

In Memoriam

HONORABLE BENJAMIN R. JONES, JR.

IN THE SUPREME COURT OF
PENNSYLVANIA
EASTERN DISTRICT

Memorial Proceedings

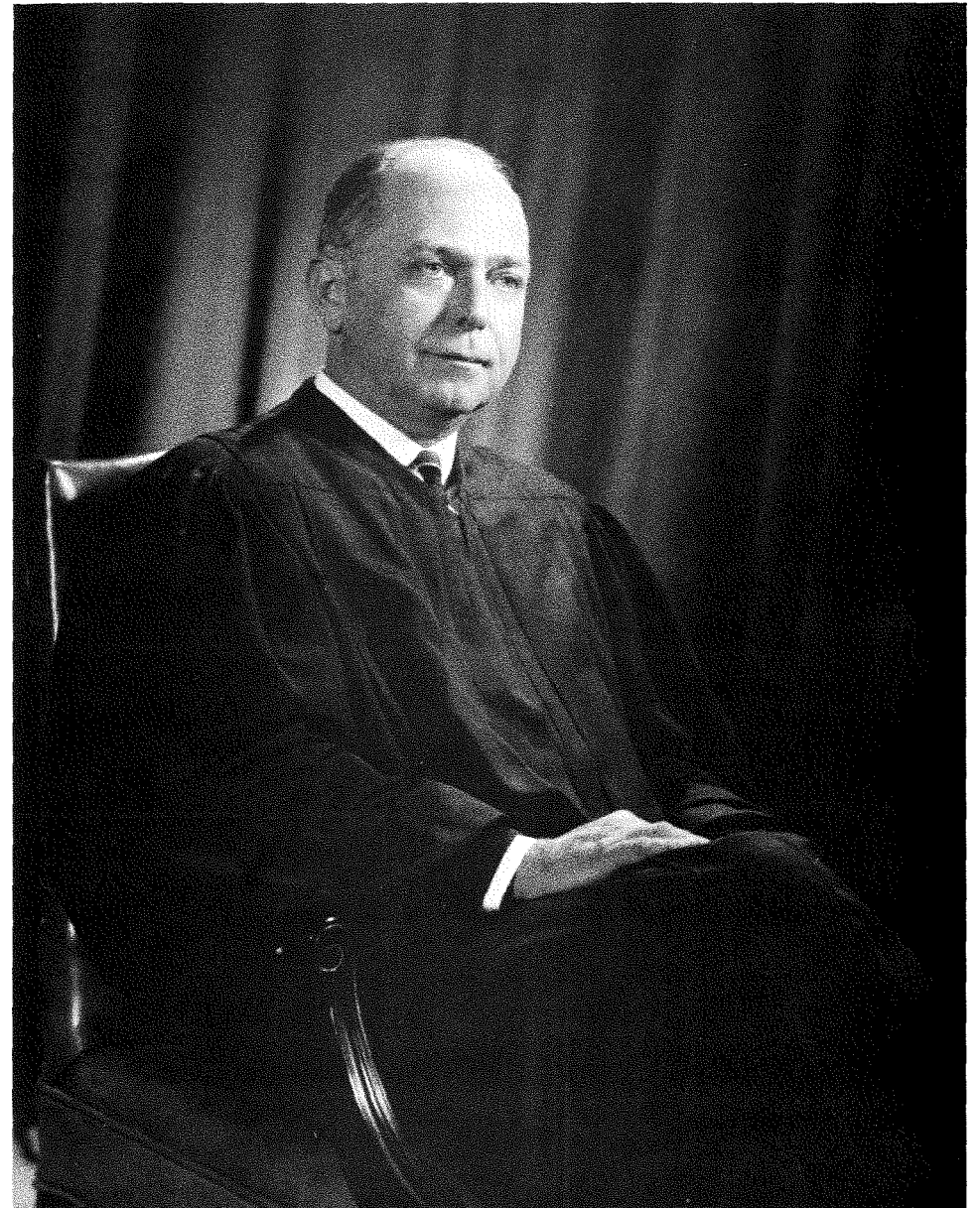
for

THE HONORABLE
BENJAMIN R. JONES, JR.

