

Induction

of

THE HONORABLE ROY WILKINSON, JR.

As Justice of The Supreme Court of Pennsylvania

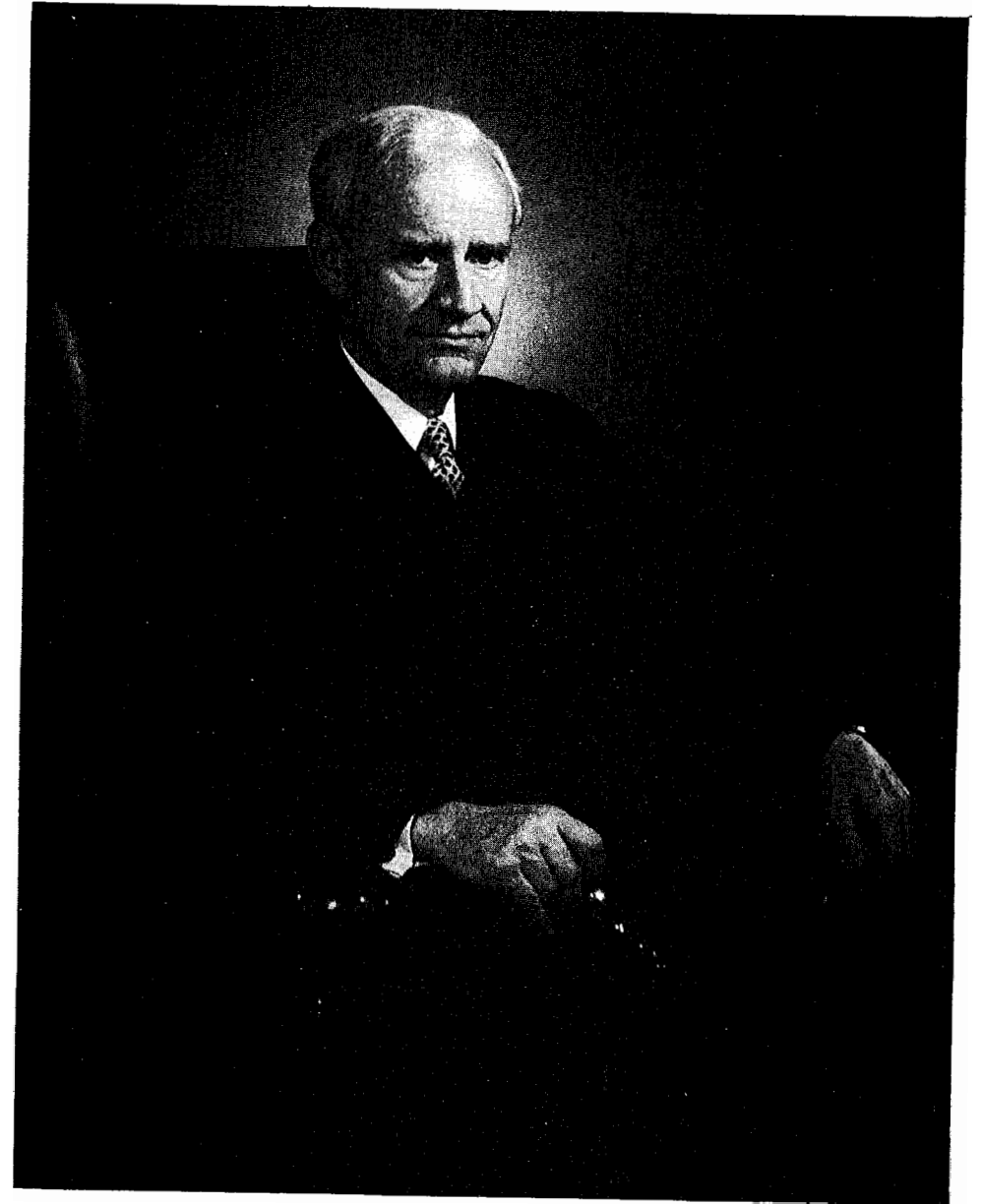
Supreme Court of Pennsylvania, Eastern District
Room 456 City Hall
Philadelphia, Pennsylvania
April 21, 1981

Present:

JUSTICE SAMUEL J. ROBERTS,
Presiding.

