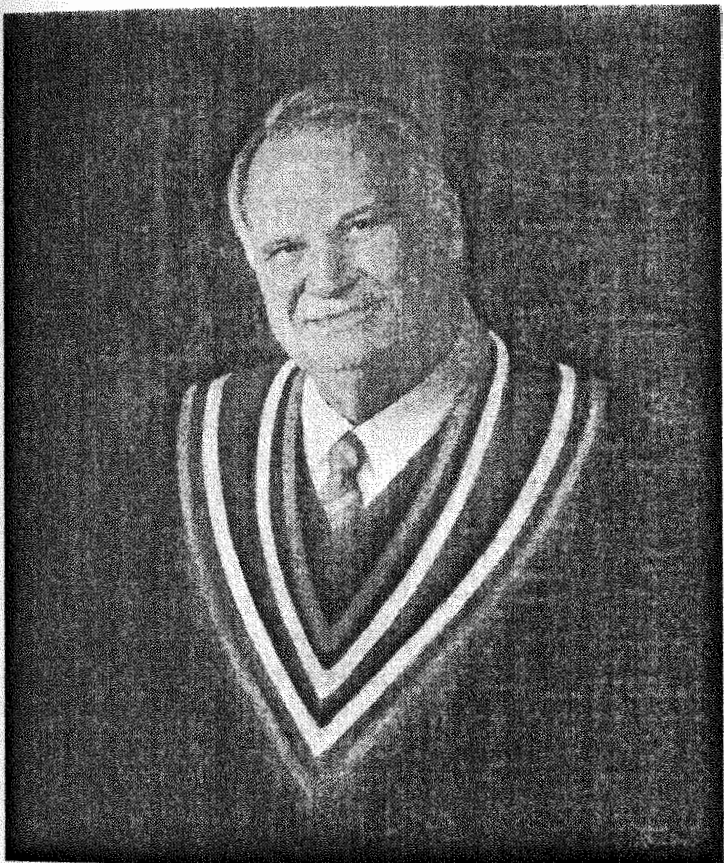


In Memoriam

**HONORABLE
RALPH J. CAPPY**

**Tuesday, September 15, 2009
4:08 P.M.**

**Duquesne University
Power Center Ballroom
Pittsburgh, Pennsylvania 15219**



HONORABLE RALPH J. CAPPY

The posthumous portrait of Chief Justice Cappy was painted in 2009 by Joseph Routon of Haddonfield, NJ. It was painted with oil paints on linen and measures 30 x 25". Routon studied portraiture in NYC at the Art Students League and at the National Academy of Design and in Philadelphia at the Pennsylvania Academy of the Fine Arts.

Proceedings

PRESIDENT DOUGHERTY: Good afternoon. My name is Charles Dougherty, and I have the privilege of serving as President of Duquesne University.

It is truly an honor to welcome you all to this special occasion. Duquesne University was founded in 1878 by members of the Congregation of the Holy Spirit. It was an institution largely dedicated to providing an education to immigrants who had settled in the Pittsburgh that was taking shape as a steel center.

At that time, our Old Main building on the bluff was the highest point on the Pittsburgh sky line.

In the ensuing 131 years, Duquesne has grown in every way imaginable. This building in which we gather today is the Power Center. It was completed in 2008, and it is named after our very first president, Father William Patrick Power, who believed that the destiny of any strong educational institution was to move outward to become an integral part of the community it served.

As you look out the windows at this beautiful cityscape behind us, I think you can see that Duquesne University is very much part of the City of Pittsburgh that gave birth to it and continues to serve as our home.

As you doubtlessly know, the late Chief Justice Ralph Cappy, whose career as a jurist we gather today to celebrate, was an alumnus of another institution, one down the street. He attended both the University of Pittsburgh as an undergraduate and Pitt Law School, and we are pleased to have Chancellor Mark Nordenberg with us and Law School Dean Mary Crossley here with us today.

But this is not a Duquesne event or a Pitt event. It is a Pittsburgh event, and Chief Justice Cappy was a giant figure in this community. He was Chairman of the Board at the

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University of Pittsburgh, and he was a steady friend to Duquesne University, recently serving on the Interim Advisory Board at the law school before his passing.

For this reason, we join together with our colleagues at Pitt and the organized bar from every corner of Pennsylvania to recognize his remarkable accomplishments as an attorney, judge, and justice on the state's highest court.

We are honored to share with you for the first time today a special edition of the Duquesne Law School that is dedicated — a special edition of our law journal which is dedicated to Chief Justice Cappy's rich career as a jurist.

