

PRESENTATION OF PORTRAITS OF EX-CHIEF
JUSTICE BROWN AND THE LATE MR.
JUSTICE STEWART.

At the meeting of the Supreme Court at Philadelphia on January 3, 1922, a portrait of ex-Chief Justice BROWN was presented on behalf of the Bar by Hon. Theodore F. Jenkins, Chancellor of the Law Association of Philadelphia; and a portrait of the late Mr. Justice STEWART was presented on behalf of his daughter, Miss Janet Holmes Stewart, by Walter K. Sharpe, Esq., of the Franklin County Bar.

CHIEF JUSTICE BROWN'S PORTRAIT.

Hon. Theodore F. Jenkins, in presenting the portrait of Chief Justice BROWN, said:

With submission to your Honors: The honor has been conferred upon me by my fellow-members of the Bar to present to this court the portrait of former Chief Justice J. HAY BROWN. The artist is Mr. Leopold Seyffert.

The esteem which the Bar of Philadelphia and the Bench hold for Chief Justice BROWN was well exemplified just one year ago. The finest gathering of the Bar I have ever seen—and I have seen many of them—met to do him honor upon his retirement from the Bench. He had been here a little over twenty-one years. He was appointed in September, 1899, and was elected in the November election of that year, at the same time as the late Justice S. LESLIE MESTREZAT.

J. HAY BROWN had been a very active practitioner. He was the acknowledged leader of the Bars of Lancaster and the adjoining counties; a man learned in his profession, and, as a practitioner, courageous, intrepid, resourceful, and he was deservedly eminently successful. On coming to this Bench, there was much expected of him, and he realized all expectations. He was essen-

tially a lawyer, he was essentially a judge. While upon the Bench, I think it was the unanimous opinion of the Bar that, so far as decorum was concerned, so far as learning and all that is necessary to make a judge, he certainly was that to the fullest extent.

The work of the man at the bar is transitory—his greatest achievements are for the day. They, with his fame, pass away; pass away with his passing; but with a judge it is different. His fame is enduring. His opinions become the landmarks of the law, and he does that which he unconsciously does,—he writes his autobiography. For, in the opinions of every judge, he tells to his contemporaries, and to posterity, what manner of man he is, mentally and morally. No greater, no more perfect biography can be obtained as to the man's real character, as to his mental makeup, as to his spiritual makeup.

From the 194th volume of our Reports down to the 269th, Chief Justice BROWN has written the man that he is. And by those decisions, I think confidently I express the opinion of the Bar in saying, he showed himself to be a man, to be a good man, a learned man, a courageous man, and well may he rest, well may his fame rest upon them.

Happily he is living to-day, and may he long live to enjoy the esteem and affection of the Bar. But we all will pass away; and when he does, he still will live. Live in his work. Live as MANSFIELD lives, and THURLOW and ELDON; live as TILGHMAN lives, and GIBSON and SHARSWOOD and MITCHELL; and, to go to the lower courts, for there were men there, who, though dead, are living, and will live, KING and ALLISON and HARE and THAYER and ASHMAN and PENROSE. Such men will always live so long as there are courts of justice.

And now it remains to me only to put that portrait in the keeping of this court, and I hand it to you with the loving thoughts and wishes of the Bar, for, as I have said before, there is no question but that there is something

beyond admiration for the judge. There was very much of affection for the man while he was a judge, and that affection continues, and may it long continue.

Mr. Chief Justice VON MOSCHZISKER replied:

In May next this court, as a regularly organized and continuously functioning tribunal, will be two hundred years old. We take the date from the Colonial Act of May 22, 1722, which appears in 1st Smith's Laws, at page 131. The eleventh paragraph of this act provides that there shall be "holden" at Philadelphia a court of record twice every year, "styled the Supreme Court of Pennsylvania," to consist of three persons of "known integrity and ability," "one of whom shall be distinguished in his commission by the name of Chief Justice." J. HAY BROWN, whose portrait the Bar of Philadelphia has just presented to us, was the twenty-seventh head of the court as thus organized, two of those named having declined, but he was the thirty-sixth active Chief Justice of Pennsylvania, counting from the beginning of Colonial days.

It was my privilege to serve five years under Chief Justice FELL, and six with Chief Justice BROWN, two men essentially different in their characteristics. The former, who had enjoyed a large office practice while at the bar, served for some time as a common pleas judge and gave twenty-one years to the Supreme Bench. His life in the law was a quiet one, suited to his lovable and deep, though unemotional, nature. On the other hand, his successor had been most active in public life and at the bar; he stepped from these activities directly to the bench of the Supreme Court, where he had to satisfy his energetic disposition and emotional temperament by the systematic life of a semi-recluse, for such, necessarily, is the lot of him who accepts in a whole-souled way the position of a judge, and Chief Justice BROWN always closely adhered to the traditional lines of conduct pre-ordained for one who permits himself to be

garbed in the robes of judicial office. Learned in every department of the law, and possessing a large fund of information, gathered from years of experience, he was an expert on all questions of practice, which enabled him to develop the administrative side of the law and systematize the work of this court to a marked degree during his term as Chief Justice. The almost phenomenal energy of the man as the head of the court was always an inspiration to his colleagues and had much to do with bringing the work of this tribunal to its present satisfactory stage; for to-day, with the exception of two cases in which rearguments have been ordered, we finally dispose of every matter heretofore presented to us.

Chief Justice BROWN is still with us, full of health and vigor. He is a modest man, who would not thank me for singing the praises which naturally suggest themselves, only to be restrained by the thought of his sure protest. We are fortunate in having his portrait painted by Mr. Seyffert, whom we all know as a master in this field of art, and we are twice fortunate in that the work was executed from life. The portrait, which I gratefully accept for the court, shall occupy a place of honor upon our walls and will always be a reminder of a most distinguished and valued Chief Justice.

