

# Induction Ceremony

of

## THE HONORABLE STEPHEN A. ZAPPALA

As Justice of the Supreme Court of Pennsylvania

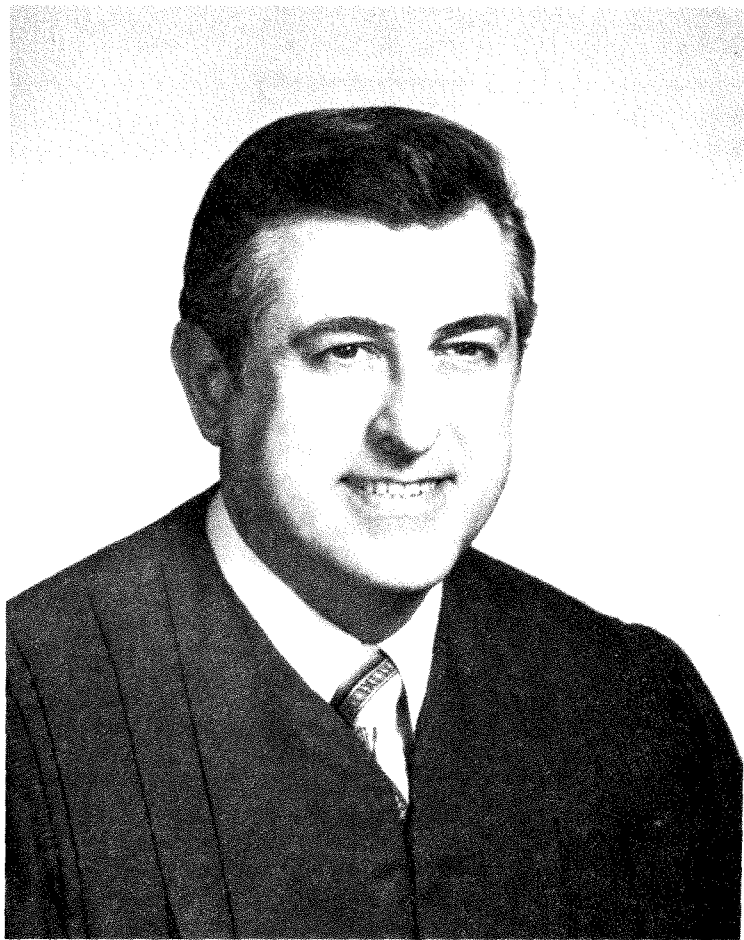
Courtroom of the Supreme Court  
Eighth Floor, City-County Building  
Pittsburgh, Pennsylvania  
11 a.m.  
Thursday, December 30, 1982

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CHIEF JUSTICE O'BRIEN: We are assembled today on a very special and happy occasion, the induction to the Supreme Court of an outstanding jurist. He comes to this Court with a wealth of experience gained over a lifetime of devotion to the public welfare.

We are fortunate indeed, and the people of Pennsylvania are most fortunate to have such a person coming to this Court. The importance of the Court, particularly since 1980, when this Court became a Certiorari Court, that is, the cases that would be tried and argued here, are those of great importance and broad principles of law. So, at this time I am going to turn over the program to the Honorable Ruggero J. Aldisert, U. S. Circuit Judge, United States Court of Appeals for the Third Circuit of the United States of America. Judge Aldisert.

PRESIDING OFFICER ALDISERT: Thank you, Mr. Chief Justice, Justice Flaherty, my colleagues of the bench from throughout the State of Pennsylvania, the Zappala family, public officials, friends of Justice Stephen A. Zappala.

First, I wish to express my appreciation to the retiring Chief Justice of Pennsylvania, Henry X. O'Brien, and to Justice John Flaherty for permitting me to preside at this ceremonial session of the oldest appellate Court in the United States, the Supreme Court of Pennsylvania.

Justice Zappala has made this request for several reasons. First, it was my privilege to have administered his oath of office as a Common Pleas Court Judge on December 26, 1979, just three years ago.

Second, having this special session in Pittsburgh is in a very large sense a family affair. Here are gathered Justice Zappala's immediate family of relatives and his extended family of friends from the Western Pennsylvania area.

In a large sense, I have been chosen to represent the extended family. Selected because there is something special about the relationship of the Zappala and the Aldisert families. Three generations of these families have been friends, with the strongest bonds of affection, going back for sixty years.

The patriarch of the Zappala family, venerable and honorable as an outstanding lawyer, public servant, state legislator, police court justice, and community leader, who, by promise and deed, furnished the paternal inspiration of this man we induct today, Frank J. Zappala, Sr.

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Will you rise, Mr. Zappala. (Applause.)

We hear much about the Zappala men, the lawyer father and the four lawyer sons, the men of the bench and bar, the captains of finance, industry and commerce, but there is another regal force in this Pittsburgh dynasty. A force that is feminine and, at once, quiet and majestic, whose bearing commands serenity and grace and who has bequeathed to the new justice the great heart and gentle spirit. His mother, Josephine Zappala. (Applause.)

Justice Zappala had this great victory in November and they said that he was elected because of his bearing, his education and his talent, and others of us say that he was elected because of the beauty and inspiration of his wife, Phyllis. (Applause.)

A part of the immediate family, we now turn to Justice Zappala's spiritual father, the Auxiliary Bishop and Chancellor of the Diocese of Pittsburgh, the Most Reverend Anthony F. Bosco.

