

IN THE SUPREME COURT OF PENNSYLVANIA

In Memory of HONORABLE JAMES B. DREW

Chief Justice of the Supreme Court

Minutes of Memorial Service for Honorable JAMES B. DREW at Pittsburgh, Pennsylvania, on Monday, September 28, 1953.

CHIEF JUSTICE STERN: The Court will hold exercises in memory of Chief Justice DREW. The Court now recognizes Judge Elder Marshall.

JUDGE ELDER W. MARSHALL: May it please the Court: We meet today to pay tribute to the life and character of Honorable JAMES B. DREW, the late Chief Justice of the Supreme Court of Pennsylvania. In the words of the poet:

“Of him whom honor drew, as moon the sea,
What words have we, in elegy?”

JAMES B. DREW was a native Pittsburgher. He was born almost within the shadow of old Fort Pitt, in a section of Pittsburgh long known as “The Point,” now called the Golden Triangle. His parents were substantial, respected citizens.

Judge DREW, himself, was a child of destiny. Although we little recognized it during his earlier life, it was destiny that took him by the hand and led him to the study of law; that gave him a decade of rounded experience in the general practice of law; that placed him on the County Court of Allegheny County at the youthful age of thirty-four; and that in that minor court, for eight years, caused him to be indoctrinated in the functions and the obligations of a judge.

Again, it was destiny that brought him to the bench of the Court of Common Pleas of Allegheny County when he was but forty-two years old; that placed him under the tutelage of such pre-eminent jurists as Judges Shafer, Evans, MacFarlane, Swearingen and Reid; and that there, over a period of eleven years, perfected him in the science of sitting in judgment in our courts of original jurisdiction, and enabled him to become the accomplished *nisi prius* judge that he was.

Finally, it was the star of his destiny, still leading him onward, that, after a few months' experience on the bench of our State Superior Court, found for him a seat on this, the oldest appellate court in America, and in time made him its Chief Justice.

When Justice DREW took his seat on this court, exactly twenty-two years ago this very day, he entered into a company of strong, scholarly, experienced judges. Your Honors will recall that his first associates were Chief Justice Fraser and Justices Walling, Kephart, Simpson, Schaffer and Maxey. Judge DREW was neither awed nor abashed by the juridical splendor of those great judges.

He entered into the work of the court as one to the manner born. His first opinion, handed down less than a month later and reported in *Commonwealth v. Kosh*, 305 Pa. 146, evidenced the breadth of his scholarship and his ability to narrate facts and express applicable principles of law in fine English prose.

For slightly over twenty-one years, Justice DREW served on this court,—for the last two and one-half years as its Chief Justice. During that long period he cultivated and displayed the virtues of the judge *par excellence*. He was industrious, patient, wise, and possessed of sound judgment. His mental processes were

orderly and logical. He had a keen power of analysis. His opinions were always clear and understandable, and they possessed literary excellence. Like Chief Justice Fell, he could be brief, yet complete. On occasions, he would turn a phrase that would express a legal principle succinctly and be oftentimes quoted by other judges. He rarely filed dissenting opinions.

Many years ago, Mr. D. T. Watson, a leader of the Pennsylvania bar, spoke these words: "He who follows the law in spirit and in truth enters lofty temples and worships before high altars." For more than a half century, Justice DREW followed the law in truth and with unstinting devotion. He entered many of its temples as a minister of justice,—more, indeed, than any other judge in the long history of Pennsylvania. In all of them, he worshipped faithfully at the high altars of right, of conscience, of fidelity to trust and duty, and of equal justice to all men. His conduct as a judge was always in obedience to God's injunction to the children of Israel: "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." To the people of Pennsylvania, Justice DREW has bequeathed a legacy of rectitude and integrity in high judicial office. His judgments are written in the books, from Volumes 305 to 371 of the Pennsylvania State Reports, where all may read. They reflect his scholarship, his wisdom and his impartiality, and they are in keeping with the highest traditions of this great court.

Judge DREW, of course, had a personal side to his life. It was a very human one. He had served his country in the first World War, and was one of the founders of the American Legion in Paris. With the late Senator David A. Reed, he founded his own Post,

East Liberty Post 5 of Allegheny County. He was a warm, kind friend to a great many people in all walks of life. He enjoyed their company and their confidences. Many came to him for advice, which he freely gave. He had that indefinable quality we call charm.

