

IN THE SUPREME COURT OF PENNSYLVANIA

In Memory of

HONORABLE CURTIS BOK

Justice of the Supreme Court

November 8, 1958—May 22, 1962

A memorial service in honor of Justice CURTIS BOK was held in Room 456, City Hall, on Monday, November 19, 1962, at 2 P.M.

There were present the Chief Justice and Justices MUSMANNO, BENJAMIN R. JONES, COHEN, EAGEN and O'BRIEN, and a representation of the Bar and members of Justice BOK's family and friends.

Chief Justice JOHN C. BELL, JR. presided.

CHIEF JUSTICE BELL: Our colleague, Justice CURTIS BOK, died on May 22nd of this year and in his honor and memory the Court will now hold this memorial service.

Justice BOK was an author, a scholar, a distinguished jurist and a delightful friend. Every one who knew him liked and admired him and he will be very greatly missed by every member of this Court. His fortitude, courage and cheerfulness during his last long illness increased our admiration and fondness for him and left a lasting impression which we all retain in our memory and in our heart.

To his beloved wife and children the Court, and every member of the Court, extend our affection and deepest sympathy.

The Court now recognizes Judge Louis E. Levinthal.

JUDGE LOUIS E. LEVINTHAL: May it please the Court, Members of the Bench and Bar, Ladies and Gentlemen: It is an honor for which I am deeply grateful to have been asked to pay my tribute here today to the memory of a dear friend and esteemed colleague.

For more than twenty-one years prior to November of 1958, when CURTIS BOK was elevated to the bench of this Court, Gerald Flood and I enjoyed the privilege of serving together with CURTIS BOK as our President Judge in the Court of Common Pleas No. 6. Earlier, he had been on the Orphans' Court Bench for about a year. Although for nearly all of his judicial career he was a member of the so-called lower or inferior courts, he certainly was never an inferior judge. Indeed, he discharged his duties in every post he occupied with superior skill and with supreme dedication.

Born in Wyncote, Pennsylvania, in 1897, he was educated at Hill School near here, and at Williams College and the University of Virginia Law School, at each of which he left a fine scholastic record, also an extra-curricular record of distinction. Between college and law school, two years during the First World War were served in the Navy, which he entered as Quartermaster Third Class, and left as Lieutenant, Senior Grade.

He was admitted to the Bar in 1921 and, after practicing in the office of Francis S. McIlhenny and Robert Lamberton for several years, and alone for a time, he formed a partnership in 1930 with Robert Dechert and Owen B. Rhoads, which was subsequently joined by Geoffrey S. Smith and Joseph S. Clark, Jr. His early professional career was active and interesting. Some of his experiences he recounted many years ago, with

humor and with warm sympathy for every young lawyer, in his charming Judge Ulen sketches in *THE SHINGLE*.

CURTIS BOK was a member of the County Board of Law Examiners and also of the Board of Censors of the Bar Association. He also served as an assistant district attorney and was on the Board of Trustees of the Eastern State Penitentiary. For many years while in our Court, Common Pleas No. 6, he served as a member of The American Law Institute's Committee on Youth Justice, and as Chairman of the American Bar Association's Committee on Police Training and Merit Systems.

I believe that the predominant personal characteristic of CURTIS BOK was his never failing kindness, a kindness not restricted to his friends and acquaintances, but extending to all humankind. To him every individual, rich or poor, white or colored, good or bad, innocent or guilty, was sacred and entitled as of right to kindness and compassion. That was why he vigorously denied the moral right of the State to take the life of a murderer as a penalty for his crime. His soul-searing novel, *STAR WORMWOOD*, was the product of his passionate conviction that capital punishment is barbaric because it desecrates the sanctity of the human personality.

Judge BOK was by nature courteous and considerate, but not in a perfunctory or formal way, and never ostentatiously. His unbounded kindness flowed from that most precious gift that God can bestow upon any judge, or any man for that matter—an "understanding heart."

I shall never forget an incident—and I might cite others—that occurred early in the history of C. P. 6. It illustrates the rare quality of CURTIS BOK's char-

acter. He found it his duty to join with his fellow president judges in disbarring a lawyer who undoubtedly deserved disbarment. But this lawyer had done something unselfish, by undertaking the education of a poor nephew. While Judge BOK did not shirk his duty to punish the faithless lawyer, he was none the less unwilling to cause pain where it was undeserved and unnecessary. And so he, himself, quietly assumed the task of subsidizing the boy's education.

He was known as a liberal judge and he was "liberal" in the original sense of the word, for he was always open-minded and open-hearted, as befits a "free" man, a man free of prejudices. He certainly was not a revolutionary judge intent upon altering in any radical degree that great system of law which he was sworn to administer and uphold. On the other hand, he never felt himself compelled to accept legal rules merely because they had been long-established precedents. In his opinion in *Commonwealth v. Ladd* (402 Pa. 164), he thus summed up his judicial philosophy: "We may change a common law rule . . . and abolish it when we are aware that modern conditions have moved beyond it and left it sterile . . . A rule becomes dry when its supporting reason evaporates . . . If the common law cannot change, it cannot live."

His famous opinion on obscenity and censorship handed down in C. P. 6 in 1949 (*Commonwealth v. Gordon et al.*, 66 D. & C. 101) was a reflection of his basic point of view, that the law was not something fixed and immutable, but a living organism, having its origin in human nature, in the habits, practices, beliefs and desires of men. It is undeniable that Judge BOK's opinion has already exerted an influence in liberalizing the law with respect to censorship, not only in a number of American jurisdictions but also in England.

