

# Induction

of the

HONORABLE RALPH J. CAPPY

as

Justice of the Supreme Court  
of Pennsylvania

December 28, 1989  
Pittsburgh, Pennsylvania

Justices of the Supreme Court  
of Pennsylvania

MR. CHIEF JUSTICE ROBERT N.C. NIX, JR.

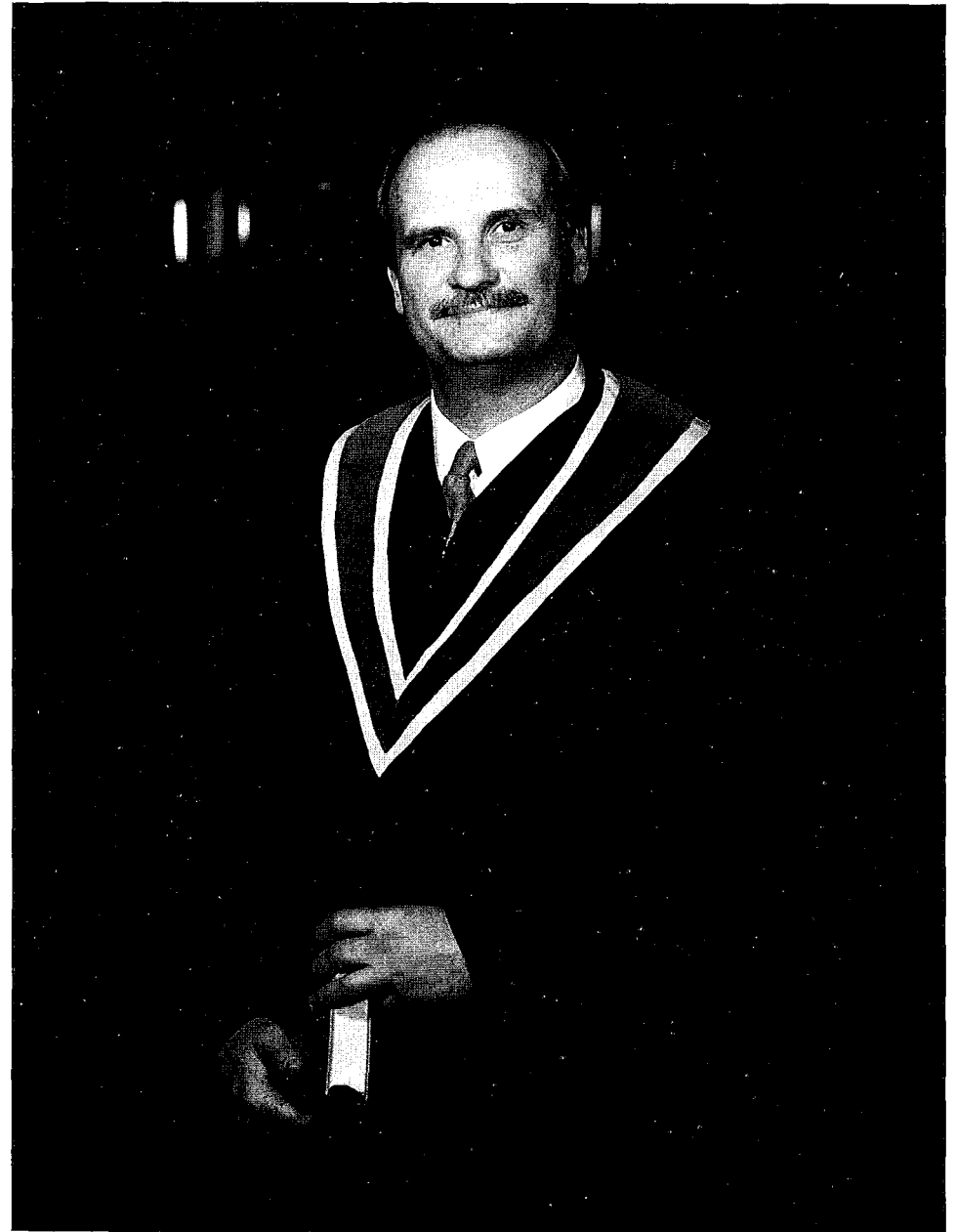
MR. JUSTICE ROLF LARSEN

MR. JUSTICE JOHN P. FLAHERTY

MR. JUSTICE JAMES T. McDERMOTT

MR. JUSTICE STEPHEN A. ZAPPALA

MR. JUSTICE NICHOLAS P. PAPADAKOS



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# Proceedings

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MR. CHIEF JUSTICE NIX: This special session of the Court has been convened for the purpose of the induction of Justice Elect Ralph J. Cappy as Justice of the Supreme Court of Pennsylvania.

I know that this is a happy occasion and there can be little doubt how much the Justice Elect is loved in this community when we look at the audience in attendance today.

It is only fitting to begin these proceedings with an invocation that will be delivered by the Most Reverend Donald Wuerl, Bishop of Pittsburgh.

BISHOP WUERL: Mr. Chief Justice.

Before the invocation, I would like to reflect that it is very fitting that the Court has chosen today for this ceremony because in the liturgical calendar today is the Feast of the Holy Innocence. My understanding is that everyone who comes before this Court is both holy and always innocent.

Let us place ourselves in the presence of God.

Gracious God, You have given us the example of Your own law, the laws of nature that direct our physical reality, the moral law that guides the inner voice of conscience and the great law of Your revelation.

You have also given us the power of reason to create our own laws that we might better order our own lives, establish justice, provide for the common good and help us to live in peace and harmony together.

Today we ask Your blessing on Your servant, Judge Ralph Cappy, who takes his place as a Justice of the Supreme Court of Pennsylvania. In the tradition of the judges of old and the interpreters of the law in every age,

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give him the spirit of wisdom and understanding, the spirit of right judgment and courage, give him the spirit of knowledge and reverence and fill him with the spirit of wonder and awe in Your presence and may all his efforts begin with a deep understanding of Your will, continue in the best interests of the citizens of this Commonwealth and be brought to a successful completion through the power of Your love.