**BISHOP BOSCO:** Judge Zappala has restricted my remarks to Divinity and allowed me, however, some leeway before I begin the prayer, to say that I am grateful to the Divinity, for the voters of the Commonwealth of Pennsylvania, what they did for all of us. Oh, God, You are the Spiritual Judge of all mankind, You read the secrets of our hearts and You cannot be deceived. Look favorably upon your servant, Stephen, whom we have called to this noble office, enlighten his mind and straighten his will, let him also be mindful in serving your children as he serves You. May all who come before him receive justice tempered with mercy, and give him prudence, wisdom and compassion, hold him in the palm of your hand. Amen.

**PRESIDING OFFICER ALDISERT:** This is truly a magnificent assemblage of judges who are present at this hour and this place, probably the largest assembly of judges ever to have taken place in the City of Pittsburgh. They are here to pay tribute to both Judge Zappala and the institution he represents. I will introduce these judges to you at this time, but before I do so permit me, in behalf of all of you, to express the gratitude of the people of Pennsylvania to the Honorable Henry X. O'Brien, the distinguished Chief Justice, who this week retires after 21 years of dedicated service on the Pennsylvania Supreme Court. (Applause.)

On this day Henry O'Brien caps over 41 years of service to state government: First as Assistant District Attorney, from 1942 to 1947, then as Common Pleas Court judge of Allegheny County from 1947 to 1961, followed by the two decades on this bench. This ceremony is not without sentiment or symbolism, My Dear Henry, because it will be recalled, when you were engaged in the private practice of law, your office was in the Plaza Building and

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across from your office was an office at 1119 Plaza Building, the office of Frank Zappala, Sr., and you often saw a little boy named Steve going in and out of his father's office and that little boy Steve becomes your replacement on this Court today.

Henry X. O'Brien has found time to give his prodigious talents to serve on boards of our hospitals, our institutions of higher learning, and numerous church and community activities.

So, Mr. Chief Justice, speaking for the entire community of Pennsylvania, the courts, the universities, the churches, the people, we thank you for a lifetime of service to us. We thank you for your constant dignity and many acts of kindness to all of us.

May you and Mrs. O'Brien enjoy good health and happiness in the many years that lie ahead.

May you be content that your years of courtesy, decorum, and service are appreciated with the utmost of our gratitude and appreciation. (Applause.)

Let me proceed at this time to introduce the various judges who are here. I will first introduce the Chief Judge of the United States District Court for the Western District of Pennsylvania, Hubert Teitelbaum.

Speaking for all the judges, because you might get blisters by applauding because there are many of them, please wait until we introduce all of them.

The Superior Court of Pennsylvania, the intermediate Appellate Court is here in great abundance and led by the President Judge, William F. Cercone. Judge John P. Hester, Judge John G. Brosky, Judge James E. Rowley, Judge Donald E. Weiand, Judge Vincent A. Cirillo from Philadelphia, Judge Phyllis W. Beck from Philadelphia, Judge Frank J. Montemuro from Philadelphia.

And, our most active retired Superior Court Judge, Harry M. Montgomery. (Applause.)

We have so many Common Pleas Court Judges and Appellate Judges, that you lawyers who have cases can try your case out in the corridor and if you lose you can take an immediate appeal to the Superior Court. You can reverse them. They can then appeal to the Supreme Court and I will sit as a designated member of the Court and we will affirm the trial court, and the other side can then run down the street to Hubert Teitelbaum and he will reverse the Supreme Court of Pennsylvania, then Henry O'Brien and Judge Flaherty will be designated by me to sit on the Court of Appeals and we will flip a coin. (Applause.)

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The Common Pleas Court of Allegheny County: Francis Barry, Retired Judge Hugh C. Boyle, Robert Dauer, Joseph Del Sole, Tom Harper, Livingston Johnson, Maurice Louik, Bernard McGowan, President Judge Michael O'Malley, Nicholas Papadakos, Joseph Ridge, Eunice Ross, Raymond Scheib, Nathan Schwartz, Ralph Smith, William Standish, Samuel Strauss, Martin Wekselman, Stanton Wettick, Paul Zavarella, Richard Zeleznik.

The Common Pleas Court of Allegheny County. (Applause.)

The Common Pleas Court of Lawrence County: Glenn McCracken and Francis X. Ciazza.

From Erie County, Jess Julianti.

In addition to the judges, we have the representatives of the Supreme Court, the prothonotaries from throughout Pennsylvania: Carl Rice, Prothonotary of the Supreme Court of Pennsylvania, Pittsburgh. Irma Gardner, Deputy Prothonotary. Marlene Lachman, Prothonotary, Supreme Court of Pennsylvania, Philadelphia.

And no stranger to this building, Patrick Tasos, Deputy Prothonotary, Supreme Court of Pennsylvania, Philadelphia, Pennsylvania.

The first of the notes have appeared from the Common Pleas Court of Allegheny County, Judge Patrick Tamilla. (Applause.)

Now, the Zappala family, the justice's immediate family: You met his wife. His son Stephen. His son Gregory. Michele and Dana Lynn. (Applause.)

Now, his older brother, Frank, Jr. His wife Maureen. Frank J. Zappala, III.

His brother Richard.

Beards look nice on people.

His brother Charles. His wife Pamela.

And an honorary member of the Zappala family, Mr. Pittsburgh himself, Art Rooney. And a close friend of that family in the field of religion, Father Frank Genocci of Mt. Saint Peters Church of New Kensington.

Now, I have a note from Laura Zappala, Richard's daughter saying, "You forgot me." Laura Zappala.

