

IN THE
Supreme Court of Pennsylvania
EASTERN DISTRICT

PROCEEDINGS ON THE OCCASION OF
THE INDUCTION OF
HON. HORACE STERN
AS CHIEF JUSTICE OF THE SUPREME COURT
OF PENNSYLVANIA

The proceedings on the opening of the Supreme Court on Monday, November 10, 1952, when HON. HORACE STERN was inducted as Chief Justice, were as follows:

MR. CHIEF JUSTICE STERN: The Prothonotary will please note the presence on the rostrum of our distinguished and beloved former Chief Justice, Honorable WILLIAM I. SCHAFER.

MR. JUSTICE STEARNE: The Prothonotary will read the commission of Chief Justice HORACE STERN.

(Whereupon the Prothonotary read the commission of Chief Justice HORACE STERN.)

MR. JUSTICE STEARNE: We will now administer the oath required under our statute.

(Whereupon the oath of office was administered to Chief Justice STERN.)

HONORABLE GEORGE WHARTON PEPPER: May it please your Honors, as I have been a member at the bar of this Court for some sixty years, it has been suggested that I should say a word or two on this happy occasion. This I am glad to do for three reasons: In the first place, the accession of the new Chief Justice

is an event of major importance and it is proper that the bar should have an opportunity to join you Associate Justices of the Court in extending a welcome to your new Chief.

In the second place, our regard for the retiring Chief Justice can fitly be combined with the congratulations which we extend to his successor.

In the third place, it so happens that the new Chief Justice and I have been friends ever since his student days, when, as a member of the faculty of the Law School I had the honor to be one of his teachers.

At that time, may it please the Court, I was giving a course on the law of association, and the paper in the final examination which a member of the graduating class, HORACE STERN, turned in, was so admirable that it won for him the unusual distinction of a perfect mark. I remember with satisfaction that I caused the examination questions and HORACE STERN'S answers to them to be published in the old American Law Register and Review as illustrations of maturity of thought and felicity of expression. I realized then that a bright professional future was assured for him, but what I could not know was that shortly thereafter he would be serving with distinction as a Common Pleas Court Judge and that in due course he would take an honored place as Associate Justice of this Court, and that fifty years after I signed his diploma it would be my privilege to represent the Bar of the Commonwealth in extending to him felicitations upon his becoming the latest Chief Justice of the Supreme Court of the Commonwealth.

Mr. Chief Justice, you are the twenty-seventh in order of succession to fill this distinguished office, the twenty-seventh since 1776, when this Court was reorganized following the Declaration of Independence. I like to recall that the span of my life has covered the

terms of service of twenty of those twenty-seven Chief Justices, and that it has been my privilege to argue cases before thirteen of them. One who makes any statistical statement about this Court must watch his step because someone is sure to challenge the accuracy of his statement. I am well aware that the Court substantially in its present form was reorganized under the Act of 1722, and that back of that date there was a provincial court which had been established in 1684, and that if one were to count all the presiding officers, both lay and learned in the law, of the several courts, your place would be the forty-fifth in succession, but I prefer to do as I have done and limit my statement to the distinguished Chief Justices beginning with THOMAS MCKEAN, who took office immediately after Pennsylvania ceased to be a colony and became a Commonwealth.

Mr. Chief Justice, I know you well enough to know that on this occasion words of mere eulogy would be distasteful. I suspect you have been, with characteristic modesty, scanning the records of your predecessors and wondering whether you have the right to take a place in this distinguished succession, but I feel constrained to say, sir, that in character, in learning, in earnestness of purpose and in all-around ability, you satisfy the most exacting requirements that have been established by any of your predecessors. There have been great men among them, men who made notable contributions not merely to the literature of the law but to the stability of the Republic.

It is altogether proper in other fields of activity that others than an appellate judge be crusaders for this or that cause, but an appellate judge is subject to a solemn duty to serve as a man always open-minded and wisely progressive but with a determination to examine each new proposal in the light of history and

reach no conclusions that are not in accord with wholesome tradition and forward-looking vision. *Stare decisis* is by no means a mathematical formula, but it does imply that the Judge will, in the presence of new proposals, above all things hold fast to that which is good while ready to discard that which has outlived its usefulness, and you, sir, are of that type, as I have observed it over the fifty years of your career since you came to the Bar. That is my deliberate conclusion and I am happy to have the opportunity to state it on this occasion.

