role in this Commonwealth in the area of family law. As the Court decides cases which accommodate that change, it must also protect the integrity and legitimacy of the family. After all, it is the family which is a "haven in a heartless world."

A third major interest is judicial reform. I was nominated to this post through merit selection, and I support that principle. Without it, the bench loses many able lawyers who are unwilling to subject themselves to the political process. The spectacle of campaign committees soliciting and accepting substantial sums from lawyers and corporations who have business before the Courts creates at least the appearance of conflicts of interest. The donnybrook which surrounds judicial elections creates cynicism, or worse yet, indifference, and erodes public confidence in the Courts.

The day after I was nominated to this Court, I went to City Hall to observe it. I closed my eyes to envision myself on the bench. It felt

good; it felt right; it felt comfortable. I then went to the library to search the historic past of this important body. I learned that the Court was less than a hundred years old—86 years to be exact.

It was founded in 1895 as an “imperative demand to relieve the over-burdened Supreme Court.” Criticism of the Court, I also learned, was nothing new. In 1907, just twelve years after it had been founded, there was a movement to abolish it. The Court was described as “peripatetic, inconvenient, tiresome and expensive to judges, with no proportionate benefit to the litigants...”

I looked at my ancestors on the Court. For the most part they have been an impressive and distinguished group. The seven original members were all male—white, middle-aged and substantial citizens. One had even been Governor of Pennsylvania.

The composition of the Court in this generation; that is, over the last thirty years, has changed markedly. It reflects the sharing of power by the white, male, middle-class establishment with racial and ethnic minorities. My ascendancy to the bench today marks a further broadening of that power. Today the Court in welcoming me adds a woman for the first time in its history. Changes on the Court have yielded slowly to changes in society, but change is inevitable.

As Benjamin Cardozo said, “A rule which in its origin... was supposed to express the mores of the day... must be abrogated... when the mores have changed so that continuation of it... would do violence to the social conscience.”

I am the third woman out of thirty-one judges on the three appellate benches in the Commonwealth and the twelfth woman out of 346 judges in the entire State judicial system. As to the Superior Court, I have opened the door, and I hold it wide for others to follow. I eagerly await a woman to join the all male Pennsylvania Supreme Court.

I cannot help but reflect on this important day how I arrived at this place. The story is modest and not very unusual. My immigrant, self-educated, devoted parents honored education and transmitted that value to their three children. Through my brother Martin Whitman, I learned the combative skills (even before I went to grade school) that I later used as a lawyer. He was older, bigger and stronger than I was; so I had to argue with a big, forceful, effective voice. Through my sister Stowe Hausner—my life-long and treasured friend—I learned how to

combine passion for the underdog with steely intelligence.

And then, thirty-one years ago, I formulated a fortunate life-long alliance. I married Tim—Aaron T. Beck. Among many things, he taught me to think critically. He supported my career and my dreams. When I went off to Temple night school in 1962 with apologies, he quelled my unease by telling me it gave him an opportunity to be with the children on a one-to-one basis. I am forever grateful for his faith and encouragement.

And to my four children, Roy, Judith, Daniel and Alice, I owe a special thanks for being the warm glow and spirit of my life. And for growing up so strong and straight.

And I am grateful to my two older children for augmenting what I already viewed as a considerable family. Roy for marrying Ruth Hanno and adding Jody and Andy, and Judith for marrying Richard Busis and adding Sarah.

I cannot leave this narrative without paying tribute to the many people who have helped me along with way. To my new and old friends in this room who championed my cause. I owe a very special thanks to the women of the Commonwealth who rallied to my support.

I must take note of three professional colleagues who saw in me greater potential than I saw in myself. The first is Bernard G. Segal, who became my mentor, whose entire career has demonstrated excellence; who combined the artful craft of a lawyer with the conscience of a great humanitarian. The second is Judge Louis H. Pollak, whose sense of balance and whose values I have adopted as my own. He was Dean of the University of Pennsylvania Law School, and I was his Vice-Dean. He made me an equal partner in that endeavor and caused me to unearth talents that I did not know I possessed. The third is Ragan A. Henry, a fine Philadelphia lawyer who taught me the craft of lawyering when I first emerged from law school. He is black and our clients were black. I immersed myself as their advocate. I saw in them the same yearnings for achievement I saw in my immigrant parents and myself.

Up to this point, I have had a varied career: Two-thirds in practice and one-third in academia. I now eagerly look forward to the next adventure—the Court. When I think of what an ideal judge—especially an Appellate Court Judge—should be, I conclude she should be intelligent, wise, mature and dispassionate. She should prize

scholarship and have a broad view of the law, social institutions and humanity. She should be able to reason cogently and commit that reasoning to paper.

My life thus far has been a preparation for that role; my service on the court will, I hope, permit me to grow into it. Thank you. (Applause.)

JUDGE CERCONI: If Phyllis writes Opinions like that, it will make us all famous.

It was very excellent, Phyllis and we concur in those beautiful remarks.

I would like to acknowledge, before we adjourn, the presence of Judge Max Davison of Lehigh County. Judge, will you stand. (Applause.)

Judge Lois Forer, A Judge of the Court of Common Pleas of Philadelphia County. Judge. (Applause.)

And Judge Dolores Korman Sloviter, United States Judge, Court of Appeals for the Third Circuit. Judge. (Applause.)

Judge Gafni, where are you? (Applause.)

I am ordering that these proceedings be published in one of the Superior Court volumes that will be soon published by the West Publishing Company, so we would be able to see and read all these beautiful remarks on this very, very magnificent occasion.

Before we adjourn, we are about to adjourn, but before we do so, I want to say that right after adjournment, I know each and everyone of you would like to come up and extend our congratulations to our new Judge and to her family, so the Judge will stand in the well here with her family, and you can come and extend your congratulations to her.

We are happy you were able to come to this great event, and we certainly look with great anticipation to the fine work of this new Judge, The Honorable Phyllis Beck.

We will now adjourn court.

(Adjournment.)

THE HONORABLE VINCENT A. CIRILLO



December 19, 1927 – November 28, 2000

Assumed Office: January 4, 1982

President Judge: 1986-1991

County: Montgomery

INSTALLATION CEREMONY
OF THE HONORABLE VINCENT A. CIRILLO
AS
PRESIDENT JUDGE
OF THE
SUPERIOR COURT OF PENNSYLVANIA
FORUM BUILDING
HARRISBURG, PENNSYLVANIA
MARCH 21, 1986
3:30 P.M.

Presiding:
HONORABLE ROBERT N.C. NIX, JR.
Chief Justice of Pennsylvania

Speakers:

FATHER JOHN M. DRISCOLL, O.S.A.

President Villanova University

JEROME E. BOGURZ, ESQUIRE

President, Pennsylvania Bar Association

A. RICHARD GERBER, ESQUIRE

Pennsylvania Bar Association Zone Governor and Former
Montgomery County Bar Association

HONORABLE JAMES T. McDERMOTT, JUSTICE

Supreme Court of Pennsylvania

VINCENT A. CIRILLO

GREGORY F. CIRILLO

VICTORIA A. CIRILLO

MRS. VINCENT A. CIRILLO

FATHER RALPH SHURER, O.S.A.

Asst. Prof. Dept. of Biology

Villanova University

PROCEEDINGS

MR. CASSIDY: The Honorable Chief Justice of the Supreme Court of Pennsylvania, and the Justices and Judges of the Supreme, Superior and Commonwealth Courts of Pennsylvania.

(Presentation of the Colors and Star Spangled Banner.)

FATHER DRISCOLL: Oh, Lord, You have allowed us to recognize that the blessings our nation has received from Your hands, unsurpassed by any other people in history, carry with them the obligations to use them well for the good of mankind and for Your honor and glory.

You have allowed us to recognize that the democratic form of government, so admirably suited to our national temperament is itself not only a singular blessing but one that can survive only if protected by those ordinances of reason that we call law.

Hence, we ask Your guidance, as we collectively strive to attain what is possibly the greatest of all human achievements, the wise governments of the state. We ask Your blessing on all those who unselfishly serve the common weal, our public officials, our legislators, and today we ask Your blessing in a special way on our judiciary whose

knowledge and wisdom, courage and integrity are at the heart of the judicial process.

We ask You to allow Judge Vincent Cirillo to grow in his role of exemplar of the art and science of law, so that acting always in You and through You and with You, he may show forth in the dedication, discipline and self sacrifice of his profession, Your justice and mercy, Your love and compassion, Your wisdom and light.

We confidently and gratefully ask You this as God our Father. Amen.

CHIEF JUSTICE NIX: The invocation was given this afternoon by Father John M. Driscoll, President of Villanova University, President of the School that our honoree today, attended.

It is indeed a pleasure to welcome you on behalf of President Judge Cirillo and his family for this festive occasion. Before beginning with the program, I would like to introduce to you those Judges that join me in this ceremony.

