

PROCEEDINGS

AT THE

OPENING OF THE COURT,

UPON THE FIRST MEETING IN THE ROOMS PROVIDED IN THE
NEW CITY HALL FOR PERMANENT OCCUPANCY DURING THE
SESSIONS IN PHILADELPHIA,

ON JANUARY 5, 1891.

PRESENT: PAXSON, C. J., STERRETT, GREEN, CLARK,
WILLIAMS, MCCOLLUM and MITCHELL, JJ.

The Chief Justice and the Associate Justices entered and were announced by the crier, and remained standing in front of their respective seats, the members of the Bar and spectators having risen at the entrance of the Judges. The Right Reverend Ozi William Whitaker, D. D., Protestant Episcopal Bishop of the Diocese of Pennsylvania, occupied a seat upon the bench, to the right of the Judges, and by request of the Chief Justice opened the proceedings with prayer.

PRAYER.

O God, the almighty Ruler of the universe; the Judge of all the earth; by whom sovereigns rule, and judges exercise authority; we adore and magnify thy glorious Name for all the blessings which we enjoy.

We thank thee for civil and religious liberty, and for the manifold manifestations of thy goodness. We thank thee for all the favoring circumstances which surround us, and for the completion of this work which has brought us together this day. We thank thee that thou hast given to this state a judiciary in whose integrity and ability the people may trust. Grant, O Lord, that we may show forth our thankfulness for all thy benefits, by making a right use of them for thy glory, and for the welfare of mankind.

We implore thy blessing upon all in legislative, judicial and executive authority, that they may have grace, wisdom and un-

derstanding so to discharge their duties as most effectually to promote the interests of true religion and virtue, and the peace, good order and welfare of the state and nation. Especially do we commend to thee all these for whose use this temple of justice has been prepared. May thy blessings rest upon thy servants whom thou hast called to preside in this seat of judgment. May they have wisdom for the whole range of duties devolving upon them; to realize the solemn responsibilities with which they are charged; to receive the fullness of truth; to understand their relationship to the state; to fulfil their whole duty toward God and toward men. By their uprightness may they purify and raise the morals of the people, teaching them to love just balances and just weights; to fear God and to keep his commandments. May they not pervert the judgment of the stranger, nor of the fatherless; may they give no unrighteous judgment; may they respect not the person of the poor, nor honor the person of the mighty; but in righteousness may they judge the cause of every man.

We beseech thee, O God, to imprint upon the hearts of all who shall transact business within these walls, and upon the hearts of all this people, a deep and habitual sense of the great truth, that the only security for the continuance of the blessings which we enjoy, consists in our acknowledgment of thy sovereign and gracious Providence, and in humbly following the teachings and example of thy Son, our Lord, in whose words we unite in praying unto thee:

Our Father, who art in heaven, Hallowed be thy Name. Thy kingdom come. Thy will be done on earth, As it is in heaven. Give us this day our daily bread. And forgive us our trespasses, As we forgive those who trespass against us. And lead us not into temptation; But deliver us from evil. For thine is the kingdom, and the power, and the glory, for ever and ever. Amen.

The grace of our Lord Jesus Christ, and the love of God, and the fellowship of the Holy Ghost, be with us all evermore. Amen.

ADDRESS.

The Court was then opened in the usual form by the crier, and all being seated, *Mr. Samuel C. Perkins*, President of the Commissioners, addressed the Court as follows:

May it please the Court: With your permission, I have a

motion to offer, and respectfully ask your indulgence to present the grounds upon which it is rested.

"The Commissioners for the Erection of the Public Buildings" have completed the rooms permanently assigned for the occupation of the Supreme Court of the state, during its sessions in this city; and they have requested that, as the only commissioner who has been continuously in office during the twenty years which have elapsed since the act of assembly creating their body was approved by the Governor, and as its president for the last nineteen of those years, I would on their behalf formally present these rooms now furnished and ready for your use.