This Zappala family has chosen as their spokesman this morning the youngest of the four lawyer brothers, Charles R. Zappala. I present him to you at this time.

MR. CHARLES ZAPPALA: Honorable Chief Justice O'Brien Honorable Judge Aldisert, honorable members of the Supreme

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Court of Pennsylvania. I have requested permission, if I may, to position myself in a way in which I can address both you and the members of the audience at this time. Thank you.

Distinguished members of the Superior, Federal and Common Pleas Courts, distinguished state, county and local elected officials, ladies and gentlemen, friends and relatives. It is a singular honor to stand before you today representing the Zappala family. As Judge Aldisert mentioned, for those who know us, it is rather uncommon that the youngest member of the family be so chosen. I can only thank my brothers Dick and Frank, I think, for this honor, but I certainly know I can thank my mother and father. I was told that with the honor comes responsibility. Frank and Dick made it very clear that a prepared text would make a lot of sense today, but some breach of ethics would be totally unacceptable and they are right. But when I thought about what I was supposed to be doing today, which is reflecting our sentiment this moment, it seemed that a prepared text would be unethical to the spontaneity, but if you bear with me, I will make, I promise, a couple of brief, but heartfelt reactions.

In the commonality of our human existence, I think we all recognize that certain elements and circumstances occur which profoundly affect the quality of our life, and which elements and circumstances we in no way control. Notable among those elements are things such as the genetic characteristics which determine physical appearance and native intellect. The fact that you cannot select your parents, the fact that you cannot select your siblings. In each of those ways Steve has been incredibly blessed. My parents did an excellent job genetically. I think you can see that.

Much more importantly, they provided Steve with that sense of balance, that sense of perspective, the integrity, the affection, warm personality. That is a manifestation of them. That there (indicating) is their greatest gift. I think you can see it in Steve. There is more to our contemporary siblings, Dick and Frank. That's at the risk of defending all three of them. I have to tell you that I think it would be virtually impossible to find three more talented people in one family.

Dick and Frank created a very competitive environment for Steve. It was a stimulating one, I have been told, and one that also instilled a healthy sense of survival as well, that is owed to Steve appropriately to this day. But, as important as all of those elements are, and they certainly are, the main reason we are here today is the direct and sole result of the efforts of Steve himself. This is his day. His, and as Judge Aldisert referenced, his better half, his wife Phyllis.



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When Steve began to make decisions which enabled him to take control of his own destiny, he will never make a more important one than resulted in the marriage of Phyllis.

There is no greater testimony required after that fact than to meet Steve's children or Steve's and Phyllis' children. Our family loves and respects Steve. We love him because of the warm, engaging, charming, loving personality that he is. We respect him because of his capabilities, of his integrity, of his sense of commitment, of his sense of justice and fairness for all. To us he is a uniquely gifted and capable person, a person who has skills to be able to handle most of the complex legal issues while at the same time recognizing the value and worth in every person regardless of race, religion or social or economic standing.

I would like to share with you a very personal thought which I think epitomizes our feeling for Steve. My wife Pamela and I can sincerely tell you that Steve and Phyllis are the barometers by which we will be able to judge our success as parents and our success as people.

We thank you for being here today. We thank you for all the help that you have provided Steve. We are absolutely certain that his performance in the future will justify your belief in him, just as it has, and he justified it in the past.

We thank you very much. (Applause.)

PRESIDING OFFICER ALDISERT: Gracing this courtroom today are some of the most distinguished governmental officials throughout Pennsylvania.

May I present at this time, his honor, the mayor of the City of Pittsburgh, Richard S. Caliguiri. (Applause.)

Honorable Budd Dwyer, State Treasurer of Pennsylvania. (Applause.)

Distinguished public servant from the County of Philadelphia, District Attorney Edward G. Rendell, who came from Philadelphia to be with us today.

Private citizens. Former president judge of the Beaver County Court of Common Pleas, former United States District Judge, Ralph Scalara.

From the city council: Eugene DePasquale. Chairman of the finance committee of that body, Robert Rade Stone.

From the state Senate of Pennsylvania: Senators James Romanelli and D. Michael Fisher.

From Philadelphia, Vincent Fumo.

And also I call anything east of Allegheny County, Senator Michael O'Pake's.

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Our distinguished state officer who is with us, Al Benedict.

When we move to the House of Representatives of this great Commonwealth we have the Minority Leader, K. Leroy Irvis, Tom Michlovic, George Miscevic, Richard Olasz, and Joseph Petrarca.

I like those Anglo Saxon names.

Senator Leonard Bodack.

And these uniformed people you see around the room are deputy sheriffs and their boss is here, the sheriff of Allegheny County, Gene Coon.

There are two great metropolitan areas in Pennsylvania whose lawyers are very, very much involved in the work of the State Court System. I refer, of course, to Pittsburgh and Philadelphia.

At this time I am pleased to present to you, for remarks, the president of the Allegheny County Bar Association Jack W. Plowman.

MR. PLOWMAN: Chief Justice O'Brien, Chief Justice Flaherty, Judge Aldisert, Judge Zappala, honored guests, and ladies and gentlemen: It is indeed a pleasure to be here on behalf of the Allegheny County Bar to extend my best wishes to Mr. Justice Zappala and to his family on this splendid occasion.

It is entirely appropriate today that we congratulate Mr. Chief Justice O'Brien on his many years of splendid service to this Court and to this Commonwealth. On behalf of the Allegheny County Bar Association, Mr. Justice O'Brien, congratulations and best wishes to you.