From my left, the Honorable Genevieve Blatt, the Commonwealth Court; the Honorable Joseph T. Doyle, the Commonwealth Court, the Honorable David W. Craig, the Commonwealth Court; the Honorable Abraham H. Lipez, the Superior Court; the Honorable John P. Hester, Superior Court; the Honorable Harry M. Montgomery, of the Superior Court; the Honorable Justin M. Johnson, of the Superior Court; the Honorable John T. J. Kelly, Jr., of the Superior Court; the Honorable Phyllis W. Beck, of the Superior Court; the Honorable Joseph A. Del Sole, of the Superior Court, the Honorable Donald E. Wieand, of the Superior Court; the Honorable John G. Brosky, of the Superior Court; the Honorable James R. Cavanaugh, of the Superior Court; my colleague, William D. Hutchinson, the gentleman beside me, I'm sure you all know, or you will know before the afternoon is over.

And to the right my colleague, the Honorable Madaline Palladino, Commonwealth Court; the Honorable John A. MacPhail, Commonwealth Court; the Honorable Theodore O. Rogers, Commonwealth Court; the Honorable J. Sydney Hoffman, Superior Court; the Honorable G. Harold Watkins, of the Superior Court; the Honorable Zoran Popovich, of the Superior Court; the Honorable Patrick R. Tamilia, of the Superior Court, the Honorable Frank J. Montemuro, Jr., of the Superior Court; the Honorable Peter Paul Olszewski, of the Superior Court, the Honorable James E. Rowley, of

the Superior Court, the Honorable Richard B. Wickersham, of the Superior Court. My colleagues, Justice Nicholas P. Papadakos, and James T. McDermott.

It takes a great deal of faith to rely on these lists on occasions of this nature and I compliment Millie for not making a mistake—or at least I think I have not made one. I'm sure by now I would be told.

On an occasion like this, it is not merely the honoree that is the center stage, the reason you are here, but the family who shares this moment. And at this time I'd like to recognize and ask them to stand, Mrs. Cirillo, Beatrice Cirillo, to stand a moment and his three children, Vincent, Gregory and Victoria. And what really makes this a unique ceremony, such a warm ceremony, the Judge's mother is here with him on this occasion. (applause)

I am told that the Judge's mother spent many hours on her knees to bring about this occasion. Our first speaker this afternoon is the President of the Pennsylvania Bar Association, Attorney Jerome E. Bogutz.

MR. BOGUTZ: Thank you, Mr. Chief Justice, members of the Judiciary, colleagues and friends. Good Afternoon. This is certainly an exciting moment for all of us. I am pleased and proud to have been invited here today to represent the 26,000 members of the Pennsylvania Bar Association, if not all the lawyers of Pennsylvania.

It is exciting for me to be part of this historic occasion, the swearing in of Vincent A. Cirillo as the President Judge of the Superior Court, the first President Judge to be elected to that position by his colleagues on the bench.

It is also gratifying to me personally, as a long time friend and admirer of Judge Cirillo, that this inaugural ceremony comes not purely by accident on the opening day of the first ever statewide Bench/Bar Conference sponsored by the Pennsylvania Bar Association. The Bench/Bar Conference, as many of you know, represents an attempt to bring together lawyers and judges from around the Commonwealth to address the many professional and public concerns they share with regard to the workings and administration of the law and justice system.

We hope, through the Bench/Bar Conference, to contribute to the building of a better working relationship between the judges and lawyers. And it is with that thought, of making a contribution, that brings me to what I want to say about Judge Cirillo.

The one thing that has characterized Vincent Cirillo's career as a lawyer, as an official of local government, as a Common Pleas Court Judge, and a Superior Court Judge, is that he is a contributor. He is a doer. He has worked hard, initially on behalf of the citizens of Montgomery County, and now on behalf of the people of Pennsylvania. He gives of himself, his time, his talent, and seemingly limitless energy.

He has contributed and made all places where he has served better for it, and always with a smile. With a wife like Bea, no wonder. We salute him for all of his achievements.

As President of the Pennsylvania Bar Association, I am especially pleased to note that Judge Cirillo has been, and continues to be, the contributor to our profession. For many years he has been generous in his efforts which he has committed to Bar-related activities, including service as a valued member of the Pennsylvania Bar Association's House of Delegates.

We can only hope, that despite the demands that surely will be placed upon him as President Judge of the Superior Court, that he will remain an active member of our association and remain on our House of Delegates. We know we have benefited from that service of his. We believe he has too. And I think it is reflected largely in many of the things he does as a valued member of our Judiciary.

We particularly commend his colleagues on the bench for electing him as their President Judge. We share the knowledge and confidence that his will be an important and lasting mark on that hard working and most important body, our Superior Court.

Vince, personally on behalf of all the members of the Pennsylvania Bar Association, I congratulate you on your elevation to President Judge of our Superior Court. And again, thank you for your many contributions. We wish you well as you undertake your new responsibilities. We know your friends will want to join us later at a reception which we will be holding in your honor at the Marriott, immediately following these ceremonies and everyone here we hope will join us. You are all invited.

But most important, Vince, thank you for being Vince.

CHIEF JUSTICE NIX: Thank you, Mr. Bogutz. It is frequently stated that the prophet has no honor in his own home area. Today we find an exception to that old saw. We have with us a representative from Montgomery County Bar, where Vince served as an outstanding

lawyer. We have as our next speaker, A. Richard Gerber, Esquire, of the Pennsylvania Bar Association Zone Governor and former President of the Montgomery County Bar Association.

MR. GERBER: As all of you can see, the Chief Justice knows me well.

Mr. Chief Justice, may it please the Court, friends, the occasion of the investiture of the Honorable Vincent A. Cirillo as President Judge of the Superior Court, this is a great occasion for Pennsylvania and a personal joy for me and every lawyer and every judge in Montgomery County.

I am proud to represent the 3800 lawyers from the Pennsylvania Bar Association Zone 9 comprising Counties of Montgomery, Bucks, Chester and Delaware, and most particularly, the 1700 members of Montgomery County, the home county for both Judge Cirillo and me.

Judge Cirillo, as Jerry Bogutz said, was an active member of our Montgomery Bar serving on its board. He is the only statewide jurist in the Pennsylvania Bar Association House of Delegates, and he is the first Montgomery County lawyer or judge to ever serve on a statewide court, and therefore, the first to preside over one.

On behalf of my colleagues, I would like to express how fortunate we are, and how fortunate we think Pennsylvania is that Judge Cirillo was selected by his colleagues to lead the Superior Court.

We are fortunate because we are free men and women. We are that one percent that have the privileges of kings, individual liberty, freedom of expression, complete access to the levers of power and the wonders of the world, and the right to achieve whatever we want to.

Because of our good fortune, we have the responsibility to provide this privilege to others. When Judge Cirillo was a practicing lawyer, he made every effort to assure that all whom he represented attained the liberty and economic rights to which they were entitled. And while he has been on the bench, both at the Montgomery County Court of Common Pleas, and the State Superior Court, he has guaranteed that all who have come before him were treated fairly, respectfully and compassionately.

Actually, Judge Cirillo's career demonstrates a deep legal/social philosophy of belief in the Constitution of the United States.

His work, his thoughts display a conviction that a society governed by law is man's greatest achievement and our American Constitutional system is really the ultimate triumph of law over anarchy and

despotism. For people like Judge Cirillo, you and me, the uniqueness of America is, it was founded by people who came here looking for something denied to them elsewhere.

We are the progeny of those courageous immigrants. For people like Judge Cirillo, you and me, the American system is the noblest of human ideas, but too many people in our country give too little time, too little effort, too little thought, to that which must be done to preserve this noble idea, which gave birth to America.

But to those of us who know Judge Cirillo best, his life has been spent with an abundance of energy, effort and thought in preserving this American idea that all people are entitled to liberty, freedom of expression, and complete access to the levers of power and the wonders of the world.

I trust, and I am certain you concur, that Judge Cirillo's tenure as President Judge of the Pennsylvania Superior Court will be dedicated to the assurance that each person receives equal justice and that everyone in Pennsylvania, to the best of Judge Cirillo's ability, will have liberty, freedom and access.

To my friend, Judge Cirillo, and his devoted wife, Bea, his mother and their children, I extend my best wishes. And a bit of philosophy expressed by a 13th century sage: Should man complain about his lot in life even though it is hard? No. Life is good, especially if he labors for the truth of law and justice, then his end will testify to his beginning. And this is the beginning of a new era in the appellate courts of Pennsylvania and we express our joy in it.

Thank you very much, Vincent.

CHIEF JUSTICE NIX: I now have the distinct pleasure of introducing for remarks my dear colleague, and a dear friend of Judge Cirillo, the Honorable Justice McDermott.

JUSTICE McDERMOTT: Mr. Chief Justice Nix, Justice Hutchinson, Justice Papadakos, distinguished colleagues and friends, lawyers, soldiers of the republic and of course the estimous Andrew Zarnicki. Now, you don't know Andrew Zarnicki and neither as a matter of fact do I, but I met him in a railroad station a day or so ago and we fell into a conversation. And he said that he was going out to Detroit to give a speech today, and I happened to mention that I had to give a speech here today. And he said to me that if I mentioned his name here today, he would mention mine in Detroit.

I like to keep my promises. I must tell you the truth, over the many years that I have known Vince Cirillo, he has never had a joke of his own. He has used that one all the time, and I thought I would get even with him today.