This prayer we make in Your most holy name.

Amen.

MR. CHIEF JUSTICE NIX: Thank you very much, Bishop.

You will note from your program that we will have several distinguished guests making remarks, and it is only fitting that the Chief Executive Officer of this Commonwealth should begin and make remarks on this occasion.

Governor Casey, the Court welcomes you.

GOVERNOR CASEY: Mr. Chief Justice, members of the Court, Judge Cappy, soon to be Justice Cappy, members of your family and many distinguished guests here today, Lieutenant Governor Singel, our state treasurer, Katherine Baker Knoll, Mayor Masloff, the distinguished members of the bench, the Superior Court, the Commonwealth Court, Court of Common Pleas, Chief Judge Cirillo, Chief Judge Cohill, the elected officials here, members of the General Assembly, a special welcome and congratulations to Judge Joseph Hudock, Judge Kate Ford Elliott and Judge Daniel Pellegrini, who are to be sworn in today and in the immediate future, all of the visiting dignitaries from across the Commonwealth.

It is a great honor for me to be here today, and if you will permit me to share with you just a personal recollection about this room and this city, it was in 1957 that I was admitted to the Supreme Court of Pennsylvania and I think it was in this room if this court was in business in this

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location at that time, and I believe it was, it was in this room. I had come here because I had been to Philadelphia the preceding session of the court and had argued a case, I was 25 years old, I had argued a case that my father had begun, he had passed away, and I went to the court in Philadelphia to argue that case. It concerned the rights of a retired anthracite coal miner who had been denied his pension by the trustees of the Health and Welfare Fund, and I walked up to the lectern, they had, I will never forget it as long as I live, a satin pillow on the lectern, and my hands were as wet as they could be, I was shaking in my boots, and I put my hands on the pillow and I said to the Court, May it please the Court, I represent Mr. Thomas who is here today, and he worked in the anthracite coal mines for 50 years and these people over here want to take away his pension. And Justice Musmanno leaned over the bench and said to me, interrupting, he said, How long did you say that he worked in the anthracite coal mines, and I said, 50 years. And he sat back and said, 50 years. It was at that moment that I understood fully what my father told me, that facts and not the laws decide cases. But I couldn't be admitted that day because the rules of the court didn't permit it. I was just admitted in my home county of Lackawanna and I had to come out here to Pittsburgh to the next session of the court to be admitted, and I came here that day. And the opinion in our case was announced from the bench and, of course, we won the case. And you know lawyers only talk about cases that they won. We all know that. That's why I'm telling you this story.

But I'm telling you this story for another reason. My father never lived to see that day. He waited his entire life to see his oldest son become a lawyer, and he died just a few months before that case was argued. And I thought of that incident in my own life when I came here and met members of Judge Cappy's family, his father is here, and what a great day for all of the members of the family to be here to witness this event, a time of tremendous achieve-

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ment in Ralph Cappy's life. Anyone who has run statewide in Pennsylvania for any office understands that that is a significant achievement. And he has reached that pinnacle because of his qualifications, his experience, his training, who he is, and I was very impressed personally to work with him during his campaign. He campaigned with dignity and effectiveness, and he reached people in a very personal way and he did it within the confines of the Canons of Judicial Ethics. He was a credit to the profession, to himself and to his family in that campaign. We come here today to bear witness to his success and to congratulate him in that success.

He talked a lot in that campaign about the problem of drugs in our society, and we talked about that frequently, he and I, and it is important to every citizen of this state.

And I want to say to the leadership community of Pennsylvania assembled here today, keep talking about that issue. Keep our conviction that each of us has a personal responsibility to do something about the scourge of drugs in our society.

And to Justice Cappy, I say to you now, you are in a position by virtue of what will occur today to do something really meaningful about that problem, and perhaps in that area, who knows, but perhaps in that area may lie your greatest contribution.

We have in the United States a system of judicial review and, of course, we take it for granted. But in many countries of this world there is no judicial review. When the Legislature acts or a Governor acts, that's the end of the process. The people have no say in what occurs beyond that point in time. But in our system we have judicial review. We have a system where the rights of individuals between themselves and between individuals and their government can be finely adjusted and the rough edges taken off, and when the executive branch goes beyond its authority or the legislative branch goes beyond its authority, the

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judicial branch steps in and sets things right and makes society whole and gives to people confidence in the integrity of our system.

We live in a very complex society. Huge issues coming along all the time and so many of them wind up in our court because governors perform their function and legislatures perform theirs, but in the final analysis, because of judicial review, the Courts have the final say under our system. So it is a position of enormous responsibility and it requires a person, the finest that human nature can offer, scholarship and fairness and industry, yes, and wisdom.

Well, the people of our state have said that Ralph Cappy possesses these qualifications in abundance, that he has the training and the experience and the character to do this job and do it well.

So he begins today a period of enormous and extraordinary responsibility, but great men have always recognized the other side of that equation, which is not only is it a time of responsibility but a time of great opportunity for service, opportunity for service, and that's what this ceremony and this room and all of the people in it, that's what we are all about. We are about service. And a Supreme Court Justice has an extraordinary opportunity for service.

We come here today to wish Ralph Cappy good luck and Godspeed and many years of good health and distinguished service as he begins his important work.

MR. CHIEF JUSTICE NIX: Thank you, Governor.

Governor Casey appropriately noted the dignitaries that are here, and I think it is appropriate, as I have indicated, because it suggests to you the recognition that has been earned by the Justice Elect through his activities up to this point in his life, through all segments of the community, those who hold the high office, those who are just the citizens who receive the benefits of the trusted civil servant and those who are friends and relatives.

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I think, however, though, it is appropriate to record for the record of this proceeding the name of some of the dignitaries that are here today.

The Congressman from the 20th District, the leader of the Pennsylvania delegation, Congressman Joseph Gaydos, not only as a friend of the family of the Justice Elect but was a long-time associate colleague and dear friend of my father's.

Congressman William Coyne of the 14th District, also I was told by the Justice Elect to make special note of the congressman of his own home district. And it also shows the wisdom of the Justice Elect.

