

PROCEEDINGS ON THE OCCASION OF
THE INDUCTION OF
HON. GEORGE W. MAXEY AS CHIEF JUSTICE,
AND
HON. ALLEN M. STEARNE
AS JUSTICE, OF THE SUPREME COURT
OF PENNSYLVANIA

The proceedings on the opening of the Supreme Court on Monday, January 4, 1943, when HON. GEORGE W. MAXEY was inducted as Chief Justice, and the HON. ALLEN M. STEARNE was inducted as Justice, were as follows:

Mr. Justice DREW directed the Prothonotary, Charles A. Waters, Esq., to read the commission of HON. GEORGE W. MAXEY as Chief Justice of the Supreme Court of Pennsylvania. This was done. Mr. Justice DREW then administered the constitutional oath of office to Mr. Justice MAXEY, who then assumed his seat as Chief Justice. The other justices then assumed their respective new places on the bench.

Mr. Chief Justice MAXEY directed the Prothonotary to read the commission of HON. ALLEN M. STEARNE as Justice of the Supreme Court of Pennsylvania. After the commission was read, the Chief Justice administered the constitutional oath of office to Justice STEARNE, who then ascended the bench and was greeted by the Chief Justice and Justices.

Chief Justice MAXEY then directed the Prothonotary to note on the records of the Court the presence of the following distinguished guests: United States Senator James J. Davis; President Judge William H. Keller, Judge Joseph Stadtfeld, Judge Chester H. Rhodes, of the Superior Court; Mayor Bernard Samuel, Philadelphia; Mayor Howard Snowdon, Scranton; The Rt. Rev. J. Carroll McCormick, Chancellor of the Roman Catholic Diocese of Philadelphia, representing his Eminence, D. Cardinal Dougherty; The Most Rev. Bishop

Jan Misiaszek, Co-adjutor Bishop of the Polish National Church of Scranton, representing Prime Bishop Francis Hodur of the Polish National Churches of America; Federal Judge John C. Knox of New York; former Chief Justices John W. Kephart and William I. Schaffer; former President Judge of the Superior Court, Frank M. Trexler of Allentown, Pa.; Hon. John C. Bell, Jr., Lieutenant Governor-Elect; former United States Senator George Wharton Pepper; former Supreme Court Prothonotary of the Eastern District, Thomas Robins of Philadelphia; Supreme Court Prothonotary of the Western District, Pier Dannels of Pittsburgh; President Judge Thomas D. Finletter, Philadelphia, Pa.; President Judge Edward P. Little, Montrose, Pa.; Judge John J. Aponick, Wilkes-Barre, Pa.; President Judge Andrew Hourigan, Orphans' Court, Wilkes-Barre, Pa.; President Judge Samuel E. Shull, Stroudsburg, Pa.; President Judge Edward B. Farr, Tunkhannock, Pa.; President Judge Don M. Larrabee, Williamsport, Pa.; President Judge Howard W. Hughes, Washington, Pa., and the following judges of the Orphans' Court of Philadelphia County: President Judge Lewis H. Van Dusen, Judges Charles Sinkler, Charles Klein, Robert V. Bolger and Grover C. Ladner; President Judge Charles L. Brown, Municipal Court, Philadelphia; David W. Harris, Receiver of Taxes of Philadelphia; Hon. Fred B. Gerner, former President of the Pennsylvania Bar Association and former Congressman; Chairman of State Liquor Control Board, Hon. Fred T. Gelder of Forest City, Pa.; former State Senator Frank J. Harris of Pittsburgh, Pa.; Burgess John Zaller of Forest City, Pa.

JOHN C. ARNOLD, ESQ., of Clearfield, Pennsylvania, President of the Pennsylvania Bar Association, being recognized by the Chief Justice, addressed the court as follows:

MR. CHIEF JUSTICE AND JUSTICES:

For me, there could be no more congenial privilege, than to convey, on behalf of the members of the Bar of

this Court, their respects and their greetings to Mr. Chief Justice MAXEY and to Mr. Associate Justice ALLEN M. STEARNE, on this notable occasion.