In a minute, the Court Crier will call this Special Session of the Pennsylvania Supreme Court to order. First, I would like to introduce the organizer of today's program, the Interim Dean of Duquesne University School of Law, Ken Gormley.

(Applause.)

DEAN GORMLEY: Thank you, President Dougherty. On behalf of the law school, its faculty and staff, and students and 7500 law alumnae, I would like to welcome all of you to our beautiful campus.

It truly is an honor to host this tribute to one of the great jurists in Pennsylvania's long and renowned history. There are so many distinguished guests here today that it would be pointless to try to list them.

Besides the members of the Pennsylvania Supreme Court who will take their seats in a moment, we have judges and administrators from all over Pennsylvania who have worked directly with Chief Justice Cappy and witnessed firsthand his remarkable skill as a judge and as a mentor to so many.

We have judges here today from the Superior Court, the Commonwealth Court, and myriad Courts of Common Pleas, who were inspired by Chief Justice Cappy's wisdom and leadership during his years as chief.

We have judges of the Federal Courts of Appeals, the U. S. District Court, Federal Magistrate Court, members of the Pennsylvania IOLTA Board, Pennsylvania Disciplinary Board, court administrators from all over Pennsylvania,

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including officials from AOPC, who traveled from Harrisburg and other places, representatives of Pennsylvanians for Modern Courts, Neighborhood Legal Services, the Allegheny County Bar Association, the Pennsylvania Bar Association, the Attorney General's office, Senator Stewart Greenleaf all the way from Montgomery County and his wife Kelly, faculty and prominent officials from Duquesne University and the University of Pittsburgh, as well as many of Chief Justice Cappy's former law clerks, his friends, and his family.

We also have student leaders from the Duquesne Law Review, the Student Bar Association, the Student Government and Jurist magazine assisting today, and the students are watching these proceedings from a livestream feed in one of the classrooms of the law school because all of you know that Chief Justice Cappy, above all else, believed in inclusiveness, and we wanted to make sure that every student had the opportunity to witness this special gathering.

And also, I am pleased to say that even though we didn't see their RSVPs, that we have former Chief Justice, Retired Chief Justice Zappala and Retired Chief Justice Flaherty, and we are so honored to have you today.

Let me recognize only two other people before the Court is formerly convened. First, Joseph Routon, the artist from New Jersey, whose portrait of Chief Justice Cappy will be unveiled at the conclusion of the ceremony. Joe, if you could stand for a minute?

(Applause.)

DEAN GORMLEY: And Mrs. Janet Cappy, wife of the late Chief Justice, who has assisted with grace and steady encouragement at every stage to make this event special for every person in this room. Janet.

(Applause.)

DEAN GORMLEY: It is now my privilege to turn over these proceedings to Brian Minner, Court Crier of the Pennsylvania Supreme Court, who will convene this Special Session of the nation's oldest and most distinguished Supreme Court.

MR. MINNER: All rise. The Honorable Chief Justice Ronald D. Castille and the Justices of the Supreme Court of

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Pennsylvania, presiding over this Special Session. Oyez. Oyez. Oyez. All manner of persons who have business before this Court may now appear, and they shall be heard. God save the Commonwealth and this Honorable Court. Please be seated.

CHIEF JUSTICE CASTILLE: Good afternoon, everyone.

THE AUDIENCE: Good afternoon.

CHIEF JUSTICE CASTILLE: Welcome, everyone, to this Special Session of the Supreme Court of Pennsylvania, sitting in our ceremonial session this date at Duquesne University School of Law.

The occasion of this celebration is to honor Former Justice Chief Justice Ralph J. Cappy for his contributions to the legal profession, his contributions to the judicial system of Pennsylvania, and indeed, the jurisprudential body of law that Chief Justice Cappy authored, the legal authority that guides and affects everyday conduct of the citizens of Pennsylvania, the institutions of Pennsylvania, and the conduct of our government.

Specifically, we are gathered here for the official publication of Volume 47 of the Duquesne Law Review specially dedicated to the contributions by Ralph Cappy to the jurisprudence of Pennsylvania and to his service to the legal profession over his many years.

Our Court extends its gratitude to all those who contributed to this volume and to make this celebration today possible. We would like to especially thank President Charles Dougherty, President of Duquesne University, Interim Dean Ken Gormley of Duquesne University School Of law, Joseph Valenti, the Former Editor in Chief of the Law Review who made this possible, and to all the students and faculty who worked on this special issue of the Law Review.