The Honorable Mark Singel, the Lieutenant Governor of Pennsylvania.

The Honorable Katherine Baker Knoll, Treasurer of Pennsylvania.

Senator Leonard Bodak of the 38th District.

Senator William Lincoln of the 32nd District.

The Honorable Sophie Masloff, Mayor of the City of Pittsburgh.

Commissioner Thomas Foerster, Chairman of the Board of Allegheny County Commissioners.

Commissioner Pete Flaherty of the Allegheny County Commissioners.

Commissioner Lawrence Dunn of the Allegheny County Commissioners.

The Honorable Rita Wilson Kane, Register of Wills of Allegheny County.

The Honorable Frank Lucchino, Controller of Allegheny County.

And I would be hard pressed to think of another county officer that you might have had that is not here. I know that I have forgotten some, missed some, and throughout we will add to this list of dignitaries. In fact to be absolute-

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ly accurate, I should have the list of everyone here in attendance.

The next speaker to give remarks is Mr. Leonard Dubin, the President of our Pennsylvania Bar Association.

Mr. Dubin.

MR. DUBIN: With the Court's permission, I will deliver my remarks from the lectern.

Judge Cappy, it really wasn't necessary for you to invite all these people to hear my remarks, but thank you anyway.

As President of the Pennsylvania Bar Association, representing its more than 26,000 members, I am pleased and honored to be participating in this induction ceremony for the Honorable Ralph J. Cappy.

When Judge Cappy called me to ask me to participate, I accepted with alacrity, and I asked him to send me his CV. I was amazed when I read it as to his accomplishments.

Webster's Dictionary defines Renaissance man as a person who has wide interests and is expert in several areas.

Judge Cappy fits that definition. His legal experience ranges from law clerk to a Common Pleas judge to Public Defender of Allegheny County, where he supervised 48 attorneys, to Judge of the Court of Common Pleas of Allegheny County to which he was appointed in 1978 and elected for a full term in 1979.

Judge Cappy's administrative talents were recognized by the Supreme Court of Pennsylvania which appointed him in 1986 as the Presiding Administrative Judge for the Civil Division of the Allegheny Court of Common Pleas where he performed in an exemplary fashion. As the Administrative Judge, he instituted several innovative programs, including a special conciliatory program to help reduce the civil backlog which proved to be an enormous success.

Not only is Judge Cappy an outstanding jurist, but he has made his mark as a lecturer in various legal educational programs and has assumed the leadership role in the Penn-

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sylvania Conference of State Trial Judges where he served as Chairman of various committees, including the Education Committee.

In addition, he has received a citation of merit from Mothers Against Drunk Driving and Man of the Year awards from both the Sons of Italy and the Italian American Heritage Foundation.

I'm especially pleased to be here because the Pennsylvania Bar Association's Judiciary Committee, in evaluating candidates for the offices of appellate courts, concluded that Judge Cappy was exceptionally well qualified, and I know it is something that Judge Cappy relied on in going across the state. The committee rated him that way because it recognized that Judge Cappy was a person of reason, intellect and integrity, who has displayed outstanding judicial demeanor while serving as a trial judge. These qualities will serve Judge Cappy well when he joins his brethren on the Supreme Court of Pennsylvania in just a few minutes.

The Pennsylvania Bar Association joins all of you today in congratulating you, Judge Cappy.

MR. CHIEF JUSTICE NIX: To prove how prophetic I am, I still have additional names to give you. I knew that they would start coming.

We are pleased to have Robert Colville, the District Attorney for Allegheny County.

We have the Dean Emeritus of the School of Law of the University of Pittsburgh, Dean Edward Sell.

We have the current Dean of the Law School, Dean Nordenburg of the School of Law at the University of Pittsburgh.

We have Dean Sciullo present, who is the Dean of the School of Law at Duquesne University.

We will now call upon Mr. Edward Klett, the President of the Academy of Trial Lawyers, for remarks.

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Mr. Klett.

MR. KLETT: Mr. Chief Justice and fellow justices of the Supreme Court, with the Court's permission, I will address the audience from the lectern.

May it please the Court, I appear here today as a representative of the trial bar to lend our enthusiastic endorsement and support to the induction of Ralph J. Cappy as a Justice of the Supreme Court of Pennsylvania.

When I was approached initially by Judge Cappy about participating in today's ceremony, I was given to understand that certain matters would be addressed by other speakers and that I should avoid duplicity whenever possible in my very brief comments.

He pointed out, of course, that all religious matters would be within the exclusive province of Bishop Wuerl, that all matters involving the judiciary would be ably handled by Chief Justice Nix and the other justices of the court, that all commentary concerning the Commonwealth of Pennsylvania, including any direct or random expressions of patriotism, would rightfully belong to Governor Robert Casey, that all and sundry prosecutorial arenas would be claimed quite naturally by District Attorney Robert Colville and former United States Attorney Robert Cindrich, that all matters directly or indirectly associated with the practice of law would be covered most appropriately by Pennsylvania Bar President Leonard Dubin and that all commentary involving any degree of light humor, and I seem to recall his emphasizing the term light with reference to the word humor, would be presented by his very good friend, Richard Zappala. But with these areas aside, he said that I should feel at liberty to wax eloquent so long as I did not exceed my 30-second time limit.

Although this is indeed a day when many nice things will be said about Judge Cappy, with all sincerity I will say that Judge Cappy uniformly and universally enjoys the total respect and admiration of the trial bar. This is not some-

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thing which he has ever demanded. On the contrary, it is something which he has garnered through hard work and dedicated service and it is something which has been richly and freely given by the trial lawyers of Allegheny County.

Like many of his predecessors, when Judge Cappy was appointed in 1986 as Administrative Judge of the Civil Division, he faced the ever pressing problems of a growing case load with a less than adequate number of civil trial judges. In the ensuing three years Judge Cappy has achieved significant results in reducing the civil trial backlog, and this has been accomplished in large part through his utilization of innovative case management techniques.

Initially there was the special and intensive two-week endeavor by several of the Civil Division trial judges to resolve through conciliation some 351 cases that were then on the trial list. This effort resulted in over 320 of those cases resolved during that process.

