

IN THE
Supreme Court of Pennsylvania

EASTERN DISTRICT

PROCEEDINGS ON THE OCCASION OF
THE INDUCTION OF
HON. CHARLES ALVIN JONES
AS CHIEF JUSTICE OF THE SUPREME COURT
OF PENNSYLVANIA

Present: STERN, C. J., JONES, BELL, CHIDSEY,
MUSMANNO and ARNOLD, JJ.

The proceedings on the opening of the Supreme Court on Saturday, December 29, 1956, when the HONORABLE CHARLES ALVIN JONES was inducted as Chief Justice, were as follows:

MR. CHIEF JUSTICE STERN: The Court recognizes Honorable Thomas D. McBride, Attorney General of the Commonwealth.

MR. McBRIDE: May it please the Court, I have the honor to present a commission from His Excellency, George M. Leader, Governor of the Commonwealth, who is here present, and pray leave to read the same.

MR. CHIEF JUSTICE STERN: You may proceed.

(Whereupon Attorney General McBride read to the Court the Commission of Honorable CHARLES ALVIN JONES as Chief Justice.)

MR. CHIEF JUSTICE STERN: The Court recognizes Honorable Elder Marshall.

JUDGE MARSHALL: May it please the Court: The occasion this morning is one of those very pleasant interludes in the day-to-day work of a busy court. It is a time when we give no thought to cases or litigants or legal principles. Instead, our minds turn to the history of this great Court, and the personalities who have presided over it in times past, and the character and ability of our friend, the new Chief Justice who now becomes one of the immortals in the judicial history of Pennsylvania.

Although there had been a supreme court in colonial days, the Supreme Court as we know it really originated when Pennsylvania threw off the shackles of Great Britain and became a sovereign commonwealth. That was approximately one hundred eighty years ago. Over that long span of years and up until this very morning we have had but twenty-eight chief justices. They have served for varying periods. Before the Constitution limited the term of a supreme court judge to twenty-one years, Thomas McKean served as chief justice for twenty-two years, William Tilghman for twenty-one years, and John Bannister Gibson for twenty-four years. Those extended tenures are no longer possible. Fortunately our new chief justice can preside here for almost a decade, before his term expires.

It is worth noting that never in the long history of this Court has there been any public clamor against it because of any of its decisions. It has always had a strong hold upon public confidence. I suppose this is because the Court has ever been conscious of the social and economic changes that occur ceaselessly in our individual and community lives; and because it has been responsive to those changes when they represent not merely popular and temporary whims, but Society's mature aspirations for its betterment. In a word, this

Court has been a progressive tribunal. I am sure that under your aegis, Mr. Chief Justice JONES, it will continue as such.

There have been many interesting personalities among the chief justices of the past. THOMAS MCKEAN, the first chief justice, had a sense of humor, always to be desired in a judge, if kept well in hand. Once when a petition was presented to him, he noticed it was addressed to "The Right Honorable, the Lord Chief Justice." He remarked to counsel for the petitioner, "These are perhaps more titles than I can fairly lay claim to, but at all events, the petitioner has erred on the right side."

Some of our chief justices added much to the literature and the history of the law, as witness JEREMIAH S. BLACK, GEORGE SHARSWOOD, JAMES T. MITCHELL and ROBERT VON MOSCHZISKER. Some of them could coin a phrase that expressed in a sentence what others required a paragraph to explain. Chief Justice GIBSON is perhaps the best example, although DANIEL AGNEW should not be forgotten in this respect. D. NEWLIN FELL is noteworthy for the brevity of his opinions. Two printed pages, or three at the most, were all he required in which to set forth an adequate recital of the facts and a terse, logical statement of the applicable principles of law. Reading his opinions has always been a delight. On the other hand, some of the opinions of ROBERT VON MOSCHZISKER are practically textbooks on the particular subjects involved. Notwithstanding their length, they evidence his rich scholarship.