Mr. Chief Justice, to me practicing law far away from Lackawanna County, George W. Maxey was first merely a name of a young man of force and ability who was elected District Attorney of Lackawanna County in 1913, and reëlected to a second term in 1917, his second term being contemporaneous with my first term as District Attorney of my county. During my term of office, you, sir, presented to the Superior Court of Pennsylvania the brief for the Commonwealth in the case of Commonwealth v. Rogo,¹ involving the law of evidence, and we, having a similar question, procured the paper books from your office. We said then, and repeat now, that the District Attorney's brief in that case was the best presentation of an evidential question which we have ever seen. It seemed to me that that District Attorney was giving clear proof of his distinction. Therefore we followed the subsequent years. In the middle of your second term, you were elected Judge of the Court of Common Pleas of Lackawanna County, and in 1929 both political parties of your County gave you their nomination for reëlection. In 1930, your name was presented as a candidate for judge of the Supreme Court of Pennsylvania. In the ensuing primary you carried every county in this state, save one. At the general election your majority was over 850,000. I have mentioned the figures because they demonstrate the increasing public favor of each candidacy of yours.

In your first year on this Bench, you filed a notable document: Your dissenting opinion in the so-called "Yellow-dog contract case" of Kraemer Hosiery Company v. American Federation of Full Fashioned Hosiery Workers.² It seemed to us to be unanswerable, and to reflect your views not only as a sound lawyer but as

¹ 71 Pa. Superior Ct. 109 (1918).

² 305 Pa. 206 (1931).

one who understood the problems of the present, and the difficulties of those less able to protect themselves. You are the sole remaining member of this Court who participated in that decision. The views of that dissent were forcibly and clearly expressed, and by statute, State and Federal, are now the law of the land.

As foreshadowed by your brief in *Commonwealth v. Rogo*, you wrote the opinion for this Court in the case of *Watkins v. Prudential Insurance Company*,³ clarifying and restating the law concerning presumptions of fact. This valuable monograph on evidence received much just recognition from judges, from lawyers and from leading law schools.

We have made mention of only two of more than five hundred opinions which you have written for this Court because they illustrate the kind of man and judge who wrote them.

The Bar also recognizes the contributions which you have made other than your work on this Court. You were selected by the Philadelphia Bar to deliver the commemoration address on the 150th anniversary of the adoption by the Constitutional Convention, of the Constitution of the United States. Under the title "The Problem of 1787 and How It Was Met", it was widely published and widely acclaimed. We think your most notable address, and the one most commended, was delivered at the Union League in Chicago in 1938: "The Descent to a Dictatorship", in which you summed up four basic principles upon which the Federal Constitution rested: "(1) The federal government shall keep to its sphere and the states to their proper spheres of government. (2) No official shall be entrusted with autocratic power. (3) Unrestrained power shall never be lodged anywhere, not in the President, not in the Congress, not even in a majority of the American people. (4) There shall be maintained an absolutely independent judiciary". You declared: "As long as these basic

³ 315 Pa. 497 (1934).

principles of the Constitution are unviolated, there can be no dictatorship. A certain sign of a dictator-complex in any public official is his scorn of these principles."

The Bar recognizes that your qualities and accomplishments inevitably led to repeated suggestions that you be a candidate for certain high offices in other branches of the Government, with offers of powerful support. The Bar was gratified by your expressed preference to continue in your judicial work, which began exactly twenty-three years ago this morning.

Your elevation to this Court met the full approbation of the Bar. It is a great thing, Mr. Chief Justice, to merit the approbation of one's fellows, and I suppose no more critical body exists than the Bar. It is a great thing to live and to act so that your approving friends need only say, "He has done as I expected". It is a great thing, sir, to discharge large responsibilities with credit to yourself, to your Court and to the public. These things have you done, and these things were not always easily done. On one occasion, the great Teacher said: "Unto whomsoever much is given, of him shall much be required". In the positions of trust and confidence which you have held, much *has been* required,—and the requisition has always been fulfilled. The lawyers have noted your insistence on fair play, your strong sense of justice, your consideration of others, and your courtesy to the Bar.