Judge Cappy's attention also was drawn to other troublesome areas.

In order to deal with a substantial number of unresolved tax assessment appeals, he developed a new procedure involving the Board of Viewers sitting as special masters to hear and consider such matters.

In a somewhat similar vein, he called upon the members of the Association of Municipal and School Solicitors to assist with the processing of a huge backlog of zoning appeals.

He also called upon the trial bar to assist with a program designed to screen weak or unmeritorious medical malpractice cases from the system and promote the use with respect to those cases of a voluntary, non-binding arbitration system.

His crowning jewel, however, has been the so-called special masters' program which calls upon 200 of Allegheny County's leading trial lawyers to don the judicial robes in an

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effort to dispose of a significant number of appeals from arbitration. In the first year of this two-year program some 462 such cases have been concluded by the special masters without the utilization of any of the court's limited judicial manpower. There is no question but that the special masters' program has been a rousing success. The only real issue remaining is whether our real judges will be able to retrieve their courtrooms from these rather aggressive and possessive trial lawyers who have sniffed a bit of the judicial mahogany.

In addition to the municipal and school solicitors, Judge Cappy has utilized the collective efforts of the Academy of Trial Lawyers, the Western Chapter of the Pennsylvania Trial Lawyers, the Pennsylvania Defense Institute and the Civil Litigation Section of the Allegheny County Bar Association.

In all, he has been extremely successful in achieving his stated goal as Administrative Judge of the Civil Division, and I quote, in creating a civil justice system in Allegheny County which provides its citizens and its bar with even-handed justice, swiftly and effectively administered.

In early 1989 in recognition of his unique contributions to the civil justice system the Academy of Trial Lawyers extended to him its highest tribute by awarding to him, and maybe some of you have heard of it, the Academy Award for Distinguished and Innovative Judicial Service. These and other achievements brought statewide attention to him and ultimately served as a springboard for his elevation by the electorate of Pennsylvania to the position of Justice of our Supreme Court.

Of even greater significance, however, is Ralph Cappy the man and the very able trial judge. His strong qualities include his respect for the judicial system and the role of the trial lawyer and the litigant in that process. He is purposeful, proper and even-handed and has always been a very good listener.



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While the members of the Trial Bar of Allegheny County will miss Judge Cappy's contributions to the whole trial practice, we, nevertheless, release him to a higher calling in recognition that his unique talents will be a special benefit to all of the citizens of this great Commonwealth.

On behalf of the Trial Bar of Allegheny County, I wish him good health, long life and Godspeed.

MR. CHIEF JUSTICE NIX: It would be now appropriate to note, if you have noticed, as you face the bench, the well before the Court, we have a number of our outstanding appellate judges.

First we will acknowledge the members of the Superior Court who are present.

The president judge of that court, The Honorable Vincent A. Cirillo, The Honorable James E. Rowley, The Honorable Donald E. Weiland, The Honorable Zoran Popovich, The Honorable Joseph A. DelSole, The Honorable Harry M. Montgomery, The Honorable Patrick R. Tamilia, The Honorable William F. Cercone, The Honorable J. Sydney Hoffman, The Honorable Frank J. Montemuro, The Honorable Stephen J. McEwen, The Honorable John G. Brosky, The Honorable Justin M. Johnson.

Also with that group are the judges elect, The Honorable Joseph A. Hudock and The Honorable Katherine, and affectionately known as Kate, Ford Elliott, and we, as to the latter two, offer them our congratulations this day also.

We also acknowledge the presence of the Commonwealth Court judges that are sitting in front of you.

The Honorable David W. Craig, The Honorable Emil E. Narick, The Honorable Bernard L. McGinley, The Honorable Francis A. Barry and again the Judge Elect, The Honorable Dante Pellegrini.

Judge to be Pellegrini, I think I saw you earlier today, and you may be right under me. That's a good place to start from. We wish you the very best.

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We will now have remarks by someone who has some relationship with this Court. The last name seems remarkably similar to one we are aware of. I'm sure that everyone in attendance realizes that the next speaker is the younger brother of a member of this Court.

What I'm about to tell you, the reliability is dependent upon the source from which the information was received. I will give you the information first and then I will tell you the source and I will leave it to you to gauge the weight and the merit you should give to the remarks.

I am told that Richard was a younger brother who, under the tutelage of a bigger brother with such vast knowledge and wisdom, was guided along life's path until he reached the stage and the stature today. In short my information was that he taught him everything that he knows. And I think you can imagine the source of the information.

I give you for remarks Richard A. Zappala, Esquire, the little brother.

MR. ZAPPALA: Mr. Chief Justice, with your permission, I would like to deliver my comments from the lectern.

Mr. Chief Justice, Justice Brother Steve, Justices, Bishop, Governor, distinguished guests.

Mr. Chief Justice, my brother Frank is not here. I'm sure that that's who you are talking about.

Ladies and gentlemen, Ralph Cappy was born 46 years ago. He was raised in Brookline with his sister Patty and is a product of our public school system and a local university that has trouble retaining coaches. He is a product of the 1960's. He is a product of our beloved ethnic Pittsburgh. Most importantly, he is the product of Joe and Katherine Cappy.

I did not know Ralph's mother Katherine. She passed away in 1976 just before I met Ralph. But I understand that she was the classic Serbian mother, home and family,

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family and home was all that she cared about. She would be extremely proud of him today.

Joe Cappy, on the other hand, most all of us know. And if the saying, "The apple never falls far from the tree" was ever appropriate, I can't imagine when it was more appropriate than today. Look at them. The physical resemblances are obvious. These two tiny elves with receding hairlines. But the resemblances don't stop there.

Joe Cappy was a politician. He was in his own right a political leader but yet he never sought elective office. He was a great team player and he worked closely with our former Democratic leaders, the John Kane and Mike Stabiles.

Joe Cappy was a giver. He gave to this community and he also gave without ever weighing the return to him. For example, he is one of the original organizers of what we now know to be the Press Old Newsboys Children's Hospital Campaign.