JUSTICE STEWART'S PORTRAIT.

Walter K. Sharpe, Esq., in presenting the portrait of Mr. Justice STEWART, said:

Mr. Chief Justice VON MOSCHIZSKER and your Honors: It is a distinction to have been selected to address the court on this occasion. The name of Mr. Justice STEWART is one upon which the Franklin County Bar loves to dwell, and it is a pleasant duty for me here to-day to mention a few things with reference to Judge STEWART'S early life. I shall not attempt to refer to his career upon this Bench. That has been done concisely and most beautifully in the memorial presented to this court on December 31, 1920, by Chief Justice BROWN [267 Pa. xxv], that

being his last official act before leaving this Bench. It is rather of STEWART the lawyer and the common pleas judge of whom I speak here to-day. After being graduated from Princeton College with his class of 1857, he read law with Judge FREDERICK WATTS, of Carlisle, and was admitted to the Bar of Cumberland County. Immediately thereafter, or within a few months, he removed to Franklin County and was admitted to the Franklin County Bar on the 6th of January, 1861. Those were stirring times—the outbreak of the Civil War—and Mr. STEWART entered the service shortly after admission to the Bar as first lieutenant in the 126th Regiment of Pennsylvania Volunteers. The regiment received its baptism of fire and blood at the Battle of Fredericksburg. Shortly after that Judge STEWART was mustered out of service and resumed the practice of law. He immediately manifested very extraordinary ability, and became a member of the leading law firm at that time in Franklin County, the firm of Kennedy & Stewart. That firm acquired a large practice at a very early date, and Judge STEWART was elected, when only thirty-three years of age, as a delegate for his senatorial district to the Constitutional Convention. There he demonstrated his ability as a lawyer and as a man of affairs in an assembly composed of such men as WILLIAM M. MEREDITH, Judge BLACK, WAYNE MACVEIGH, and a host of others whose names are now but memories. He played a conspicuous part in that assembly, as is shown by the debates of the Constitutional Convention. As a common pleas judge, Judge STEWART soon achieved prominence, and his ability was recognized almost immediately by this court. He built up the Bar of Franklin County,—because there is no question but that a Bar is influenced largely by the man who sits upon the Bench. His decisions were always fair, well considered and seldom reversed by this court. It is very fitting, it seems to me, your Honors, that here to-day there should be presented to this court a portrait of Judge STEWART at the same time as that of

Chief Justice BROWN. These two men, warm friends, were affiliated on this Bench for sixteen years, and it is certainly appropriate that their portraits should stand here together in this court room to-day. I, therefore, present to this court the portrait of Mr. Justice STEWART, painted by the artist, Mr. Seyffert, the same artist by whom the portrait of Chief Justice BROWN was painted, and I present this portrait to the court on behalf of his daughter, Miss Janet Holmes Stewart.

Mr. Chief Justice VON MOSCHZISKER replied:

During five years, while junior member of this court, I immediately preceded Mr. Justice STEWART at consultations; for, on such occasions, each judge, beginning with the last commissioned, speaks according to turn. As you know, Justice STEWART was a master of English, a keen and experienced craftsman in the law, a student and philosopher in that field of learning; his tendency was to elaborate the various steps by which he reached conclusions, while my own style inclines to terseness. We more often agreed than otherwise, however, and I grew rather to depend upon him to supplement my brief utterances; for it was a rare treat to sit by and hear the cameo-like manner in which he would mentally carve out thought after thought, placing them one upon the other, as he built the intellectual structure which each of us knew would be capped finally by an apex of pure reason.

Mr. Justice STEWART was "to the manner born," showing it in many ways. He was a thorough believer in democracy, yet, in appearance, demeanor and thought, a good deal of a patrician, with a proper sense of family pride and due appreciation of the position he occupied among his fellowmen; but that about him which impressed one most was his distinct and striking individuality. Though a master of the art of conversation, he never monopolized the talk; on the contrary, this most charming of companions, by his own quick-witted and brilliant contributions, always stimulated others to ready

discourse. He was well-read in English literature, had met most of the notable people of his day, figured in many events of importance, and indulged in a wide range of thought; moreover, he had the capacity of getting something from every one and everything with which he came in touch. Added to all this, he had a trained memory that enabled him to store away material for future use, upon which he seemed able to draw at will. I shall not attempt to elaborate JOHN STEWART'S long and always high public service; it is part of the written history of the Commonwealth, and needs no reciting by me. He lived a useful and died a noted Pennsylvanian. "The end crowns all," and the crowning service of JOHN STEWART'S life was rendered as a member of this court. It was my privilege to be associated with him during the last ten years of his public career, that ended all too soon; for our beloved brother, to use another favorite quotation of his, was relieved of "the burden of the mystery of all this unintelligible world," suddenly and without warning.* The portrait which his talented daughter, Janet Holmes Stewart, presents to us to-day, painted by Leopold Seyffert, although done after Judge STEWART had left us, is strikingly life-like, and will be a constant reminder of his attractive personality.

On behalf of the court, I accept the portrait, and direct that our expression of appreciation be inscribed upon the minutes.

*NOTE: Mr. Justice STEWART was struck and instantly killed November 25, 1920, by a trolley car, as he was crossing the street to enter his home in Chambersburg, Pa. He was engaged during the last days of his life in writing his official opinions, one of which was adopted after his death and filed as the opinion of the Supreme Court, January 3, 1921. See 269 Pa. 127, 130. Mr. Justice STEWART was born November 4, 1839, and was accordingly in his eighty-second year. If he had lived until January 3, 1921, he would have succeeded to the office of Chief Justice of the Supreme Court of Pennsylvania.