You are commissioned this morning for a nine-year term as Chief Justice of the Supreme Court of Pennsylvania, nearly as long as that of the great Chief Justice JOHN BANNISTER GIBSON who ended his career on this Bench in the early 1850's. But his term as Chief Justice was not made remarkable alone because of its length in years. It is the character of service which, with him as with you, secures worthy remembrance.

I feel quite inadequate to convey to you and to this Court the sentiments of a strong Bar, which, as this Court best knows, possesses large talents and true fidelity. Only permit me to say 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.

How excellent it is when the Bar knows, as we in Pennsylvania know, that this Bench possesses not merely great power, but great integrity. It is the character of the Justices that procures the respect of the Bar and not the position which the incumbents have. We lawyers in Pennsylvania honor this Court because this Court has honor.

With a sense of happiness, the Bar of Pennsylvania welcomes you, Mr. Justice ALLEN M. STEARNE, to membership in this tribunal. You, Justice STEARNE, bring to this Court a wide experience of twenty-two years of active practice in the Bar followed by fifteen years of judicial service in the Orphans' Court of Philadelphia. You are, of course, the youngest Justice in point of commission and you are also the youngest Justice in point of age. You come to this Bench with a firmly established reputation as a most able jurist, and almost as important, with a firmly established reputation for a never-failing kindness and patience toward the lawyers who practiced before you. It would not become *me* to measure your responsibilities or your opportunity, but your whole life and career guarantee that *you* will fully measure up to both. We therefore know that you will continue in the opportunities of the future as you have wrought in the responsibilities of the past.

To Chief Justice MAXEY, to Associate Justice ALLEN M. STEARNE and to each member of this Court we bring the assurance of the continued confidence, good will and respect of the Pennsylvania Bar.

The Chief Justice replied as follows:

PRESIDENT ARNOLD AND MEMBERS OF THE BAR:

We appreciate these generous greetings so graciously expressed by the President of the Pennsylvania Bar Association, an outstanding and distinguished lawyer and a highly respected and esteemed member of the bar

of this Court. There is no more satisfying reward of public service and no more potent stimulus to earnest endeavor than public confidence and good will.

One by one the judges leave this bench and others take their places, but there is no pause—the Court goes on. This Court is now in the third decade of the third century of its existence. It is invested with “judicial power” by the state’s organic law. What this judicial power is has been exemplified in Anglo-Saxon and American jurisprudence for hundreds of years. Its chief function has been the protection of the individual, not only against the lawless depredations of other individuals but also against the oppression and spoliations of the government itself. In no nation has liberty ever survived the destruction of an honest, independent, and fearless judiciary. This Court interprets and applies the principles and commandments of the state constitution, and in some cases those of the federal constitution. We had occasion recently to emphasize the fact that under our American system the state and not the federal government is the traditional protector of the lives, the liberty and the property of its own people.⁴

Nearly a century ago Daniel Webster said: “Wherever the temple of justice stands and so long as it is duly honored, there is a foundation for social security, general happiness and the improvement and progress of our race.”

It must be avowed of the state Supreme tribunal as it has been avowed of the nation’s Supreme tribunal that “it possesses neither sword nor purse; its strength is found in the reverence of the people for the sanctity of the law.” The maintenance of this sanctity depends **upon the people, themselves, upon the courts, and upon the bar.** To have a government of law, instead of tyranny or anarchy, that is, a **government ruled neither by a man nor by a mob**, there must be in human hearts an innate respect for law and order, and in the public mind

⁴ Com. ex rel. McGlinn v. Smith, 344 Pa. 41, 58; 24 A (2d) 1, 9.

With every judge and every lawyer **taking delight not in distinction but in duty well performed, proud not of his power but of his service, gratified not by what he gets but by what he gives**, we will all help to actualize that lofty ideal of the law as something so majestic that there are "none so high as to be beyond its power and none so humble as to be beneath its care; its seat is the bosom of God and its voice is the harmony of the world."

The Court then took a recess until 1.30 P. M., and Chief Justice MAXEY and Justice STEARNE greeted several hundreds of people in the Supreme Court consultation room, which was embellished with numerous floral greetings from friends.