This first generation Italian-American set a great example and gave great guidance to Ralph Cappy. Let's take a brief look at what Joe gave us in his son.

A 230-pound teddy bear. A great athlete. Just ask him. He is a 15 handicap golfer who will shoot a 78 and is always in the low 80's. It is even rumored that he shot a 38 from the blue tee at Greenbrier on the front nine. Mr. Chief Justice, if that is true, we have a real credibility problem. But to be fair, he also, in addition to having a reputation for making great approach shots, is known to foreputt many a green. He is also an avid tennis player and an avid squash player. He constantly plays for the championships. But I am told that his greatest talent is in picking the best partners. He may also be a Supreme Court first, arriving for deliberations on his motorcycle. He is as well versed on the antarctic as he is on the rule against perpetuities. And I understand that Ralph will be a very strong defender of the court. Why else would he be taking karate lessons.

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But what these activities really point out is that Ralph is competitive. He likes to win and win he does.

Now, how or why does he win? He wins because of the person he is. Ralph is certainly an interesting person. He truly defies labeling and definition. He is athletic and competitive, but he is always pleasant and gentlemanly. In fact a good friend of Ralph's suggested to me that a word that best describes him is the word mannerly, not in the Emily Post style, but in how he treats people.

Ralph, as I said, is a product of the sixties. He is the same kind, caring person he was 20 years ago. He truly cares for people regardless of their station in life. In fact he has grown more mannerly as his station has grown. Ralph is a real human being.

Ralph is a friend. I took this occasion to research the word friend, and it should not come as a surprise to find that the Anglo-Saxon derivative is frijon, which I probably mispronounced, but it means to love. And obviously Ralph has many friends. Just look about you. He is an individual who doesn't know what the words lip service mean. He is completely unselfish, just like his father.

As a Justice, Ralph will be holding a very powerful office. But I guarantee all of you he will not pretend to be a powerful person.

Ralph's manners also showed in his campaign. His campaign was mannerly. He insisted on it.

Speaking of the campaign, I would like to address that for a moment.

What comes first in any election: Money or support? Well, we all know that a lot of money is necessary unfortunately to run an effective campaign today. But in this case I can tell you that it was the support that came first. Ralph did what Ralph should have done. He went out and met people. He let people get to know him. And once that had occurred, raising money was relatively simple.

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Ralph brings to this most prestigious court the strongest of all personal traits. Apparently it may come as a surprise to certain reporters, but Justice Cappy is an extremely bright man, extremely bright. I will confess that Ralph and I do not agree philosophically on a lot of issues, but I will tell you that I have the utmost respect for his judgment, rationale and opinions.

This man sought office not for himself but because he truly hopes and believes that he can benefit our society. He believes in the system all are equal in the eyes of the law and has a great jurist temperament because he can truly see the rights and all sides. In addition, Ralph brings to this bench an honesty and an integrity second to none. He has faith in his fellow man and hope for man's future. He cares for people because he truly loves and he does so with a wonderful sense of humor. He has over this decade grown both professionally and personally.

As I said before, one of Ralph's greatest talents is at picking the best partners. He did that in golf, he does it in squash, he does it in tennis. He also did it in love. He picked a great partner to love. He carefully picked someone who would dedicate a large part of her life to make him a success. He received great nurturing from his wife Janet and son Erik and he will be the first to acknowledge their love and support.

To Janet and Erik, I would like to say thank you for sharing Ralph with us.

To all of his friends here assembled who worked in any way to assist in Ralph's campaign, you also should be very proud. You see, politics is not a game. Usually after a game there is a letdown, even if you have won the championship. After the trophies are distributed, what else is there? Peggy Lee coined a famous song, "Is That All There Is?" But what you have experienced will last. You can all look forward with anticipation to many years of outstanding performance by this man who has been trained

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from childhood to fill this office. Working as you all did in Ralph's campaign was in fact a good deed. He was a catalyst in bringing together many divergent, strong egos to work towards a common goal, that common goal to elect a person we all believed in as a friend, as a lawyer, as a judge and now as a Supreme Court Justice. So in your way you have all made a substantial contribution to your friends and to your neighbors.

With Ralph Cappy's roots, his talents and his beliefs, he will do his family and his friends proud.

Justice Ralph Cappy, on behalf of your family and friends, congratulations and our wishes for God's blessing on you.

MR. CHIEF JUSTICE NIX: Justice Larsen, the senior member of this court, senior justice, was unable to be in attendance today, but he requested that I read a letter that he addressed and I will deliver to Justice Elect Cappy.

The letter was dated December 21st. It says, "Dear Justice Cappy: Congratulations on being elected and sworn in as a Justice of the Pennsylvania Supreme Court. Your reputation as a dedicated and outstanding jurist on the Court of Common Pleas of Allegheny County precedes you. I am sure that you will make a substantial contribution to the jurisprudence of Pennsylvania during your term on the Supreme Court and I look forward to working with you. I personally welcome you. And if I can assist you in any way, do not hesitate to contact me. Very truly yours, Rolf Larsen."

We also have a number of outstanding trial jurists who ought to be recognized and will be recognized at this point.

First and foremost, of course, is The Honorable Paul R. Zavarella, the President Judge of the Court of Common Pleas of Allegheny County; Judge Robert E. Dauer, Administrative Judge, Criminal Division, Court of Common Pleas of Allegheny County; The Honorable R. Stanton Wettick, Jr., Administrative Judge of the Family Division, Court of

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Common Pleas of Allegheny County; The Honorable Maurice B. Cohill, Chief Judge, United States District Court for the Western District of Pennsylvania; The Honorable Joseph F. McCloskey, Court of Common Pleas of Schuylkill County, and his wife Joanne; The Honorable Alexander Bonavitacola, Court of Common Pleas of Philadelphia County, his wife Laura and daughter Portia; The Honorable Livingstone M. Johnson, Court of Common Pleas of Allegheny County; The Honorable Fred P. Anthony, Court of Common Pleas of Erie County; The Honorable Jess S. Jiuliente, President Judge of the Court of Common Pleas of Erie County; The Honorable Emanuel A. Cassimatis, Court of Common Pleas of York County and President of the Pennsylvania Conference of State Trial Judges; The Honorable Joseph T. Labrum, or Labrum as he calls it. In Philadelphia we call it Labrum on the main line. I'm sure that you have heard that area in the context I'm using it in. They like to call it Labrum. Whichever is your choice, he is here, Court of Common Pleas of Delaware County and Secretary of the Pennsylvania Conference of State Trial Judges. The Honorable Carol K. McGinley, Court of Common Pleas of Lehigh County and newly appointed Treasurer of the Pennsylvania Conference of State Trial Judges; The Honorable Maxwell E. Davison, Court of Common Pleas of Lehigh County and past President of the Pennsylvania Conference of State Trial Judges.