We are gathered here today to participate in the induction of Mr. Justice Zappala. It is indeed an honor to see him inducted as a justice of the Supreme Court of Pennsylvania.

As this Court commences its 261st year, we are seeing the induction of the 141st justice to this eminent and distinguished body, and a wise, articulate member of the Court with his many years of service as a trial lawyer, with his many years of service as county solicitor, and his many years of service as a judge on the bench of the Court of Common Pleas of Allegheny County.

He is universally respected by all who have had contact with him. We are indeed fortunate to have him now ascend to the bench of the Supreme Court of Pennsylvania.

I am particularly proud to be here today. Knowing Steve Zappala from a lifetime of practice of law, it may be said that I knew him before he was honorable. But that is only in the honorary sense that honorable is used in connection with the members of the Court, because long before Steve became honorable in the formal sense, he had earned that title through years of service as a respected practicing lawyer and through his years of public

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service, so with Steve it is indeed an accurate affirmation to be called honorable.

So, indeed, I am pleased to be here today and I congratulate Mr. Justice Zappala on his ascendancy to the Court and I congratulate the Supreme Court of Pennsylvania on being blessed with his participation in the many, many important things that come before this Court.

Again, congratulations to you, Steve, to this Court.

Thank you very much. (Applause.)

**PRESIDING OFFICER ALDISERT:** In the list of state officers, I refer now to Senator Pecora from Philadelphia County.

State representatives: Emil Mrkonic and Robert Horgos.

My favorite congressman, Joe Gaydos.

How about the Allegheny County officials? Chairman of the Board of County Commissioners, Tom Foerster.

If I may depart from protocol for a minute, I would like to emphasize the close relationship that has existed between Justice Zappala and Tom Foerster in the past 18 years. They are closely aligned in the administration of county government. I like to believe that the reason that our county government is so efficient is because of this very capable, dedicated duo of friends.

Dr. Joshua Perper, Mike Dellavecchia, Recorder of Deeds. Frank Lucchino, Controller of Allegheny County.

Jay Costa, County Treasurer. James Spirko and Jean Milko, Jury Commissioners.

From Westmoreland County, Commissioner John Regoli.

Representing the Philadelphia Bar is its treasurer—he is a member of one of Philadelphia's outstanding law firms, the firm of Raynes, McCarty, Bender and Mundy, and he also is president-elect of the Pennsylvania Trial Lawyers Association.

May I present at this time for remarks, James F. Mundy, Esquire.

**MR. MUNDY:** Mr. Chief Justice O'Brien, Mr. Justice Flaherty, Judge Aldisert, members of the judiciary, honored guests, members of the Zappala family. I, too, would like to ask permission of the Court if I could turn my back so I can address all of those present as best I can.

It is an honor for me to be here representing both the Philadelphia Bar and the Pennsylvania and Philadelphia Trial Lawyers Associations.

I bring you congratulations and good wishes, Justice Zappala, from all of those organizations and all of those lawyers who supported your campaign throughout Pennsylvania.

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The Chancellor of our Bar Association, Bob Daniels, asked me to fill in for him. He wanted very much to be here and unfortunately he could not.

Unlike most of you, most of us did not have the opportunity of knowing Steve Zappala as a young lawyer, as a trial judge, as an aspiring young man in this community. Most of us met Justice Zappala for the first time during his campaign.

I had my first opportunity to meet Justice Zappala at a reception in his honor held at the Pennsylvania Trial Lawyers' convention last July. Many lawyers, both plaintiffs' lawyers and defense lawyers from across the Commonwealth, had the opportunity of meeting Justice Zappala for the first time on that occasion. I recall it very well.

As I circulated the room—and I never told you this—you gave very eloquent remarks. I found that the room was divided into two groups, there were those who had listened intently to what you had to say and make an objective decision. They that favored your candidacy based it upon you and your remarks, and there were others who told me quite candidly as soon as they met Phyllis they had been honored.

There were Stephen supporters and Phyllis supporters, but they were all Zappala supporters.

I can remember very well when I had first heard about the candidacy of then Judge Zappala from Bob Daniels, who had become a disciple very early, and I set out to find out what I could about this candidate for the office of which we are all concerned. I did so by calling the persons who I thought should know, the men and women of the Allegheny County Trial Bar.

I found that with—many of them are here—Frank Conflenti, Chuck Evans, Dan Berger, Bill Caroselli, and over and over again I got the same description of this man, of what a great judge he was, of his wisdom, his courage, his decisiveness and his sensitivity to the needs of those of our society who are less fortunate.

I asked myself the rhetorical question: Who in my local judiciary, had the same phone calls been made from the other side of the state, could have received such consistent high praise, and without telling you how I answered that question, I knew we had a rare candidate, a rare individual before I even met Justice Zappala.

I want to tell you, Steve, there was one test of my loyalty that occurred in October, October 11th, I believe, and that was the day I returned home from mass and I did what I usually do on Sunday mornings. I turned on the TV and watched the replay of my favorite university's football team. I did not mention that team in that—because of something that happened a month later.

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But as I watched this game, I watched tacklers and would-be ball players being annihilated all over the field by this freshman wearing No. 65. I said I wonder who is this guy who—who is doing this to my team. I remember that the justice told me his son played football for the University of Miami. I waited for the announcer to tell me who was doing this and, sure enough, it was Greg. I knew that when I passed that test, the voters of Pennsylvania were going to have no trouble in reaching the right decision in this campaign.