I am astounded at the wonder of this room, it's the first time I have ever been here, a magnificent room. Chief, we ought to have this room for the Supreme Court sessions. Look at the ceiling, all the signs of the zodiac are displayed. While hearing argument, we could do our astrological computations on the spot rather than in chambers.

Of course, I have my own astrologer, he's Hector Lopez from Camden, New Jersey. I thought I would get somebody from out of state. He uses the hubcaps of '68 Chevrolets, flicks them in the air, and has solved some very difficult problems, particularly one in Altoona, Pennsylvania, that I'll tell you about sometime.

I am very pleased to be here to speak today for Vincent Cirillo. I have known him, as you can tell, for a long time. And one of the best times of our lives, I suppose, was when we campaigned across the state in 1981 when he was running for the Superior Court and I was running for the Supreme Court.

And I know that your association today, as many people do, have some concern about the method of campaigning and contributions.

But I would like to bring to your attention, my dear friends, that there are other dangers to campaigning of which you know not. Think of the bravery that is required for men such as Jim Rowley and myself to get on a little tin flivver of an airplane after Vincent climbed in and deflated the tires.

Vince has a wonderful voice, I hope he won't sing for you today, but he did try to sing for us while we were aloft, over the 47,000 square miles of Pennsylvania. Every once in a while he would hit a high note or shift position, and the plane would go into a nervous jiggle.

There are many things you should consider as part of the dangers of campaigning. But speaking of that campaign and campaigns like it, that are at the moment one of the necessities of life, it brings to mind some of the very peculiar talents and very peculiar abilities that Vincent Cirillo has.

He has the ability to understand people, to fit into their lives. And more than that, to take out of their lives some meaning, some understanding that is used and utilized in the course of his career as a

lawyer, magnificent trial lawyer that he was for many years, and as a Judge.

He has an ability to get inside the lives of other people. And for a judge, that is one of the most important and one of the most difficult and one of the most necessary things that he must do.

There is no one—no one—in our society, be he president, no matter who he is, that has the terrible power, the terrible power that a judge has. Because at some juncture in his life, at some moment of his duty, the most soul-wrenching moments of his duty, he has to decide and create from conflict and argument, he has to create the fact upon which the great abstraction of the law will be brought to bear.

He must be able to say as between two contending parties or many contending persons, what happened on the day or the night in question. And in order to be a judge and in order to be a lawyer, one must live and experience of every kind of life that there is. No lawyer here could count himself a lawyer who did not have some feeling for the nature and type of the jurors that he selects.

And who is Vince Cirillo and what kind of an education in life did he have for that? Well, he is Frank the Barber's son. His father, Frank Cirillo, was a barber in the area of St. Joseph's University in Philadelphia. That is how my education was contaminated. All the members of the faculty, all of those cunning Jesuits would go down to Frank's Barber Shop to have their hair cut, and Vince turned their minds around.

But from all those customers, from all of those people, with this ability to absorb life and people and understanding, Vince has brought to the bench, while he was a trial judge, that ability par excellence to understand and to know people.

You know, today we talk about judges and how they ought to be elected or how they should be appointed, or whatever, and you as an association are concerned with that subject, you must come to understand that honorable men with honorable intentions are not enough. There must be more than just honorable men and honorable intentions. They must have an experience and a feel for life, and experience and understanding of the meaning of people.

Vince Cirillo has already displayed that in the course of his career as a trial judge. And now he is on the appellate bench, and I want to tell you something in case you don't know it. It may be very obvious to you,

but I know it very deeply. He is a highly intelligent and able man, a graduate cum laude from Villanova Law School. No one, I assure you, no one, can deny, that knows him at all, the depth of his knowledge of history, his reading, his depths of philosophy, his understanding of the law, and his ability to bring them all together, and bring it down to a given case, at a given time. And to give it meaning beyond that moment, to give it a significance beyond that case, so that it can be some sort of guide for you and I, and all of us in the course of our practice of law.

I'm very pleased and very happy to tell you that this is a very good man that you have, and I know; I have been with him for many years. I wish him all kinds of good luck and all of you the same.

CHIEF JUSTICE NIX: One thing I'm not so sure was clear from your remarks, my colleague, is the warmth of Vincent Cirillo. He is the kind of person that is unique in just being a good-hearted person. Let me give you an example that occurs to me, that demonstrates that quality.

As anyone who is familiar with Vince knows that during his free time he is quite a golfer. One time several years ago, I happened to mention the fact that I was interested in golf. And since I had heard that he was such an outstanding golfer, I had gone to him for some advice, lessons and direction. And he said to me, where do you play golf? Being a novice I said to him, "the public course around the corner from my home."

He looked at me and said, of course, you can't play at the public course. You will have to have membership in my private club. So I said Vince, first, I can't afford it. And there may be some other reasons why my membership wouldn't be welcome.

In any event, Vince assured me that I had nothing to worry about, he would take care of it. In fact, he would even see to it that I had a complimentary membership.

Knowing what a remarkable fellow he was, of course, I accepted this without any question. And a week passed, a month passed. And I had seen Vince on several occasions, but he never mentioned my membership in this private club that was to be complimentary.

Eventually I had to confront him with it and I said Vince, what happened to my membership? Then I could see the pain in his eyes when he explained to me that not only was my membership rejected,

he was thrown out of the club.

At this time, we have the children of President Judge Vincent Cirillo who will present the Commission to the Court.

Vincent, Gregory and Victoria.

MS. VICTORIA CIRILLO: I would like to welcome everyone to this very happy day that we are sharing with my father. You have heard about all his accomplishments as a lawyer. I don't remember much of them, I was very young myself. You heard about him on the bench. But I would like to tell you he's been the greatest father that anyone could ever want, and that we are very proud of him.

He put a lot of time into our activities when we were children. I remember when I had a college essay I thought what can I write about, and I thought, my dad. He's the person that I have been most proud of and always aspired to be the type of person he was. I'm still trying hard. I don't know if I'll ever aspire to that, dad, but I keep going for it.

On behalf of my brothers, my Aunt Marie in the front, his sister, my grandmother and my mother, I would like to read this oath of office to you.

In the name and by authority of the Commonwealth of Pennsylvania, Governor's Office, Vincent A. Cirillo of the County of Montgomery in the Commonwealth of Pennsylvania, Greetings:

Whereas, a vacancy has occurred in the office of President Judge of the Superior Court of Pennsylvania, by reason of the retirement of the Honorable Edmund B. Spaeth, Jr., effective on the Sixth Day of January, Anno Domini, One Thousand Nine Hundred and Eighty-six;

And whereas, you are now serving by virtue of a Commission from the Governor, as a Judge of the Superior Court of Pennsylvania;

And whereas, in accordance with Article V, Section ten (d) of the Constitution of the Commonwealth, you were duly elected President Judge of the Superior Court of Pennsylvania by the Members of the said Court on January 8, 1986;

Therefore, know ye, that in conformity to the provisions of the Constitution and Laws of the said Commonwealth, in such case made and provided, I do by these presents Commission you, Vincent Cirillo, to be President Judge of the Superior Court of Pennsylvania.

You are, therefore, to have and to hold said office, together with all the powers and emoluments thereunto belonging, or by law in anywise appertaining, for a five-year term commencing January 8, 1986, if you

shall so long behave yourself well.

Given under my hand and the Great Seal of the State, at the City of Harrisburg, this fourteenth day of March, in the year of our Lord, One Thousand nine Hundred and Eighty-six, and of the Commonwealth the Two Hundred and Tenth, Richard Thornburgh, Governor, Robert Gleason, Secretary of the Commonwealth.

Thank you.

CHIEF JUSTICE NIX: Before we begin the administration of the oath, I at the outset, gave to you the names of those jurists who were sitting with me this morning. As I look around the audience, I see a number of our outstanding jurists, too numerous to mention. We want to recognize the presence, of course, it's only appropriate that I mention the name of the former President Judge, Judge Spaeth, who Judge Cirillo will now replace.

We also see a number of distinguished members of the Pennsylvania Bar. But more importantly, we see friends of Vincent Cirillo and his lovely family and I think we should give everyone in attendance a hand. (applause)

You all heard from the speakers today of the numerous accomplishments of Judge Cirillo, the graduate of Lower Merion High School, Villanova University, Temple University School of Law, served as a District Attorney of Montgomery County, as Clerk to the President Judge Harold G. Knight. He was appointed to the bench of Montgomery County by Governor Shapp. That's unusual. We'll pass that for the moment but I am glad some recognize the basis for the observation. He was subsequently elected to a ten-year term. But I think your elevation to this position has a greater meaning than that. Certainly, it is justified from all that you have done up to this point.

The promise of America has been that all persons will enjoy equal equality of opportunity and fairness, under law.

Thousands flocked here from the economic repression of Europe in the 1800's to seek that promise. The black slaves believed at last after the signing of the Emancipation Proclamation, that they too would share in that dream. However, in frustration, Mr. Justice John Marshall Harlan observed in dissent in *Plessy Ferguson*: "Our Constitution is color-blind, and neither knows nor tolerates classes of citizens ..."

History has proven that although the organic laws of this nation provided the basis for the dream, it would never be in fruition until the

courts of this nation gave those documents true meaning and insisted upon their observance.