The act "constituted" the body as "Commissioners for the Erection of the Public Buildings required to accommodate the courts, and for all municipal purposes, in the City of Philadelphia." It is not without significance that the accommodation of the courts was given the precedence in the duties enjoined upon the commissioners; and the first rooms in this building finished and furnished and actually occupied were those which for the past fourteen years have been used by this Court. Fourteen years ago, the term was opened January 1, 1877, in the rooms upon the second floor immediately below those now presented. From the exigencies of the case, those rooms were fitted up and furnished but temporarily. It is hardly necessary to state the causes which have delayed the provision for your permanent accommodation. Reference, however, may be made to the cases of *Baird v. Rice*, 63 Pa. 489;¹ and *Wheeler v. Rice*, 83 Pa. 232,² as indicating the strong opposition which

¹This case was heard January 4, 5 and 6, 1871, before THOMPSON, C. J., and READ, AGNEW, SHARSWOOD and WILLIAMS, JJ., sitting as assessors, upon a bill and amended bill in equity, filed December 3, 1870, against the Commissioners, and the Mayor, and Presidents of the Select and Common Councils of Philadelphia, to restrain any proceedings under the act of assembly constituting the commission. January 18, 1871, READ, J., delivered the opinion of the Court, dissolving the temporary injunction which had been granted upon filing the bill.

²This was one of the earliest cases argued in January Term, 1877. It originated in a bill in equity filed June 10, 1871, to restrain the commissioners from erecting the buildings, and to have the act under which they were appointed declared unconstitutional and void. The court below, THOMPSON, C. J., sitting at *nisi prius*, had refused an injunction as prayed for, and dismissed the bill upon demurrer filed. The case was heard be-

has been manifested to the whole undertaking from the very outset. But it is a satisfaction to the commissioners that they have been able to provide at least decent and reasonably convenient rooms during so many years past for the highest judicial tribunal of this commonwealth.

Your Honor, the Chief Justice, is the only one now upon the bench who had personal experience of the inconvenient and uncomfortable rooms which had been provided for the Court for several years prior to the removal to this building; rooms which may very mildly be characterized as manifestly unfit for the discharge of your high and important duties, utterly unbecoming the dignity of the Court, and unworthy of this great commercial and manufacturing city, the largest in the state. Had not temporary provision been made as it was, there is reason to believe that this city might never again have had the honor and privilege of the Supreme Court holding its sessions within our limits, where from the time of its establishment by far the larger part of its business had been conducted.

When the occasion of your taking possession of the rooms which you have just vacated was marked by a brief ceremony,¹ the Court was welcomed by an address from that learned and accomplished scholar and lawyer, and brilliant orator, the late Benjamin Harris Brewster.² The address was appropriately responded to by the then Chief Justice, the Honorable Daniel Agnew. Had Mr. Brewster lived, doubtless he would have been selected to address the Court upon the present occasion. He ever took an intelligent and deep interest in the progress of the buildings, delivered the address at the laying of the cornerstone, July 4, 1874, and had earnestly hoped that he might live to see their completion.

Of the seven judges who composed the Supreme Court, and all of whom were present upon the bench January 1, 1877, four have died;³ two have since retired upon the expiration of their respective terms as Chief Justice, but are still living, useful and

fore the court in banc upon an appeal, January 4, 1877, and the appeal dismissed January 15, 1877, a per curiam opinion being delivered by AGNEW, C. J.

¹82 Pa. xv.—xxii.

²Died April 4, 1888, æt. 72. See 45 Leg. Int. 138, 144.

³Chief Justices Sharswood and Mercur, and Justices Henry W. Williams (of Pittsburgh) and Warren J. Woodward.

honored citizens of our great commonwealth. I refer to Hon. Daniel Agnew and Hon. Isaac G. Gordon.

You, Mr. Chief Justice, are the only one of the seven judges whom it was the privilege of the commissioners to welcome to this building fourteen years ago, who is still a member of the Court. On behalf, not only of the commissioners, but of the Bar of this city, I venture to express the hope that you may be spared to fill your present office during the years which remain of your term, and to enjoy the comforts, conveniences and fittingly dignified accommodations which have been provided for the Court.