JUSTICE ROBERT N. C. NIX, JR.
JUSTICE ROLF LARSEN
JUSTICE JOHN P. FLAHERTY
JUSTICE BRUCE W. KAUFFMAN

HON. ARLIN M. ADAMS
HON. MICHAEL J. EAGEN
LEWIS H. VAN DUSEN, JR., ESQ.
GILBERT NURICK, ESQ.
Family and Friends



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JUSTICE ROBERTS: We open our session this morning with a very special and significant event, the public induction ceremony of the Honorable Roy Wilkinson, Jr. as the 124th and newest justice of the Supreme Court of Pennsylvania, in this the Court's 259th year of service as the nation's oldest continuous appellate court.

On March 19 Mr. Chief Justice O'Brien administered the constitutional oath of office to Judge Wilkinson. Since that moment Mr. Justice Wilkinson has been serving the Court. We can tell you in the brief span of time since then Mr. Justice Wilkinson has already demonstrated superior dedication to this Court and to the administration of justice.

We are pleased now to recognize the Honorable Arlin Adams, Judge of the United States Court of Appeals of the Third Circuit.

HON. ARLIN M. ADAMS: With submission to Your Honors: It is a highly prized distinction to have the opportunity to present a newly appointed justice to his colleagues. This is a special privilege for me, since I have known Judge Roy Wilkinson for many years, as a student at the University of Pennsylvania Law School and shortly thereafter as a law clerk to your late colleague, Chief Justice Horace Stern.

If there is any term which appropriately describes Roy Wilkinson's career, it is the word "excellence."

Although his home was in Bellefonte, Roy did not commute to Penn State University, where he did his undergraduate work. Instead, he lived in State College and worked long hours each week in the library to pay for his room, and then waited on tables at a fraternity house in order to obtain his meals.

Roy earned a position on the regular debating team in his freshman year, and continued on the team for the entire time he was at the University. Despite his heavy outside work load, he was able to finish his regular four-year pre-legal course in three years.

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I know it was a great source of satisfaction to him that in his later law practice he was appointed counsel to the University and was eventually awarded its Distinguished Alumni Award.

From Penn State, Roy Wilkinson went on to the University of Pennsylvania Law School, where he was graduated with honors in 1939. While there he served as an editor of the Law Review for two years.

He enlisted in the Army on the day following Pearl Harbor, December 8, 1941, and served until March, 1946 in the European Theater with the 75th Infantry Division. Although he entered the service as a private, before the conflict had ended Roy had risen through the ranks to become a major.

Mr. Nurick will speak of Judge Wilkinson's record as a lawyer and as an active participant in the organized bar; Chief Justice Eagen will talk of Judge Wilkinson's service on the Commonwealth Court; and Mr. Van Dusen will describe his great accomplishments as a citizen and public servant. Nonetheless, I do wish to say a further word about this outstanding person and about his philosophy.

Modest as he is, he cannot conceal that his energetic way of attacking problems, his tremendous vigor, the penetrating power of his mind, and the tireless application to his work have had much to do—I suppose only his colleagues really know how very much—with the vast success of his law practice as well as the substantial amount of business that the Commonwealth Court has been able to process.

The civic and communal obligations which have been discharged by Judge Wilkinson, and the philosophy with which he has assumed his judicial duties, might appear to be separate. Actually they tie together and are intertwined. In Judge Wilkinson the wisdom and experience of a public figure enrich and expand the understanding, the awareness and the diligence of the judge.

Political morality and governance are important subjects for Judge Wilkinson, as well as the related question of judicial review—specifically, the power of a court to set aside and nullify choices of elected representatives. The problem is created, of course, by the fact that our political ethic has been largely majoritarian, whereas most courts are counter-majoritarian, because they are neither democratic nor representative. Although judges of this Court are called to answer to the electorate, the

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dilemmas posed by judicial review are nonetheless present, because of the awesome finality of many decisions rendered by them. And the problem becomes more acute when a court undertakes to impose principles that are not fairly to be found in the Constitution.

Judge Wilkinson has always placed great weight on the importance of political democracy, and he has eschewed the concept of what lately has been referred to as activist courts. He justifies judicial review, in large part, on the ground that courts can introduce into our political processes something of value that the executive and legislative branches may not; specifically, the formulation of enduring principles. Judges are uniquely fitted for this function because they have the learning and insulation to follow the ways of the scholar in pursuing the ends of government.