As we look at the leadership that is emerging in the judiciary in Pennsylvania today, we gain confidence that they are individuals who are acutely aware of that promise, responsive to the needs of its fulfillment and commitment to its full realization.

It is, therefore, Vincent, a distinct pleasure for me, at this time, to administer the Oath of Office to you, President Judge of the Superior Court, and we would ask your dear wife to join us at the microphone.

Repeat after me, I Vincent A. Cirillo, do solemnly swear that I will support, obey and defend the Constitution of the United States, and the Constitution of this Commonwealth, that I will discharge the duties of my office with fidelity, so help me God.

PRESIDENT JUDGE CIRILLO: (Repeating the oath) I, Vincent A. Cirillo, do solemnly swear that I will support, obey and defend the Constitution of the United States, and the Constitution of this Commonwealth, that I will discharge the duties of my office with fidelity, so help me God.

CHIEF JUSTICE NIX: We will now hear from President Judge Cirillo.

PRESIDENT JUDGE CIRILLO: Father Driscoll, Father Shurer, Chief Justice Robert N. C. Nix, Justice McDermott, Justice Hutchinson, Justice Papadakos, former President Judge Edmund Spaeth, my distinguished colleagues on the Superior, Commonwealth and Trial Courts, elected state and local officials, members of the Pennsylvania Bar Association, and my friends.

First, I thank each of you for taking the time from your busy lives to share this day with me. It is a day I shall always treasure. Most of you have individually contributed something to my life and to my being here. Each of you, as I look about this room, has touched my life and contributed to it in some degree, and I thank you for being my friends.

I have the great honor and privilege of having my friend and former classmate from college, one of the ablest and most respected Chief Justices in the nation, preside over these ceremonies and also administer the Oath of Office to me, Chief Justice Robert N. C. Nix, Jr. and I thank you.

There is one person who is happier than I that I am here and that is my dear mother, who, together with my beloved father, lit a fire in me

to seek an education and a drive to succeed in my every endeavor. They also instilled in me the work ethic. You have seen my mother, but I would like to congratulate you again, dear mother.

You have met my wife, Bea, who is also a Villanova graduate. We were married before I entered law school. In addition to raising our children, she has worked as a nurse during our entire marriage to supplement our income, while I embarked on a career of public service. To this day, she still toils as a Florence Nightingale to help defray the cost of educating our children.

My children are Vincent, who graduated from Villanova University and who presently sells real estate; Gregory, a graduate of Villanova is presently a senior law student at Villanova University School of Law; my daughter, Vicky, who read my Commission, is a graduate of Harvard University *magna cum laude* and is presently a medical student at the University of Pennsylvania.

My wife and children spent many lonely hours without their husband and father because of the reality that the law is a jealous mistress. I take this opportunity to thank them for their patience, love and affection while I was engaged in a career of public service.

The Superior Court of Pennsylvania was established by the General Assembly in 1895 to hear appeals from certain decisions by Courts of Common Pleas of the 60 judicial districts in the Commonwealth. During the course of time, the jurisdiction of the Superior Court was enlarged and society as a whole became more litigious.

In 1953, for example, 503 appeals were filed in our Court, while in 1985, 5,790 appeals were filed. In 1895, there were but 83 Common Pleas Judges throughout the Commonwealth, while today there are 350. In response to these changes, in 1970, the seven-member Court which had previously sat *en banc*, commenced sitting in three-judge panels to expedite the handling of the heavy volume of appeals.

In 1980, through a Constitutional change, the Court was enlarged to 15 Judges. These Judges are ably assisted by an additional complement of seven senior Judges, who perform yeoman service by carrying a full load of cases all year, although they are only paid for several months. The entire Court and the people of the Commonwealth of Pennsylvania are indebted to you, Senior Judges, and we thank you.

Generally, the Court sits in Harrisburg, Philadelphia or Pittsburgh. However, in order to have a presence throughout the state, occasionally the Court sits in other counties, thereby permitting a greater cross-section of the public to learn and observe the responsibilities and the manner in which the Court functions.

Indeed, in performing its duties, the Court decides cases touching almost every aspect of life and commerce, including family matters such as child custody, visitation, adoption, divorce and support, criminal cases, the distribution of estates, recovery of damages for personal injuries or breach of contract, and disputes regarding property, in addition to hearings under the Wiretapping and Electronic Surveillance Control Act.

The Pennsylvania Supreme Court now only hears matters of the utmost importance. Last year they granted allowance of appeal in 180 cases. The Superior Court is, as a consequence, the Court of last resort, in most cases.

Since the law and the courts affect every human being every moment of his or her life, from the cradle to the grave, it is imperative that we have experienced and dedicated judges to hear and decide the appeals before our Court.

I am proud and eager to captain this ship, the Superior Court, whose brilliant, congenial, cooperative and industrious crew has served collectively more than 408 years on the bench. This is a treasure trove of experience. It's a great Court.

We are particularly blessed with having Judges G. Harold Watkins, and William F. Cercone, two former President Judges of the Superior Court still aboard, and former Chief Justice Samuel Roberts, each of whom diligently contributes his full efforts to the workload of our Court. I could not wish for a better crew or supporting staff.

As evidence of the industriousness of our Court, I note that the American Judicature Society has found our Court to be the most overburdened appellate court in the nation.

The Judicature Society recommends that no appellate judge should have to write more than 45 opinions per year.

Last year, though, we filed 5,980 written opinions for an average of 270 per judge or six times the recommended case load.

Yet, we cannot let this burden keep our Court from debating the important issues before us and rendering memoranda and published

opinions on all our decisions.

Rather, in a system that permits an appeal to every litigant from the 60 judicial districts in this Commonwealth, we must devise a method of screening out frivolous appeals so that the appellate courts may permit access for worthy appellants.

It is imperative that we reduce the time lag between the filing of appeals and argument, and between argument and the filing of a decision because Justice delayed is Justice denied.

I feel that our Court can accomplish these aims through the addition of work-saving word processors and computers, collegiality and cooperation among our judges, imaginative programs such as settlement conferences and fast tracking of appeals and the hard work of everyone connected with the Superior Court.

By reducing this time lag, we will also be able to reduce our Court's backlog and so allow the appellate process to carry on efficiently, judiciously, and speedily. Such a result will no doubt be a significant benefit to the bench and bar and to the public.

In 1984, for example, 7,088 miscellaneous motions were filed in the Superior Court. In 1985, it dropped to 4,541 miscellaneous petitions. I believe the reduction of approximately 2500 motions was due to the Court's attack on its own backlog.

To accomplish our objectives, we will need the cooperation of both the bench and the bar. Judges and lawyers must file their opinions, records and briefs, in a prompt and timely fashion and should seek continuances and extensions only in very rare and proper instances.

With a concentrated effort on all of our parts, we will be able to readily handle the onslaught of appeals filed each year, while giving justice its swift and appropriate due.

I pray to God that he gives me the strength and wisdom to be the crucible to lead the brilliant members of this great Court at this crucial time so that we can accomplish the goals we have set for ourselves.

I again wish to thank each and every one of you for honoring me by your presence here today. God bless all of you.

CHIEF JUSTICE NIX: The benediction will be given by Father Ralph Shurer, another member of Villanova and a classmate of President Judge Cirillo.

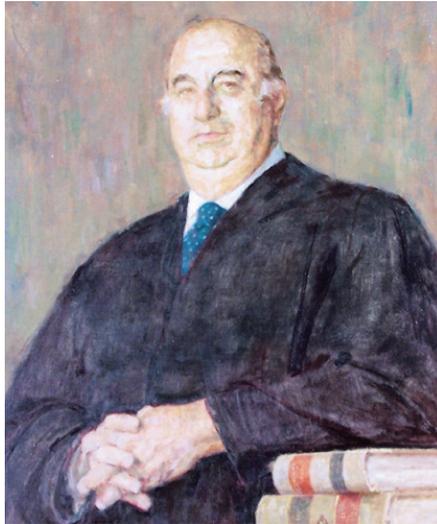
FATHER SHURER: Oh, Lord, You have blessed the parents of Judge Vincent Cirillo, You have blessed him at every stop along his

way. You have blessed his family. Today again we seek Your blessing for him. Continue to grant him the wisdom to properly administer justice as he has in the past, and guide him in his judgments that he may give equity to all concerned; tempered with kindness, firmness and conformity to the law of man, which is derived from Your divine law, oh, Lord.

Thus, he will serve well, You, his God, and his fellow man, as the President Judge of the Superior Court of Pennsylvania, steadfastly upholding the importance of the dignity of Your law, oh Lord, and the dignity of the law of man. Amen.

CHIEF JUSTICE NIX: Thank you for coming.

IN MEMORIAM



**HONORABLE
VINCENT A. CIRILLO**

Founders Court Room
Philadelphia, Pennsylvania
April 26, 2001

PROCEEDINGS

COURT CRIER: Oyez, oyez, oyez.

And now may the family, friends and colleagues of the late President Judge Vincent A. Cirillo having business before the Honorable Judges of the Superior Court of Pennsylvania now appear and they shall be heard. God save the Commonwealth and this Honorable Court.