His family life was ideal. His wife was an unusually fine helpmeet, and they were devoted to each other. Both found pleasure in travel, and they took many vacation trips together, in this country and abroad. Judge DREW's son and daughters were always his joy, and were always in his thoughts. Perhaps the proudest moment of his life was but a few months ago, when his son, the Honorable John Drew, was commissioned a judge of the Court of Common Pleas of Allegheny County,—the same court in which Justice DREW had sat many years ago—and he, himself, administered the oath of office to his son.

Justice DREW was a religious man. He was of the Catholic belief, and, without ostentation, was faithful to his church and his creed. He was persuaded of the immortality of the soul, because, as England's reverent poet, Lord Tennyson, expressed it:

“Thou wilt not leave us in the dust;
Thou madest man, he knows not why.
He thinks he was not made to die,
For Thou hast made him; Thou art just.”

On September 5th, last, Judge DREW was called from his life on earth. No longer will we see his familiar figure as he went about our streets, tall, dignified, impressive in appearance. But we shall long remember him as a kind friend, a good man, and a just judge. When this Court rises, I move that it do so in honor and respect of the memory of Chief Justice JAMES B. DREW.

CHIEF JUSTICE STERN: Mr. Buchanan.

MR. JOHN G. BUCHANAN: May it please the Court:

"Above all other things is justice: success is a great thing; wealth is good also; honor is better, but justice excels them all." These words of David Dudley Field in his Speech on Law Reform in the centenary year of the independence of our nation were notably exemplified in the career of JAMES B. DREW, son of John and Martha O'Rourke Drew, born only a few blocks from this courtroom in 1877, one year after Mr. Field's address.

After study at the University of Michigan and Columbia University, Mr. DREW entered upon the practice of law in New York City in 1900, but two years later he returned to Pittsburgh and was admitted to the bar of Allegheny County. Four years of private practice here were followed by five years of service as an Assistant City Solicitor under Mayors Guthrie and Magee, the former a Democrat, the latter a Republican. His entire experience at the bar in both New York and Pittsburgh occupied only eleven years; but the benefits of that experience were never lost in a judicial career of almost unparalleled length.

In 1911, he was elected to the newly established County Court of Allegheny County. Plato, in "The Republic," said, "The judge should not be young;" and it was the subject of discussion among the lawyers, and even the law students, in this city as to whether Mr. DREW was not too young a man to make a good judge. The examples of the two most distinguished Chief Justices of this Commonwealth, each of whom had become a Common Pleas Judge at about the same age as that of Mr. DREW when he first went on the bench, apparently were forgotten; but the great capacity for judicial work which he exhibited from the

very beginning of his career convinced all of the young lawyers (and the lawyers practicing in the County Court were for the most part young lawyers) that he was eminently fitted for the office of Judge.

Seven years after his election to the County Court, Judge DREW was elected a Judge of the Court of Common Pleas of Allegheny County. There he served for eleven years, with increasing distinction. The year after his election to a second term, he was elected to the Superior Court, where he was at the time the only judge from this County. His service on that Court was to last only a few months, but Judge William H. Keller said that even in those few months he performed valuable service as a judge.

Appointed a Justice of this Court on September 28, 1931, to succeed the late Justice Sadler, he soon impressed his colleagues with his ability. Indeed, even before his election on both the Republican and the Democratic tickets for the term beginning in January, 1932, Mr. Justice Simpson, a man not accustomed to see eye to eye with the Governor who had made the appointment, said to me, "The Governor has given us two good men, Drew and Linn."

Perhaps Pittsburgh lawyers, accustomed as they had been to appearing before Judge DREW prior to his elevation to this Court, found it easier in argument to be *en rapport* with him than with judges before whom they appeared infrequently and usually only during the brief terms of the Court in this city. Certainly the members of our bar were pleased with him, with his handsome features, his erect bearing, his firmness, his independence, his keen but open mind, his lucid and concise opinions. We learned with satisfaction of the recognition that came to him through the years in the award of the degree of Doctor of Laws

CHIEF JUSTICE STERN: Mr. Prizer.

MR. JOHN B. PRIZER: If the Court please: When a man of rare excellence passes from our midst, it is a challenge to express in words the essence of the man and our thoughts about him. That challenge has been well met this morning by those who have preceded me. I can but add a word of affectionate esteem, that springs from two years of close personal association with Judge DREW—an association that was for me a richly rewarding one.

