

OBITUARY

Justice Herbert B. Cohen

MR. SAMUEL S. LAUCKS, JR.,

President of the Bar Association:

If the court please, it is my sad duty to report to this court the death on December third of 1970 of the Honorable Herbert B. Cohen, Justice of the Supreme Court of Pennsylvania and a member of this Bar. I have asked Lavere Senft, a former colleague of Mr. Cohen, to prepare the Minute of Respect.

MR. LAVERE C. SENFT:

May it please the Court and my fellow Members of the Bar:

We meet today to pay our respects to one of the most distinguished Members in the illustrious history of our Bar—Justice Herbert Bank Cohen. I have been given the high honor and privilege to prepare and present this Minute and I do so with a feeling of great personal loss.

MINUTE

It is not an easy task to narrate briefly the life of a gifted man who, by any measure or standard of achievement, reached the pinnacles of his chosen fields of endeavor. Justice Cohen—best known as “Herb”—was born in the City of York on July 2, 1900, the son of Isaac I. Cohen and Pauline Kagen Cohen. He spent his boyhood in the 4th Ward, attended York City schools, and graduated from York High School in 1918. He held a deep affection for the City of York all his life.

He graduated from the Wharton School of Business and Finance of the University of Pennsylvania in 1922 with a B.S. degree. In 1925 he received his Bachelor of Law degree from the University of Pennsylvania School of Law and married Mildred Charlap, his surviving widow.

He was admitted to the York County Bar on February 7, 1927 on Motion of Judge Ray B. Sherwood and immediately embarked upon an outstanding legal

career. In 1928, after only a year of practice, he gained national prominence as counsel for one of the defendants in the so-called “Hex” murder case. He enjoyed a very active practice as a general practitioner, never purporting to specialize, and handled almost every conceivable type of legal matter. He was an exceedingly competent lawyer and was a recognized master in the art of cross-examination.

In 1932 he was elected to represent the City of York in the General Assembly where he served four consecutive terms. His special skills and qualifications led to his selection by his fellow Legislators as Democratic Floor Leader. After his service in the Legislature he was Director of the Legislative Reference Bureau for a period of two years. Thereafter he continued actively to practice law until his close friend and political associate, George M. Leader, was elected Governor of the Commonwealth in 1954. He was Governor Leader's first Cabinet appointment, being designated to serve as Attorney General. He administered this high office with great distinction. He was largely responsible for the investigations and subsequent successful prosecutions of the principals in the Manu-Mine and Delaware Port Authority scandals. He was succeeded in this office by his good friend and later associate Justice, Thomas D. McBride, who was his own personal choice as his successor.

In 1956 he was elected a Justice of the Supreme Court of Pennsylvania where, by the display of his special talents, he gained an outstanding reputation as a distinguished jurist. He served on our highest Court for fourteen years. But for the flip of a coin and his sudden, untimely death, he would have been our next Chief Justice. He died during the early morning hours of December 3, 1970, at the age of 70 years, still actively engaged in his life's work.

Herb Cohen was a modest man. He did not like to be patronized. It is a certainty that he would not approve of my making these remarks. But here was a

man justly entitled to a full measure of honor, and it is only fitting that we should record some of the salient facets of his character and the events of his life. There are many at this Bar who knew him longer than I; but I doubt that any knew him more intimately with the exception of two other Members of our Bar—his son Donn and his son-in-law, Harry J. Rubin. It is to be regretted that many of the younger Members of our Bar, those who were admitted to practice in the last 15 years, did not have the opportunity of closer contact.

Herb was a generous person who gave unstintingly not only of his money but of his time. He gave substantial sums of money to charities—far out of proportion to those similarly situated—especially to the United Jewish Appeal, in which effort he was a perennial leader. In so doing he was an inspiration to others, a genuine Challenge Giver. Herbert gave because he believed in the concept of giving and without any obligation, except the moral one, to help others less fortunate than himself. He represented the poor without charge long before Legal Aid, Public Defender and poverty programs were conceived. He believed in rendering legal service *pro bono publico* and took on many causes, particularly public utility rate and service cases, at fees far below the value of his services and many times without any charge at all.

He was a man of honor and integrity. He was loyal and worthy of the trust placed in him by his clients, his friends, his Party. As a lawyer his professional competency was of the highest. He was a zealous advocate who lived his cases. He was an able trial lawyer, and, as I have mentioned, was at his best on cross-examination, which any lawyer will attest is the most difficult aspect of trial work.