The Honorable JAMES THOMPSON of Butler County was chief justice of this Court from 1867 to 1872. During much of his term, the common pleas judge of nearby Clarion County was James Campbell. Last year,

Judge Campbell's descendants had printed for private distribution his journal of his life's activities. I read the journal a few weeks ago and came on this little incident concerning Chief Justice THOMPSON. It shows how earthy and practical a Supreme Court judge could be, even in that far-off day. On page 248 of the journal, Judge Campbell said: "Justice THOMPSON of the Supreme Court, in a conversation just after I was elected, said it was a good plan for a judge on the trial of a cause to fix firmly in his mind that he doesn't care a snap which side whips or is defeated, and" (says Judge Campbell) "*there is a good deal in it* for the court is bound to protect the rights of the meanest scamp in the country exactly as it does those of the most respectable citizen."

I can only add, "O homo sapiens!"

And now, Mr. Chief Justice JONES, you have been designated by law to preside over this great tribunal for the next nine years. It will be the climax of your distinguished career. A great judge retires today and immediately is succeeded by an equally great judge. We of the bar forgather here to say farewell to the retiring Chief Justice, HORACE STERN, for whom we have the deepest admiration and affection, but we also come to welcome and felicitate our friend the new Chief Justice, CHARLES ALVIN JONES, in whom we have profound pride and of whom we have large expectations.

May it please the Court, as a long-time colleague of the new Chief Justice while he was yet a practicing lawyer at the Allegheny County Bar, I beg the privilege of telling this audience about his earlier career, and how it was designed to fit him for the highest judicial office in our commonwealth.

I begin at the beginning. The very place of Justice JONES' birth was prophetic. He originated in

Perry County, in Central Pennsylvania, not far from the early home of Chief Justice GIBSON and the birth-place of Chief Justice STERRETT. His education in the liberal arts was obtained at Williams College. Again resembling Chief Justice GIBSON, he attended Dickinson School of Law and there earned his law degree when not quite twenty-three years old.

At that time Perry County was no place for an ambitious lawyer to settle in practice. Judge JONES selected Allegheny County, instead. He came to Pittsburgh and was admitted to our Bar in 1911, at a time when we had no County Court or Juvenile Court, when we still had separate courts of common pleas, and when we had in the county only sixteen state and federal judges, instead of the thirty-three we presently enjoy—or should I say who presently enjoy us.

When he came to enter a law office, it was destiny that directed him to the firm of Patterson, Sterrett & Acheson, very soon thereafter Sterrett & Acheson. There for a number of years his legal activities were performed directly under the scrutiny and direction of the partners, J. Ross Sterrett and Marcus W. Acheson, Jr. He could not have had finer prefects, for both men stood in the front rank at our Bar. Mr. Sterrett was, himself, a nephew of Chief Justice STERRETT. Mr. Acheson was a son of Judge MARCUS W. ACHESON who graced our Federal district and circuit courts for more than twenty-five years. In due time, the firm became Sterrett, Acheson and Jones, and the new partner was called on to carry more than a fair share of the work of an important law office, both in and out of court.

Soon he became known to the judges and his fellow lawyers as a capable, well-read lawyer, full of energy, with excellent judgment, always a dangerous opponent, but withal a warm-hearted friend, free from enmities,

grudges and spite. He practiced actively at our Bar for twenty-eight years. Allegheny County was his home, and because of their association with him and their admiration for him, the judges and lawyers of that county still consider him a fellow member of their Bar. I venture to say that this feeling is reciprocated, and that notwithstanding the high estate to which he has risen in these later years, his heart still belongs to the Bar of Allegheny County.

While still in active practice in Pittsburgh, CHARLES ALVIN JONES made his first venture into public life. He was chosen by the Commissioners of Allegheny County to be the county solicitor. In that office all litigation involving the county came to his personal attention; every opinion furnished by his office was first reviewed and approved by him; and many questions of the county's municipal policy were decided by the commissioners on the basis of his personal recommendations. His administration of the office brought him the approval of the press and the public. In serving as county solicitor, fate was once more preparing our friend for a career upon this bench, where questions of municipal law are constantly being posed. The best schoolhouse in which to study that specialized subject is the office of a county or city solicitor, and Justice JONES attended that school.