To my associates upon the public-building commission, as well as to myself, this primary intent of the buildings, the accommodation of the courts, has been a matter of careful thought and earnest study, aided by the skill and taste of the architects, Mr. John McArthur, Jr.¹ (alas! taken from us by death scarce one short year ago), and his successor, Mr. John Ord; and by the thorough personal supervision of Mr. William C. McPherson, with his extensive and varied experience as a practical mechanic and builder for many years, during the last seventeen of which he has been superintendent of the buildings in their construction, furnishing and care. To the members of the Court the commissioners are greatly indebted for the interest expressed and encouragement given in their labors, and for many valuable suggestions.

A brief mention of the prominent features of this department of the buildings may not be inappropriate. The principal entrance to the portion of the structure devoted to the administration of justice is in the centre of the southern front. The key block of the lofty archway of approach presents, both upon its outer and inner faces, the head of Moses, at once lawgiver and judge, whose inspired words, "Ye shall do no unrighteousness in judgment; thou shalt not respect the person of the poor, nor honor the person of the mighty; but in righteousness shalt thou judge thy neighbor,"² your Honor, the Chief Justice, so appropriately said, "might well be written in letters of gold and hung over every judgment-seat in the land;" and the study of whose "system of law formulated with Divine aid," you so justly and

¹ Elected architect by the commissioners September 15, 1870; died January 8, 1890.

² Lev. xix.: 15.

forcibly commended to "the younger men of our profession" in your recent most instructive address before the Law School of the University.

Without taking time to do more than mention the ample and convenient accommodations for all the courts of this county, as well as for the administration of justice in its strictly municipal aspect under the organization for police purposes, your attention is respectfully directed to the rooms now permanently to be occupied by the Supreme Court and its officers. Certain matters are of primary importance. The entire building is absolutely fire-proof, and of its firmness, stability and security you may rest perfectly assured, without fear of the peril which has been developed in several large buildings, both in this country and abroad, designed to accommodate courts of justice. Heating and ventilation have received the most thoughtful and earnest consideration, and the results, if the means provided are properly taken advantage of, will, it is believed, bear witness to the success of the methods adopted. As to the court-room itself: the court is for the "hearing of causes" before deciding them, and the acoustic properties of this room are best commended by the satisfactory experiences of the present hour.

The decoration of the court-room has been designed with a regard to the dignity of the purposes for which it is intended. The front of the bench occupied by the Judges is enriched by seven panels of onyx, divided by twenty caryatic figures of bronze, arranged in groups and representing females bearing various emblems of justice, but not as was the figure of Justice in ancient mythology, blindfolded. Upon the panel of the wall to the left, in rear of the bench, is a tablet with a niche holding a portrait bust in marble of John Bannister Gibson, Chief Justice of this Court from May 18, 1827, till December 1, 1851.¹ This bust was kindly placed in the possession of the commissioners by the Law Association of Philadelphia, by whom it is owned.

¹ See proceedings of the Supreme Court, May 9, 1853, in reference to the death of GIBSON, J., who died April 3, 1853: 19 Pa. 9. Judge Gibson's term as Chief Justice expired December 1, 1851. He was re-elected to the Supreme Bench, October 15, 1851, under the amendment to the constitution adopted in 1850, and drew the term of nine years from the

The tablet bears the inscription, "*Splendida fecit arbitria et majestatis plena*," in the selection of which the commissioners were guided by the advice of one well fitted to appreciate the qualities of the eminent judge above whose likeness it is placed. To mention George W. Biddle, Esq., so well known to this Court, to the Bar and the community as an able lawyer and an accurate scholar, is a sufficient guaranty of the appropriateness of the inscription. The commissioners desire to add, in this connection, their grateful recollection and appreciation of the professional services rendered by this gentleman and his lamented son George,¹ in the advocacy of their rights and powers in a contention which came before this tribunal in 1878.²

Upon the corresponding panel of the wall to the right is a three quarter portrait medallion in bronze of the late Chief Justice, George Sharswood. Your Honors all knew him; the majority of your number have been associated with him upon the bench; and he was known and loved and respected by the Bar, not only of this city, but throughout the commonwealth.³

The memories of both these distinguished jurists, one of whom came from the interior of the state and the other from this city, were deemed worthy of these tributes in this room.

In the panels upon the west end of the room, facing the bench, there have been placed excellent portraits in oil of Edward Shippen, Chief Justice from December 18, 1799, to

first Monday of December, 1851, and took his seat as an associate justice, which office he held at his death.