I don't think that anyone can say today with any degree of sincerity that the Pennsylvania State Trial Conference was not very supportive of this moment, Judge Cappy.

At this point we will have the reading of the commission and remarks jointly given by Robert Cindrich, Esquire, and Robert E. Colville, Esquire.

Gentlemen, we will entertain the duet at this point.

When I read the program, I was quite anxious how you are going to do it together. A song and dance team?

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MR. CINDRICH: Mr. Chief Justice, Bob Colville and I arm wrestled for this and I lost. So I will read it.

If it please the Court, Commonwealth of Pennsylvania, Governor's office, Ralph J. Cappy, the County of Allegheny in the Commonwealth of Pennsylvania, greetings. Whereas it appears by the certificates and returns made according to the law of the election held on the 7th day of November Anno Domini 1989, you have been elected Justice of the Supreme Court of the Commonwealth of Pennsylvania. Therefore, know ye that in conformity to the provisions of the Constitution and laws of the said Commonwealth in such case made and provided, I do by these presence commission you to be 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 there unto belonging or by law in anywise appertaining for the term of ten years, to be computed from the first Monday of January, 1990, 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 21st day of December, 1989, and of the Commonwealth, the 214th, Robert P. Casey, Governor.

My remarks will be on behalf of myself but also on behalf of Bob. As I said, I lost the arm wrestle. Also on behalf of all the members of the campaign. Bob and I co-chaired it, but there were a lot of people who worked very hard at it and we want to publicly thank them for it.

But on behalf of all of us who devoted our efforts to Judge Cappy's election, I would like to state publicly why we did that, why we made such a commitment, and we did have a lot of talks about that when we started all of this with Dick Zappala and a whole lot of people that were involved, and also at the same time pay our tribute to Ralph Cappy in what I think is his proudest day of his life. This campaign committee was really a mixed bag. Sure, we had some lawyers, we had some doctors, businessmen, business-

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women, labor leaders, technicians, teachers, you name it. We had a whole crew of people that we put together, but we did share one common belief and that was a commitment to our government, our Constitution, our laws and our courts, and I'm not speaking so much here of the traditional jurisprudence, especially what has been referred to as the reductionist position of jurisprudence. What I mean here is that those of us who were supporting Ralph were basically idealists. We believe that jurisprudence can be given a new importance and life by embodying the aspirations of mankind while acknowledging that those aspirations can never be fully realized. We see the law in our courts as a means of confronting the most serious of our contemporary problems. As Judge Cappy expressed them in his published statement of judicial philosophy, he sees these as a problem of poverty, the trivialization of life, rootlessness, social irresponsibility and silence. We understand that no one person can tackle a waiting social agenda of this nature, certainly not on his own. Just as clearly, we understand that no problem will be solved and no progress will be made unless we roll up our sleeves and make a beginning. And that's what we were doing, making a beginning by elevating a person that we know and we love to a position where he can make his contribution we thought most effectively. Thus our commitment that not only required faith in our system of government and in our law but faith in the person that we thought could best serve us and serve our government.

We believed in Ralph not so much because of anything that he said but because of what he had done. He loves the law and his profession. He has a true sense of dedication to the administration of justice. He renders and exacts courtesy, honor, straightforwardness at the bench and at the bar. He respects judicial office deeply and demands the highest standards of competence and dignity. He has an affectionate and warm regard for every person who comes before his court.

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To him, the law has not been a means of support. It has been a mission in his life. He is willing to take an unpopular stand in the community when it is necessary to protect an individual right. He serves with compassion and humility.

These were the values that we saw in Ralph Cappy, the reasons why we supported him, continue to support him.

Ralph, we know that you will give of yourself fully. We will always have you in our thoughts and our prayers.

MR. CHIEF JUSTICE NIX: Bishop, I address this to you, this comment. I have to confess at this point there have been times on some Sunday mornings that I have gone to church, heard the sermon and fallen asleep. Recognizing the difference between the separation that we must maintain between church and state, I now see that any dereliction that I may have been accused of in the past has been paid for today because I was about to recognize your new city councilman who is also a member of the cloth who was put to sleep by speeches by the lawyers.

Reverend Darkins, congratulations.

We also acknowledge the presence of Jean Milko, the Jury Commissioner; Chief McNamara of the Allegheny County Sheriff's Department. By the way, we do appreciate the assistance and the aid of the sheriff's department at this ceremony this morning.

We are now approaching the heart of this particular ceremony today. It is where the oath is to be administered. And according to tradition, there is always a member of members of the family in attendance at that moment. It symbolizes the fact that none of us individually are able to achieve without the assistance, the love and the caring of those who love us.

Now, it is only appropriate that the wife of the Justice Elect, Janet Fry Cappy, and may I say this to you, you can record it, it will be on the transcript, that if he ever, ever

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questions it, you have authority and witnesses here today, he said to me that I should say without whose love, and we are referring to you, without whose love and support this day would not have been possible. Now, very few husbands make that concession. Certainly not before an audience as large as this. And her son is also present, Erik Fry, who is a recent graduate of the University of Pittsburgh. And you and Janet will be with the Justice Elect at the robing ceremony.

You will also be assisted by your father, Joseph R. Cappy.

Judge Cappy's father was a former Chairman of the Board of Viewers of Allegheny County, and I know on this particular day all of his aspirations and dreams for his son have been realized.