By 1939, CHARLES ALVIN JONES had become one of the outstanding Democratic lawyers in this Commonwealth. It was only natural, then, that a Democratic president should appoint him to be a judge of the United States Court of Appeals for the Third Circuit, sitting at Philadelphia. He served in that office for upwards of five years. There he was confronted with questions in every conceivable field of Federal law. Some could only be answered by determining the Penn-

sylvania rule of law on the subject. Others necessitated defining the demarcation between federal and state jurisdiction. Once again fate was preparing the man for the day when he would sit on this Court.

Judge JONES took to judicial work with eagerness and enthusiasm. His opinions were carefully prepared and well reasoned. We soon noticed that he had the power of clear expression. He added stature to the Federal court.

I suspect that in the Court of Appeals he even acquired judicial temperament, if he did not already possess it. Judicial temperament, you will remember, was once defined by Chief Justice JOHN MARSHALL as the ability to look counsel in the eye and not hear a single word he says!

After five years of appellate court experience, Judge JONES became a candidate for a seat on this Court. His reputation had spread throughout Pennsylvania, and in a state-wide contest, the people elected him over his opposition and changed his title from "Judge" to "Mr. Justice." He has sat in this, the highest court in Pennsylvania, for twelve years. You, his colleagues, will testify that his presence and participation in the work of the Court have been a stimulating influence. We who practice before him can testify to his fine sense of justice, his quick grasp of facts and issues, his wide knowledge of legal principles, and the accuracy with which he selects and marshals the facts and the law which properly should rule the decision. Finally, the legal scholars among us who review all of his opinions will testify to his excellence in the art of English composition, the simplicity of his style, and the clarity and vigor with which he sets forth the reasons for the Court's decisions.

Now his title changes from "Mr. Justice" to "Mr. Chief Justice." We can predict with assurance how he will preside over this tribunal. He will radiate enthusiastic interest in every legal question presented for decision. He will have a warm, personal interest in each lawyer who comes before him, and a hope that he will argue his case well. He will preside with dignity, with an open mind, and with superb fairness. He will be kindly, patient and helpful, as he always has been. Perhaps he will even succeed in reducing the number of dissenting opinions. He knows from his own days in practice that few lawyers have much interest in *why* a judge dissents. Besides, to read a dissent takes time and very often leaves the reader more or less bewildered. A mere notation of the *fact* of dissent, without explanation, would be a great kindness to lawyers.

And now, Mr. Chief Justice JONES, we of the Bar commit this court and its glorious tradition into your keeping. We extend to you our warmest congratulations and our affection. We wish you much happiness in your work and good health to enjoy the doing of it. May God save the Commonwealth and this Honorable Court!

MR. CHIEF JUSTICE STERN: The Court recognizes Arthur Littleton, President of the Pennsylvania Bar Association.

MR. LITTLETON: One day next week it will have been thirty-six years since I was admitted to the Bar of this great Court. While that was an event of great importance to me, to everyone else then present in this room the matters of significance and interest were the ceremonies marking the retirement of Chief Justice J. HAY BROWN and the induction of Chief Justice ROBERT VON MOSCHZISKER. All who were there will remember with me that one of the speakers of the occasion—*the*

speaker, if my recollection serves me,—was the then former Attorney General of the Commonwealth, the Honorable Hampton L. Carson. We listened, so engrossed and so fascinated that we did not notice the passage of time as, with that incomparable memory and that fine sense of history which were his, he recounted the story of every Chief Justice—and many of the Associate Justices—from the birth of the Court in provincial days until the accession of the latest Chief Justice who was that day inducted.

It was a *tour de force* such as few of us have ever again experienced; but more than that, to the newly admitted at least, it was a feat which placed in vivid perspective the antiquity and the dignity of the Court and warmly peopled it with the personalities of that long succession of justices who had comprised it and contributed to its honor.