Finally, we will all celebrate the unveiling of the official portrait of Chief Justice Ralph Cappy, a portrait that will hang in a courtroom in Pittsburgh in his honor with the other Chief Justices honored therein. Janet Cappy will join me to do the unveiling, along with the portrait artist, Mr. Joseph Routon.

I would like to introduce the members of the Court for the record, since this is a session of our Court. To my right is

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Justice Thomas G. Saylor, to his right, Justice Max Baer, and to his right, Justice Seamus P. McCaffery. To my left, Justice J. Michael Eakin, to his left Justice Debra McCloskey Todd, and Justice Jane Greenspan.

We would also like to take special recognition of a couple of our former Justices who are in the audience. We have Chief Justice Emeritus Steve Zappala, raise your hand, Chief Justice. We have Former Chief Justice and Chief Justice Emeritus John Flaherty, and I think I saw Justice Cynthia Baldwin and Justice Bill Lamb. Do you see any other ones? If any other ones come in, let me know.

It was only a short time ago that the Supreme Court of Pennsylvania, along with many other organizations, honored Chief Justice Ralph Cappy on the occasion of his retirement from the bench. Chief Justice Cappy was honored for his long and valued service to the Supreme Court of Pennsylvania and to a more important extent to the citizens of Pennsylvania.

Our Court on January 7, 2008 lauded Chief Justice Cappy for his 18-year tenure on the Supreme Court and for his service as Chief Justice from 2003 until his retirement in 2008.

On that occasion, I spoke on behalf of all the members of our Court. We praised Chief Justice Cappy for his long and distinguished career as a public servant, first in the Allegheny County Public Defender's office as chief public defender, then in serving on the Common Pleas Court of Allegheny County, where he became Administrative Judge, helping to modernize the caseload of the second largest judicial district in Pennsylvania, and then on his election to the Pennsylvania Supreme Court, a Court founded in 1684 by William Penn's frame of government, the oldest continually sitting Supreme Court in the nation, now 325 years of age.

Ralph Cappy's record on our Court is a record for which he could be justifiably proud, and his tenure as Chief Justice will be noted for its many creative initiatives that effectively address difficulties within the court system and initiatives which address difficulties in the Commonwealth itself.

You may recall that Chief Justice Cappy ascended to our Court at the most difficult time in its recent history with the impending impeachment of a sitting justice. But Ralph and

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other members of my Court persevered and despite those troubled times, by the end of Ralph's tenure, the Supreme Court had once again gained the respect of the legal profession and the respect of the citizens of Pennsylvania.

Ralph's hard work and his many accomplishments were even recognized by his peers at the United States Conference of Chief Justices when Ralph Cappy was awarded the prestigious Harry Carrico Award as the nation's outstanding Chief Justice, only the third Chief Justice to receive that award.

At that time, I spoke on behalf of all the Justices of the Supreme Court that it was an honor to work with Ralph as a colleague, but as an even greater honor to have him as a friend.

I noted that Ralph's service to the judicial branch will long be remembered for its excellence, and his service will be duly appreciated by all three branches of government and by all of the citizens of Pennsylvania.

At that time, we collectively wished Ralph and his wife Janet nothing but success in their future. We did not know at that time, indeed, none of us ever knew, that Ralph's future would be so short-lived. We all know the physical difficulties that befell Ralph, but we all saw how Ralph Cappy, with his indomitable spirit overcame those difficulties, but none of us could foresee Ralph's untimely passing. But Chief Justice Cappy's good works will long survive his passing. I can never forget the dozen or so different initiatives that newly installed Chief Justice Cappy said that our Court would address during his tenure as Chief, and it seemed to us, his colleagues, that each new month brought another new initiative by the Chief Justice.

Chief Justice Cappy reinvigorated the moribund Judicial Council. He began a corporate round table to address emerging business issues in the court system. He led the effort to change the civil procedural rules to address the so-called medical malpractice insurance crisis in the Commonwealth. He began an effort to address the elimination of racial, gender, and ethnic bias in the unified judicial system, and he began programs to give up-to-date judicial education to those judges who handled medical malpractice cases and death penalty cases in the Commonwealth.

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He continued the effort to computerize the entire judicial system and to create IT links to our partners in the Executive branch. He initiated state certification for language interpreters in the judicial system; and, yes, Chief Justice Cappy led the efforts in Harrisburg to secure adequate monetary compensation for the state's judges.

A concrete and steel initiative that began with Ralph Cappy is the newly constructed \$120 million Pennsylvania Judicial Center which opened this summer in the State capital. Chief Justice Cappy was a leading advocate of the Executive branch and with the Legislative branch to create the center which now gives the Judicial system a permanent presence in our Commonwealth seat of government.