He was a first-class business lawyer and here his education at the Wharton School and his training by experience at home served him in good stead. Many a client retained him not necessarily for legal advice but for good business counseling. He was a natural in this field.

He was an expert in real estate transactions of every kind and in public utility litigation, and here again, in these fields, his keen business sense served him well.

But above all, as a lawyer he was a thinker—what I like to call an "Idea Man." He could have kept a good many people busy executing the ideas that sprang from his fertile and imaginative mind. He foresaw as early as 1953 the demise of center city which we are witnessing and it was he who conceived Downtown York, Inc., the York City Parking Authority, and urged redevelopment and similar remedial programs. He was a great admirer of intelligence. When he was Attorney General he surrounded himself with the youngest, brightest legal minds he could find; and if you take the trouble to look you will find at our Bar and in the Philadelphia Bar, and other places in the Commonwealth some of today's most successful lawyers who once were his Deputies or otherwise associated with him. He was a good teacher—a man who guided but did not dominate you. He gave you the benefit of his great mind but gave one the independence to develop in his own way. He stressed adequate preparation for which he rightly held there was no substitute. He remarked to me many times what a poor impression is made before the Court by ill-prepared lawyers. If he had a deficiency—if you want to call it that—it was his distaste for details. He lacked the patience for these things; but I think, on reflection, this is a characteristic of original minds.

If the law was his vocation, politics was his avocation and perhaps his first love. Here he became a legend in his own time. He was undoubtedly the dominant force in the Democratic Party in York County for almost 40 years. Philosophically, he was a Liberal Democrat in the Franklin Delano Roosevelt tradition, and I think this showed up repeatedly in his political campaigns, in his Legislative career, in his Opinions, and in the causes he served.

As Majority Floor Leader he was instrumental in the passage of important legislation, including the many social

reforms enacted during the period of the Great Depression. I mention only a few of the more important Acts: The Banking Code, Building and Loan Code, Business Corporation Law, Nonprofit Corporation Law, Pennsylvania Liquor Control Act, Milk Control Law, Old Age Assistance Law, the Pennsylvania Election Code, the Public Utility Law, the Statutory Construction Act, and, of importance to York County, the Act which established our separate Orphan's Court. I think this partial enumeration gives us a clear insight of his productive abilities as a Legislative leader.

He was well-versed in parliamentary procedure, and was an able debator. It was in this field that he learned the value of adequate preparation. He made it a practice to read and become familiar with every Bill introduced and as a consequence his fellow Legislators came to rely on him and his knowledge. His record of achievement in the legislative field is unsurpassed.

As a politician, he was an astute strategist who had a feel for the issues and could plan a campaign. He knew the people, knew who were the good political workers and how to get them to work for him. He recognized the value of good organization. He was without doubt the premier political fund-raiser in York County. He himself was a generous contributor to his party. He believed in the party and in the principle that no man is bigger than the party.

As a politician he enjoyed a state-wide reputation. He was a leader who was consulted on important matters. He had the confidence of the only three Democratic Governors in Pennsylvania in the 20th century—Governor Earle, Governor Leader and Governor Lawrence. He contributed in great measure to the success others have experienced in the political field in York County and in the Commonwealth. He himself served with distinction in high places in all three branches of government—Legislative, Executive and Judicial—and in this regard his career is without parallel in the history of York County and the annals of our Bar.

The summit of Herbert's career was his 14 years of service as a Justice of the Supreme Court of Pennsylvania beginning January 7, 1957. That was a memorable occasion for all of us who were present at the swearing-in ceremony in Philadelphia. His good friend and our beloved fellow Member, the Honorable Harvey A. Gross, presented Justice Cohen to the Court, and in his inimitable style made an address those who were there will long remember.

He enjoyed his judicial work immensely and his training as a practicing lawyer, as a Legislator and as Attorney General, was invaluable. I believe for a long time he was the only member of the Court who had real experience as an all-around general practitioner.

He showed respect to the lawyers who argued before him by paying keen attention to oral argument to which he gave as much attention as to briefs. He gained a reputation for close questioning of counsel which got to the pertinent issues of the case. His opinions speak for themselves; they are well-reasoned, well-written, and in them you will find ever present a judicial philosophy that the law must grow—that it cannot remain static—that it must serve the ever-changing needs of society and meet and resolve the issues of our time. The Court will miss the man and his strength. I think Governor Shafer has put it very well: "The unexpected death of Justice Cohen takes from Pennsylvania and indeed, all America one of our most able jurists."