Room 456, City Hall
Philadelphia, Pennsylvania
October 20, 1980

Present:

CHIEF JUSTICE HENRY X. O'BRIEN
JUSTICE SAMUEL J. ROBERTS
JUSTICE ROBERT N. C. NIX, JR.
JUSTICE ROLF LARSEN
JUSTICE JOHN P. FLAHERTY
JUSTICE BRUCE W. KAUFFMAN
HON. MICHAEL J. EAGEN
HON. THOMAS W. POMEROY, JR.
HON. PATRICK J. TOOLE, JR.
DR. WALLACE F. STETTLER
LEWIS H. VAN DUSEN, JR., ESQ.,
FAMILY AND FRIENDS.



HONORABLE BENJAMIN R. JONES JR.

In Memoriam

CHIEF JUSTICE O'BRIEN: We are assembled here this morning for a memorial service for the Honorable Benjamin R. Jones, former Chief Justice of Pennsylvania.

Family, friends, ladies and gentlemen, at this time we call upon Dr. Wallace F. Stettler, president of the Wyoming Seminary, of which the Chief Justice was a trustee and a very close friend of Dr. Stettler. Dr. Stettler was present for the Chief Justice's induction in 1972.

Dr. Stettler.

DR. WALLACE F. STETTLER: May it please the Court, Benjamin Rowlands Jones, Jr. was a distinguished jurist, eminent public servant, respected citizen of the Wyoming Valley and the Commonwealth of Pennsylvania, devoted father and family man.

Chief Justice Benjamin Rowlands Jones, Jr. began immortality in Wilkes-Barre on the 29th day of May, 1906 and finished it with grace and courage in Philadelphia, Pennsylvania on the 24th day of July, 1980.

The grandson of Welsh immigrants, throughout his entire life he sustained a tenacious loyalty to his roots, traveling extensively for Welsh institutions. He maintained membership in the First Welsh Presbyterian Church of Wilkes-Barre, serving it faithfully and truthfully.

All of us are distinctive in our personalities and have our own unique way of expressing what we truly are. Ben Jones expressed what he truly was in his actions.

He was a shy and unpretentious man, more conscious of his unrecognized limitations than of his obvious multi-talents. He was not a person who wore his heart on his sleeve.

He was a distinguished student, Cum Laude Society of Wyoming Seminary, honors graduate of Princeton University, member of the Law Review at the University of Pennsylvania Law School and recipient of many honorary degrees.

Upon completion of his education, he joined the law firm of Bedford, Waller & Darling. Immediately he combined his indefatigable and prodigious legal talent with family responsibility, community involvement and church commitment.

IN MEMORIAM

He served as the first president of the Wyoming Valley Community Chest, the forerunner of United Way, of which significantly, coincidentally, his son, Benjamin R. Jones, III is the general chairman of the current campaign.

Following a commitment to the United States Navy in 1943 to 1945, he founded and taught a Sunday School class for returning servicemen, was a member of the faculty of the Wharton School of Finance and Banking and the American Institute of Banking.

Throughout all of this active and crowded career he cared about his family and felt a compassionate concern for his community, the makings of a truly preeminent man.

Prior to joining the Supreme Court of the Commonwealth, he was eagerly sought after to bring his incisive mind and keenness of perception to the boards of the Wilkes-Barre General Hospital, the Miners National Bank, the Boy Scouts of America, the YMCA, and his alma mater, the Wyoming Seminary. He loved the challenge of community involvement.

As George Eliot wrote, "Our deeds still travel with us from afar, and what we have been makes us what we are."

Chief Justice Jones, who worked in the coal mines in summers while at prep school and the university, was a man who loved the outdoors. He liked to tramp in the woods, to hunt and fish, to be near his God and Maker revived his spirit and put a spring in his stride. He possessed a zest for life and lived it at its fullest.

In Boston Commons there is a tombstone on which you will find this epitaph chiseled in stone, "Here lies a man whose soul was goodness, whose heart was truth."

So it can be said of Chief Justice Benjamin Rowlands Jones, Jr. Goodness and truth motivated his life and actions and, of course, speak as a remarkable example to us all.

Thank you, sir.

CHIEF JUSTICE O'BRIEN: Thank you, Dr. Stettler. We will call upon the Honorable Patrick J. Toole, Jr., Judge of the Court of Common Pleas of Luzerne County.