JUDGE DEL SOLE: This morning we are gathered here in this respectful mourning session to honor one of our dear distinguished colleagues, former President Judge Emeritus Vincent A. Cirillo. He worked with all of us for many years. And it is only fitting that we pay this tribute to him. It's a time—it's a bittersweet time for all of us, but certainly well deserved in memory of Judge Cirillo.

I first met Vincent Cirillo during the 1983 campaign. He was seeking nomination for the Supreme Court and I was running for Superior Court. I remember him as a dynamic, industrious and committed individual always looking out for the public's good and preserving public order in the society.

When I became a member of this Court, Vince was the first to call and offer help in understanding the operations of the Court and the workings of the Court and offering advice with regard to the structuring of my chambers. That advice was invaluable. We shared many of the same goals—better control of the Court's inventory, the role of commissioned judges on the Court, the application of technology to assist in case management in the actual running of the Court.

He was the first President Judge to be selected by the Court rather than under the seniority system. And he brought to that position many innovative processes. The computer program that we use today began during his tenure as president judge of this Court. The professionalism of the administrative offices, the executive administrators, central legal staff, prothonotary's offices were one of his main accomplishments. And many of the people that he selected then are still with us today in high administrative positions.

And he established a permanent cavalry of law clerks to judges to allow us to recognize the industrious and professional people and keep them on board so that we would not lose their experience. There was a personal side to Vince. The generosity of spirit and support that endeared him to all of us. When in session with him, you could always count on being taken to some of the best restaurants in Philadelphia. And many of them are little known to most of us, particularly those from across the mountains on the other side of the state.

He was a gracious host. Visits to his home were often. And the hospitality that he and Bea extended to us was legendary. I remember fondly sitting at the kitchen table eating meals and enjoying conversation with Vince and Bea. While his work was important to him, his greatest joy was in the accomplishments of his children. He was always proud of Vincent and Gregory. And that they had continued in his path with the law. And he was most joyful of Victoria's attending Harvard and becoming a physician. To each of you, I express my deepest sadness in his passing.

In all of the things he accomplished, it is his love and relationship with Bea that he cherished the most. He would talk about her and her family, driving to Indiana during their earlier courtship; her work as a nurse. And from these conversations, his love for you, Bea, was evident to all of us. We know you miss him. And so do we.

Today we are here to remember President Judge Cirillo in a formal way. It is a bittersweet time. But we all have our personal memories of him. And we all do miss him. To offer us thoughts on behalf of the family and friends, the Court recognizes Paul C. Vangrossi, Esquire to speak. Mr. Vangrossi.

MR. VANGROSSI: President Judge Del Sole, Judges of the Superior Court, members of the judiciary, the Cirillo family, friends, prothonotaries, it's been sad and very hard to appear before you today to speak on behalf of my friend, mentor, Judge Vincent A. Cirillo.

If the Judge were here today, he would want us to lift up our spirits and to celebrate his life. Briefly I will try to do that. Judge Cirillo was a very effective Prothonotary, and outstanding trial court judge and a brilliant public court judge. As a husband, he was loyal, dedicated and loving, committed to his beautiful wife Beatrice whom he took on a 48 year odyssey in life to produce three wonderful children, success—professional success and good fortune and many, many fond memories. To be able to say to you that your commitment, courage and unrestrained love gave your husband the strength and courage to face many battles and challenges in life. You are his security, you are the person who motivated him to higher achievements. He loved and adored you.

As a father, the Judge was strong, caring and always involved with his children. He kept them close. To the Judge and his wife, the most important mission in life was to raise their children properly, to see that they received a good education and teach them the values for life and to make them become good citizens; they were successful. Daughter Victoria is a dermatologist. Sons Vincent and Gregory are practicing attorneys.

As a friend and colleague, Judge Cirillo had no fear. In Norristown where he practiced law for many years, he was loving—loved and respected by the people in that community. He was popular with his fellow attorneys, respected as a trial judge. Here is what a few of the Judge's friends have to say about him.

Friend and fellow jurist Justice Kauffman states, “Vince was the ultimate personification of a true and loyal friend. An extraordinary sense of humor, his intellect, his love of family and friends, his love of the law and last but not least, his love for all good things all added up to be an unforgettable and universal respected and talented jurist who will never be forgotten.”

Former district attorney and now Montgomery County commissioner Michael Marino truly captures the essence of a man when he states, “Vince Cirillo was a rare soul, he never forgot his roots. Probably what is more important about the man is that he never forgot his friends, regardless of their station in life where his own rise to prominence and power. He was a man of keen intellect and kind heart. It will be because of these human values that he will be remembered.”

Friend and surrogate son Nicky Goldberg who spent the last days with the Judge states, “Words cannot tell you what the Judge meant to me. He’s a father and big brother and good friend all wrapped up in one. My time with him was precious.”

Harry Sword of Norristown, his good friend and constant companion for almost half a century simply states: “The Judge was a good man, the best and would do anything for you.”

And for myself, Judge Cirillo was all good and positive things. The years I’ve worked with him were exciting, challenging and just plain fun. As a mentor, he had no peer. He spent countless hours patiently teaching me the law. Because of my time with him, I am a better person today. What set the Judge apart from most people was his overriding conviction, that with good intentions, ability and hard work you can make a difference. The Judge had that desire and ability. And he chose the law to make that difference in life.

With this enormous energy, he used his legal talents to serve his family, friends and community. He was a true giant. He pursued his life and goals with the courage and heart of a lion. Vincent, I miss him. He was a joy in my life.

JUDGE DEL SOLE: Thank you. We are honored to have with us today, with thoughts on behalf of the bar, Madame Justice Sandra Schultz Newman of the Pennsylvania Supreme Court. Justice Newman.

JUSTICE NEWMAN: President Judge Del Sole, members of the Superior Court, I might add, it is good to be on the other side of

the bench today.

JUDGE DEL SOLE: We promise not to reverse you.

JUSTICE NEWMAN: I say good morning to all of my colleagues, members of the bar, friends, family, Bea, Vicky, Greg, Vince. All I can say to start out with is Vince, you packed another courtroom. I had the honor of giving the eulogy on Saturday, December 2nd for my dearest friend, President Judge Emeritus of the Superior Court Vincent A. Cirillo. In this audience, all of us knew the great Vincent Cirillo. And so the single thread that binds us one to another at this moment in time is Vince; husband, father, grandfather, colleague, mentor, friend and dearest friend.

So much of what was already said I won't repeat. But I do want to just give you a little bit of Vince's background that many of you might not know about because we had the honor and privilege of spending many Christmas Eve's for the fish dinner at Vince's parents' house.

He was born December 19th, 1927 in Ardmore, Montgomery County. He was the son of Francesco and Victoria Cirillo. Vince was married to our very dear friend, the former Beatrice Derozzio. And as you know, they have three children. And by the way, President Judge Del Sole, I am so happy that you got in that Vicky went to Harvard because Vince is up there telling us that better have been said today. By the way, we also should add she went to Penn Medical School and took her residency there. So—and we are very fortunate in the mainline of Philadelphia to have has as one of—as probably our most—not probably—as our most renowned dermatologist now.

And the boys as you said, have walked in their father's footsteps and that made Vince very proud. And Beatrice, as Paul so well put it, you were the love of his life. And I have just a little message, Bea. I know that you grieve every day. I know that you will continue to grieve. But you know what Vince is telling you, Bea., laugh. Because Vince is up there making everybody that's around him laugh today. And he wants you to be happy again too. And so we all, as his friends, are going to really make a concerted effort to try to do that.

Vince's dad was a barber in Narberth. And Vince worked in the barber shop. And he even used to cut my children's hair. You might wonder how Vince and I became such close friends with Bea and the family. We grew up across the street from each other; our children grew up together.

Vince attended Villanova College, graduated cum laude, went into the Korean War and then went on to attend and graduate from Temple University Law School. A little story about Vince. We all know him as the prosecutor who, thank God, got the conviction of Elmo Smith, who was the last murderer executed in Pennsylvania before execution was outlawed by the state. He died in the electric chair on April 2nd, 1962. And when I went into the district attorney's office to work, the story went like this—everybody who was involved with that prosecution went to watch the death of Elmo Smith but Vince Cirillo. He could not face it. And that tells us about Vince; a big man, but with a very soft inside.

Vince was elected a commissioner in Lower Merion Township in Montgomery County in 1971. And then as you all know from the biography, he went on to become a Judge of the Common Pleas Court. He was nominated by Governor Shapp, and then won the election the next year. And in fact, my boys are a little bit younger than the Cirillo boys, but I can remember I happened to have a blond son with blue eyes. I remember him outside with Vince Jr. and Greg saying please vote for my father. And I remember saying, Jonathan, nobody is going to think Judge Cirillo is your father.

But while Vince was campaigning for commissioner, he came to our house and he met Jules. I was out. And he gave him potholders and salt and pepper shakers. And Jules ended up going back to the Cirillo's home where he watched Vince's father make wine. And Jules—for those of you who know him is not known to drink and still does not—but Vince convinced him that he had to drink the wine. He came home and slept the rest of the day. So it took me until 1972 when I worked in the courthouse to finally meet the great Judge Cirillo that Jules had had such a great time with.