Mr. Chief Justice, you come of a race which holds firmly to the values of tradition and the continuity thereof, and I venture to think from what I know of your family life, sir, that you are even more interested in the careers of your son-in-law and your grandchildren than you are in your own distinguished record, but in this respect only permit me to correct your judgment, sir; I commend you to them as one whose judgment they may rely upon in all respects and one whose example they will do well to emulate.

May it please the Court, we of the practicing Bar congratulate you upon the accession of your new Chief, and you, Mr. Chief Justice, we felicitate upon the tenure of what we esteem to be the greatest office in the Commonwealth, and we predict that during your term of service this Court will strengthen the hold it already has upon public confidence. We wish you, sir, the happiness and joy of that most soul-satisfying of all rewards, the consciousness of good work well done.

HONORABLE OWEN J. ROBERTS: May it please the Court, it is indeed a pleasant episode when one who has attained the affection and admiration of his brothers of the Bar assumes the role of Chief Justice of this great Commonwealth. As one who has had some experience in Federal Courts I feel it is a great privi-

lege to be a member of a Court like this, the appellate court of a great Commonwealth, for this Court, in distinction to the Federal Courts, is still a common law Court. Notwithstanding the great body of statutes that have been passed in every state it still remains that this Court is in effect the conscience of ten and a half million people corporately bound together in the name of the Commonwealth of Pennsylvania. It still remains that this Court in major instances must ascertain the mores of the community and apply those mores in the highest conscience to difficulties and disputes that arise between citizens and between citizens and their government. What a great privilege it is. As the result of this privilege of the common law Judges in the states of the United States, the greatest, in my judgment, judicial reputations have been made. I think of HOLMES and CARDOZO, who were Chiefs of courts like this, common law courts of great Commonwealths. I venture to say that both those gentlemen made all the reputation they had as Judges by their administration and interpretation of this great old traditional thing we call the common law, and if they had not been great common law Judges they would never have been picked to go on.

As I think back on the career of our new Chief Justice I am led to feel that he shares the great part of the qualities that made those men outstanding in the community, for he has something of the philosopher's approach to things, he is a good technical lawyer, but he is more than that, he has that sensitive feel for changing conditions, social and economic, that is the essence of a good common law Judge; and that he shall apply those things in the forward march of the rule-making power of the Court and set the rule as between citizen and citizen, and citizen and state.

It is a pleasant thing to us at the Bar to think that our friend, the Chief Justice, has a background and training almost unique for the position he now assumes. He and I had the privilege of teaching together at the University; I then saw him assume a very outstanding part at the Bar and hold serious positions of responsibility, and then he became a Judge of first instance, an experience in which he dealt with the raw material of life and litigation, an invaluable experience for a man who is to become an appellate Judge, and then all his experience administering the work of a Court of Review, so he comes I think not only by disposition but by training, well fitted to assume the position he now assumes.

Mr. Chief Justice, please accept our congratulations. Please accept this demonstration of our affection and this token of our good will and our wish that life may continue to be good to you and that you may still further adorn the name you bear by your conduct as Chief Justice of the Supreme Court of Pennsylvania.

CHIEF JUSTICE STERN: Senator Pepper, I want to thank you for your kindness in coming here this morning to address us, and especially for the gracious and generous words you have spoken about myself, spoken as always with your unrivaled facility and charm. Praise from you is praise indeed. Ever since my earliest days in law school you have constantly aided me with encouragement and advice and I am deeply appreciative. Owen—Mr. Justice ROBERTS—I want to thank you also for your precious and almost lifelong friendship. In all my professional career you have been to me a guiding spirit and ideal, a great lawyer, great jurist, and great statesman.

I want to take the opportunity at this time to assure the bench and bar of Pennsylvania that my col-

leagues and I are keenly conscious of the fine traditions of this historic and venerable Court, and we shall always strive, God willing, to live up to the high standards and accomplishments of our distinguished predecessors.

The induction ceremonies are now over and the Court will proceed to its business.