JUDGE PATRICK J. TOOLE, JR.: Mr. Chief Justice, Mr. Justices, it is fitting that we assemble today in this chamber to pay tribute to the revered memory of a man who by his talent and service added to the lustre and the prestige of the legal profession and this historic Court.

I remember the first day I entered this chamber. It was approximately twenty years ago, this time. I entered as the

HONORABLE BENJAMIN R. JONES, JR.

newly appointed law clerk to the man we remember here this morning.

In the years that followed I was honored to gain his friendship and on occasion to share his labors, his joys and his sadness, his smiles and his frowns, his laughs and his tears, his tireless pride and his love.

I note that there were and are many who knew the Chief Justice longer, but I submit no one loved him more dearly.

The man we memorialize today was great, too great to be spoken of in a cursory manner. Indeed, it is difficult to stand here for a few minutes and in a few words mention his accomplishments, his services, his legal experience in Luzerne County, if not the Commonwealth of Pennsylvania. You will understand then if I labor to do justice today to your feelings and mine.

I believe that the true greatness of an individual is determined not by the quantity of his accomplishments but by the quality of his character, not by what he did but what he was.

I will, therefore, not recount his many civic and professional accomplishments, except to state it was the quality of his character that earned his appointment as Assistant District Attorney, his selection as president of the Luzerne County Bar Association, his appointment as a partner in one of Luzerne County's most prestigious law firms, his election as President Judge of the Orphans' Court of Luzerne County where he served with distinction until his election and elevation to this distinguished tribunal.

No one who was privileged to have known or served him is likely to forget the depth of his energy, the candor of his speech, the inspiration of his leadership, the courage of his convictions, with the warmth and brightness of his friendship.

Certainly, no one I have ever met offers to future generations a greater inspiration or a more priceless example of inflexible fidelity to conscience and dedication to duty.

The Chief was a happy man. He enjoyed his colleagues, he enjoyed his friends, he enjoyed life. But his greatest joy, his greatest happiness came from those he affectionately referred to as his jewels, his family; came from his wife Jane, came from his sons Ben, Dick and Rusty; came from his daughters-in-law Jane, Helen and Linda.

It came—oh, God, how it came—each time he held and looked into the eyes of his grandchildren. And it came from the law

IN MEMORIAM

which he loved with a profound passion from the first moment he realized his vocation to the very last beat of his heart.

The Chief is gone, summoned by a Higher Power to a higher place. Instead of sadness, I hope we can find consolation in the thought that the Chief once again has become the companion of his departed colleagues. He has but left the friends of his old age to associate once again with the friends of his youth.

I know that with goodness a little more light and truth come into the world, and that this man's life had that meaning. Measured on any scale or by any standard the life of Chief Justice Benjamin R. Jones has had meaning. I am confident that the passage of time will never dim the brilliance of his career or cool the warmth of love or the memory of those he left behind. Thank you.

CHIEF JUSTICE O'BRIEN: We call upon a close friend of Chief Justice Jones, Lewis H. Van Dusen, Esquire of Philadelphia.

MR. LEWIS H. VAN DUSEN: I speak on behalf of the Organized Bar of Pennsylvania who respected and loved Chief Justice Benjamin R. Jones.

He commenced his distinguished legal career half a century ago, in 1930. In that year Gifford Pinchot was elected Governor of Pennsylvania for the second time. His attorney general, the Honorable William A. Schnader, was to become the leader of the organized effort to amend the Judiciary Article of the Pennsylvania Constitution, which amendment became effective forty years later.

In 1930 the Honorable Owen J. Roberts gave up his distinguished and lucrative career at the Bar to become a Justice of the Supreme Court of the United States, the only Justice of that Court appointed from Pennsylvania in this century. In the same year Thomas S. Gates gave up his position as a partner of J. P. Morgan to become president of the University of Pennsylvania.

It was in 1930 that Senator George Wharton Pepper collaborated with his closest friend, Henry L. Stimson, a great lawyer and then Secretary of State, in developing the Stimson Doctrine at the London Naval Conference in opposition to condoning armed aggression by the Japanese in Manchuria, which unanswered act of war many believe ultimately led to Pearl Harbor and World War II.