And as if this were not sufficient, Ralph provided important service to the academic world and to the medical profession by his long service to his beloved — on the boards of his beloved University of Pittsburgh, Pitt Law School, and the University of Pittsburgh Medical Center.

This recitation alone is evidence of Ralph Cappy's prodigious educational skills and his personal ability to build consensus among his colleagues and with the members of our sister branches of government in order to address the important issues of government affecting justice in Pennsylvania.

A person can always be deemed a success where the person leaves an institution a better place than when that person began. Ralph Cappy left the Supreme Court a much better place than it was when he first began his service to this Court.

I often quote that 19th century essayist, Henry Ward Beecher, the brother of Harriet Beecher Stowe, who said that "if you take all of the robes of all of the good judges who ever lived on the face of the earth, there would not be enough to cover the inequity of one corrupt judge." In Ralph Cappy's case, his robes would be big enough. He has brought honor to our profession and to the judicial system far and above the inequity of one corrupt judge.

The Supreme Court of Pennsylvania salutes and thanks Chief Justice Ralph Cappy for his service to our Court, and we offer our deepest and heartfelt condolences and prayers to Janet, Eric and family.

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We would now like to call upon for comments Chancellor Mark Nordenberg of the University of Pittsburgh.

CHANCELLOR NORDENBERG: May it please the Court, my name is Mark Nordenberg. I am a proud member of the bar of this Court, the Chancellor of University of Pittsburgh, a respectful neighbor and loyal ally of Duquesne University, and unabashed admirer of both President Dougherty and Dean Gormley, and among the multitude who are grateful to Joe Valenti and the Duquesne Law Review for producing this very special volume.

But my most important credential today is that I was privileged to be a long-time professional partner and close personal friend of Chief Justice Ralph J. Cappy.

Ralph and I began forging what became a very special relationship in the mid 1980s when he was a young but already distinguished judge, and I was a brand new law school dean. Over the course of the last 20 years, there were few important events in his professional life or in mine that we did not in some way share.

Many of those events are preserved in photographs, and most of them capture the two of us attired in academic, or in his case, judicial robes, or at least in conservative business suits.

But earlier this month, I created what might be called a small Cappy's corner on a shelf in my office near a window that overlooks the plaque and tree that have been placed on our campus in his memory.

That Cappy cluster includes the glass remembrance from the Ralph J. Cappy Memorial Golf Outing, which was organized by Sy Holzer and Dan Sandman and brought some of Ralph's closest friends, including Chief Justice Castille together for a day of quiet reminiscing late last month on what would have been Ralph's 66th birthday.

It includes a small bag of Wise potato chips left that same week at the site of Ralph's memorial plaque by his unofficial brother John Kalakos, who apparently thought the Chief Justice should not travel to the great hereafter without a supply of his favorite snack.

And it contains a photograph of a different type: The two of us clad in black leather jackets walking away from the

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football stadium in Hartford last December after Pitt closed its regular season with a big win. The caption that I added before giving that photograph to Ralph last Christmas reads, "Triumphant, the victors leave the field of play."

Janet told me that was one of Ralph's favorite photographs. Certainly, it is one of mine, and it is a favorite because it captures two of the defining qualities of a friendship with Ralph. When you were traveling by his side, you almost always were in the middle of the action, and when you were traveling by his side, you almost always were having fun.

Ralph had a personal appeal that drew people to him. He had an enviable combination of qualities that held those people close as friends and allies, and that contributed to his many successes.

Those qualities included an active and agile mind, a principal commitment to worthy causes, and the courage of his convictions, good judgment, and common sense, and most important of all, though, Ralph had a caring heart. He was one of the kindest, most empathic and considerate individuals I have known.

As a jurist, he was the embodiment of what Justice Frankfurter called dominating humility, which includes the ability to form and unform habits of mine, the capacity for detachment, and the temperament for putting one's passion behind his judgment instead of in front of it.

Ralph built his career by doing good things extraordinarily well in each and every one of the positions that he held. The list of honors that he was accorded, not just because of the positions that he held, but because of what he did from those positions, reflects the breadth and impact of those accomplishments.

Ralph was an all-around good person who made a real difference in the world. As we remember the many ways in which he made a difference for each of us, we might find comfort and inspiration in the tragically prophetic words attributed to Abraham Lincoln: "In the end, it is not the years in your life that count. It is the life in your years."

No one put more life into his years than Ralph Cappy; and all of our lives are richer because we had the chance to be a part of his.

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CHIEF JUSTICE CASTILLE: Thank you, Chancellor Nordenberg.

(Applause.)

