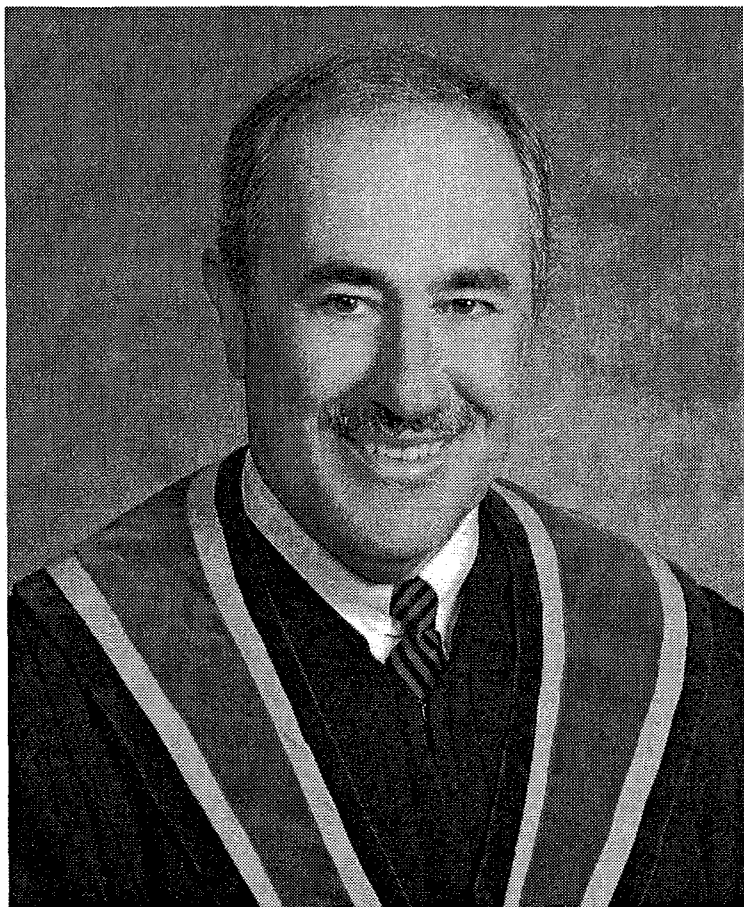


Ceremonial Session of the
Supreme Court of Pennsylvania

Induction
HONORABLE
J. MICHAEL EAKIN

Friday, January 4, 2002
The Forum
Fifth and Walnut Streets
Harrisburg, Pennsylvania



HONORABLE J. MICHAEL EAKIN

Proceedings

COURT CRIER: Good afternoon, ladies and gentlemen. Would you all please rise?

The Honorable Chief Justice and the Justices of the Supreme Court of Pennsylvania presiding this day in a special ceremonial session for the induction of the Honorable J. Michael Eakin as the next justice of the Pennsylvania Supreme Court.

Oyez, oyez, oyez, all persons having business before this Court may now appear and they shall be heard. God save the Commonwealth and this Honorable Court.

MINISTER DUNCAN: Good afternoon. My name is Minister Tracy Duncan, and I am the director of the New Life Youth Choir at Saints Memorial Baptist Church, which is in Bryn Mawr. Also joining us this afternoon is Reverend Sandra Koston from the Evangelistic Temple in Norristown, Pennsylvania.

We are going to be singing two numbers for you this afternoon. The first one is kind of an up tempo number. So I am hoping that you will catch the spirit and clap your hands and tap your feet a little bit. It is All Safe and Secure. The second number that we will be singing is God Is, and that is going to be led by Renee Amooore.

(Singing of All Safe and Secure)

(Applause)

RENEE AMOORE: Good afternoon. We thought we would have a piano, so you all better pray with me or pray for me, or something. Amen.

THE AUDIENCE: Amen.

(Singing of God Is)

(Applause)

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RENEE AMOORE: Thank you very much for the support. I am not the Reverend Ken Arthur, can you tell? He is not feeling well so I have been given the opportunity. And I feel blessed and honored to participate in this magnificent ceremony.

Let us pray. There is a sweet, sweet spirit in this place, and I know that it is the presence of our God.

Lord God, we thank You for this honorable service that You have ordained to be so.

We invite You, Lord, to come in today and bless all of us in a very special way, and as we rejoice as one group, God, and as we marvel over what You have done, and through this and with this, only You can make this possible.