By his four published volumes of fiction Judge BOK established a reputation for himself as a gifted writer. In those works he revealed his innermost ideals and aspirations, his love of music and of books, of nature and especially of the sea, and above all else, of people. In writing during his last illness his posthumously published *MARIA*, he succeeded magnificently in accomplishing what he had set out to do: to produce a simple, noble-spirited novel which expressed his own feelings of kindness and sentiments of love.

He was an avid reader of good books of all kinds. When I last visited him, not long before he was taken from us, he told me he had been reading the Bible and finding some portions of it fascinating and inspiring. I have the feeling that if he had had to select one Biblical verse as the guiding principle for his life, and indeed for the life of all men, it would have been "Whatsoever thy hand findeth to do, do it with thy might." He certainly acted upon the belief that he lives best who performs his every task as well as he possibly can. In *MARIA* the dying sea-captain Pierre tells his daughter that there is no better way of living than "by giving our whole energy to our life and by doing so well what is given us to do, and doing it so closely to the limit of our powers, that we shall have no time to wonder what our reward will be."

True to the tradition of his parents and grandparents, CURTIS BOK himself heeded that admonition all the days of his life, and his richly earned reward, unsought and unexpected by him, is the esteem and the love of all who were fortunate to know him, and the admiration and affection of all who read his writings. His lovely wife, Nellie Lee, always shared the credo of her beloved husband and helped him to live up to it. And the lives of his dear children, who have adopted for themselves the noble principles that guided their

forebears, will be the finest tribute that can be paid to the memory of CURTIS BOK.

CHIEF JUSTICE BELL: Thank you, Judge Levinthal. The Court recognizes Chief Justice Charles Alvin Jones.

CHIEF JUSTICE CHARLES ALVIN JONES: With permission of the Court, I too appreciate the honor of being asked to speak here today in memory of our departed friend, CURTIS BOK.

We have just heard an inspiring factual recital of the more outstanding features of Judge BOK's useful life. As has been mentioned, for twenty-one years he served capably and well as the President Judge of the Court of Common Pleas No. 6 of Philadelphia County, with benefit to the public and with honor and distinction to himself. His work in that court, which came to this Court for review only infrequently, was of a high order and uniformly evidenced careful and painstaking research, study and consideration of the issues involved; never did he gloss over or slight in the tiniest degree the judicial task confronting him.

His tenure on your Honorable Court was most unfortunately terminated, all too soon, by his untimely death.

Elected a Judge of this Court on November 4, 1958, for a term of twenty-one years, beginning the first Monday of January next succeeding, Judge BOK was appointed, ad interim, by Governor Leader on November 8, 1958, to the then existing vacancy, which he was ultimately to fill and, thus, he was entitled to, and did, sit for the argument and disposition of the appeals listed for your November 1958 Session. He assumed the discharge of the duties of his office with zeal and with high hopes that he would be able to make an ex-

cellent name for himself as an appellate court judge, whereof his prior judicial service gave large promise.

During his service on this Court Judge BOK participated in the consideration and disposition of many legally important cases and, in some instances, authored the opinion for the Court. But the insidious illness that was lurking within him relentlessly took its toll of his strength with the result that for the last nine months of his life he was physically unable to attend Court sessions. But always, almost up to the end, he apparently harbored the courageous belief that he would recover his health and be able again to resume the full discharge of his official duties. His fortitude was truly amazing.

No one privileged to work with Judge BOK could have failed to appreciate his nobility of character. He was gentle, kind, and considerate of others. Judge Levinthal has told you of Judge BOK's assumption of the responsibility for the continued education of a young man who, up to that time, had been dependent upon the bounty of a lawyer uncle, whom it became Judge BOK's unpleasant duty, along with other members of the court, to disbar for professional misconduct. There are a number of other such exhibitions of the largeness of Judge BOK's heart, known to me but to which I never heard him make reference. He was a tall man, but it has been truly said that no man is so tall as when he stoops to lift a fallen brother. In that way, Judge BOK rose to his full stature. Like Abou Ben Adhem, his innermost wish must have been that the recording angel would write him "as one who loved his fellow man."

Judge BOK's mien in court was classically judicial. Dignified, silent and attentive to the matters before the Court, he would sit with utmost calm and enduring patience through the most over-spun argument in

the dreariest of cases. But that attitude did not constrict his intellectual courage. He said and wrote exactly what, in his opinion, the circumstances called for, wholly undismayed by possible friendly reproof or hostile criticism. He had learned to judge all others with charity because he first judged himself with sincerity.

Inasmuch as Judge Bok's love of the sea is so well and widely known, lines from Walt Whitman in tribute to Tennyson may not be inappropriate, in conclusion, as an apostrophe to our lamented friend, CURTIS BOK :

“Often enough hast thou adventur'd o'er the seas,
Cautiously cruising, studying the charts,
Duly again to port, and hawser's tie, returning :
—But now obey thy cherish'd, secret wish,
Embrace thy friends—leave all in order ;
To port, and hawser's tie, no more returning,
Depart upon thy endless cruise, old Sailor !”

Thank you.

CHIEF JUSTICE BELL: Thank you, Chief Justice Jones.

In accordance with our custom, the fine sympathetic addresses we have heard in memory of our departed friend and colleague will be entered on the records of this Court and printed in the State Reports.

In respect for Justice Bok the court will now adjourn for the day.