Justice Zappala, if I may, I would like to read a paragraph from a letter that I had delivered to you from our Chancellor, Bob Daniels, because I believe that it contains within it a thought that all of us here today, were they to have the opportunity, would like to express, and I quote from Mr. Daniels.

"May I observe on a personal note that in a relatively short period of time that I came to know you, I have been tremendously impressed with your legal intellect and concern for the justice system. Your genuine sense of fairness and your superb judicial temperament, most of all, I truly admire and have the highest regard for your sensitivity and practical approach to the problems and issues that confront the citizens of Pennsylvania at this time. This augers well for all of us who will be looking to you in the Supreme Court for vindication of our legal rights and with realization of a more perfect social order in the years to come."

Speaking on behalf of Bob and the many lawyers of the Philadelphia Bar Association and the Philadelphia and Pennsylvania Trial Lawyers Associations, who have supported your campaign, I must say that we are delighted with your election to this office.

We believe that the office of the justice of the Supreme Court is the most challenging, the most demanding, and the office of most concern to the citizens of this Commonwealth. We are delighted that you are going to serve in that office. Your election is good fortune to all of us. Congratulations and God bless you. (Applause.)

**PRESIDING OFFICER ALDISERT:** Judge Justin Johnson from the Pennsylvania Superior Court. As our state legislator, Tom Frome from Allegheny County. David Sweet from Washington County.

The president of the Pennsylvania Bar Association, Charles Keller.

Executive director of the Allegheny County Bar Association, James I. Smith. Richard Angino, president of the Pennsylvania Trial Lawyers' Association. Tom Cascelli, National Vice-President.

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We have heard from the great cities of the state. Who would better represent, at these ceremonies, the legal profession of the entire state than our next distinguished speaker who served as a senior partner of one of Pittsburgh's most prestigious law firms, and he is a past president of the Pennsylvania Bar Association, and he crowned his great career in the legal profession in service as a justice of the Pennsylvania Supreme Court. May I present Justice Thomas W. Pomeroy, Jr.

JUSTICE POMEROY: Mr. Chief Justice O'Brien, Mr. Justice Flaherty, Judge Aldisert, distinguished judges from throughout the Commonwealth, public officials, the Zappala family, friends and citizens.

This is indeed a very auspicious occasion. I am very happy and privileged to have a part in it. There was mention the other moment of the word "honorable" that is attached to Judge Zappala and I remind Judge Aldisert—and I am reminded of Judge Aldisert introducing me soon after I retired from the Supreme Court of Pennsylvania. The first letter I got addressed was formerly Honorable Justice Pomeroy. That's the capacity of which I appear before you today.

I come not as one who has had the privilege of knowing Steve Zappala for a long time or intimately as many of you, but I have known him, of course, in terms of reputation, and the reputation and the standing of this admirable and unique Zappala family in this community, but I have known Judge Zappala recently and I may say in a very congenial way, but my role here today, as I understand it from him, is not to add to the flatteries as you already heard, but to speak to the subject of the post to which he has aspired and which he so decisively won in November. I think it tells us something about the nature and character of the new justice when one sees that he has sought to reflect the flow of rhetoric, so to speak, from himself to the institution which he very shortly will join and is about to join.

I suppose the place to start any such remarks is at the beginning, and the beginning of the Supreme Court of Pennsylvania was, as you all know, the Act of May 22, 1722, and as Judge Aldisert has already said, this Court is the oldest appellate Court, the Supreme Court, in the entire United States of America.

Back in the very early days there was one Chief Justice and two associate justices. They sat in Philadelphia twice a year. Other times they rode circuit throughout the old colony of Pennsylvania.

The Supreme Court in those days, when it sat in Philadelphia, sat in private homes in the city. The lower courts, so I am told, sat in the ale houses of Philadelphia and elsewhere. I am informed that in due course both courts got other quarters to per-

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form their official duties. In due course the Supreme Court sat in the famous Independence Hall from 1709—excuse me—from 1743—1743 to 1790 and began from 1782 to 1820. This Court sat in that hall.

Mr. Chief Justice O'Brien, you recall that in, I believe, May 22, 1972, the Supreme Court held a ceremonial session sitting in Independence Hall to commemorate the 250th Anniversary of the founding of this Court.

This sense of history leads me to interrupt my remarks at this moment to say that this is a historical moment itself in the sense that the mantle of the Chief Justiceship assumes to pass from your shoulders to the associate justice, Mr. Justice Roberts, and you will be succeeded on the bench by our honored Judge Zappala. This marks the termination of 33 years of judicial service of your honor in this county and in the State of Pennsylvania. A near record, I am sure, and as one who appeared before you as a Common Pleas Judge, one who has acted as a Supreme Court justice from this very podium, one who sat with you for ten years, as a member of the Court, and one who has observed you since, I think I know of where I speak, when, in addition to what Judge Aldisert and other judges so well said, I pay tribute to you, your dignity, courtesy, sense of fairness, steadiness, devotion to duty. You set a state example to the bar and the judiciary of this great Commonwealth. I am sure they will be an example to your successor on the bench, Judge Zappala. I jumped over the intervening 260 years to the present time. The 20th century, at least. And, without going into detail, it is almost a cliché to remark that we are in the midst of the 20th century and now later in the midst of a revolutionary kind of development. We have passed through the industrial revolution. We passed through the technological age, the jet age, the space age, and now we are in the computer age.