So, Lord God, we just come to You one more time, and we thank You for all the judges here today, Lord, and we just praise Your name.

And, in particular, today, Lord, we thank You for Judge Eakin, and we ask that You bless him and keep him in Your name, as all of us do, Lord. And we just say thank You once again, and we praise You for who You are and what You are.

We thank You for this awesome day.

We ask that You come now, bless us, keep us, and use us for Your Godly works and deeds. These things we ask in Your name.

Let us all say amen.

THE AUDIENCE: Amen.

A VOICE: Present arms.

(SGT. KEVIN PIERCE of the Pennsylvania State Police sang the National Anthem)

(Applause)

(TIFFANY PAO sang God Bless America)

(Applause)

MR. NOVAK: Good afternoon and welcome to Judge Michael Eakin's swearing in.

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I would like to specially welcome the following dignitaries: Governor Mark Schweiker, Lieutenant Governor Bob Jubelier, (Applause) Attorney General Mike Fisher, and Treasurer Barbara Hafer. (Applause)

Members of the Pennsylvania Supreme Court: Chief Justice Stephen Zappala, (Applause) Justice Ralph Cappy, (Applause) Justice Ron Castille, (Applause) the justice that fed me in law school, Justice Sandy Newman, (Applause) Justice Russell Nigro, (Applause) and Justice Tom Sawyer. (Applause) And the judges and senior judges of the Superior and Commonwealth Courts of Pennsylvania. (Applause)

I would also like to welcome members of the Eakin family who are here to share in this historic and wonderful moment for Justice-elect Mike Eakin: His wife, Heidi, (Applause) his children, Michael, Zachary and Chase, (Applause) his father, who started his legal career, John Eakin, (Applause) his mother, Lillian Eakin, (Applause) and his mother and father-in-law, John and Joan McNamara. (Applause)

I would also like to thank and welcome the Eakin Inaugural officers: Bob Asher, Chairman, (Applause) Christine Toretta, Vice Chairman, (Applause) Jonathan Newman, Secretary, (Applause) and Al Masland, Treasurer. (Applause)

In the audience I would like to welcome former Attorney General, LeRoy Zimmerman, (Applause) Congressman George Gekas, (Applause) Congressman Don Sherwood, (Applause) Congressman Todd Platts, (Applause) Congressman Bill Shuster, (Applause) and former Congressman Bud Shuster, (Applause) Senate Majority Leader, Chip Brighbill, (Applause) House Majority Leader, John Purcell, (Applause) House Appropriations Chairman, John Barley, (Applause) and Republican State Committee Vice Chair, Eileen Melvin. (Applause)

Last, and certainly not least, I would like to thank all the contributors and sponsors who made this event possible. And they are listed in your program.

Also I want to take a moment to remind everyone that you are invited to the general reception following the ceremony. It will be held at the Harrisburg Crown Plaza, Second and

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Chestnut Streets. Please bring your ceremony ticket for admittance.

You know, Judge Eakin brings great experience, many D.A. experiences and Superior Court experience to the Supreme Court. But he is bringing more than that experience to the Court.

Justices, you are getting an awfully good guy. You are getting somebody who is steady, rock solid, and will remain grounded. Also he is bringing that good, small town, central Pennsylvania common sense to this Court.

(Applause)

Mike, congratulations. We are so, so proud.

Thank you for the great job you have done, and thank you for the great job you are going to do.

It is my pleasure to introduce a good friend of Judge Eakin, State Representative, Pat Vance.

(Applause)

REPRESENTATIVE VANCE: Good afternoon, distinguished guests, all of you.

Abraham Lincoln once said, "The probability that we may fail in the struggle ought not to deter us from the support of a cause we believe to be just." How many of you are willing to fight for what you think is just? Let's examine the record in Cumberland County when Judge Eakin got his start in the D.A.'s Office.

As an Assistant District Attorney, and not even the first District Attorney, Assistant District Attorney, Judge Eakin decided he wanted to run for D.A. He was threatened with loss of his job, loss of income for his family. And yet he chose to do what he believed to be right, and he ran for D.A. and, of course, he was successful.

During the three terms he served as D.A., he founded the Tri-County Drug Task Force and established centralized DUI booking in our county. The result, DUI traffic deaths were reduced in our county by 75 percent.