¹ Died April 9, 1886, æt. 43. See 43 Leg. Int. 174.

² Perkins v. Slack, 86 Pa. 270.

³ Chief Justice Sharswood's term expired December 31, 1882, and he died May 28, 1883. See sketch of his professional and judicial character: "An Address delivered November 20, 1883, before the Law Association of Philadelphia, by George W. Biddle, Esq., Chancellor of the Association:" 102 Pa. 601. See, also, Address from the Bar of Allegheny county, October 16, 1882, tendering him a banquet, and Judge Sharswood's reply: 40 Leg. Int. 26; Proceedings at the Dinner given by the Bar of Philadelphia, December 20, 1882, at which Hon. E. M. Paxson, then an Associate Justice, and now the Chief Justice, responded to the toast "The Supreme Court of Pennsylvania:" 40 Leg. Int. 34; notice of Judge Sharswood's death: Id. 220; and Proceedings of a Meeting of the Bar of Philadelphia, May 31, 1883, presided over by Chief Justice Ulysses Mercur, Id. 230, and particularly the remarks of Judge Paxson, p. 231.

February 26, 1806,¹ and of William Tilghman, who immediately succeeded him and continued in office until his death, April 30, 1827.² These portraits have been loaned to the commissioners by the Law Association of Philadelphia. They are fitting complements to the tablets at the east end.

It is with special pleasure that reference is made to the large and commodious consultation and library room. No efforts have been spared to make this, with the connecting toilet and robing rooms immediately in the rear of the bench, complete in every respect for the comfort and convenience of the Judges, and elegant and appropriate in their furnishing and adornment. Probably the most arduous part of the labors of the Judges, though hidden from public view and but little appreciated, consists in the study of cases and consultation upon their disposition. The people hardly think of it; the Bar themselves do not realize the responsibility which rests upon the Judges in consultation. The advocate is apt to be so wrapped up in the personality of his case, that he fails to give proper credit for the study required and bestowed by the Judges, or to realize the exhausting demands of the necessary conferences. It is only right that the rooms provided for these purposes should be such, in all respects, as that the surroundings shall conduce to the most favorable application of the mind to its work. When the state, as it is hoped it will, shall provide the means for a suitable library, these apartments will, it is believed, be all that can be desired. Over the doorway leading from the consultation-room into the corridor, is the coat of arms of the commonwealth, designed as complete and accurate in its modeling and in the emblazonment and coloring of the heraldic devices and supporters. Upon the deep frieze on each side of the room are depicted scenes from classic art.³ There may be

¹Chief Justice Shippen died April 16, 1806. See Appleton's Encyc. Am. Biog., vol. 5, p. 512; and Memoir by Lawrence Lewis, Jr., Penna. Mag. of Hist. and Biog., vol. 7, p. 11.

²See Eulogium delivered October 13, 1827, by Horace Binney, before the Bar of Philadelphia, 16 S. & R. 437.

³DESCRIPTION OF FRIEZE, CONSULTATION-ROOM.

South Wall: Spandrels of arch over window represent deputies to the Amphictyonic Council from Athens, Thebes and Delphos. To the left of arch, Truth, Harmony and Reason. To the right of arch, Strength and Peace seeking inspiration from Wisdom.

seen noted figures representing Truth, Harmony and Reason, Wisdom and Science, Law and Philosophy, Solon, Brutus and Plato. To the question, how long he intended to be a scholar, Plato nobly replied, "As long as I am not ashamed to grow wiser and better;" and his idea of justice has well been characterized as that so magnificently described by Hooker, "That law whose seat is the bosom of God, and whose voice the harmony of the world." Upon the panels below the frieze and above the book-cases which line the walls have been hung the portraits of several of the Chief Justices and Associate Justices of this Court, who are deceased or retired from office. There are also portraits of the elder William Rawle¹ and Horace Binney,² both eminent and distinguished members of the Philadelphia Bar. These two portraits, with several of those of the Judges, have been loaned by the Law Association, of which they had been chancellors; the others are the property of the court.

