

# IN THE SUPREME COURT OF PENNSYLVANIA

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## PROCEEDINGS IN MEMORY OF HONORABLE HOWARD W. HUGHES, JUSTICE OF THE SUPREME COURT, JANUARY 3, 1944—JANUARY 1, 1945.

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PITTSBURGH, PA., SEPTEMBER 24, 1945.

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On the convening of the Supreme Court of Pennsylvania, memorial exercises were held in honor of the late Justice HOWARD W. HUGHES. The Honorable GEORGE W. MAXEY, Chief Justice of the Supreme Court of Pennsylvania, presided, and the speakers, in addition to Chief Justice MAXEY, included the Honorable CARL E. GIBSON, President Judge of the Common Pleas Court of Washington County; DAVID I. MCALISTER, Esquire, representing the bar of Washington County; and JOHN G. BUCHANAN, Esquire, President of the Pennsylvania Bar Association.

The proceedings were as follows:

CHIEF JUSTICE MAXEY: President Judge GIBSON.

HONORABLE CARL E. GIBSON: Our late friend, whose memory we this day seek to honor, was the product of two fine Washington County families. He inherited wholesome, sturdy traits of each parent. His father died when he was young and his mother assumed the burden of rearing the family. He grew up in his home county and received his public school instruction and his college education there. After completing his law course at Harvard University, he returned to pursue his chosen profession in his home community.

After beginning his practice of law, his advancement in public life was rapid. He held office as County Solici-

tor, as District Attorney, and in 1929 was appointed to the Common Pleas Court. To this office he was twice elected, the second time by the highest majority he had ever received. He vacated this office when appointed a Justice of the Supreme Court in 1943. This goal, which he had earnestly sought and had attained by appointment, is one for which he was eminently fitted. His defeat in the election of 1944, while not unforeseen, was a great disappointment to him. However, the gloom of that defeat was short-lived, for his ability and fitness for service were recognized and he resumed the practice of law on a scale that he had never anticipated.

Naturally, we consider the legal and judicial attainments of HOWARD HUGHES. His ability was not limited to this phase of his life work, as we in his home county knew and appreciated. I first knew him when he was attending law school, practiced law with him, and spent nearly ten years as his associate on the common pleas bench. There we both profited by the guidance and instruction of our honored President Judge, the Honorable JAMES I. BROWNSON.

Judge HUGHES was by nature a friendly and pleasant colleague, a diligent student, and a vigorous worker. Aside from his duties as a practicing lawyer and judge on the bench, he had many varied interests: an interest in public transportation, the promotion of charity and health programs, the improvement and safety of highway traffic, frequent speeches on legal and business methods and ethics, and many club and social activities. In addition to living a busy life and the consequent urgent demands on his time and energy, he never failed to give loving attention to his mother who guided his pathway into a life of usefulness and honor and whom he dearly loved until her death at his home not very long ago.

I wish your Honors to know that I greatly appreciate this opportunity to express my high esteem and respectful regard for my former colleague, Honorable HOWARD W. HUGHES.

CHIEF JUSTICE MAXEY: Mr. McAlister.

DAVID I. MCALISTER, ESQUIRE: The career of former Justice HOWARD W. HUGHES came to a sudden and untimely end on June 20, 1945. His death was a shock to all of us who knew him. His death was a distinct loss not only to the Bench and Bar of Pennsylvania, but to the thousands of Pennsylvania citizens who had grown to know, respect and admire him.

I knew him as a friend, as a lawyer and as a judge. He was my law partner for almost seven years before he was appointed to the Bench of the Court of Common Pleas of Washington County in May, 1929, by Governor John S. Fisher. It is well known to all how he served with distinction on the Bench of Washington County, to which he was first elected in November, 1929. His reelection in 1939 by a large majority against an overwhelming Democratic registration was evidence of the esteem and respect in which he was held by his friends and neighbors in Washington County.

We, of the Washington County Bar, were sorry to see him leave our local Bench when he was elevated to the Supreme Court, but we were glad for him because we knew that it was a worthwhile appointment and we knew that he would grace this Bench so long as he was a member of it, and that we of the Washington County Bar would shine in the reflected glory of having one of our members upon this Bench.

But it is of HOWARD W. HUGHES, the lawyer and friend, rather than the jurist that I wish to speak. I trust, therefore, that I will be pardoned the use of the first personal pronoun in the remarks I have to make.

In the seven years of our practice together I can say that he was one of the most untiring and indefatigable workers I have ever know, and that applied both to the preparation of cases for trial and their argument in the lower courts or the appellate courts.