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He also initiated the Cumberland County Victim Witness Program. And at this period of time, it was not considered to be politically correct to worry about domestic violence, victims of domestic violence. But he had the courage to initiate these ventures.

He personally handled many cases from minor traffic violations to murder trials. Always with great good humor and perhaps with a little bit of a rhyme here and there.

He has always been a risk taker. He sued his own county over a pay raise and pension issues, less for himself but more for D.A.'s across the state. By doing this action, he caused possible incredible political harm to himself. But he was still willing to take that risk.

In his last letter as President of the Pennsylvania D.A.'s Association, he challenged D.A.'s across the Commonwealth to stop taking the easy way out by running for the judges of the Court of Common Pleas, but rather to run for statewide appellate court judgeships. And he took his own advice and he won.

Courage and politics is sometimes far too rare a commodity. But we have proof that courage and risk taking has worked well for Judge Eakin. An old proverb says, "If you wish to know what a man is, place him in authority." We have placed him in authority and the results have been superb.

Congratulations, Michael, we are so proud of you. May you enjoy this new challenge as Mr. Justice and still find time to rhyme and play your harmonica along life's way. (Applause)

And now I am very pleased to introduce His Excellency, the Governor of Pennsylvania, Mark Schweiker. (Applause)

GOVERNOR SCHWEIKER: Thank you so much. Thank you so much. And thank you, Pat, for that wonderful introduction. I just feel compelled to congratulate our choir and Sergeant Pierce. How about a big round of applause for that? (Applause) Well done.

You know, it occurred to me—and I mentioned this to Judge Eakin, who will soon become Supreme Court Justice Eakin—as I drove over here today, I am truly the only

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governor in the country who holds this position as a result of the infamous day, September 11, and the terror brought by those who resent America.

That any time I have the opportunity to stand and gather with the free people, think about it, was there not a time that it was a trite reflection? Perhaps we could be troubled by a generation who oftentimes isn't mindful of the personal freedoms that we so wonderfully enjoy in this country.

Ponder this for a moment, we come here as a result of a consequence of an open election last November. We come here as a free people, able to express ourselves, young and old, to witness this very important ritual of someone who will become a member of the highest court in the Commonwealth of Pennsylvania, our Pennsylvania.

You know, friends, we fight back in so many ways. After September 11, you and I know we go to bed at night mindful of those American men and women who fight for us and advance America's cause.

We sent our best to Washington, D.C., in the form of Tom Ridge, to secure our homeland. And, yes, we gather here and fight back by holding this most important ritual, a free person supported by the people of Pennsylvania, and, yes, to become a member of this august body, the Supreme Court of Pennsylvania.

It is an overstatement, never back away. It isn't trite to say that free people have the opportunity to gather here in Pennsylvania and in America. And I feel proud to offer the reflection.

I realize that this gathering is one where the commentary ought to be short and long on support for our friend, Mike Eakin, and soon to get to the ritualistic swearing in.

I am delighted to stand here and offer these brief reflections that I said to Mike, I remember many conversations in the sense that Mike and I have similar political backgrounds, you know, I am someone that comes to Harrisburg by virtue of a county courthouse, seven years as a commissioner.

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Mike is someone who has created a fascinating and positive reputation as a prosecutor in a county courthouse.

We have talked about the memories, some positive, some troubles and negatives.

He and I will never forget those moments when the child is forced to recount a very difficult life at the hands of a molester. And, thus, his interest in advancing the notion of victims' rights, that a victim's rights ought to have the same prominence as that of a defendant's. Certainly not to diminish the defendant's rights. It means something to Mike. Certainly means something to me, as Pat has already raised.

And so I am delighted to underscore that and say that, yes, it is a valuable perspective. I know this isn't something that is new to Judge Newman and to the individuals who are to my right. This is an important commitment, more than a preoccupation. I believe Michael will do an awful lot of good on that particular count.

But of all the things that I remember in those conversations is Mike's tremendous preoccupation with and the command of history that surrounds the Pennsylvania Supreme Court.

You know, as we sit here, as I stand here, we are in the company of the oldest appellate court in the land, the state level. It says something about the rich history of our blessed Commonwealth. It says something about the philosophical hand-me-downs that each and every one of these robed justices sees an obligation as those to hand down to others.