Herbert served his family, his friends and associates, his religious congregation, his clients, his community and state faithfully and well as one with his special gifts was duty-bound to do. He was a very sensitive man, which I think is not uncommon for those who find themselves members of a minority group. He felt compassion for those who suffered from bigotry and prejudice because he experienced it himself. He was proud of his Jewish heritage and faithful to his religion.

Herbert enjoyed golf immensely and was a keen bridge player. He was a

great story-teller with a memory for choice anecdotes. He was a student of history and an authority on the life of Justice Jeremiah S. Black. For many years I had the pleasure of lunching with him and his friends on an almost daily basis and I shall miss those sessions. He was a stimulating personality. It was obvious to those close to him that during the last three years of his life Herb did not always feel well. He made a remarkable recovery from an earlier heart attack and continued to lead a full and active life. He may have suffered from his afflictions but he bore them in silence.

Judge Cohen enjoyed life and he lived a long and useful and good life. He left his mark and it will be a long time before our Bar produces another of his stature. He was a credit to our Bar and his sudden death is a real loss to it. He was admired and loved by his friends and family and respected by his adversaries. He lived a rich life full of service, doing the things he enjoyed best. No man ought ask, and I know he would not have asked, anything more.

I therefore respectfully move that this Minute be spread upon the records of this Court and that a copy of it be furnished to his bereaved wife and family.

HONORABLE WALTER I. ANDERSON:

Members of the Court and Members of the Bar, it is with a feeling of distinct regret and sadness that I second the Minute which has been so ably prepared and presented by Mr. Senft for Justice Cohen, more familiarly known to many of us as "Herb." He was one of my contemporaries. We were admitted to the Pennsylvania Bar I think the same year and for more than forty years we were friends. Those of us who knew him at all well appreciated and admired his delightful sense of humor, his keen and comprehensive intellect and his down-to-earth and common sense approach—a quality which never deserted him although he attained the pinnacle of his profession. Something which might have

turned the head of a lesser man. As the Attorney General of the Commonwealth of Pennsylvania and as a Justice of the Supreme Court he reflected nothing but honor and esteem to York County, to the Bar Association of York County, and to his many friends, not only in his home community but throughout the whole Commonwealth.

I like to think of Herb in the early days when we were both starting in our practice and in our political careers. He was always in my corner and I owe a great deal of any success which I may have attained completely to his great help and assistance. I consider it a mark of his character that he never intimated that he was entitled to any particular consideration.

I was personally pleased and gratified that he asked me to be the backup man and pinch-hit for Judge Gross who, as was mentioned by Mr. Senft, presented him to the Supreme Court of Pennsylvania when he was inducted.

I even enjoyed playing golf with Herb and we used to like to brag to one another about the attainments of our then growing children. He was indeed an attractive personality. He was a splendid conversationalist. He enjoyed social contacts and life in general. He was my friend—faithful and just to me—and I shall miss him.

MR. W. W. VANBAMAN:

Gentlemen of the Bench, Gentlemen of the Bar: The death of Herbert Cohen has given much thought to me. He was too young to die at 70. The memory of him is bound in my own recollection as a fist of steel. In the Advance Reports that I have read I was always much more concerned with his dissents, especially to the Chief Justice, than to his opinions. His dissents to me were more interesting than his Opinions. His dissents showed an analytical mind that in my estimation penetrated more deeply than the Opinions of the Chief Justice himself. In the Advance Reports I always read his Opinions—Judge Cohen's Opinions. After all, law is man-made, is it not?

His own Opinions showed more conception of humanity, of human frailty and, as we know, the conception of the law has been much broadened by our Judge's Opinions.

He has joined another great Judge who assisted him years ago in our community. That was Judge Jeremiah S. Black who was also elected by the people of the Commonwealth. His bust, the bust of Jeremiah S. Black, anyone will find up in the Law Library. But his Opinions, his own conception of the law, along with those of Judge Black himself, have brought to this community and to this nation at large I hope the realization that this community has been brought to the attention of people by reason of and has broadened the conception of people to the historical and cultural background of this community. It is with much regret that I realize the passage of Judge Cohen to another existence. Who knows?