Judge Wilkinson has also been able to use the art of judicial compromise quite effectively. He understands, better than most, that no society, certainly not one as heterogeneous as ours, can fail in time to falter if it is deprived of the art of compromise. The insight of the 18th Century political philosopher Edmund Burke, who advocated consent and limited power as the proper basis for a stable and just government, succinctly conveys this view. Burke said:

“All government, indeed every human benefit and enjoyment, every virtue, and every prudent act, is founded on compromise and barter. We balance inconveniences; we give and take; we remit some rights, that we may enjoy others; and we choose rather to be happy citizens than subtle disputants.”

Burke proceeded to warn of the danger to a free society posed by individuals who profess to proclaim the uncompromisable, absolute truth. A mark of Judge Wilkinson's effectiveness as a judge, at least in my opinion, is that he fully appreciates that the judiciary must avoid the same arrogance of asserting to know the undoubted truth.

He comprehends, too, that although no society can be unprincipled, no viable society can be chained to immature propositions if it is to grow and progress. Finally, he understands that no judge can derive rules from his own sympathies or political leanings alone, but rather must discover and enforce the fundamental predilections of the citizenry from the evolving morality of our tradition.

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Aside from his well-considered philosophic base, the most distinguishing features of Judge Wilkinson are his great integrity, his warm personality, his fine character and his engaging charm. He always has time for a touch of humor, and on such occasions one sees a merry twinkle in his eye. And his friendly camaraderie with attorneys, yet quiet dignity, are well known and well respected hallmarks of your new colleague.

The citizens of the State join me in commending the Governor for this outstanding appointment. For many years this Court has been among the outstanding state tribunals. I predict that Judge Wilkinson will be a worthy addition to your group, and will further embellish its outstanding record.

John Gardner, in his Treatise on Excellence, declares that "our society cannot achieve greatness unless individuals at many levels of ability accept the need for high standards of performance and strive to achieve those standards within the limits possible." He goes on to say, "We want the highest conceivable excellence in the activities crucial to our effectiveness and creativity as a society."

Your Honors, I have the high privilege to present to you, as your newest colleague, a citizen who at all times has "accepted the need for high standards of performance"—the need for excellence—and has striven to achieve those standards within the limits possible, Mr. Justice Wilkinson.

JUSTICE ROBERTS: Thank you, Judge Adams.

The Court is pleased to recognize an outstanding advocate for the advancement of competence among lawyers, Attorney Lewis Van Dusen.

MR. LEWIS VAN DUSEN: May it please the Court. Judge Adams has mentioned some of Mr. Justice Wilkinson's distinguished achievements as a lawyer and an appellate judge. In addition, the new Justice has a long record of outstanding service in other areas of the public sector and in the area of private philanthropy, including the field of education.

Many of us are old enough to remember with horror and agony the Battle of the Bulge in late December of 1944 and early January of 1945. Justice Wilkinson was then a major in the 75th Infantry. One example of his tenacity of spirit in that battle goes as follows:

He was assigned this day in December the task of bringing up some heavy artillery to St. Vith in an effort to relieve Bastogne.

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He approached a crossroad in a heavy snowstorm. He was attempting to go east, but the north-south crossroad was totally occupied with moving troops and equipment. A soldier was directing traffic and blocking the path of his artillery pieces.

After a reasonable wait, the new Justice got out of his Jeep and put his hand on the shoulder of the soldier, saying, "Soldier, you no doubt think you are doing your duty, but in my opinion you are helping us lose the war."

The soldier had a cape over his head. He turned and said to our new Justice, "Major, I am doing the best I can, but I am sure my performance could be improved. How do you suggest we could proceed to win the war more effectively?"

Major Wilkinson looked up under the cape and saw that he was talking to a three-star general, none other than Lightning Joe Collins. He was somewhat abashed and apologized to the general, stating that he thought he was an M.P., but also stating that his assignment was to get his artillery to St. Vith before dark.

The general replied, "Splendid, Major. Continue to speak up if you think I can improve my performance." Whereupon, General Lawton Collins stopped the north-south columns, allowing the artillery to cross.

In 1979, at the time of the 30th anniversary of NATO, Lightning Joe Collins published his autobiography. The general then stated that he well remembered Major Wilkinson and his remarks about the conduct of the war on that snowy day near St. Vith. This story is symbolic of the energy and effectiveness of our new Justice in the public service.

Following World War II he practiced with the law firm of Love & Wilkinson in Centre County for twenty-four years. During this quarter century he became a Renaissance man—the type of lawyer and citizen, according to the great Alexis DeTocqueville, who makes our democracy work.