It is not within my power to emulate Mr. Carson. And if I could, I would not. Rather do I seize the opportunity afforded by the generous invitation of the Court to speak for a few moments of two beloved and respected friends—equally beloved and respected by all members of the bar of the Commonwealth whom I here have the honor to represent.

While, with his insistent modesty, Chief Justice STERN has instructed me that I am to say nothing about him, I shall risk disobeying him, hoping that on his last day on the bench he will not hold me in contempt.

When I came to the Bar the Chief Justice had already sacrificed the joys and excitements and spiritual rewards of advocacy for the arduous and oftentimes lonely work of the judge, so that to me he has always been Judge STERN. Many in this room will remember keenly and appreciatively the various ways in which his influence for good made itself felt in the common pleas;

and today we who practice there are the beneficiaries of his courage, his forthrightness, and his resourcefulness.

When in 1936, he became a member of this Court, he brought to it his standards, his strengths, his stature, which from that day have characterized the Court. Always he has seemed to be deeply interested in the accidents of our existence and to enjoy keenly the mixed texture of human experience. Out of this have come a fine courtesy, a sense of the fitness of things and a sober affection for all that is permanent in human relations. He has made no favorites and evinced no dislike. All counsel appearing before him have been heard fully and patiently, and have expected, with a confidence that has never been betrayed, that he would hear their client's cause with the single intention of administering justice according to law. In his opinions, beneath the wit and grace and fire of their phrases, one senses the fine conservatism of the scholar and the inimitable touch of the writer whose taste has been trained in the classics.

He has ever been consistent, not with a form of words but with a living reality which he has encountered day by day. Thus he has been the master, never the slave, of precedents.

Mr. Chief Justice STERN, for you we wish the sweet serenity, the joyful recompense, the lively leisure which are the rewards of those who, like you, have served their fellow men with intelligence, with diligence, and above all, with justice. We know that when tomorrow comes, with a new duty or with a new truth, the door of your mind will be open and you at the door to bid them welcome.

It is the great good fortune of the Bar and of the citizens of the Commonwealth that the mantle of Chief Justice passes to one of equal stature.

Chief Justice JONES, as a man, is noted for the warmth of his friendship, for his boundless energy, and for his practical common sense. As a Judge, we find exact statement, logical precision, lucid exposition and grasp of principle united in a man of determination and sincerity; and, above all, a mind which rejects any argument which offends against honesty or justice.

The nature of the power of leadership is akin to the attraction of gravitation. It is quantitative as well as qualitative. It is the attraction which the greater has for the less. We are not drawn to one who is meagrely endowed with an excellent quality. We follow one who has enough and to spare. It is this which gives assurance that, in the new Chief Justice, the courts and the Bar of the Commonwealth have a great leader. Like the poets, he is one who sees what everybody else sees, only more intensely, and who can put it in words which everyone can understand. He has the capacity for uniting fire and precision, enthusiasm and truth.

In his opinions he demonstrates that it is not necessary to break with the past in order to achieve freedom. He acknowledges his indebtedness to those who have gone before him. But his reverence for their example leads him not to stand perpetually where they stood but rather to go on in the same direction in which they were going. His judgments crystallize human experience in a symbol of endless advance, of widening space, of broadening light.

Mr. Chief Justice JONES, I bring to you the felicitations of the Bar of Pennsylvania and express to you the affection and respect in which you are held by each of its members.

In contemplating the long line of succession of the justices of this Court, and particularly in viewing this ceremony whereby your beloved friend of the years has

passed on to you the mantle of Chief Justice, I am moved by a thought which I venture to bring to everyone within the sound of my voice:

That you create your own rank in that most majestic of all realms, the realm of personality. If you are thoughtful and kind; if you are honorable and just; if, daring to give your will to your conscience, you change your dreams into deeds, then the wonderful thing that happens is that your spirit passes into the spirit of another. You radiate light and truth and love—in a word, justice—and so march onward, down the ages.