Would the Justice Elect proceed before the bar of the court and would his wife and his father begin the robing process.

Mrs. Cappy will hold the collar until he takes the oath.

Your father can come back and remain with you while you take the oath beside you, and we will ask all the parties in the courtroom to rise.

Will you repeat after me?

I do solemnly swear—

JUSTICE ELECT CAPPY: I do solemnly swear—

MR. CHIEF JUSTICE NIX: —that I will support—

JUSTICE ELECT CAPPY: —that I will support—

MR. CHIEF JUSTICE NIX: —obey and defend—

JUSTICE ELECT CAPPY: —obey and defend—

MR. CHIEF JUSTICE NIX: —the Constitution of the United States—

JUSTICE ELECT CAPPY: —the Constitution of the United States—

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MR. CHIEF JUSTICE NIX: —and the Constitution of this Commonwealth—

JUSTICE ELECT CAPPY: —and the Constitution of this Commonwealth—

MR. CHIEF JUSTICE NIX: —that I will discharge the duties of my office—

JUSTICE ELECT CAPPY: —that I will discharge the duties of my office—

MR. CHIEF JUSTICE NIX: —with fidelity—

JUSTICE ELECT CAPPY: —with fidelity—

MR. CHIEF JUSTICE NIX: —so help me God.

JUSTICE ELECT CAPPY: —so help me God.

MR. CHIEF JUSTICE NIX: Congratulations.

Now the collar.

Mrs. Cappy, before you walk away, would you escort the Justice Elect to his new seat.

Before we hear a response from the Justice Elect, the new Justice, are there any remarks from the court?

Mr. Justice Flaherty.

MR. JUSTICE FLAHERTY: I think everything has been said, my new colleague.

I would like you to know, however, because I don't know that it has been mentioned during the ceremony, that you are joining a court which has a very ancient history. This court prides itself with being the most ancient court in the western hemisphere, established in 1681, and the number of justices has not been that numerous.

I will say, only after making that mention, I will say in the ancient language of my people, cadno felty, which is 100,000 welcomes.

MR. CHIEF JUSTICE NIX: Normally the next speaker would be Mr. Justice McDermott, but because of logistics

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we have only the one speaker. I think we better proceed and hear from Justice Zappala.

MR. JUSTICE ZAPPALA: Mr. Chief Justice, members of the court, distinguished guests.

The most I could say to you, Justice Elect Cappy, you may find that the easiest part of this entire proceeding was your election.

I think really that the accolades which were said today are both the rose and the thorn. As you look at it, they said that you have accomplished it, yet what they are asking you to do is almost an impossible task to accomplish. But as I also listened and it concerned me greatly, we have elevated to this bench today a young man who has the vigor, the integrity, the intelligence to achieve all that which has been asked of you today.

I personally take great pride in two areas.

One is that as a junior member of this bench, hopefully I will have sufficient time to watch you mature and to develop and to accomplish all that your friends and loved ones have asked you to do.

More importantly and secondly, not second in item, I also take great pride in having Mr. Cappy here, and I feel that your direction, your love has really accomplished what your son has achieved. And I say that affectionately, Joe Cappy, because in many instances you remind me of my father who sat almost in the identical place when I was sworn in to this court some six years ago.

So with your dad's continued guidance, Justice Elect Cappy, with all these wonderful people, I will assure you that I will keep a scorecard on how well you progress professionally.

MR. CHIEF JUSTICE NIX: Mr. Justice McDermott.

MR. JUSTICE McDERMOTT: Mr. Chief Justice.

You have been welcomed, Justice Cappy, to the oldest Supreme Court, and I'm delighted to welcome you to another

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er aspect of this court which is a very strong personal bond among the members here. You will find that courtesy never fails, that humor is always forward and as they have suggested, as Justice Zappala has suggested, that you have much to do, I have no doubt that everyone here will be happy to help you do it.

I am, as you know, from the Republic of Philadelphia. And when I give praise, and I think you are all entitled to praise for the excellent ceremony that you have turned out here today, and many of my friends say to me, "How are things in the Holy Western Empire?", and I can only say that, I would say to you now because I have received it here, everything here is extremely hospitable and everybody is extremely nice.

I am delighted to have you here and I am sure that you will find it so.

MR. CHIEF JUSTICE NIX: Obviously the next speaker will not need a microphone.

Mr. Justice Papadakos.

MR. JUSTICE PAPADAKOS: Mr. Justice Cappy, for six years I have been in bondage as the junior member of this court. Thanks to the wisdom of the people of this great Commonwealth, I am free at last.

I pass on to you the mantles of your new office, the apron and towel.

But in all seriousness, let me admonish you in the same manner in which Mr. Justice Flaherty admonished me six years ago during my swearing in ceremony and using an old Greek custom of saying unto you, oxios, oxios, oxios, meaning may you always be worthy of the honor bestowed upon you by the people and in 15 years you will become Chief Justice.

MR. CHIEF JUSTICE NIX: We will now hear a response from our new Justice. I think it is more appropriate for him to go to the podium so that he can have the benefit of

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the microphone there and I think you will be more comfortable.

MR. JUSTICE CAPPY: Thank you.

I asked the Chief to do this because I have given a thousand speeches over the last 18 months, and never having given one from a seated position, I thought it better that I come down here and stand.

Most Reverend Bishop Wuerl, Governor Casey, Mr. Chief Justice Nix, Fellow Justices of the Supreme Court, judges of the appellate courts and courts of Common Pleas of Allegheny County, Judge Cohill, Chief Judge of the Federal District Court, elected officials, distinguished guests, family and friends.

I have been deeply moved by the gracious remarks of our distinguished speakers and I thank them for taking the time to be here this morning with us.

Janet and I are particularly grateful to those of you who have traveled from other cities at a time when traveling is very difficult, for interrupting your holiday seasons in order to share with us this very important occasion and this celebration.

Every one of you in this room is aware of the important part that you have played in my life and in this wonderful victory which we have all shared. I am deeply grateful for your efforts and for your friendship.

There are two people who I would like to single out.