CHIEF JUSTICE CASTILLE: We would now like to call the Honorable Robert J. Cindrich, Chief Legal Counsel of the University of Pittsburgh Medical Center, formerly Federal Judge for the Eastern District of Pennsylvania.

JUSTICE SAYLOR: Western District.

CHIEF JUSTICE CASTILLE: Western District. Sorry.

HONORABLE ROBERT J. CINDRICH: May it please the Court, there are two happy coincidences that mark the beginning of a deep and rewarding relationship with Ralph Cappy and his family. We attended the same law school, and we both had surnames starting with a "C."

As my good friend and lifelong mentor Judge Ruggero Aldisert noted in his tribute to Ralph in the Duquesne Law Review, Ralph and I did indeed sit together throughout the three years of law school at the University of Pittsburgh. The next 43 years of loyal and devoted friendship is a true treasure of the kind that informed and enriched my life and will remain with me forever.

There are others here, and I guess just about everybody in this room, who has a warm memory of Ralph, as I have so many; but I chose today to talk about some other aspect of Ralph, and that is his contribution to the law, as lawyer, as jurist.

In that regard, I want to build upon the themes that Judge Aldisert captured so well in the Law Review tribute that has been provided to us.

The first of these is a recognition of the Pennsylvania Supreme Court, the first independent court in this nation as one which possesses the King's Bench power. Federal judges operate in a system which is said to have no common law except where there is no code law, but the Pennsylvania Supreme Court Justices are the stewards of the common law of Pennsylvania.

As such, the Supreme Court's most important roles are in protecting and safe-guarding the constitution of Pennsyl-

vania, and also in molding and shaping the law through the common law tradition, we rely upon this Court to carefully develop and explicate the common law, principle by principle and case by case.

This is a grand and vital responsibility of our high court, and one which Chief Justice Ralph Cappy was well equipped to fulfill.

One of Justice Cappy's first noteworthy opinions was *Commonwealth v. Edmunds* in 1991, and I shall use it to make a point; and that is that he truly understood the majesty and the power and the responsibility of this Court, and he exercised that power exceedingly well.

In *Edmunds*, the defendant had been found guilty of conspiracy to possess and distribute marijuana, and the conviction was based upon a search of the defendant's premises under a warrant based on information from anonymous informants.

Under the existing law, it was very clear that the warrant lacked probable cause, because it did not indicate the date on which the informant claimed to have seen the marijuana on the defendant's premises, thus rendering that information potentially stale.

So the issue here was whether Pennsylvania should adopt the good faith exception to the exclusionary rule as articulated by the United States Supreme Court in the case of *United States v. Leon* in 1984. Under that exception, the fruits of otherwise unlawful search will not be suppressed so long as the police officer acted in good faith reliance upon a warrant issued by a neutral and detached magistrate.

Justice Cappy, writing for the Court, noted its previous rulings that in interpreting a provision of the Pennsylvania constitution, the Court is not bound by the decisions of the United States Supreme Court, which interpret similar yet distinct Federal constitutional provisions.

For those who are interested or who think it peculiar that a state supreme court is not bound to follow the law as determined by the United States Supreme Court, I recommend that you read some of the work of Interim Dean Ken Gormley concerning what has been dubbed, "The new judi-

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cial federalism,” which had surfaced in the 1980s or thereabouts and was still being harshly criticized, at least by some, in the early 1990s when Justice Cappy wrote this opinion.

An account of the history of new judicial federalism is contained in Ken’s treatise on state constitutional law, and I might also add that Ken was serving as a special law clerk to Justice Cappy at the time this opinion was written.

The basis for the Court’s claim of plenary power over the interpretation of state laws and its constitution is that the Federal constitution establishes certain minimum standards, but a state has the power to provide broader standards and go beyond the minimum floor, which is established by the Federal constitution.

In his opinion, Justice Cappy proceeded to trace the origin of Pennsylvania’s counterpart to the Fourth Amendment, and that is the prohibition against unreasonable searches and seizures, and found that it both preceded the Federal constitution by ten years, and it had its own unique history which was broader in scope and in application.

The Court ruled that Article I, Section 8 of the Pennsylvania Constitution is meant to embody a strong notion of privacy, carefully safeguarded in this Commonwealth for over 200 years.

Accordingly, the Court ruled that purely as a matter of interpreting and applying the Constitution of Pennsylvania, it would not adopt the good faith exception to the exclusionary rule, and it did exclude this evidence as improperly obtained.

Now, I use this case as an example of Justice Cappy’s formidable judicial ability and intellect, but it also makes it clear that the paramount importance of the work of our State Supreme Court under the powers granted to it by our State constitution.