Another story—Election Day November 3rd, 1981 I was working at the polls at about 8 o'clock in the morning. And for me to be any place at 8 o'clock in the morning is true love. Someone came over and was looking for Judge Cirillo. And I said I didn't know where he was. He was making the rounds at the polls because Vince was a great campaigner. And even on Election Day he got up at 6 o'clock and started visiting the polls before they opened.

I was told that his father was rushed to Lanckenau Hospital. We made the rounds. We found Vince. We got him there and his father was

already dead. So his father lived to see him be a trial court judge and run for the Appellate Court and again, President Judge Del Sole, that word bittersweet was the word for that victory that very evening.

My relationship with Vince—and by the way, I am here to speak much deeper than as a member of the Bar because he was a totally devoted friend. He was a special father figure to me. He loved the law. He always taught me. He made me laugh at the same time. And he always told me that I was a great lawyer and that I had a great mind. He gave me confidence and love and caring.

When we got the call that Vince had departed—I think Vince Jr. was the one that called at 3:30 in the morning. I went into my office and I looked up. The tears were rolling down my eyes. I looked up to see a picture of myself with Vince being thrown fully clothed in a pool from the 1980's. And all I could do is smile. As wonderful as that portrait is today, one night I am going to come down here and paint—and Judge Tamilia and I were speaking about it—we're going to paint a big smile on Vince because that is how we should always remember him. And even crying at his death, he made me have a big grin just saying the kinds of things that he made me laugh about.

Because I remember getting people to get him thrown—Jack Ring is here—Milt Moss is one of the people we go to help throw him in. And somehow I ended up going in with him.

On a winter night when a snow storm was creating a blizzard, I had a jury out. Vince would not leave me. We went to the Valley Forge Hotel those days across from the Norristown Courthouse and sat with many other members of the Bench and Bar. Vince made sure he kept me busy until the jury returned. Then he drove me home in his VW because it was good in the snow and he said my Jaguar was dangerous. What a friend.

A dear friend of Vince and mine lost a son at age 18 when a drunken driver hit him. Vince and I were taking a walk after the funeral and I was teary-eyed. Vince said, "Dra," which was my nickname in Montgomery County—"don't be upset. Johnny is in a much better place now. He is in heaven which is far superior to Earth." I told Vince I thought he was nuts. But I must say that I keep hearing Vince say that to me repeatedly since he has passed away.

I could keep you here for hours listing his honors, naming his awards, scholarships in his name, telling of boards and committees on

which he sat and organizations to which he was a member. But let it suffice to say, that Vince Cirillo was not only a big man in size, but he was far bigger in accomplishments and contributions to the law, to our community and to the world.

Living in memories left behind is not to die. There are a minimum of at least ten Vince Cirillo stories that each one of us can tell here today. And maybe that would be a nice thing for us to do at lunch. We can sit here and go on about these stories, at least waiting for the next election in 2004—the next presidential election.

Vince will always be remembered for keeping his humility despite his lofty position. I was quoted as saying in the newspaper when he died, “He never had the black robe disease. He stayed a real person and served as an example to us all.”

The Judge was a man of tremendous intellect as described by then President Judge Stephen J. McEwen in the newspaper who wrote the eulogy for the Court when Vince passed away. He said, “PJE Vincent A. Cirillo was an epochal figure in Pennsylvania jurisprudence as well as upon the Pennsylvania Superior Court. As president judge of this Court, he blazed a path into and through the information age and in a sense his bold instinct of molding technology to the crushing inventory of the Court, became the standard for the electronic administration of appellate courts elsewhere.” I am so happy that was noted today. Because I can remember before people were even talking about computers, Vince was putting computers into the Superior Court. The Bench and Bar, we are all diminished by his departure.

As I said when interviewed after Vince’s death, he was a true family man. He had his wonderful sense of humor. In fact, oftentimes people did not know how really brilliant the Judge was, because he was so funny. And I picture that Vince is telling me right now not to cry because he is in heaven. As I said, Bea, he’s making them all laugh there.

My husband, who is a surgeon, can’t be here today because he booked surgery—I guess it’s like having a baby, nine months in advance. And he so badly wanted to be here. But he said his patients, you know, put away the time. And I said to him, Jules, do you remember that Vince used to call you Shazam. He used to say in my next life I want to be married to Jules. He said whatever Sandra wants, it happens. Shazam. She said she wants a swimming pool, I look out the window

and there's a swimming pool. So I said to Jules that Vince would be saying to him today—and Bea, could you just picture this—“Jules keep making money for Dra—operate.”

Living in memories left behind is not to die. Keeping Vince in our hearts and on our lips will insure that his memory will be with us forever. We will come together as one. Let us leave together as one. Rest in peace, Vincent, watch over us and bless us. And indeed bless all of us and our children and their children. And what I want to leave you with is a message that Vince would want us to have today. Enjoy life and enjoy the memory of Vincent A. Cirillo as I do every day before and since his passing away. And I thank President Judge Del Sole and the Cirillo family for allowing me to speak today.

JUDGE DEL SOLE: Thank you, Madame Justice Newman. We appreciate you being here today and speaking on behalf of the Bar of Pennsylvania. And we recognize your friendship with Judge Cirillo. He never let us forget about it. We also have here today, if I might, I'm not going to try to recognize everybody that's in the audience, but I do see a couple of people that he has known over the years. I see Justice—now Judge of the United States District Court Bruce Kauffman. Judge Rochelle Friedman from the Commonwealth Court. And I know that former colleague of this Court and now the United States District Court Judge Berle Schiller is also here. We thank you all for taking the time today to come.

Offering remarks and thoughts on behalf of the members of this Court with whom Vince served for almost 20 years is his good friend and dear colleague Judge Patrick R. Tamilia.

JUDGE PATRICK R. TAMILIA: I am honored to have been selected to speak for the Superior Court in memorializing our beloved late colleague, Vincent A. Cirillo, President Judge Emeritus.

I learned of Judge Cirillo's death the morning of November 28, 2000, when I arrived in the conference room behind this Court to attend a panel session with Judge McEwen and Judge Olszewski. While his passing was not unexpected, the impact was nonetheless unsettling.

I don't specifically recall when our paths first crossed informally, but I do recall the specific instance when I first became aware of his presence and stature as a trial judge. In the mid 1970's, as Chairman of the Juvenile Judges Section of the Pennsylvania Conference of Trial

Judges, I presented a paper to the section, attended by most of the Judges at the conference, on the state of juvenile justice system from deinstitutionalization, elimination of probation departments and the court's loss of control of the disposition of delinquent children to the Department of Welfare. Then a trial judge in Montgomery County, Judge Cirillo approached me and committed his full support to me in preventing the pending disaster. The judiciary prevailed, and it was then I knew that Vincent Cirillo could be depended upon to make a good fight.

If I needed affirmation that Vince Cirillo and Pat Tamilia had a rendezvous with destiny, I found it on my heritage trip to Italy to visit my father's birthplace in 1990. In this small Italian mountain town in Abruzzi, called Rippibotoni, where my father was born and my uncle and cousins still live, out of the ten or so short streets, one was named Cirillo, which amazes me every time I think of it. I wonder when and where the Tamilias and Cirillos interacted in that town whose history dates back to the 13th century.

The son of immigrants learned to take life as it comes. He worked as a barber with his father to obtain money for his education, served in the army during the Korean War, and following law school, entered Montgomery County politics as a lawyer, assistant district attorney, assistant solicitor of Montgomery County and later a judge, fulfilling the American dream that any immigrant would hope for his or her children. Judge Cirillo graduated from Villanova University in 1951 and received his L.L.B. from Temple Law School in 1955 and a J.D. from Temple in 1969. During this period he also served in the Army during the Korean conflict. He practiced law as a sole practitioner and prided himself on his effectiveness as a criminal lawyer who won 50% of his criminal cases although it was usual for the commonwealth to prevail 90% of the time. One of his most noteworthy cases, which he lost in the trial but won on appeal in the Superior Court, *Commonwealth v. Bonser*, 258 A.2d 675 (1969), resulted in expanding the defendant's rights, under *Miranda*, to include misdemeanors as well as felonies. As an assistant district attorney he tried the Elmo Smith murder trial following which Smith was the last person executed in Pennsylvania before the moratorium of the death sentence. His service as a trial judge followed appointment by Governor Shapp on December 31, 1971, with election to a full term thereafter. As a trial judge he received exceptional recognition by being appointed by Chief Justice

Eagan in 1979 to serve on one of several three-judge panels, comprised of a Supreme Court Justice, a Superior Court Judge and a Common Pleas Judge, to dispose of a backlog of murder cases. While carrying his full load as a trial judge, he served in this capacity until 1981 when he won election to the Superior Court.

On January 8, 1986, Judge Cirillo succeeded Judge Spaeth as President Judge of the Superior Court. He was the first President Judge to be elected by a majority of his colleagues and the fourteenth President Judge of Superior Court in its history. Prior to the Constitutional Amendment of 1979, president judges achieved office by seniority and served through the expiration of their tenure. The amendment changed succession by seniority to election by members of the Court for courts containing eight or more members, which included Superior Court. His term as president judge expired in 1991, when he was succeeded by Judge James E. Rowley.