Justice Flaherty would tell you that. Some day Justice Zappala will underscore that. And some day, after an illustrious career, Judge Eakin will hand it down.

And at the top of that list of things to be respected and raised and praised is the idea of a Supreme Court to do its best, it must be led and inhabited by those who understand that very powerful doctrine called the separation of powers. The Executive Branch does this. The Legislative Branch shall do this, and, yes, the Judicial Branch shall do this.

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It is not just something that is mentioned once in awhile in a classroom, in the elementary school. For these folks, it is a very powerful perspective, very powerful motive. It is more than judicial and legal principles, friends.

It guarantees that this mighty Commonwealth branch by branch by branch shall stand strong. Because when that constructive tension exists and is allowed to play out, we produce not just precedent, but a guarantee that we generate smart public policy and sensitive public policy and enduring public policy, and it is then that we pass the test of preserving our democracy. And for some, for seven individuals, they have that Constitution and electorate bestowed opportunity to act on that.

Now, that is remarkable and precious and the signature, the signature of a free people. I don't know about you, it just is thrilling to witness this play out.

Having said all that, we should acknowledge that. (Applause) And, Mike, Mike and Heidi, congratulations, we love you both. (Applause)

DR. MAHER: Good afternoon, I am John Maher, associated with the faculty of the Dickinson School of Law which is very, very proud of this distinguished alumnus, Mike Eakin. (Applause)

Your Excellency, I am pleased and proud to read the commission and deliver it to the Chief Justice and his colleagues of the Supreme Court.

GREETINGS. WHEREAS, it appears by the certificates and returns made according to law by the election held on the 6th day of November, Anno Domini, 2001, that you, Mike Eakin, have been duly elected Justice of the Supreme Court in the Commonwealth of Pennsylvania.

THEREFORE, KNOW YE, that in conformity to the provisions of the Constitution and the Laws of the said Commonwealth, in such case made and provided, I do by these presents commission you to be a JUSTICE OF THE SUPREME COURT OF THE COMMONWEALTH OF PENNSYLVANIA, TO HAVE AND TO HOLD the said office,

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together with all the rights, powers and emoluments thereunto belonging or by law in anywise is appertaining for the term of ten years, to be computed from the first Monday of January, 2002, if you shall so long behave yourself well.

And this was given by the Governor under the Great Seal of the State, on the 20th day of December, as countersigned by the Secretary of the Commonwealth.

I thank you. (Applause)

CHIEF JUSTICE ZAPPALA: I wasn't told, Mike, I presume I am supposed to be next.

On behalf of the Supreme Court, it is indeed a pleasure and an honor to swear in our next junior member of the oldest court in the United States.

The interesting comment I would like to make to you, Mike, is that people talk in terms of how does the Court operate. And the answer is relatively simple. With dignity, integrity, and a concern for the common good. And all that has been said before me I think exemplifies what you will do as a member of this Court. And I wholeheartedly welcome you to our Court.

Unfortunately, they didn't give me the Oath of Office. So unless we can wing it, Mike, you are going to be waiting for another week.

JUDGE EAKIN: I know it. (Applause)

CHIEF JUSTICE ZAPPALA: Court 102 has now been completed. All please stand.

Would you raise your right hand, please, Michael? Repeat after me. I, J. Michael Eakin—

JUDGE EAKIN: I, J. Michael Eakin—

CHIEF JUSTICE ZAPPALA:—do solemnly swear—

JUDGE EAKIN: do solemnly swear—

CHIEF JUSTICE ZAPPALA:—that I will support—

JUDGE EAKIN:—that I will support—

CHIEF JUSTICE ZAPPALA:—and defend—

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JUDGE EAKIN:—and defend—

CHIEF JUSTICE ZAPPALA:—the Constitution—

JUDGE EAKIN:—the Constitution—

CHIEF JUSTICE ZAPPALA:—of the Commonwealth of Pennsylvania—

JUDGE EAKIN:—of the Commonwealth of Pennsylvania—

CHIEF JUSTICE ZAPPALA:—and of the United States of America—

JUDGE EAKIN:—and of the United States of America—

CHIEF JUSTICE ZAPPALA:—and I will do the same—

JUDGE EAKIN:—and I will do the same—

CHIEF JUSTICE ZAPPALA:—with fidelity.