These accomplishments of Justice Wilkinson were motivated to a substantial degree by his very close relationship in public service to two of our great Americans of this Century, former Chief Justice Horace Stern and Dr. Milton Eisenhower, who has served every administration in Washington since that of President Calvin Coolidge.

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Justice Wilkinson was general counsel for Penn State University and its presidents, Dr. Milton Eisenhower and Dr. Eric Walker. There he fielded the problems arising out of the student unrest in the 1960's; and guided the University in the establishment of the Hershey Medical Center. He has been consistently consulted, even up to the present day, by Dr. Milton Eisenhower, an outstanding statesman, writer and political philosopher. As his principal adviser and great personal friend, Justice Wilkinson participated personally and with great effectiveness in many of the important assignments undertaken by Dr. Eisenhower after he left Penn State, both during President Dwight Eisenhower's administration in Washington and thereafter while Dr. Milton Eisenhower was president of Johns Hopkins University.

In addition to his many business and civic endeavors, Justice Wilkinson served the Commonwealth of Pennsylvania and the legal community as one of the original members of the Pennsylvania Crime Commission, the Educational Television Commission, and the State Horse Racing Commission, of which he was the first chairman.

He has been president of the Centre County Bar Association, chairman of the Board of Governors of the very important National Conference of Bar Examiners, where he developed the multiple choice bar examination over a period of seventeen years. He was president of the Pennsylvania Council on Crime and Delinquency, and a member of the Board of Governors of the Pennsylvania Bar Association at a time when the amendment to the judiciary article of the Pennsylvania Constitution was under consideration.

The new Justice was the first Eagle Scout in the Bellefonte Troop covering a large area of Centre County. He went on to become a most accomplished bird hunter and trout fisherman. As a sailor, he once rescued television star Gary Moore, who was stranded on a coral reef off the shore of Antigua. He is an expert landscape gardener and one of the best, if not the best, Crokey player.

The new Justice is a blithe spirit, joyful companion, witty and brilliant but sensible and able, a man of sound judgment. He loves people and companions—an intellectual, and yet earthy in his thoughts and language. He combines wit and wisdom to an extraordinary degree and possesses a high sense of duty and a wise respect for excellence. He has a fabulous memory, as a result of which he can quote ancient literature and poetry, making it applicable to current issues and problems.

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He is a great storyteller, and is therefore constantly sought after by children and adults alike because of his enthusiasm, energy, wit and good judgment. He will bring all these abilities and experience to this great Court and to the unified judicial system for which it is responsible.

JUSTICE ROBERTS: We now recognize a distinguished colleague in the law and the first chairman of this Court's highly regarded Disciplinary Board, Attorney Gilbert Nurick.

MR. GILBERT NURICK: If it please Your Honors, I have known Justice Wilkinson for many years and I have had abundant opportunity to observe him as a practicing lawyer and as a judge. It has been my pleasure to be associated with him in several challenging legal problems and to toil in harness with him in bar association work.

He served in the House of Delegates and on the Board of Governors of the Pennsylvania Bar Association and was chairman of one of its principal committees. It is no secret that he was about to be tapped for succession to the office of president of the Association when his appointment to the Commonwealth Court caused a diversion from that projected path.

I can certify from personal experience and observation that he is a prodigious worker. During my more active years I arrived at the office at seven o'clock in the morning. On many occasions, Justice Wilkinson, in his lawyering days, requested that we confer at that hour. When I entered the reception room around 6:45, he would be sitting there busily working on something that obviously needed working on. By that time he had already driven to Harrisburg from Bellefonte, a mere ninety miles away!

Justice Wilkinson has been blessed with the Triple E Syndrome—energy, enterprise and enthusiasm. He seems to be driven by an overriding obsession that demands: "Let's determine what the problem is and get at it." I submit to Your Honors that this philosophy is good gospel, especially for appellate court judges. Even though Justice Wilkinson's tenure on this Court will represent but a fleeting moment in its long history, I am certain that he will make—and leave—a very favorable mark. Thank you.

JUSTICE ROBERTS: Thank you, Mr. Nurick.

It is a cherished privilege for this Court to welcome back on this happy occasion a twenty-one year member of this Court,

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the distinguished retired Chief Justice, the Honorable Michael J. Eagen.