In 1930 Justice Jones graduated from the University of Pennsylvania Law School, where he was on the Law Review, and

HONORABLE BENJAMIN R. JONES, JR.

immediately became a part of the law office of that great Wilkes-Barre lawyer, Paul Bedford. Paul Bedford had no children of his own and treated Justice Jones as his son. In 1930 Paul Bedford, who had steered Justice Jones to Princeton in 1923, first became a trustee of that university. Frequently thereafter Justice Jones met the presidents and other citizens of distinction from Princeton at Paul Bedford's home.

This close association undoubtedly had a stimulating effect on Justice Jones' early motivation to become a great public servant. It was Paul Bedford who introduced him to this Court when he was first sworn in as Justice Jones on January 7, 1957.

Throughout his legal career, both before and after he was on this Court, Justice Jones supported the reforms advocated by the Organized Bar.

During the period when he was Chief Justice, the amendment of the Judiciary Article of the Constitution of Pennsylvania, which became effective in 1970, was implemented.

The very close relationship which existed between Chief Justice Jones and Fred Bolton, the distinguished first Executive Director of the Pennsylvania Bar Association after its reorganization in the early 1960's by President William Schnader, resulted in an effective combination which enabled the Supreme Court and the Organized Bar to work together with the Constitutional Convention to produce this amendment, which incorporates the most important reforms to the Pennsylvania judicial system in a hundred years.

The first act of this Court in implementing the amendment was to create a single state-wide disciplinary system for lawyers under a new board. This Court appointed the Honorable Gilbert Nurick of Harrisburg, a past-president of the Pennsylvania Bar Association, as its first chairman.

This Court then activated the Judicial Inquiry and Review Board; established the office of the Pennsylvania Court Administrator, and replaced the old system of justices of the peace and aldermen with our present district court system.

From the time of his elevation to the office of Chief Justice, Justice Jones worked consistently in cooperation with the Organized Bar to secure an additional constitutional amendment creating a merit selection system for the appointment of all appellate judges in Pennsylvania. This effort had failed at the polls by a narrow margin in 1969, but Chief Justice Jones diligently supported subsequent efforts to secure the passage of such an amendment. He did succeed in persuading the Gov-

IN MEMORIAM

ernor of Pennsylvania to establish voluntarily such a system by executive order, which system has been in operation since May 1, 1973.

One of the biggest problems faced by the judicial system, while Chief Justice Jones was the leader of this Court, was the enormous expansion of the judicial case load due to the crime wave, the advent of medical malpractice cases and class actions, and the growth of population and its concentration in urban areas.

It was while Chief Justice Jones was the leader of this Court that the Code of Professional Responsibility and the Code of Judicial Conduct were adopted by the Supreme Court of Pennsylvania.

Also, during the term of Chief Justice Jones the 250th anniversary of this Court was celebrated, as well as the bicentennial of this country. Since the establishment of this Court, the industrial revolution and the very appropriate demand for the protection of individual rights have placed great strains on the judicial system, but this Court has been equal to the pressures to which it has been subjected.

Since 1930 Justice Jones and the other members of this Court have worked diligently to carry on the reforms then advocated by such men as William Schnader, Owen Roberts, George Pepper, Thomas Gates and Paul Bedford.

Chief Justice Jones brought to his office on this Court a lifelong dedication to and belief in public service, a profound knowledge of the ways of men, particularly lawyers, and of organizations.

He had a personal warmth and enthusiasm which drew out the best in everyone. He inspired people from quite different backgrounds and disciplines to focus on the problems of the day and to work as a team to solve them. Pennsylvania has every right to be very proud of the part which he played in fighting the world's fight and protecting the way of life which we enjoy. Thank you very much.

CHIEF JUSTICE O'BRIEN: We call upon a colleague of Chief Justice Jones, the Honorable Thomas W. Pomeroy, Jr., former Justice of the Supreme Court of Pennsylvania.

HON. THOMAS W. POMEROY, JR.: Thank you, Mr. Chief Justice. May it please the Court, I am very honored that on my first appearance before this tribunal since I left it almost two years ago, the occasion is to celebrate the life of our dear friend and colleague, Benjamin R. Jones.

HONORABLE BENJAMIN R. JONES, JR.