He had, I believe, the most even tempered disposition I have ever seen in any person. He also had a marvelous

sense of humor. He was a fine raconteur and all of us like to listen to his stories. He was gregarious by nature and due to his pleasing personality he never had any trouble in having a group around him.

He belonged to many organizations, both professional and otherwise, and took an active part in all of these organizations to which he belonged. He had served as President of the Washington Chamber of Commerce, as an officer of the Pennsylvania Bus Association, as well as having been an officer in numerous social organizations.

Due to the fact that there are five transcontinental highways passing through Washington County, many automobile accident cases came before him in his 14½ years on the Common Pleas Bench. He developed an interest in highway safety and quickly became President of the Washington County Chapter of the A.A.A. He was elected National Vice President of that organization and for a number of years was Chairman of the Safety Council of the A.A.A. He frequently said that the American Automobile Association should be the prime mover in promoting highway safety, and that organization should take an active part in the Highway Safety Program.

Every year that he was head of the National Safety Council of the A.A.A. he made the annual pilgrimage to Washington, D. C., where he presented the trophy to the city showing the best record in decrease of traffic accidents, and where awards were made to the School Boy Safety Patrols, thousands of whom received the trip to Washington, D. C., each year as a reward for their work on the Public School Traffic Patrols. Judge HUGHES was greatly interested in those Patrols and would tell what a great work they were doing; how they would arrive early, don their crossed white traffic belts and in rain, snow and sleet, without pay, protect their younger schoolmates from careless and heedless motorists. He often said that if the A.A.A. had done nothing more than reduce the accidents to school children, it had fully justified its existence.

His career will ever be a shining example to the youth of Pennsylvania and particularly the youth and struggling young lawyers of Washington County. His career reads like an Horatio Alger biography. His father died when he was about seven years of age and his mother moved from Washington to Charleroi and lived with a sister where by dint of sacrifice she managed to keep Howard in the Charleroi schools, from whose high school he graduated at the early age of sixteen. His mother then moved to Washington and opened a restaurant in which Howard worked when not attending Washington and Jefferson College, from which he graduated at the age of twenty. He graduated from Harvard Law School three years later in 1914 and then began the practice of law in Washington, having been honored with a Master of Arts Degree by Washington and Jefferson College that same year for a thesis he had written on the Rule Against Perpetuities and the Rule in Shelley's Case.

His skill as a trial lawyer became quickly apparent and so impressed the District Attorney that the latter soon made him an assistant. He resigned this position to enter service in World War I and after the war returned and was soon appointed County Solicitor, which position he held until he was appointed District Attorney upon the promotion of the late Erwin Cummins to the Bench. He was appointed District Attorney in 1922 and elected to a full term in 1923.

His career is an open book, not only to Washington County, but to the state, and in his first ten years on the Bench in Washington County he was never reversed in any decision or opinion that he wrote by either the Superior Court or this Court.

I have lost a true and loyal friend; the Bar of Washington County has lost its brightest light and the Bench of Washington County and the State of Pennsylvania have lost a jurist who will be remembered by future generations as one whose probity was above suspicion, whose legal learning was of the highest order, and as a man who was loved by all who knew him.

CHIEF JUSTICE MAXEY: Mr. Buchanan.

JOHN S. BUCHANAN, ESQUIRE: May it please the court: On behalf of the Pennsylvania Bar Association, of which he was a member and an active committeeman, I desire to add a tribute to your lamented former colleague, the Honorable HOWARD W. HUGHES.

I knew him longer perhaps than any member of the bench of this court; for it is 34 years since, having recently graduated from Washington and Jefferson College, he entered the Harvard University Law School and came to live in the house where I also lived as a third-year student. In those days at least law students labored eleven to twelve hours a day and six to seven days a week. There was little opportunity, therefore, for intimate acquaintance among men in different classes, even though they had the same residence address. Nevertheless, I have a distinct and pleasant recollection of the qualities of modesty and friendliness which HOWARD W. HUGHES exhibited to all with whom he came into contact.

Later, during the brief period in which he was engaged in private practice, I was fortunate enough to represent him and his partner in professional matters in this city and saw the fairness and reasonableness, as well as the propriety, of his professional conduct.

Still later, after he had been elevated to the bench, it was sometimes my privilege to meet him on social occasions. He was a favorite of the bar of this county. I recall a dinner given by lawyers here at which he was the guest of honor, not with a view to helping him in his political career (for he was not a candidate for office) but merely in friendship for the man and in recognition of the sterling qualities which he had displayed in the conduct of the judicial office in a neighboring county. He could tell a good story, and could tell it well. It is not inappropriate that this should be said in his praise; for it has been said more than once in praise of the greatest American, Abraham Lincoln.