This work is now being carried forward in grand and glorious fashion by Chief Justice Castille and his colleagues. I would be remiss if I did not mention that unbeknownst to me when I wrote this, that Judge Tom Hardiman has written a very informative and much more complete explanation on the Edmunds decision in the issue of the Duquesne Law Review which has been given to us.

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All of this, however, is a poignant reminder that Chief Justice Ralph Cappy was not only a powerful force on the Pennsylvania Supreme Court during his years on that esteemed body, but he was a creative and masterful jurist who helped to develop a unique body of Pennsylvania jurisprudence that will last for generations, and for that, we can all be grateful. Thank you.

(Applause.)

CHIEF JUSTICE CASTILLE: Thank you, Judge Cindrich. We now call upon Interim Dean of the of the Duquesne Law school, Ken Gormley, former law clerk to Ralph Cappy.

DEAN GORMLEY: Mr. Chief Justice, distinguished Justices, and honored guests, this is indeed an extraordinary occasion.

We are first honored that this Court would sit in special session to mark the publication of this significant edition of the Duquesne Law Review; but I also want to note that it is extraordinary for any Law Review to dedicate an entire issue to the career and jurisprudence of a single judge, and I can't think of another publication from any Law Review in the country that includes pieces by the Governor, the Chief Justice, the fellow Justices, appeals judges, trial judges, a university chancellor, a senator, fellow lawyers, a Ph.D, and even a law student author.

What we have in this rich 220-page compendium is a remarkable tribute to the fact that Chief Justice Ralph Cappy touched an entire Commonwealth with his judicial work, and there is plenty to marvel at as we step back now to assess his contributions.

As Judge Cindrich noted, I was fortunate enough to work with then Justice Cappy as a special clerk shortly after he was elected the first time to the Pennsylvania Supreme Court, and he told me at our first meeting, that he was most impressed with my CV, because I had set a Guinness world record in brick carrying when I was in college, and this is what qualified, Justice Cappy said, for working in his chambers, because someone who carried a brick for 43-and-a-half miles in his hand had to be crazy with delusional impulses, and that was the best credential for joining this new enterprise.

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I relished — and everyone, all the clerks know this, it was the same with everyone. I relished sitting in that big conference room in his office overlooking the Monongahela River from the 31st floor, talking over the cases and debating tough issues with fellow clerks and with the Justice himself.

As I mentioned in my little piece at the end of the Law Review issue, Ralph Cappy was certainly an original work. He had a penchant to referring to all male persons by what he perceived to be their ball yard names, like Kenny, Bobby, Eddie, even if he was addressing a Federal judge or a governor. He was disarming with that blue collar Brookline charm of his, but let me say this, so that no one is mistaken: He was always the smartest person at that table.

Ralph Cappy inhaled legal precedent and breathed it onto the pages of his opinions as if he had superhuman powers. He had an uncommon gift for being able to look ten miles down the road and to immediately grasp with a sixth sense that I have never seen in any other person, frankly, how each decision he made would potentially impact the law, his fellow judges, especially in the lower courts, and ordinary citizens, to whom he was foremost responsible.

Ralph Cappy was, indeed, a regular guy who was universally beloved for his, at times, mischievous, cantankerous, but always considerate style as a Justice. No matter how sharp the disagreement on legal issues, he always ended the sparring match with a smile, a word of praise, and insistence on respect and collegiality among the bench and the bar.

But this tribute wouldn't be complete if I didn't say, to make the record accurate, that he was a true genius when it came to the glittering, but complex architecture of the law. Ralph Cappy was a builder. Fortunately for us, he built an elaborate body of jurisprudence, some of which is highlighted in this volume of the Law Review, many of which will quietly form the foundation for the next layer of judicial precedent in the next generation of court decisions.

The opinions by Cappy, J. were always eloquent, carefully thought out, down to the footnotes, and dead-on practical. That was the gift that God gave this judge's judge, and he used that gift always to benefit the citizens of Pennsylvania, and those judges who would come after him.

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As Interim Dean of Duquesne University School of Law, Your Honors, I am proud of this special edition of the Law Review produced by some of the most talented dedicated student editors ever to create a scholarly publication of this magnitude, and you will hear from our editor in chief in a moment; but I am just as proud of the fact that I had the opportunity to sit at the conference table with Justice Ralph J. Cappy and to learn the law from one of the best and most forward thinking judges in the history of this Commonwealth.