First is a man who has been the moving force in my life, a man who came from the humblest of circumstances, who with perseverance, commitment and love provided me with the fundamental building blocks of life, a man who taught me the meaning of family, who taught me the importance of honor and of hard work, but most of all the man who taught me the strength in being gentle, kind and loving. To my father, Joseph Cappy, I am forever grateful.

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For those of you who know my father, you would realize that he would be the first to deny having played any significant influence in my life and instead he would give full credit to my late mother Kay. Although we lost her some 13 years ago, rest assured that my sister Patty and I remember as if it were yesterday the countless hours that she devoted to ensuring that we would take advantage of great opportunities which we could seize if we learned our lessons well. I'm sure this morning she stands very proud that her students have done well with their lives.

It is on occasions such as this which are occurring practically in every state across the land where under the guise of personal celebration we are permitted to reflect on that which is meaningful in our lives.

As I stand here, I am reminded that although this certainly is a personal celebration, it is also a celebration of our wonderful democracy which we so often take for granted. A perusal of this morning's newspaper or last week's weekly magazine or whatever TV news program you might have watched last night should have been enough to remind us all that people all over the world are giving their lives for the freedoms which we have enjoyed for over 200 years. There are tragedies and sacrifices occurring which, because of the genius of our governmental system, we should never have to face within our own borders.

Our unique system permits the peaceful and orderly transition of power, the peaceful and orderly resolution of disputes. It is a system which bottoms upon the strength and the integrity of its independence and coequal branch of government called the judiciary.

As I have traveled across the Commonwealth these last 18 months, I have learned many things and I have been made aware of many problems which trouble our fellow citizens, but there is one notion which I believe to be a misconception which causes me very deep concern. Every-one it seems is troubled by the congested court system and



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there seems to be this popular tendency to want to solve the problem of overburdened courts by in effect closing the doors of the courtroom. Time and time again, as I traveled across the state, I have heard that it is the legal profession which is evil, that our society has become overly litigious because of the greed of lawyers and that the solution is to limit access to the courts and thereby amend that which had historically been fundamental in our society.

To those who press for this type of reform, I say go easy, tread lightly, for I fear that you may have missed the point.

In my view the fact that we Americans utilize the courts to resolve our disputes is as it should be, is as it was designed. It is an extraordinary testament to the institutions our forefathers designed that our governmental system is so stable and yet so flexible as to be able to absorb the complexities of the modern world when in fact we know that those who designed this system could not possibly have anticipated the enormous problems which we now face going into the last decade of the 20th century.

It is so easy for us to romanticize and long for the good old days where a handshake supposedly was all that was needed to seal a bargain. How easy to forget the lessons of history that when the so-called handshake was broken, the resultant dispute was settled at high noon on the main street by he who had the faster gun or the bigger club.

It seems to me that civilized nations are ultimately judged on the basis of how societal tranquility is attained. Therefore, in my view it is the responsibility of the leaders of our communities to applaud the fact that our governmental system has found a way to ensure relative peace and tranquility by providing each citizen or institution with the pressure cooker release valve to redress their grievances. The genius of our system is that it not only preserves the interest of the community at large but it also ensures that our forefathers' commitment to individual rights so deeply

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ingrained in our federal and state constitution shall never be sacrificed.

In all of history this country stands alone. Where other social systems are designed to sacrifice the individual in the name of the communal need, we in this country are committed to a single principle of providing an unbiased and honorable forum in order to reconcile communal needs with individual rights and in this forum to ensure that the most common citizen stands as an equal to the giant private and governmental institutions in our land.

So when we are faced with those who would say that the judicial requirement to balance or to compromise these often competing interests and competing needs is too cumbersome or too slow or, God forbid, too expensive, let us point to Romania, to Hungary or let us point to Panama and ask what cost if we do not.

Ladies and gentlemen, I am moving on to this court as it enters a period when its decisions become more and more significant. I feel that I am prepared to face those who are cynical and skeptical about the future of our court system because I have been trained in the best court system in the Commonwealth of Pennsylvania. The Allegheny County Court of Common Pleas has met the challenge and will continue to do so in the future. It has continually devised honest ways to keep the courtroom doors open to all people while at the same time dispensing with the court's business expeditiously and honorably.

There is no reason why working together we cannot solve this problem on a statewide basis without risking that which has made us unique and that which has made us great.

In conclusion, on a more personal note, I would like to acknowledge and publicly express my deep love and gratitude to the one person who has had to live with the ups and downs of my obsession with and my ambition in the law. As Chief Justice Nix said, without Janet's unwavering

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support, I am absolutely positive that I, instead of standing here this morning, that I would more than likely be out in the cold competing with some of my very dear friends while managing Happy Cappy's Used Car Lot.

My family and I would like to genuinely thank you all for being here. We hope that we will see you upstairs at the public reception later this afternoon. We do wish you the very best of the holiday season and a very fruitful new year.

Thank you.

MR. CHIEF JUSTICE NIX: We will now have the benediction by Bishop Wuerl.

BISHOP WUERL: Mr. Chief Justice, Justices, Justice Cappy.

So much has been said, and one of the advantages of a benediction, you can always make a remark or two addressing it to God knowing that everyone will eavesdrop.

So much has been said about Justice Cappy, but I think it appropriate to mention that he is also, in addition to being wonderful and bright, upright, intelligent and just, he is a good man and a man of faith. That's very important because we live in a Commonwealth that not only lives under law but lives under God.

Good and gracious God, all of the works of Your hands prompt those who believe in You to praise and bless You. You have blessed us, Your creatures and children, with the gift of right reason and the ability to make good laws. You have enabled us to recognize wise judgment and faithful judges. As we conclude our celebration today, we ask Your special blessing on Supreme Court Justice Ralph Cappy, his family and his new service to this Commonwealth. We rejoice with him and ask that You give him many and fruitful years as the interpreter of our laws. May his task be made lighter by the guidance of Your eternal wisdom.

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This blessing, Lord, we make, in the name of the Father, the Son and the Holy Spirit, amen.

MR. CHIEF JUSTICE NIX: The session is adjourned.

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