In view of these personal experiences, many of them shared by others who are here gathered to do him honor, I have never been surprised at the great success of your former colleague in his political career in Washington County. Every office in the succession of honors open to a lawyer in that county through appointment or election was his, with or without the asking, for more than a quarter of a century—Assistant District Attorney, County Solicitor, District Attorney, Judge of the Court of Common Pleas, President Judge of that court; and when Governor Martin, nearly two years ago, appointed him to a seat on this august tribunal and the Washington County Bar Association honored him at a dinner, not only the Chief Justice and all of his professional brethren but his Excellency the Governor, William Clarke Mason, Esq., of Philadelphia, my distinguished predecessor, and lawyers from everywhere in the western part of the State at least showed their approbation by attendance in spite of difficulties caused by gasoline rationing.

When, almost immediately upon his retirement to private life after the first political defeat in his entire career, he was appointed General Solicitor of the leading railway system of the world, it was to be expected that in this new field of professional work he would add to the solid reputation which he had gained in each of his previous occupations.

It was not to be. In his very prime, when not yet 54 years of age, on the way to his office, he was stricken and died almost at once. Nothing is more certain than death; nothing is more uncertain than the hour of death. There are tears for such events; and we of the bar lament the untimely end of our brother and friend. On behalf of the Pennsylvania Bar Association I join in the prayer that a minute be made by this Court of the proceedings in his memory.

CHIEF JUSTICE MAXEY: Members of the Bar: A year ago HOWARD W. HUGHES was the youngest member of this court, both in service and in years. On June 20th

last the voyage of his life unexpectedly entered the silent haven of death. "The summons cometh quickly," and from a tribunal whose decrees are not appealable. Judge HUGHES was appointed to this bench on January 3, 1944, as successor to the late Justice PARKER. We already knew of his judicial work in his own county. In that work he disclosed his zeal for justice, his diligence, and his clarity of mind.

After he became our colleague our good opinion of him was confirmed and strengthened. Chief Justice CHARLES EVANS HUGHES said: "No member of the Supreme Court is under any illusion as to the mental equipment of his brethren. Constant and close association discloses the strength and exposes the weaknesses of each. Courage of conviction, sound learning, familiarity with precedents, exact knowledge due to painstaking study of the cases under consideration cannot fail to command that profound respect which is always yielded to intellectual power conscientiously applied." Such "profound respect" Justice HOWARD W. HUGHES commanded.

He possessed not only a personal integrity which would be shocked at the idea of anyone making merchandise of a public trust but also that intellectual integrity which always conformed his vote and his expression to his honest judgment. He knew that public confidence in courts depends on the character and independence of its members, and that it is a judge's duty to decide cases conscientiously. In no situation would HOWARD W. HUGHES sacrifice conviction on the altar of compromise or renounce the right in order to achieve appeasement.

To no other man did the phrase "*suaviter in modo, fortiter in re*" ever apply more appropriately than to him. He was firm in maintaining his position and gracious to those who disagreed with it. A difference in opinion did not affect his friendship. He recognized that the opposing view also was entitled to a cogent submission to the forum of public opinion. He knew that law

is not an exact science and that it is desirable to have represented on the courts different points of view in the application of apposite principles. He felt that fidelity to the fundamental law is the only guarantee of the permanance of our republic, and since the constitution embodies a people's sober judgment, its guardians should not permit its mandates to be over-ridden by the passionate tumult of the passing hour. He would never disturb "the ancient landmarks of the law," yet he knew that the basis of law is ethics and therefore it must from time to time conform to society's new, if firmly established, conceptions of right and wrong. Stability does not mean standing still, and in an expanding society the equilibrium between law and liberty occasionally requires legislative and judicial adjustment.

Justice HUGHES carefully studied submitted cases and he was helped to right conclusions not only by his disciplined intellectual processes but by his fine sense of justice. That sense is to a judge what a sense of harmony is to an artist, a sense of balance to an architect, and a sense of rhythm to a musician. The English common law was only an expression of what was, in its locale and era, the mass mind's sense of justice. It was the voice of the mores of its age; its crudities and brutalities were eliminated only as rapidly as the people became more civilized and their sense of justice more quickened and refined. As Herbert Spencer observed: "You cannot get golden conduct out of leaden instincts."

Great judges have borne witness to the influence of their own sense of justice in molding their decisions. Chancellor KENT declared that after he had mastered the facts of a case his "moral sense decided the case half of the time." Justice HOLMES said: "General propositions do not decide concrete cases. The decision will depend on a judgment or intuition more subtle than any articulate major premise." Justice CARDOZO decried that process of judging which merely matches the case at hand with earlier cases of similar pattern as clerks match the colors of ribbons and he declared that "no worthy judge viewed his functions so narrowly."