I now appreciate even more fully that working in that office did take a certain irrational desire to sit and break world records, and it was Ralph Cappy himself who was the leader of that effort, because his heart was big as his capacity to work in the name of the public good, and that will forever be the benefit to the citizens of Pennsylvania, long after this portrait is hung on the wall of the Supreme Court, and Ralph Cappy takes his place among the other preeminent jurists who watch over us in this noble, noble, often arduous, still uncharted profession. Thank you, Mr. Chief Justice.

(Applause.)

CHIEF JUSTICE CASTILLE: Thank you, Dean Gormley. An example that all ex-law not condemned to a life in the law library.

Next, we will call upon the real workers, Joseph Valenti, Editor in Chief of Volume 47 of the Duquesne Law Review. Mr. Valenti.

MR. VALENTI: Every year, Duquesne Law Review tries to produce a Pennsylvania issue. Rarely, however, is that issue dedicated to the jurisprudence of a single person.

Yet, when the Volume 47 administration came into office, we were keenly aware that the top judge in the Commonwealth had just retired from his office. My top three editors and I all believed that the Pennsylvania issue should be a career recap of Chief Justice Ralph Cappy's time in public service.

Of course, everyone else wanted to honor Judge Cappy, as well. It was Chief Justice Cappy's receipt of the American Red Cross' Distinguished Leader Award that enabled us to first contact him.

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While Dean Gormley and Sarah Andrews had begun helping us solicit authors, we still wanted to have the Chief on board. One of the article's editors, Bryan Schuster, spoke with Chief Justice Cappy after the red tie affair which the Red Cross held in Chief Justice Cappy's honor.

Bryan informed the Chief that the Duquesne Law Review wished to dedicate this issue to his legal legacy, and that we had quietly begun gathering a list of contributors who would comment positively on his work.

Chief Justice Cappy seemed very moved by our plan, but he was hardly one to inflate his own ego. He declined to write an auto-biographical article, and he encouraged a substantive debate over his career.

With the extraordinary help of Betty Minnotte, we were able to compile these articles, and we finally convinced Chief Justice Cappy to contribute a response to a student-written case note which had originally disagreed with part of the Chief's analysis. Long story short, that student came to agree with Chief Justice Cappy.

While our administration learned a lot about Chief Justice Cappy's larger-than-life personality, it was not this personality that changed the student's mind, but rather the thorough study of every carefully placed word in Chief Justice Cappy's opinion. Our students learned from the best while working on this issue, closely scrutinizing the opinion of Chief Justice Cappy and his distinguished bench mates.

The imposing Cappy comma C period J period, that began his opinions, which were studied in our classes became familiar to us. We learned of a person from an ordinary background who worked hard to rise to his prominent position. We learned of a man's thought-clearing bike rides and willingness to help the oppressed. We learned the law, and we learned about those who make and interpret the law.

It was an honor to work on this issue, and I speak for everyone on Duquesne Law Review when I say that in learning about Chief Justice Cappy, we learned about intellect, courage, leadership, and grace.

Thank you.

(Applause.)

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CHIEF JUSTICE CASTILLE: Thank you, Mr. Valenti. Please convey the respect and thanks of our Court to all the members of the Law Review who worked on this wonderful volume.

Next we will call upon the Honorable Joseph Del Sole, President Judge Retired of the Pennsylvania Superior Court. Judge Del Sole.

JUDGE DEL SOLE: Mr. Chief Justice Castille, and Justices and members of the Court, Janet, and family and friends, I think all of us would have preferred to be unveiling this portrait and dedicating the issue of the Law Review with Ralph here. We would have enjoyed poking some good-natured fun at him and knowing that he would ultimately have agreed to it. But sadly, that is not to be.

In 1978, Governor Milton J. Shapp in filling two vacancies on the Court of Common Pleas of Allegheny County appointed Ralph and myself. We knew each other at the time, and we knew of each other, but we did not know each other.

In our first conversation following the announcement of our appointments, we came to realize that not only did we share a common Italian heritage, but we also shared a common Serbian heritage; and as Ralph would say many times, we were probably the only two Italian Serbians ever to be appointed to anything in the history of the United States.

During the following year and a half while we were running for the position of judge of the Court of Common Pleas, our families got to know each other, Janet, Karen, myself, Ralph, and our kids, Eric, Kristen, and Joe and Steve, would attend all of these events that candidates believe you have to attend or you lose the election: The bingos, the pancake breakfasts, you know, the volunteer fire companies.

We all believed if we didn't attend, we would lose; but nonetheless, we attended, and we got to know each other.