JUDGE EAKIN:—with fidelity.

CHIEF JUSTICE ZAPPALA: So help me God.

JUDGE EAKIN: So help me God.

CHIEF JUSTICE ZAPPALA: God bless you.

(Applause)

JUSTICE EAKIN: Thank you. Thank you. Thank you very much. Thank you for coming today. Thank you for being part of this wonderful day.

When the crier opens court saying oyez, oyez, I am reminded of Justice Saylor's inaugural event when elected to the Superior Court was transcribed as o-h-y-e-a-h. It is not the Latin. And actually that is more appropriate. After the year we have had, oh, yeah.

They asked me what I would like for the program. And the one thing I did request was the music that you heard. This to me is a day more of celebration than ceremony. It is a day to be enjoyed. And I think the music we heard today was phenomenal. It lived up to every expectation that I had.

I always wanted to play the Forum, you know.

(Justice Eakin played the harmonica.)

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(Applause).

Now I can say I did. I got applause. It is a wonderful day.

You know, the day after the election, a reporter came up to me, and the first question or first statement he made was asking if I had thanked my parents for raising me in the part of the state where the vote came out. I scratched my head and said, I think we worked a little bit to cause that to be accomplished, but I hadn't been able to thank them.

I do thank them now. Not for raising me where the vote came out, but for raising me in a wonderful part of Pennsylvania. It is true that I am grounded in central Pennsylvania values, such as there are such things. But it is a unique part of Pennsylvania and of America, and one that I am very proud to be a part of. And I thank them for that.

They grounded me in many solid fundamental beliefs, such as honesty and dignity and the fact that anybody can grow up to be president. I didn't believe that. Now I think I do.

This was not a goal of mine going into law school. I had trouble getting into law school, for heavens sake, much less getting out of law school. (Applause) And to stand here before you today as part of the oldest appellate court in the country is something beyond my wildest dreams.

I thank them. I thank all my family for their support, past, this year, and future. I thank my staff from the office that allowed me the time on the road to accomplish this year.

I want to thank my campaign staff. They are tops. I want to thank the Republican State Committee, they are tops, from Alan Novak, master juggler of candidates and candidacies, and Eileen and Renee, who I thought your talents were just political, until I heard her sing a couple of weeks ago. And I am so glad she was able to share her talents with us today. (Applause)

I want to thank those of you in the audience, many of whom I know, many of whom I know what you did. But I know too as a candidate I will never know everything that you did for me, for what I stand for, what I believe in, and what I

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hope to bring to the Court. Although I will never know that, I thank you for it. Understand that I know, I just don't know the details. But I appreciate so much all that you have done to help us through this year.

The turnout was not luck. Turnout was hard work. And if you have the opportunity, and you work hard, things turn out.

Now, I have a weakness for Chinese food, as my waistline shows now that there are buffets for lunch. But I had Chinese food just the other day, and I got a fortune that says if your desires are not extravagant, they will be granted. Well, this collar is to me a pretty extravagant desire. And, by golly, it was granted. Sometimes the best can happen to people who work hard when given the opportunity.

This is a challenge that few in my profession ever get the opportunity to undertake. And I appreciate that very, very much. It is a challenge because of the complexity of the law and of a society beyond belief. Not just the world situation as it has unfolded the last couple of months, but this is an incredibly complex society.

I have a quote from Art Buchwald, the columnist. It says, "Our country looks kindly on lawyers. The beauty of the law is the more complicated the lawmakers make it, the more work it generates for other lawyers."

Had the Ten Commandments been written by a lawyer, Moses couldn't have carried them down on a stone tablet. He would have had to haul them to Mount Sinai on the Rock of Gibraltar. And that is true. It is an incredibly complex situation and state that we live in. And to be part of the Court that is charged with the final say in interpreting those laws is daunting.

I was the District Attorney just across the river. And because I was proximate I got called upon to come lobby the Legislature quite a bit when I was in that capacity. And the House Judiciary Committee was where we landed lots of the time.

And one of the representatives who was not counted on as a pro District Attorney vote on that committee once sarcasti-

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cally said, after I had been I suppose a little self-righteous in support of what I thought was right, that it must be a terrible burden to be right all the time and I took it as about half an insult. But the more I thought about it, my response should have been, you're right. (Applause)

And when you think about the Court I am about to join, the obligation is to be right. The problem is that there is not always agreement on what is right. But deep down, there must be some agreement, that the purpose of the Court is not to serve the Court. The purpose of the judicial system is not to serve the judicial system. The purpose of the judicial system is to serve the people of Pennsylvania.