When I think of Justice Jones, I think in three dimensions. I think first of a man and a friend, secondly as a Justice of this Court, and thirdly as a Chief Justice or the chief judicial spokesman for the Commonwealth of Pennsylvania.

In terms of Ben Jones as a man, that has been captured I think by Dr. Stettler and Judge Toole. He was a bundle of energy, as we all know, nervous energy, physical energy. He was a hard worker. He drove himself relentlessly. I sometimes accused him of driving others as hard as he drove himself.

He was fond of letting it be known at what hour of the morning he had received his first telephone call or received his first visitor. These are statistics I could never refute because I wasn't around at that time. I had to take it more or less as the gospel truth.

He had a great capacity for friendship among the high and the lowly of this world. His loyalty to friends and institutions had been referred to. He was a man of simple tastes. There were no trappings of high office with him. One would hardly suspect that he was a judge or a justice, let alone Chief Justice, to see him walk down the street.

He was, as has been said, a happy person, full of jokes and anecdotes to get us over the difficult process of deciding cases in this Court. He had a puckish wit; he had a sense of the ridiculous, with himself usually as the plot of the ridiculous situation.

He had a contagious laugh, which sometimes was just a giggle, and sometimes he erupted unexpectedly from this severe and august bench. But he could show irritation. He could even show anger on occasion, especially if he thought a lawyer was being dishonest or deceptive, or trying to pull the wool over one's eyes.

He helped the situation with picturesque speech. For example, he was fond of saying one was picking fly specks out of pepper, or vice versa, when he was criticizing an opinion or an argument. That little metaphor was frequently directed at the present speaker. He was also fond of saying a very important truism, that one can disagree without being disagreeable. In short, Ben Jones was a warm, vivid, intense and generous person, a very human, human being. He was a very lovable person.

When I think of Justice Jones as a jurist, I think of him not so much for the volume of opinions that he wrote in his twenty years of service to this Court—there must have been at least a

IN MEMORIAM

thousand of them—but I think of him particularly as a student of the law.

He knew the need for stability in the law. In other words, he knew what the lawyers call the rule of stare decisis. On the other hand, he also knew the need for change, to keep up with the changing times.

“When it is determined,” he wrote, “that a past precedent no longer is in accord with modern realities, if rationale justifies support for the old rule no longer, then the pledge to certainty gives way to new conditions and to the persuasion of superior reasoning.”

He led this Court to abolish a pious yet unreligious cause of action, a cause of action based on extramarital activity, which the law calls criminal conversation. He led the Court to abolish that hundred year old rule because, as he wrote, it had created confusion, injustice and glaring inconsistencies.

In the field of adoption, that is to say, in the field of adopted children under wills and trusts, he led this Court away from the fine-spun theories relative to ascertaining the testator's intent, which often led to the disenfranchisement or disinheritance of adopted children.

He was anxious to sweep away the uncertainty, the confusion which the decisions of this Court and other courts had developed over the years.

Thus, he led the Court to revitalize that very unusual judicial tool of declaratory judgments. He articulated standards which generated a minimum of interpretation.

Thus, he advocated a new approach to the law of product liability and consumer rights under Section 402(a) of the Restatement, doing away with the concept of negligence and contributory negligence and proximate cause in that area, a position which I understand this Court has recently reaffirmed or confirmed.

Other cases come to mind, the no-fault insurance case, cases upholding the investment broker laws, his decision upholding the Pittsburgh Sky Bus statute, and so forth. One could go on and on. I haven't even touched the criminal field.

Justice Jones was known as a no-molly-coddler of criminals properly convicted. Yet he was deeply sensitive to the rights of accused defendants. For example, one case comes to mind, Commonwealth vs. Ingram, in which he charted new law in procedures which must be gone through to have a valid guilty plea. The accused must be told and understand all of the ele-

HONORABLE BENJAMIN R. JONES, JR.

ments of the crime of which he is accused. And there are a number of others.

Finally, I turn to Chief Justice Jones as Chief Justice. I think he wore the role of leadership surpassingly well in the five years he held that high office.

He was a fine representative of this Court on various affairs of state. I think of the 250th anniversary of this Court, which was celebrated in Independence Hall in May of 1972, in which Chief Justice Jones sat in the presiding chair.