HON. MICHAEL J. EAGEN: Mr. Justice Roberts, other distinguished members of the Supreme Court of Pennsylvania, you will notice that my notes, unlike the others, are in longhand. Be aware when you retire, you give up your office and your secretary.

My presence on this date is something akin to taking part in your own funeral ceremony, for the new Justice is assuming the seat on this Court which I was privileged to cherish for nigh on to twenty-one years. Needless to say, I am thrilled to have survived and to be a participant in this ceremony this morning. My pleasure is increased to know that the seat will continue in good hands.

Mr. Justice Wilkinson comes to this Court well prepared. As noted by Judge Adams, Justice Wilkinson or Roy Wilkinson then, shortly following the admission to practice law in this Commonwealth commenced a judicial clerkship with this Court under the supervision of Mr. Justice, later Chief Justice, Horace Stern, one of the great justices in the history of this distinguished Court.

Several years later he became one of the first members of the new Commonwealth Court and served that Court for several years with great distinction. As a judge, he displayed a power of work which was prodigious. He authored several hundred opinions for the year, which consistently demonstrated studious consideration, clearness of thought and felicity of expression.

His personal character, his resourcefulness and natural ability to lead, influenced the establishment of that court and the progress of that court in its early vital years.

Although Justice Wilkinson's term on this Court will be relatively short, I am sure his work and presence will not go unnoticed. His wealth of common sense, his marked unstarchedness should promote cooperation and influence an expeditious and wise disposition of this Court's heavy case load. It is singular that Justice Wilkinson's judicial career should come to an end in the Court that he first served.

In reading a synopsis of his professional background, I was intrigued with an interesting fact. For several years before ascending the bench Roy practiced law in his hometown of Bellefonte, in Centre County, with a firm known as Love & Wilkinson. In my view, the firm was aptly named, for Roy is a

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lovable person, a great guy, and we all wish him well. Thank you.

JUSTICE ROBERTS: Thank you, Chief Justice Eagen.

(Justice Wilkinson ascends the bench.)

JUSTICE ROBERTS: Mr. Justice Wilkinson, we are pleased to have you join us. We are privileged and honored to have you as a brother justice. Mr. Justice Wilkinson.

JUSTICE WILKINSON: Mr. Justice Roberts, my fellow Justices, ladies and gentlemen: If I may, I will conclude by making some very brief remarks. This is the only opportunity I have had to publicly thank the Governor for appointing me and the State Senators, less one, for confirming me; and the Bar Association and the media but for whose support during what my good friend Morris Gerber called my wife's two-month extended pregnancy, I would have never been able to have been confirmed by the Senate.

I want to thank you who are here and the many who could not come, my friends who did what they could with a recalcitrant Senate and who also encouraged me to stand by. I want to especially thank my staff from the Commonwealth Court, who were willing to tough it out during that period; and especially my very able secretary, Betsy Bolger, who is with us this morning, who did all sorts of things, including hooking up my telephone so I could listen to the debate on the floor of the Senate. On the day the final vote was taken it appeared that our reluctant Senator was about to obstruct further. Several Senators were about to get up and respond appropriately when one Senator came over and in a stage whisper said, "Sit down. We have got the votes."

I want to thank Judge Adams, Lew Van Dusen, Gilbert Nurick and Chief Justice Eagen for their overly generous remarks here this morning. If I really believed all of the nice things said here and in the editorials, it would be a difficult thing for me to survive.

I want to acknowledge that my wife was willing to go along with this change. Our lives had become rather adapted to the Commonwealth Court. Now it is going to be changed very much by a different operation in a different location. I have got to say that she is not as impressed as I am with this high office because she grew up in Denver, Colorado, in a family compound, where

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her grandfather was Chief Justice of Colorado, and her brother-in-law has been President Judge of the Court of Appeals for ten years. She said the other day to a friend, "I haven't had a straight answer from a judge in my life."

Let me conclude by saying that sitting here this morning is not only the fulfillment of a lifetime ambition, it is a dream come true.

There are always a few people who aren't able to be present, who directed you where you are. Of course, I refer to my mother and father, and also to Horace Stern. I want to conclude by saying if the three of them are up there looking down and smiling and shaking hands, the old Chief would be saying, "It was my ideal."

JUSTICE ROBERTS: Thank you, Mr. Justice Wilkinson. This Court will now take a brief recess in honor of Mr. Justice Wilkinson, so that we may all greet and congratulate Mr. Justice Wilkinson and Mrs. Wilkinson.

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