There has been a great, vast increase in population, so we have had the population explosion. We have had commonality in that different claims had been asserted by different peoples, different groups of people. We live in a complex society where everybody, it seems, wants to settle the case in court somehow or other if it can't be done otherwise, thus proving what De Tocqueville said in his well-known commentary 150 years ago, that the American propensity was to take things to court, particularly political questions to court, so the burden on the judiciary was great indeed.

Judge Aldisert himself has written eloquently on this subject in various places. The one I had last seen was in 1977 on the role of the courts in contemporary society, recognizing the problems thus confronting the courts.

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People of Pennsylvania in 1968, acting on the recommendations of their delegates to the Constitutional Convention of 1967-1968, adopted a new judicial article designed to bring the Court system of Pennsylvania out of the colonial area into the mid 20th century to try to deal better, more expeditiously with the problems facing us in contemporary society.

And the new article endorsed by the people of Pennsylvania has, and Justice Flaherty and Justice O'Brien well know, created a new, uniformed judicial system, vested the judicial power of this Court in that system, and it placed the Supreme Court at the head of that system to oversee it and administer it with the help of a new officer known as the Court administrator.

This new task added to the responsibility of being the Court of last resort in the decision of cases. This new superintendent has been a great burden to the Supreme Court.

Mr. Chief Justice, just last month in speaking to the Bar Association House of Delegates, I heard you say that the burden in recent years of this responsibility had not been only staggering, but sometimes intimidating in its weight and importance.

So, it is to this body, this ancient and honorable body, the head of the judicial system of the state government, that is charged with the ultimate decision of cases, charged with the oversight of the entire judicial apparatus, that Judge Zappala has been elected by the people of Pennsylvania to serve them.

As he joins your Court, he is the third judge from the Court of Common Pleas of Allegheny County to do so within the last five years. Justice Larsen and Mr. Justice Flaherty, being the other two of whom I speak. Before them, of course, in this century, yourself, Justice O'Brien, Justice Alpern, Justice Michael Musmanno, whom I have been honored to succeed, Chief Justice James Drew and Chief Justice Robert Frazier. There are two others in the 19th century, Chief Justice Charles Alvin Jones of Allegheny County who joined the Supreme Court, not from the Court of Common Pleas but from Judge Aldisert's Court, the Third Circuit Court of Appeals in the Federal System. I am glad that Judge Aldisert has followed Justice Jones' example and come back to this Court to sit on the Supreme Court of Pennsylvania.

I think that Judge Zappala joins the Supreme Court of Pennsylvania at a time that it is both auspicious and challenging.

I will take just a couple of minutes to say why I think that is so. This is a time when, in view of the realignment of the appellate jurisdiction in this Commonwealth, the Supreme Court is privileged to take only the most important cases to hear for its own adjudication, thus giving time and attention and tender loving care, if you will, to these cases, which sometimes have been



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impossible in the past. This is going to be a challenge. It is also going to be a difficult screening job because of the increased number of petitions to decide, which cases to take and which not. It is newer in that respect.

It is a time, when in the light of the 14 years of experience as the supervisor of the state's judicial system, the Court will, I hope and believe, be taking stock of what still remains to be done to bring about a truly unified judicial system as the Constitution commands.

It has been well said by many people, including you, Judge Aldisert, that the decision-making process in deciding cases sometimes simply cannot be delegated by a judge in the same tradition and system. It is his responsibility, a painful responsibility. This must be done. But in the administrative field delegation and charge of responsibility is possible and, of course, there is a role to be played by legislators, as well as by the executive, and there are bodies which can be called upon, such as the Judicial Council, the various rules committees, the various Bar Associations, the Conference of State Trial Judges, and many others will be able to in this process, of which the Court has to do, to supervise and deal on a daily basis.

Thirdly, it is a time when this Court, like the Supreme Court of the United States, must study to walk the narrow line between judicial activism on the one hand, striving to give recognition to meritorious but novel claims or to fill a perceived void in the legislative scheme of things—and, on the other hand, the exercise of judicial restraint—giving due heed to precedent and co-equal status of the other two branches of state government. Then observe the proper separations of powers which are the heart of our governmental system.

It is a time when a sense of history of the Court as an institution, as a collegial body must act responsibly together for the public good, it is essential if it is to deserve the respect, confidence and acceptance which are so necessary.

Only so will it happily withstand the intense public scrutiny to which all courts are subject in this post-Watergate period.

Lastly, it is a time when stresses and strains are evident in our federal system of government as between states and the nation, and in our state system of government as between the state and local governments, and thus a time when it is necessary to strive for the mutual deference and trust that each of these governmental bodies owes to the other.

In conclusion, I fully expect that the new justice, like others before him, will find his new job to be sometimes frustrating, sometimes lonely, frequently perplexing, and at all times demand-

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ing of his total energy, faculties, and time. But he will also find this service to the people of Pennsylvania to be highly satisfying, even exhilarating and perhaps, on occasion, exciting. These are the priceless rewards of the office.

I have no doubt that Judge Zappala will discharge his new duties with distinction, and will manage to keep the nice balance between fidelity to precedent and the past, on the one hand, and responsiveness to the complex and often conflicting new demands of the society in which we now live; thus will be obtained stability with growth and change. This, of course, is the genius of our common law. It is the key to equal justice under the law. For we are a government of laws and not of men.

Thank you. (Applause.)

PRESIDING OFFICER ALDISERT: May I present John W. Sawyer of Beaver County, President of the Pennsylvania Trial Judges Association. President-elect of that association, Judge Joseph O'Kicki.

And meeting the deadline of the roll-call vote is State Legislator Cessar.