MR. MCBRIDE: And now, Mr. Chief Justice STERN, I make what will probably be the last motion to be heard by you as the presiding officer of this Court: I now move that you administer to Justice CHARLES ALVIN JONES that oath which will make him Chief Justice of the Supreme Court of Pennsylvania.

MR. CHIEF JUSTICE STERN: The motion is granted.

(Whereupon, Justice CHARLES ALVIN JONES was administered the oath of office of Chief Justice of the Supreme Court of Pennsylvania.)

MR. CHIEF JUSTICE JONES: MR. Chief Justice STERN: It is more than difficult for me to contemplate your absence from our sessions and conferences. With your broad learning, both general and legal, you have been of immeasurable strength to the court; you will be greatly missed and by none more than by myself. We all pray that Providence will grant you further length of years in the good health which appears to be yours and in the full possession of your mental faculties which is assuredly yours.

Judge Marshall and Mr. Littleton: Your kind and generous words concerning myself cause me some embarrassment not because of any lack of sincerity in

your expressions but because they overappraise my merits, whatever they may be.

It was good of you, Judge Marshall, to come on from Pittsburgh to speak on this occasion for the Bench and Bar of Allegheny County where you and I were fellow practitioners from a time now almost fifty years ago and where I happily spent all of my twenty-eight years in the practice of law. You went on to become a judge of the court of common pleas, and it was my privilege to appear before you as counsel not infrequently. You discharged the duties of that office with ability, honor and distinction. After leaving the bench, you returned to the active practice of the law and have become one of the outstanding leaders of the Bar of Pennsylvania.

Your part in the ceremony, Mr. Littleton, is equally pleasing. Our acquaintance dates from the time of my appointment as a judge of the United States Court of Appeals for the Third Circuit some seventeen years ago. It was not long until I came to realize your ability, industry and integrity. You were for a number of years an extremely capable member of the State Board of Law Examiners by appointment of this Court; and you are now the acting President of the Pennsylvania Bar Association, soon to succeed to the presidency.

And your participation, Mr. Attorney General, in today's proceeding is peculiarly appropriate.

The responsibility of the members of this Court is indeed a heavy one. To be faithful to its great traditions is a burden not lightly to be borne. Not only was the Supreme Court of Pennsylvania the first appellate court, I believe, in the country but it is the oldest court of record in continuous existence in the United States. In the office of Chief Justice, to which

I have now succeeded by virtue of constitutional direction, it will be my earnest effort, so far as the power within me lies, to continue the service of the Court in an efficient and satisfactory administration of the law of the State. And my pervading concern will be that we never impair the dignity, honor and prestige of the Court by either word or deed. While to some it may seem trite to say, it can never be overemphasized that, in America, the judiciary is the last bulwark in the defense of the human rights we ascribe as the attributes of the liberty of free men. We cannot, however, rely on the judiciary to resist effectively and successfully hostile onslaught on our free institutions, either from without or within, if the courts ever bend to the winds of passing mass hysterias.

The Prothonotary was directed to record in the report of the proceedings the presence of His Excellency, George M. Leader, Governor of the Commonwealth, United States Senator Joseph S. Clark, Jr., Mayor David L. Lawrence of Pittsburgh, Mayor Richardson Dilworth of Philadelphia, many judges both Federal and State, a large number of attorneys and guests, among the latter being Chief Justice JONES' wife, Mrs. Isabella Arrott Jones, their son, William A. Jones, and grandchildren, Barbara Ann Jones and Charles Alvin Jones, 3rd, and Richard D. Anderson, 3rd, and David Meredith Anderson, the children of Chief Justice and Mrs. Jones' daughter, Mrs. Isabella J. Anderson, and the four living sisters of the Chief Justice: Mrs. Warren Worthington, Mrs. Joseph B. Hutchinson, Jr., Mrs. Charles E. Rippman and Mrs. Joseph W. Lippincott.