Now, there are three branches of government, and they are distinct. I said to Bob Jubelier, however, if there is a vacancy on the Superior Court, if we could get him appointed to that, he would have all three covered.

(Applause)

I have said a lot of things on the campaign trail this year. And one of them was that the system is not about the system. I am leaving a court with great, great reluctance. The Superior Court of Pennsylvania has been recognized nationally as one of the top most expeditious—despite an incredible workload—courts in the nation. And the people on it are beyond my wildest dreams. They have all been collegial. They have been wonderful to work with, well-spoken, well-reasoned, always wanting to do the right thing.

Politics has never entered the discussion of a decision of a case in the six years I served with that court. And it is with hesitation that I undertook something that would take me away from them. I am very proud to have served with all of them. I will not be a stranger, but I will miss you day-to-day, believe me.

It is a Court I join whose reputation has improved greatly in the last half dozen or so years. But before that, we all know that the reputation of the Court had suffered, suffered at the hands of those who have gone on. But it is a Court whose reputation is slowly regaining the luster that it should have. It

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is my sincerest hope that I will be part of the continued improvement of that reputation.

Collegiality of the judge, one to another, I think is important. Decisions should not be about personality, but about the law. I hope to help focus the Court on the law and not side issues, to understand that the values of the decision to the profession and those that are served by the profession requires the Court to be expeditious, to continue an outreach to the legal community and the community in general. And that decision needs be visible, and the Court itself must be visible itself for that. These are ambitious goals. But I believe if you don't set the goals now, you never will. And that is my goal.

The question really though isn't about whether this is the best of times for the Court or the worst of times for the Court. This is the time we have for the Court. And the question in the end is whether during our stewardship of this position, it will be better when we leave than it was when we joined.

People have told me a lot in the last two months, how proud they are of me. I appreciate that more than I can tell you. It is just incredibly warm to be told sincerely by people you respect how proud they are of you. I hope they would have been as proud of me had the results of the election not been what they were. And I think most of the people who have said they are proud of me would have been. I think their tone might have been more sympathy than celebratory. But I hope that is the case, because pride isn't determined by what the voters said. Pride is how you came to that day, and pride in me for what I will do hereafter.

I hope you will share those thoughts with me five and ten years from now and not just today. But more importantly, the longer I have been in this profession, and the more opportunity I have had to give opportunity to others, to hire them, to offer them a position, to give them a chance to show what they can do, the more I get to do that, the more I tend to measure myself in terms of what they have accomplished.

One of the first sessions I had with the Superior Court was with Sidney Hoffman. Sidney has passed on, but he took

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me to lunch, just he and I. We talked, and Sidney didn't say a lot. But what Sidney said meant a lot, and it made a lot of sense. He made just that point, his lunch once a year with all his ex-clerks. And they had achieved marvelous things. And he said, this is how I measure myself, in what they have done. And more and more I do that.

And I tell you what, there is a big room full of people today that I am proud of. And the question I think is not whether you are proud of me today. I hope that you are. But the question is whether you know how proud I am to be your friend and your Justice. Thank you.

(Applause)

RENEE AMOORE: We can still stand. We are going to have the benediction. Just look at the person next to you and say, aren't you blessed for being here today. Don't be nervous, just tell them. Aren't you blessed for being here today? Come on, Fred, help me out here. Thank you.

Let us pray. We stop and pause, dear God, and we thank You for You because we know great is Your faithfulness. We just right now want to thank You, God, for our governor, our lieutenant governor, and all of the leadership here today. Especially for Justice Mike Eakin. And we pray for him and his family.

And as we leave this place, we pray that You will go with us and help us to do those things that are pleasing in Your sight, that You will grant us with Your peace, understanding and love.

Now we ask that You will help us to run this race with grace, mercy and patience.

Lord, bless us all as we go.

Let us all say amen.

THE AUDIENCE: Amen.

COURT CRIER: Ladies and gentlemen, thanks for being with us. This court now stands adjourned.

(Whereupon, the proceeding was concluded at 2:40 p.m.)