Let the record show that everyone that was to be here is here and he has the privilege of extending his remarks at a later time.

Well, it isn't often that we have a second year law student appearing before the Pennsylvania Supreme Court and the United States Court of Appeals, but such student now comes before us, but even before he makes his motion, the Court guarantees that we will rule in his favor.

The Court recognizes Stephen A. Zappala, Jr.

MR. STEPHEN A. ZAPPALA, JR.: Mr. Chief Justice O'Brien, Justice Flaherty, Judge Aldisert, with your permission, I would like to read the commission.

May I do so, sir?

PRESIDING OFFICER ALDISERT: Very well.

MR. STEPHEN A. ZAPPALA, JR.: Thank you, sir.

Judge Stephen A. Zappala, of the County of Allegheny in the Commonwealth of Pennsylvania, Whereas, it appears by the certificates and returns made according to law, of the election held on the Tuesday next following the first Monday of November, 1982, and now on file in the office of the Secretary of the Commonwealth, that you have been duly elected a justice of the Supreme Court of the Commonwealth of Pennsylvania.

Therefore, know ye, that in conforming to the provisions of the Constitution and laws of the said Commonwealth in such case made and provided, I do by these presents commission you, Ste-

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phen A. Zappala, to be a justice of the Supreme Court of the Commonwealth of Pennsylvania.

To have and to hold the said office, together with all the rights, powers and emoluments thereunto belonging or by law in anywise appertaining, for the term of ten years, to be computed from the first Monday of January, 1983, if you shall so long behave yourself well.

Given under my hand and the Great Seal of the State at the City of Harrisburg, this tenth day of December, in the year of our Lord, 1982, and of the Commonwealth the Two Hundred and Seventh.

PRESIDING OFFICER ALDISERT: Let the record show we will accept the commission.

Justice Zappala will now be robed by his faithful wife, Phyllis.

All rise, please.

(Robing by Mrs. Phyllis Zappala.)

PRESIDING OFFICER ALDISERT: Do you solemnly swear that you will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that you will discharge the duties of your office with fidelity?

JUSTICE ZAPPALA: I do.

PRESIDING OFFICER ALDISERT: If to do were as easy as to know what were good to do, chapels had been churches, and poor men's cottages princes' palaces.

Of what, oh Merchant of Venice, can we speak of the newest justice from Pittsburgh?

We could speak of his distinguished career as trial judge, private lawyer, public solicitor, administrator, dutiful husband, loving father, son and brother. But some of our distinguished guests have already borne witness to this.

We could speak of a judicial temperament that had just begun to crystallize before his election to the appellate bench. But this characteristic is known to the lawyers present who have appeared before him and it is known to his Common Pleas Court colleagues who are here in abundance.

Rather at this time we should speak of the prudence and jurisprudence of this very distinguished person who has just taken his oath before this company.

I think we should do this because it is necessary. Because we see here in this courtroom the representatives of all branches of government. We see trial court judges and intermediate appellate judges. We see state legislators and state senators. We see the mayor and county commissioners. We see members of city council, the row officers.

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This powerful assembly of public officers notwithstanding, in the setting of this historic courtroom we can, nevertheless, recall what Bishop Hoadley said in his sermon before the king on March 31, 1777:

Nay, whoever hath an absolute authority to interpret any written or spoken laws, it is he who is truly the law-giver to all intents and purposes, and not the person who first wrote or spoke them.

The awesome power of the Pennsylvania Supreme Court is well known.

What of its newest member?

What are the contours of Stephen Zappala's judicial profile? We know of his judicial temperament, but now, what of his jurisprudential temperament?

These are proper questions to ask as the tide begins to turn in the affairs of this newest of our high court judges. We are now afloat on a full sea of a comparatively young Pennsylvania Supreme Court, charged with making decisions that will be with us tomorrow and in a generation yet to come. Today the tide runs full for Justice Zappala.

I know Steve. I predict that he will take the current when it serves, and at the same time give direction when the current does not serve well. He will not be carried aimlessly with the flood. He will go where his great heart and reason call.

He will not embalm the law. He will not be a slave to symmetry in the law where reason has outrun the rule. His mind is too restless for that. His appreciation for the hopes and dreams and aspirations of the people is too intense for that.

Justice Zappala has a constant thirst for societal knowledge, a passion for social improvement—yearnings that result from a union of intelligible and intellectual power.

Evidenced by his career as a Common Pleas Court judge, we know that he appreciates the admonition of Dean Roscoe Pound that the law must be constant, yet it must not stand still.

Born into a family of the law, reared in the common law tradition, having blossomed as a great trial judge, and now joining the oldest common law court in the United States, he believes in consistency, certainty, and predictability in the law, but at the same time he has an abiding feeling for the welfare of society.

He has learned from Professor Carl Llewellyn the twin polestars of decision making: For every rule a reason, and when the reason stops, there stops the rule.

Having known this man all his life, I predict that his decisions will reflect a philosophy seeking a social environment in which the quality of human life will be spirited, improving and unimpaired.

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It was with this philosophy that he sought this office.

It was because of this philosophy that he was elected.

And this same philosophy will be his credo as he discharges the awesome duties of this office.

For it is the mind that makes the body rich. And the addition of Judge Zappala's mind to this bench will make our judicial body rich.

Will he be a liberal judge? A conservative? Will he be an activist? A strict constructionist? We do not say because we cannot say.

At worst, such labels are meaningless. Such are the mutterings of those who do not understand the polycentric problems that face the Pennsylvania Supreme Court of the eighties.