During his term as president judge, Judge Cirillo advanced the Court into its modern era of administration. He professionalized the administrative staff which since has become the backbone of the Court, establishing and formalizing positions such as Court Executive Administrator, Budget Coordinator, Personnel Coordinator, Prothonotary, Central Legal Staff Chief Staff Attorney and Legal Systems, our computer department. He permitted the expansion of law clerk positions for senior judges, placing them on a par with commissioned judges. He freed the Superior Court budget and personnel requirements from partial dependency on County Commissioners' contributions, and he created a liaison with State Legislators to assure the Superior Court budget was adequate to our needs.

During his administration, Judge Cirillo led by example and would not permit any judge on the Court to handle or dispose of more cases than he did. I thought I had beaten him several times, but somehow he would slide in a few more cases just before the deadline to come out ahead. During his administration, any backlog that existed was eliminated and the dockets remained clear, as they have been to the present time. He cleared 14,800 cases from the dockets, many of which were redundant, defunct or in default and provided a strict docketing process which assured timeliness on all appeals. He also inaugurated a full-scale development of computer and e-mail technology which placed Superior Court at the cutting edge of computerization to the

present time. In this effort he acknowledged the full support of Chief Justice Robert Nix, Jr., in providing each judge with adequate staff and computer assistance and the legislature, which increased the Superior Court budget from \$6,000,000 to \$13,000,000 in five years.

Judge Cirillo was a man of integrity and, while not overly religious, his moral precepts were ingrained in his daily life. He was a friendly man, a social animal and one always seeking to bring about collegiality and interrelationships among members of the Court and between the Superior Court and other Courts. As president judge, he engaged the Superior Court in a number of ceremonial sessions in the courts of various counties in Pennsylvania, which were very well received. He inspired the move from the Robert N.C. Nix, Sr. Federal Building to the Penn Mutual Building, the present location of the Court, and made tentative moves to creating offices and a new courtroom on the 17th floor of the Penn Mutual Building, which did not materialize then, but which achieved reality in the present facility under and through the efforts of President Judge Emeritus Stephen McEwen. The start he gave the Court in moving to this building has resulted during the administration of P.J.E. McEwen in a vastly enlarged and more adequate facility than our Court has ever had in the Eastern District.

Judge Cirillo, in addition to all of the above, was an intellectual and an advocate who could carry his views and positions with and against anyone on or before the bench. He was outspoken, which on occasion produced sparks. On Superior Court he authored a number of significant opinions which altered or foretold the change in the law. One was *Commonwealth v. Ludwig*, in which Judge Cirillo dissented to the majority en banc Opinion which held that a defendant's constitutional rights to confrontation were not violated when a child witness was permitted to testify against him by means of closed circuit television. He found great satisfaction in the decision of the U.S. Supreme Court in *Coy v. Iowa*, 101 L.Ed.2d 857, which held a similar statute in Iowa unconstitutional as it denied a defendant of the right to confrontation.

A second case in which Judge Cirillo prevailed is *Curtis v. Kline*, in which he found that the legislature violated equal protection standards when it required parents of children who lived out of the home, due to divorce or separation, to support a child through college when there was no similar requirement for children in an intact family.

His opinion was affirmed by the Supreme Court.

Judge Cirillo's competitive drive and dynamism were only tempered by his increasing immobility in recent years, which did not respond to available treatment. Two instances which I will carry forever are sharp in my mind. The first was a VIP trip to the North American Aero-Space Defense Command (NORAD) in Cheyenne Mountain at Colorado Springs, Colorado, instituted by our in-house general, Judge John Brosky, in 1989, with the Air Force Reserve and National Guard, to view the inner workings of NORAD. When we were to tour inside Cheyenne Mountain to view the operation of this underground defense establishment, Judge Cirillo could not accompany us because of his ambulatory problems. He also suffered greatly in the bucket seats of the prop driven troop transport plane that carried us from Pittsburgh to Colorado and back. The second was when he and I attended an American Bar Association Seminar in Honolulu, Hawaii, with our wives and he was unable to do the tour of Pearl Harbor and the Arizona Memorial for the same reason. It was like seeing an indestructible giant of the forest, slowly succumbing to forces of nature beyond its control. However, when either of us would sit on a panel in Philadelphia or Pittsburgh, we always made time for lunch and/or dinner in our respective towns. He would take me to Pat's Steak House or Dante and Luigi's at Catherine and Ninth Streets in South Philadelphia, the Overbrook Italian Club or to join Sydney Hoffman, one of our great friends and colleagues, at the Locust Club. In Pittsburgh, he liked to accompany me to the Pittsburgh Strip District, our counterpart to South Philly, for fish sandwiches at Benkovitz, to Primanti's for their world famous sandwich, consisting of French fries, coleslaw, cheese and cappicola, or to Sunseri's for their hot sausage and mushroom sandwiches, Italian style. He also enjoyed cappuccino at La Prima Espresso or a full sit-down meal at Tambellini's. He was never more congenial, stimulating or alive than when dining with friends at a suitable restaurant. I can only imagine what joyful occasions his family holiday and birthday celebrations must have been. He also delighted in making wine, most of which he distributed to his friends. I could never consume the amount he gave me and shared it with my sons and brothers.

His greatest achievement in life, however, is his family, represented here by his wife and our good friend, Bea, his daughter Victoria Cirillo-

Hyland, a medical doctor, and his two sons, Vincent and Gregory, both members of the Bar of Pennsylvania, and their spouses and his grandchildren. When the last word is said in any memorialization of a friend and colleague, the realization that this heritage continues in our families is the greatest solace we and they can have. Judge Cirillo passes into the history of the Superior Court of Pennsylvania as the 14th President Judge of the 17 to have served in that capacity in its 106-year history. Of the 84 members of this Court, three have served as governor, six have gone on to Pennsylvania Supreme Court, several have served in Congress, one was a United States Senator, seven, two of whom were generals and one who sat in Ford's Theater the night Lincoln was assassinated, served in the Civil War. Also, seven of our judges served in World War I, sixteen in World War II, six during the Korean War, and one in Vietnam, with several others serving our country between hostilities. The other accomplishments of the members of this great Court, which are substantial, are chronicled in "Keystone of Justice" as are those of Judge Cirillo. It is my deep regret that he did not live to see the book, which documented his achievements as part of the history of Pennsylvania and the history of Superior Court from its inception to the present.

We have seen several of our colleagues pass away in recent years, and I believe I can speak for the men and women of Superior Court that we mourn the passing of Judge Cirillo in equal measure with those others. He joins a long succession of admirable servants of this Superior Court of Pennsylvania and America—to his family and friends this Court acknowledges we are proud that he was one of us and remains part of us. We thank Bea, Victoria, Vincent and Gregory for sharing him with us.

Finally, I would request that this ceremonial session of Superior Court be adjourned in his memory and that these remarks be entered into the reports of the Superior Court.

JUDGE DEL SOLE: Thank you Judge Tamilya. At this point I would ask members of the Court if they wish to comment or reference to Judge Cirillo, please do so. Judge Hudock.

JUDGE HUDOCK: When I first came on this Court in 1990, Vince Cirillo quickly became my friend. Anything you want. And frankly, anything I wanted I got by way of saying my chambers is open and so forth. I think that part of the affinity we had was due to the fact

that Bea, his beloved wife, came from Royersford, is that right Bea? Which is probably about 15, 20 minutes from where I lived. I then found out that a cousin of Vince's, Adolpho Turner, was a basketball coach—then a basketball coach at St. Vincent's College which is my alma mater. And I think those facts, plus the fact that Vince always thought my wife was Italian, made a certain affinity.

I soon learned that I had arrived when he started calling me "cuz." And I never had the heart to tell him my wife is not Italian. She looks Italian. But you know a lot has been mentioned about foods and restaurants. And when you talk about Vince, you just can't avoid that. That was the delight. I delighted in his company. When I first started coming to Philadelphia, I would get a call from Vince. He knew I was in town. And rather than being anguished at a hotel somewhere, he said let's go out for dinner. And he would take me to these restaurants. And they're not the famous restaurants in Philadelphia, not the high flying restaurants. But wonderful little mom and pop restaurants in and around the area. I couldn't begin to tell you where they are, because I was driven there at night. And I arrived and had a wonderful time.

But the thing that impressed me was the fact that everybody in the restaurant dropped everything when Vince walked in, from the manager on down, and gave us top grade treatment. It's almost like a movie star or a rock star had arrived. I didn't like being with him and taking advantage of that.

I remember one restaurant Vince asked for pasta fagioli and the manager/owner apologized that they were all out of it. He said don't worry, I'll make you some. Vince said, no, no, no. The man insisted. And we waited about an hour. And he made pasta fagioli for Vince. I went home and told my wife and she couldn't believe it. I said they made something special for us.

Another time there's a little restaurant—I have no idea where it was—somewhere out in the suburbs. It's a little Italian restaurant. And we went in the kitchen with the owner and his wife and family and we ate in the kitchen. That was a marvelous evening.

But you know, I think the Bible says by the foods you will know them. And you would know Vince by foods, certainly. But I can't say that. By their friends you will know them. And I quickly learned that the people in these restaurants and other places where I have been with Vince, they all loved him. And he loved them back. And I think this

crowd today is for the testimony of the love of Vince Cirillo and for Vince Cirillo.