Nearly twenty years ago, the late Mr. Justice John M. Read, afterwards Chief Justice, toward the close of the opinion of this Court which he delivered in the case of *Baird v. Rice* above cited, uttered these words: "The city of Philadelphia has entirely neglected the comfort and convenience of the inhabitants in the daily transaction of judicial and municipal business. Our courts are not adequately provided with proper court-rooms, consultation and retiring rooms, or rooms for jurors and for witnesses, and have no fire-proof offices for the preservation of valuable records." This merited re-

East Wall: Middle panel, Abundance; to the right of panel, the Fine Arts; to the left, Science.

North Wall: Mars and Minerva heading tribute-bearers to Pericles as restorer of order to Greece; the Genius of Mischief endeavors to prevent Sparta joining the other states.

West Wall: Law and Philosophy. Middle panel, Solon administering the oath to the representatives of the twelve cities of Greece; to the right, Brutus, as an impartial administrator of justice; to the left, Plato expounding his doctrines of logic.

¹ Mr. Rawle died April 12, 1836. See Appleton's *Encyc. Am. Biog.*, vol. 5, p. 189; and *Memoir by Thomas I. Wharton, Memoirs of Penna. Hist. Soc.*, vol. 4, p. 33.

² Mr. Binney died August 12, 1875. See proceedings of a meeting of the Bar of Philadelphia, August 14, 1875, at which Hon. William Strong, Associate Justice of the Supreme Court of the United States, and previously an Associate Justice of this Court, presided: 32 *Leg. Int.* 304, 354.

proach has been only partially removed; but it is a matter of congratulation that so much has been accomplished, and notably that this tribunal is now “adequately provided” with accommodations for all its requirements, including the offices of the prothonotary, and for “the comfort and convenience” of suitors and members of the Bar. The closing words of the opinion are still, however, fitly applicable: “The site has been selected by the public voice, and it should now be the business of every fair-minded citizen to see the building pushed to a speedy completion.”

There remain but few words to be said in closing these remarks, to which the Court have listened with such grateful and courteous attention.

It was a becoming recognition of the need of Divine aid in all human affairs, that the blessing and guidance of heaven should be invoked by the eminent minister of God who opened these proceedings with prayer to the Almighty, the Sovereign Arbiter of Justice. “Justice and judgment are the habitation of his throne;”¹ but we may “hope in the Lord, for with the Lord there is mercy.”²

“The cloud-capp'd tower, these gorgeous halls,
These stately courts, the great globe itself,
Yea, all which it inherit, shall dissolve;
And leave not a rack behind.”

But justice, eternal justice, “whose seat is the bosom of God,” shall remain through never-ending ages, after time shall be no more.

I respectfully offer the following motion: That the Court direct a suitable minute to be entered upon its records of the proceedings had this day, on the occasion of taking possession of the rooms provided for permanent occupancy of the Court during its sessions in Philadelphia, by the city, through “The Commissioners for the Erection of the Public Buildings” constituted by the act of the general assembly of the commonwealth, approved by the Governor, August 5, 1870, P. L. (1871) 1548.

RESPONSE.

MR. CHIEF JUSTICE PAXSON responded as follows:

Mr. Perkins: I desire, as the organ of the Court, to thank

¹ Ps. lxxxix. : 14.

² Ps. cxxx. : 7.

you for your appropriate and well-considered remarks upon the occasion of our taking possession of the rooms, which have been provided for our occupancy whilst in session in the Eastern District. And especially do we desire to thank you, the members of the building commission, and the people of the city of Philadelphia, whom you represent, for the liberal manner in which the rooms have been fitted up and prepared for our use. Not only has everything been done with the most refined taste to gratify the eye, but the more substantial and solid requirements have not been neglected. We have now, not only a spacious court-room, with every convenience for ourselves, the Bar and the public, but also large and convenient consultation and retiring rooms, admirably adapted to our needs, and furnished with a liberality befitting a great city like Philadelphia, and a consideration for our comfort for which we are sincerely grateful.

Our surroundings in these respects are in sharp contrast with what they were when I entered the Court sixteen years ago. Then they were not even respectable. Our court-room, in this city, was small and wholly without ventilation, while we had neither consultation nor retiring rooms. In the Middle District it was even worse. We had there only a committee-room, small and uncomfortable, in the second story of the Capitol, the access to which was by a long, winding stairway. In the Western District it was better, though far from satisfactory. The destruction of the old court-house in Pittsburgh, by fire, several years ago, led to the erection of a new and elegant building, in which, I am glad to say, we are provided with fitting accommodations. In the Middle District new rooms were furnished several years ago, in which we are entirely comfortable. Here we have now new quarters, specially fitted up, which are not excelled by any court-rooms of which I have knowledge.