At best these overworked labels, full of sound and fury, are appropriate to some judges on some issues some of the time.

Yet, if I were to attempt to generalize, I would say that our newest justice does not view the role of the Pennsylvania Supreme Court as a passive one. If change in case law becomes necessary, he would not be willing to delegate the responsibility for the change, and then forget about the issue.

I believe that Justice Zappala views this Court as an instrument of society designed to reflect in its decisions the morality and conscience of the community.

And I believe that when it will come to decision making, his polestar will always be, "Is it fair?"

What will he think about, sitting high and lonely on this very bench? And the one in Philadelphia? And the one in Harrisburg? Is it only the law, or is there something else? Will he remember, with some deeper part of his mind, that all the laws written in his big books are different ways of saying one simple thing: We, the people, want fair play for every man. I think so. And I think that is what will keep him strong and clear and calm while the angry argument swirls around him.

Your Honor, you will call him, but it is our own honor we mean. We have woven into the plain black robe the ideals that make up the honor of an American—our devotion to what is right and good, our determination to protect those who need our help. "Wear these every day," we tell him. "Never let us forget them."

Steve Zappala will wear these ideals every day.

As he was elected by a 350,000 plurality, we rejoice with him.

As his commission was read in open Court by his law student son, Stephen, we honor him.

As he now takes his oath of office, we stand with him.

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Steve, in this room, we have family and friends; pride in accomplishment; applause for the present; and an outpouring of love, affection, and contentment for a bountiful future.

Welcome to the Court. (Applause.)

JUSTICE ZAPPALA: Chief Justice O'Brien, my associate now, Justice Flaherty, and may I say my very, very dear friend, Judge Aldisert.

I really do not know how, after such magnificence as was uttered by those who have participated in this program, that I, as a novice on the appellate bench, would be able to speak this morning.

My heart is filled with joy simply because those who came here this morning feel the joy that I and my parents and my family, and particularly my wife and children, have with you.

I have attempted on many occasions over the last several weeks to prepare a statement of what I would say this morning, or now, this afternoon. I now find that to have been a lost effort. The words which I had thought or attempted to write seem meaningless because of what has been said here today. I realize now, after listening to Judge Aldisert, Justice Pomeroy and Chief Justice O'Brien, the awesome and tremendous responsibilities that one is given when he ascends to the bench and passes judgment upon his fellow man.

We find at times that we are placed in predicaments, such as here, where we know that so many have helped so much in the pursuit of our goal, and yet to say "thank you" to one would no doubt slight another; but in the final analysis relating to today's activities, I must in a sense of "thank you" revert to the Judicial District where I originally served.

Although my tenure may have been short, I assure you that it was with great satisfaction and a high point of both my legal and professional career.

The cordiality which had been expressed among ourselves was expressed in words which were given to me the night that we gathered, not to say good-bye, but to say we shall see you shortly in another era.

Judge Del Sole rose and he said these following words which so personifies what we believe. The words are as follows: "Fill the seats of justice with good men, but not so good and absolute in their goodness as to forget really what human frailty is."

Today as I look forward to the challenges and their effect on the common man, I will be continually reminded of those eloquent words for guidance in my future endeavors on the appellate bench and at the same time be hopefully cognizant of what the words "human frailty" actually mean.

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I thank you from the bottom of my heart. More specifically, I would like to take just one moment to acknowledge probably one who put up with more nonsense than anyone else in the campaign, that is my dear wife, Phyllis.

Along with her and my lovely children—we just had to take Michele out of Florida because she caused that riot down there—my son Greg and my son Stephen and my daughter, Dana Lynn.

I wish to thank you one and all.

I simply close by saying: As I look about this crowd, I shall never forget either the faces or the words of encouragement, the words of direction as given to me by the members of this bench.

I hope that God, through His good wisdom, will let me fulfill just half of that which Judge Aldisert had articulated in his statement.

God bless you, and thank you one and all.

**PRESIDING OFFICER ALDISERT:** Justice Zappala referred to a recent gathering of the Common Pleas Court judges from District 5, Allegheny County. I forgot to say one thing. He asked me not to use “swear” but affirm. Steve, when you go on the bench remember: Affirm. Affirm. Affirm.

We will have benediction and I have two announcements to make. After benediction I ask you to remain in place while the Zappala family proceeds to the rear. Just keep your seats until the Zappala family leaves.

Secondly, immediately following the ceremony, there will be a reception on the 9th floor of this building in the Bar Association, the auditorium of the Allegheny County Bar Association on the 9th floor.

For the benediction I present the Reverend J. V. A. Winsett, pastor of the Ebenezer Baptist Church.

**REVEREND WINSETT:** Let us pray. Our Father, our Lord, we thank You for this day and what this day meant to us.

We thank You for making it possible that we were able to participate in the induction ceremony of the Honorable Stephen A. Zappala.

We thank You for this great gathering of men and women whose lives are being used to administer justice.

We pray now, as we come to the conclusion of this service today, that You would continue to be with each of us, especially those of us whose lives have been dedicated in this area.

We pray, the Lord, that as You look down upon your servant, Stephen Zappala, that he might continue to administer justice,

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continue to give wisdom and strength as he makes decisions which will affect the lives of his fellow man.

And now, dismiss from this place, but never from your sight, the grace of the Lord Jesus Christ and the love of God and the Communion of the Holy Ghost with you all. Amen.

PRESIDING OFFICER ALDISERT: Will the Zappala family please retire to the conference room.

(Whereupon, matter was concluded.)

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