Like other Judges, JAMES B. DREW had two sides—the Judge and the man—two parts of the same integrated person, bound together by the qualities of innate dignity, constant devotion to justice, warmth of heart and understanding that were JAMES DREW. As a judge, Judge DREW's distinguished service of forty consecutive years on the bench, progressing through the County and Common Pleas Courts of Allegheny County and the Superior Court to the judicial acme of this Court, and then Chief Justice, is surely unique in the annals of our Commonwealth. During those forty years he wrote into our decisional law many opinions in many fields.

Throughout those opinions run two unmistakable threads—an unswerving attention to the precise question presented by the facts of the case before him, and an unflagging search for justice. Judge DREW believed with a passion that his duty as a Judge was to decide the case before him and nothing more. He believed with another great judge that to let accumulated dicta govern is to give the future no hearing. For him opinions were not vehicles of legislation, but instruments for the just determination of specific controversies. And, above all, his overriding objective was the just, the fair, the equitable decision.

As a man: Beneath a judicial manner that to some who did not know him sometimes seemed severe, there lay one of the greatest and warmest hearts that I have ever known or hope to know. Loyalty and affection for his friends, considerate understanding for every human being with whom he was associated, characterized his relations with his fellowmen. He was naturally endowed with a dignity becoming the judicial robes he wore; but the twinkle in his eye and his lively wit and ready good humor placed that dignity in its proper perspective. He was a tireless worker, capable of reducing his apparently more durable associates to a state of exhaustion, by the pace he set; and yet, while he expected the best of those around him, he never required more than he himself could do. Those of us who had the privilege of working with him and under him treasured to the full the qualities of the man, and came to realize that those qualities surpassed even the lofty eminence that he had attained in his profession.

May it please the Court, the passing of Chief Justice DREW has taken from our Commonwealth a just and able judge, and from his friends and associates a great and good heart. Our mourning cannot restore him to us, but it can and does bespeak our awareness of the enrichment which his life has brought to our lives and to our profession.

CHIEF JUSTICE STERN: The Court thanks you, Judge Marshall, Mr. Buchanan, and Mr. Prizer, for your fine addresses. Of course, in the brief time allotted to these memorial exercises it is impossible adequately to recount all of Chief Justice DREW's many virtues and to make an adequate appraisal of his public service. Mr. Joseph H. Bialas, who was an intimate friend of the late Chief Justice, would certainly have been

here today were he not prevented by temporary illness. He has, however, written me a letter which he has authorized me to read. He writes:

“Chief Justice DREW gave me his friendship and I felt honored in giving him mine. His death is a very deep personal loss to me. He was upright in his dealings, high principled and clean in his thoughts, sincere and human in his interest in his fellows. From my talks with him on the deeper things in life, I can say he was spiritually honest. He was a learned, just and courageous judge, a devoted husband, father and friend. In body he is not here, but in spirit he will continue to live in our hearts.”

I shall not myself attempt to say anything at length concerning Chief Justice DREW's intellectual ability and attainments as a jurist; his contributions to the law are enshrined forever in the volumes of the State Reports where his clear and cogent opinions, marked by precision and clarity of thought, are his real monument. His judgments were never excessively technical or given to the drawing of fine-spun distinctions, but, on the contrary, they mirrored the breadth of mind and practical wisdom of one experienced in public life. But it is not these things that we, his former colleagues, have in our minds and hearts today; rather, we are thinking of him in respect to those personal qualities of his which endeared him to us, his kindness, his dignity, his unfailing courtesy, his patience, his charming sense of humor, his serenity of disposition, his warmth of friendship, his modesty and understanding. There can be no sharper revelation of the character and personality of a judge than the light which beats upon him in the conference room with his fellows, for there, above all other places, is tested not only, of course, his scholarship and his ability to think and reason, but

his poise, his respect for the opposing views of others, his sincerity and his passion for right and justice.

In all these respects, Chief Justice DREW was weighed and never found wanting. We looked upon him as a real friend and felt for him a genuine affection to which he himself was always responsive. A court goes on relentlessly through the years in the performance of its functions however its personnel may come and go, but whenever its members are bereft by the death of a dear comrade, it can never, to them, seem the same again. Sorrowfully and sadly we miss our late Chief Justice, but we have at least this consolation, that we know that now he lives the life eternal and is enfolded forever in the ineffable love divine.

These proceedings will be entered upon the minutes of our court and published in the State Reports in order that those who come after us may know the esteem and affection he inspired in his colleagues and friends of the Bench and Bar of Pennsylvania.

The Court will now adjourn in memory of Chief Justice DREW.