Our removal to this building fourteen years ago, to which you have referred, was a great gain, for which the Court then were, and have continued to be, profoundly grateful. Our present quarters, however, are far in advance of those we have just vacated. I speak not so much of ornamentation, exquisite as it is, as of the more solid matters of space and proper ventilation, especially in our consultation and retiring rooms. The

public does not, cannot know, how essential these matters are to us, engaged as we are in a continuous session of many months. They see only the business of the Court that is transacted before them. Of the labors of the consultation-room no one can judge who has not participated in them. There, the arguments of counsel are considered, the points discussed, and the cases decided. It often happens that this consumes more time than the argument at Bar. And all this is preceded by a careful examination of each case, and of the authorities cited, by the Justices respectively at chambers. When it is considered that we now hear and decide about nine hundred cases per year, against perhaps two hundred or three hundred, in the earlier days of the Court, it will readily be seen that we need all the facilities which can aid us in the performance of our duties.

At present our most pressing need is a suitable library. This you were kind enough to allude to in your remarks. The city has, with great liberality, furnished our consultation-room with sufficient book-cases; it is to be hoped that the legislature, with equal liberality, will this winter supply the means to place the needed books upon the shelves. In the earlier days of the Court this was not so essential. With a far less volume of business, the Judges had more leisure, and could better resort to public and private libraries. With us, every moment of our time is occupied, and we need the books at hand, in our own room and under our control. They are our tools in trade, and it is impossible to do good and rapid work without them.

Your allusion to the fact, that of the seven Judges who occupied seats on this bench fourteen years ago, I am the only one left in commission, has touched me deeply and left its impress of sadness upon my mind. I refer not to those whose commissions have expired, but to the graves which have opened. Four of my colleagues have died in commission. First, Justice Williams, of Pittsburgh; then Justice Woodward, and afterward Chief Justice Mercur; and later Justice Trunkey. Chief Justice Sharswood's life practically expired with his commission. How much their lives were shortened by confinement in badly ventilated court-rooms can never be known. I loved them all for their eminent legal abilities and fine social qualities. This leaves the Hon. Daniel Agnew and Hon. Isaac G. Gordon as the only two Justices left of all those who so cordially greeted

me upon my entrance into the Court sixteen years ago.¹ They are now enjoying the repose to which they are so justly entitled after their arduous and valuable services.

We are gratified that the marble bust of Chief Justice Gibson, the bronze medallion portrait of Chief Justice Sharswood, and the portraits in oil of Chief Justice Shippen and Chief Justice Tilghman have been placed upon the walls of the court-room. They were great and illustrious men, whose memories we all delight to honor, and whose words of wisdom have come down to us as lamps to our feet. The presence of their faces on the walls, as they look down upon us from the cold stone, the bronze and the canvas, fittingly remind us of the important duties we are called upon to perform. And while we cannot hope to equal them in ability and wisdom, we can at least highly resolve that they shall not excel us in integrity of purpose and earnest devotion to the best interests of the people, and that the ermine which has descended to us from a long line of able and upright judges, without spot or blemish, shall go down to those who may succeed us, as pure as when it came into our hands.

It remains but to order, that the prothonotary of this Court shall make a suitable minute, to be entered upon its records, of the proceedings had this day, on the occasion of taking possession of the rooms provided for permanent occupation of the Court during its sessions in the city of Philadelphia, through "The Commissioners for the Erection of the Public Buildings," constituted by the act of the general assembly of the commonwealth, approved by the Governor, August 5, 1870.

The prothonotary will make the required minute, and place upon the record the remarks of Mr. Perkins and also the response.

¹ At the argument of *Commonwealth v. Orr*, 138 Pa. , on October 28, 1890, at Pittsburgh, the Chief Justice was overheard to remark to one of the associates, "With this case, as a judge of this Court I have heard ten thousand cases argued."