As a little aside, Ralph's father was a political guru in Allegheny County; and Joe Cappy decided that it would be a great thing if we got bingo chips, and some would say, "Keep Judge Cappy," and some would say, "Keep Judge Del Sole," and we would mix them together, and as Ralph's family would go to some bingos and we would go to other bingos, we would pass out these chips.

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So Joe ordered the bingo chips. Unfortunately, they came back the size of half dollars. They would cover four chips. We couldn't use them, and they wound up being starters for many fires in our fireplaces over the years.

There has been a lot of discussion about Ralph's jurisprudence, and it is worth discussing; but what I remember most and what I miss the most is the Ralph Cappy that would plan a 5,000-mile motorcycle ride or the Ralph Cappy that would wear a parrot head or a Pirate hat at a Jimmy Buffet concert, or the Ralph Cappy that would wear a sombrero at a Mexican restaurant in Cancun, Mexico, with mutual friends of ours and Karen, or the Ralph that would go to a restaurant and decide that he was going to order a hamburger and fries and look at Janet, and say, "I think I'll have salmon." I mean, this is the Ralph Cappy that I knew and the Ralph Cappy that I truly miss.

Our friendship and respect for each other allowed us to express our disagreement; and once he became a member of the Supreme Court of Pennsylvania, these expressions would generally be mine and usually followed a reversal of some decision where I was in the majority on the Superior Court, and he voted the majority on the Supreme Court. His willingness to engage in this discussion to me was the mark of a person who did not need accolades to know his true worth.

Ralph J. Cappy epitomized the words of the 14th century writer, Sir Thomas Noon Talfourd, who wrote, "fill the seats of justice with good men, but not so absolute in their goodness to forget what human frailty."

Ralph Cappy was a good man, a good husband, a good father, a good jurist, and a good friend. When Chief Justice Ralph J. Cappy died, the Commonwealth of Pennsylvania lost a good and faithful servant.

When Chief Justice Ralph J. Cappy died, the judiciary lost one of its foremost champions. When Ralph J. Cappy died, many of us lost a dear friend. He will be missed.

Thank you.

(Applause.)

CHIEF JUSTICE CASTILLE: Thank you, Judge Del Sole.

HONORABLE RALPH J. CAPPY

Representing Ralph Cappy's family is Ellen Sylves Ruddock. If you would please come forward, Mrs. Ruddock, this is Janet Cappy's cousin.

MS. RUDDOCK: Chief Justice Castille and Distinguished Justices, Chancellor Nordenberg, President Dougherty, Dean Gormley, distinguished guests, family, and friends, on behalf of Janet, Eric, Patty, and our families, I want to tell you how difficult it was to share Ralph with all of you and each of you. Admittedly selfish.

We just could never get enough of him. Trips, vacations, were always too short. Celebrations never lasted long enough, family dinners, holidays, ended all too soon, and visits, too infrequent, phone calls too brief, and then came the shock of losing him.

You know our pain of loss, because you, too, knew him for his loyalty and integrity. You, too, experienced his intense focus, that intent listening, a few questions, his complete empathy, thoughtful advice, creative solutions, his generosity, the jokes, the toys, the chuckle, and, of course, that trademark twinkle of the eye when Ralph knew he had helped you.

And yet having shared him with all of you is what brings us here today and yet another testimony of his outstanding life. We are forever grateful for his love and the time that we had with him.

We are also most appreciative of this special Law Review tribute honoring Ralph, and for including us today in the unveiling of his portrait. We will remember this day forever.

Thank you so much.

(Applause.)

CHIEF JUSTICE CASTILLE: Thank you, Mrs. Ruddock.

We will now unveil the official portrait of Chief Justice Cappy, and this portrait will hang in the Supreme Court courtroom in the City-County Building along other luminaries of the Supreme Court and from Pennsylvania, the portrait of William Pitt on one side and the portrait of William Penn on the other side. It will hang next to the portraits of our distinguished fellow Justices, Chief Justices, Justice Flaherty and Justice Zappala.

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At this time, I would call upon Joseph Routon, the artist, to please come forward to the stage, and Janet Cappy, if you could please come forward to the stage?

(Whereupon, the portrait of Chief Justice Ralph J. Cappy was unveiled.)

(Applause.)

CHIEF JUSTICE CASTILLE: Thank you, Janet, and thank you, Mr. Routon. The three words that you have all been waiting to hear, reception immediately follows.

With that, Mr. Minner, you may adjourn this Special Session of the Supreme Court of Pennsylvania.

MR. MINNER: The Court is in recess.

(Whereupon, the Special Session of the Supreme Court of Pennsylvania was adjourned at 4:59 p.m. this date.)

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