I think of the Conference of Chief Justices which he brought to Philadelphia in 1976. I think of his historic address as Chief Justice to the Joint Houses of the General Assembly of Pennsylvania, something that had not occurred for over a hundred years.

Reference has been made to the new constitutional article that became effective just shortly after Justice Jones became Chief Justice. He waded in to the role of supervising the judicial system of Pennsylvania, which evolved upon this Court under the new article, with vigor, if not with enthusiasm. He probably would have preferred to write opinions.

On the very first month of his Chief Justiceship he gave a state of judiciary address to the Bar Association and said, "I am aware of the responsibilities of the office of Chief Justice in an integrated court system and that it entails dedication of purpose, and the willingness to accept the proposition that there is upon the door of the Chief Justice the adage 'the buck stops here.' On behalf of my colleagues and myself, I leave to the Bar of this Commonwealth and to the public our awareness of the problems existent in our court system and our willingness to cooperate to solve these problems, and our realization that these problems must be met and solutions attempted, not tomorrow but today."

So it is true, as Mr. Van Dusen has said, that he led this Court through knowledge, laborious days, tedious days, hammering out new unified rules of court for the new unified court system, including the Disciplinary Rules and the Rules of Appellate Procedure and many others.

I think of his subsequent addresses to the Bar Association on an annual basis. Many themes naturally recur, but three particularly seemed to be his primary concern. One was that of the merit selection of judges. The second was the problem of coping with the case load, particularly in the appellate courts. As far back as 1974 or 1975 he advocated the enlargement of the Superior Court that has just now come about.

IN MEMORIAM

Finally, he was concerned about restoring public confidence in the judicial system. In his last address of this sort in 1976 Chief Justice Jones said, "Our number one task of the future is to restore the image of the judiciary, so the public may regain trust and confidence that we have the ability, the courts, and the integrity to cope adequately with modern problems."

Chief Justice Jones was devoted to the law. It was his jealous mistress. He was intensely proud of this Court and its ancient and honorable lineage. He was desperately anxious that the Court as an institution be worthy of its history and the role it should play in the involvement of Pennsylvania in these difficult and changing times. Thank you very much.

CHIEF JUSTICE O'BRIEN: Thank you, Justice Pomeroy. We will call upon a long-time colleague of Chief Justice Jones, the Honorable Michael J. Eagen, former Chief Justice.

HON. MICHAEL J. EAGEN: May it please the Court, Mr. Chief Justice, Justices of the Supreme Court of Pennsylvania, it seems a bit strange, but it is forty years plus since I appeared before this Court on this side of the bench.

I am privileged and grateful to have this opportunity to say a brief word about a friend and colleague of many years.

A substantial portion of Ben Jones' seventy-four years was devoted to public service in positions of great public trust, which he filled with great credit to himself and to the benefit of his beloved Pennsylvania.

His opinions as a Justice of this Court evidenced a strong and well-balanced mind, plus intense effort and scholarship, and will in many instances be looked upon by the Bench and Bar of Pennsylvania of the future as a leading authority in important areas of the law.

While his public accomplishments deserved and received great recognition, I think his greatest achievement was the love and respect of thousands of people. In truth, he enjoyed troops of friends.

He possessed something that superior intelligence and character do not always give. He had distinction and above all he had class. It was this more than anything else which made him so different from ordinary men.

When a friend like Ben Jones dies, part of our own life seems to die with him. But we are and should be reassured in the knowledge that when a man is born, he immediately begins to die; and when death consumes the body, then does he begin to

HONORABLE BENJAMIN R. JONES, JR.

live. The life of Ben Jones has just begun. Thank you very much, Mr. Chief Justice.

CHIEF JUSTICE O'BRIEN: Gentlemen, you have brought the spirit of Ben Jones here amongst us. As his image looks down upon this assemblage, I am sure that his spirit is here today.

The minutes of this memorial service will be spread upon the records of this Court, and that will endure when he has been forgotten.

This memorial service will be a reminder of the greatness of our former Chief Justice, Benjamin Rowlands Jones, Jr.

At this time we will take a fifteen-minute recess for the family and friends of Chief Justice Jones to meet and say hello.

This is not a sad occasion and we don't want it to be such. As Chief Justice Eagen has said, Benjamin R. Jones is living and will live.

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