JUDGE DEL SOLE: Thank you very much. Ladies and gentlemen, on behalf of the Cirillo family and on behalf of the members of this Court, we thank you for coming today. We are making a permanent record of the proceedings which will be in the Court minutes. And we are making a tape for the Cirillo family so that you may have it.

To Bea, Victoria, Vincent and Gregory, we offer you our deepest sympathy. We thank you for allowing us to conduct this ceremony to honor our friend, our colleague, your father and your husband.

With that, Court is adjourned.

Thank you.

COURT CRIER: And now this special session of the Superior Court of Pennsylvania is now adjourned.

**Pennsylvania Superior Court Judges
Since 1895**

#	Judges	Assumed Office or Installation Date
1.	Charles E. Rice, P.J.E.	Jun. 28, 1895
2.	James A. Beaver	Jun. 28, 1895
3.	George B. Orlady, P.J.E.	Jun. 28, 1895
4.	John J. Wickham	Jun. 28, 1895
5.	Edward N. Willard	Jun. 28, 1895
6.	Howard I. Reeder	Jun. 28, 1895
7.	Henry J. McCarthy	Jun. 28, 1895
8.	Peter P. Smith	1896
9.	William W. Porter	Sep. 14, 1897
10.	William D. Porter, P.J.E.	Jul. 1898
11.	Dimner Beeber	Jan. 2, 1899
12.	John I. Mitchell	1900
13.	Thomas A. Morrison	Dec. 30, 1902
14.	John J. Henderson	Mar. 11, 1903
15.	John B. Head	1906
16.	John W. Kephart	Jan. 1914
17.	Frank M. Trexler, P.J.E.	Feb. 6, 1914
18.	J. Henry Williams	1916
19.	William H. Keller, P.J.E.	1919
20.	William B. Linn	Nov. 5, 1919
21.	Robert S. Gawthrop	Apr. 12, 1922
22.	Jesse E.B. Cunningham	1926
23.	Thomas J. Baldrige, P.J.E.	Jan. 28, 1929
24.	J. Frank Graff	Feb. 18, 1930
25.	John J. Whitmore	Jun. 24, 1930
26.	James B. Drew	1931
27.	Joseph Stadtfeld	Nov. 7, 1931
28.	William M. Parker	Feb. 23, 1932
29.	Arthur H. James	1933
30.	Chester H. Rhodes, P.J.E.	1935
31.	William E. Hirt	Mar. 8, 1939
32.	Charles E. Kenworthy	Apr. 14, 1941
33.	Claude T. Reno	Dec. 15, 1942
34.	F. Clair Ross	Jan. 18, 1945
35.	W. Heber Dithrich	Dec. 29, 1945
36.	John C. Arnold	Apr. 2, 1945
37.	John S. Fine	Jul. 15, 1947
38.	Blair F. Gunther	Apr. 25, 1950
39.	J. Colvin Wright, P.J.E.	Mar. 2, 1953
40.	Robert E. Woodside	Oct. 1, 1953
41.	Harold L. Ervin, P.J.E.	Jan. 4, 1954

42.	Philip O. Carr	Mar. 5, 1956
43.	G. Harold Watkins, P.J.E.	Jan. 7, 1957
44.	Harry M. Montgomery	Jan. 5, 1960
45.	Gerald F. Flood	Jan. 2, 1961
46.	Robert Lee Jacobs, P.J.E.	Jan. 4, 1965
47.	J. Sydney Hoffman	Jan. 4, 1965
48.	Theodore O. Spaulding	Mar. 27, 1966
49.	John B. Hannum	Jan. 6, 1968
50.	William F. Cercone, P.J.E.	Jan. 6, 1969
51.	Israel Packel	Dec. 31, 1971
52.	Edmund B. Spaeth, P.J.E.	Jan. 2, 1973
53.	Gwilym A. Price	Jan. 7, 1974
54.	Robert Van der Voort	Jan. 7, 1974
55.	John P. Hester	Jan. 3, 1978
56.	Donald E. Wieand	Oct. 12, 1978
57.	James R. Cavanaugh	Jul. 31, 1979
58.	Richard Wickersham	Jan. 7, 1980
59.	John G. Brosky	Jan. 7, 1980
60.	Richard DiSalle	Dec. 16, 1980
60.	Justin M. Johnson	Dec. 16, 1980
61.	Frank J. Montemuro	Dec. 16, 1980
63.	Zoran Popovich	Dec. 16, 1980
64.	Perry J. Shertz	Dec. 16, 1980
65.	Stephen J. McEwen, P.J.E.	May 15, 1981
66.	Phyllis W. Beck	Jun. 23, 1981
67.	Vincent A. Cirillo, P.J.E.	Jan. 4, 1982
68.	James E. Rowley, P.J.E.	Jan. 4, 1982
69.	Peter Paul Olszewski	Jan. 2, 1984
70.	Joseph A. Del Sole, P.J.E.	Jan. 2, 1984
71.	Patrick R. Tamilia	Jan. 2, 1984
72.	John T.J. Kelly, Jr.	Jan. 8, 1986
73.	James R. Melinson	Feb. 10, 1988
74.	Kate Ford Elliott, P.J.	Dec. 28, 1988
75.	Joseph A. Hudock	Dec. 29, 1989
76.	Thomas G. Saylor	Jan. 7, 1994
77.	J. Michael Eakin	Dec. 15, 1995
78.	D. Donald Jamieson	1995
79.	Berle M. Schiller	Jun. 7, 1996
80.	Michael T. Joyce	Jan. 5, 1998
81.	Correale F. Stevens	Jan. 5, 1998
82.	John L. Musmanno	Dec. 29, 1997
83.	Joan Orié Melvin	Jan. 5, 1998
84.	Maureen Lally-Green	Jun. 5, 1998
85.	Debra M. Todd	Jan. 3, 2000
86.	Richard B. Klein	Jan. 7, 2002
87.	John T. Bender	Jan. 2, 2002

88.	Mary Jane Bowes	Jan. 3, 2002
89.	Robert A. Graci	Sep. 20, 2002
90.	Susan Peikes Gantman	Jan. 2, 2004
91.	Seamus P. McCaffery	Jan. 2, 2004
92.	Jack A. Panella	Jan. 9, 2004
93.	Robert C. Daniels	Apr. 11, 2007
94.	Christine L. Donohue	Jan. 11, 2008
95.	Jacqueline O. Shogan	Jan. 17, 2008
96.	Cheryl L. Allen	Dec. 28, 2007
97.	Robert A. Freedberg	July 8, 2008
98.	John M. Cleland	July 3, 2008

President Judges of the Pennsylvania Superior Court

CHARLES E. RICE	1895-1915
GEORGE B. ORLADY	1915-1925
WILLIAM D. PORTER	1925-1930
FRANK M. TREXLER	1930-1935
WILLIAM H. KELLER	1935-1945
THOMAS J. BALDRIDGE	1945-1947
CHESTER H. RHODES	1947-1965
HAROLD L. ERVIN	1965-1967
J. COLVIN WRIGHT	1968-1974
G. HAROLD WATKINS	1974-1978
ROBERT LEE JACOBS	1978-1979
WILLIAM F. CERCONI	1979-1983
EDMUND B. SPAETH	1983-1986
VINCENT A. CIRILLO	1986-1991
JAMES E. ROWLEY	1991-1996
STEPHEN J. MCEWEN, JR.	1996-2001
JOSEPH A. DEL SOLE	2001-2006
KATE FORD ELLIOTT	2006-2011

ACKNOWLEDGMENTS

There are a number of persons whose contribution to this project must be acknowledged. As stated in the Foreword, President Judge Emeritus Joseph A. Del Sole (Retired) began this project with his assignment to gather ceremonial sessions. He continued to support the project with both funding and encouragement. Likewise, the continued support of President Judge Kate Ford Elliott must also be acknowledged.

While I have guided this project along, the vast amount of work has been done by Diane M. Cutrara. She gathered ceremonies, organized the material, dealt with the publisher and publisher's staff, entered large amounts of data into the necessary format, coordinated the writing of the biographies, proofread the ceremonies and biographies and generally ran the project. She was assisted in these endeavors by Gail N. Sanger and Mary Pat Shento.

When we had no ceremony or other suitable writing, we looked to Temple University's History Department. Dr. Joseph Foster, Professor of History at Temple University, worked with us and assigned Dianna DiIllio, a graduate history student, to write the biographies. We thank Diane for researching and writing these biographies.

I would also like to acknowledge our Superior Court Legal Systems Employee, Fran Ierardi, in Philadelphia for helping secure digitized photographs of the President Judges.

This project would have been much more difficult, if not impossible without the historical work entitled the *Keystone of Justice*, the Pennsylvania Superior Court, co-authored by Judge Patrick R. Tamilia, the 71st commissioned Judge to serve on the Superior Court.

On behalf of myself, as chairman of the Archives Committee, and my colleagues and their families, I want to thank everyone involved in this project from its inception to its completion. With this book along with volume II, the *Ceremonial Sessions, Biographies and Photographs* of all Superior Court Judges since 1895 will now be preserved for future generations.

The Honorable John T. Bender
87th Commissioned Judge of the
Superior Court of Pennsylvania
June 2008

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