MR. HORACE G. PORTS:

Members of the Court, Members of the Bar: I suppose that Judge Anderson and I are about the only contemporaries of Justice Cohen. I was not only a contemporary but I was a political opponent of the Justice. In 1932 Justice Cohen was the nominee of the Democratic Party and I was the nominee of the Republican Party for the Legislature. I often like to think that it was the Roosevelt landslide of that year rather than Herb who defeated me. We remained good friends through all the intervening years and Justice Cohen served in the Legislature with great distinction and served on the Bench with great distinction. He brought honor not only to himself but he brought honor to York County and he brought honor to this Bar. It is with sadness that I learned of his sudden death.

MR. MORTON H. KAGEN:

If the Court please, Judge Cohen was my preceptor. He also moved my admission to the Supreme Court of Pennsylvania and to the local court and, upon my return from school, I practiced with him a good number of years. In second-

ing this motion, I can only reiterate the things said by Mr. Senft in the presentation of the Minute to the Court.

MR. HENRY B. LEADER:

May it please the Court, I would like to second the Minute which was so comprehensively and with such great perceptiveness and sensitivity presented by Mr. Senft. I won't attempt to recount again the accomplishments of Herbert Cohen, but to me Herbert was above everything else a great human being. He was very excited with life during the entire period that I knew him up to the time of his death. He read widely and he thought deeply and he participated actively in the affairs of life. He had a great sense of humor which has already been alluded to.

He was not a man who valued sham or pretense. In fact, to the contrary, one of his favorites was to put down, prick the balloons of pretense and sham. He was a person of great personal courage. The things that he did to which Mr. Senft made reference were often done at considerable risk, financially as a lawyer, personally as a citizen, but because of his convictions and beliefs he pursued them with the kind of competence and diligence that has already been alluded to.

He did have a great awareness of the relationship within our society of the power people and he saw the necessity for being of help and assistance to those who were less able to provide for themselves and care for themselves and to remove from those with more power the temptation of the abuse of power. We have heard reference to his mind which was he had a fine analytical mind. He had the ability to get to the heart of an issue whether it was in business, politics, in government or in law. I was particularly impressed with the period of time when he was Attorney General because at that time I had the opportunity to work with him and be with him on practically a daily basis and, during that period of time I not only learned to respect his competence and his ability, I

think it would be fair to say that I learned to love him as a man, as a human being.

He dedicated himself during that period of time and later on the bench I know out of a great sense of pride, to the pursuit of excellence. He wanted truly to run the Department of Justice better than it had ever been run before and in truth I believe he succeeded.

Mr. Senft made reference to the fact that he surrounded himself with young men of confidence. The first he chose was Mr. Rubin. I do not know if he ever dreamed he was also at that time choosing a son-in-law. For both purposes, he chose wisely. He ran the Department with skill and integrity and brought a new respect to it as a department of state government.

When he went on the court there was some hesitation on his part to move from the more active world he had lived in, the world of political activity and government to the more academic climate of the Court. I myself wondered if he would find this an accommodating climate for his interest and personality. I was very pleased to watch him take on the same attitude with regard to that responsibility that he had earlier with the others. Namely he was, he had the pride that he wanted to do it well. He had the skill to carry out that motivation and he did conduct himself, he did acclimate himself to the more academic environment of the Court and did pursue it with the same degree of excellence that he had his earlier responsibilities as Attorney General.

With all these things above all he always, I valued him as a friend and I am and shall eternally be grateful for his friendship.

HONORABLE SPENCER R. LIVERANT:

Court please, Members of our Bar. I would like to second the Motion of Mr. Senft. I have written what I wish to say here because I don't want my feelings at Herb's passing to cause me to forget what I want to say.

Others have spoken of the eminence of

Herbert B. Cohen in our profession; of the honor to himself, our bar and our profession in his achievement of, and performance as, a Justice of the Supreme Court of Pennsylvania. I should like to speak of the Herbert B. Cohen I knew for the past 35 years at the York County Bar, of one who had so deep a feeling for, and understanding of, his fellow man that he lighted up the lives of his family, his friends and the many who came to him for advice or aid or comfort. This deep feeling for humanity appeared in a variety of ways. In a tense and rigid situation, his flash of wit would dispel the impending violence. In the arenas of politics, the legislative halls and the courtroom, where he was so formidable a protagonist, he never impugned the character or patriotism of his adversary. He reserved his scorn for those who did, or who preyed upon their fellows. He could ridicule without humiliating. He could become wholly involved in a cause he believed to be right, but he was never self-righteous. He was almost always surrounded by friends or acquaintances, drawn not as sycophants but in warm regard, their day brightened by his ever-present wit and humor. His capacity for friendship was endless.

I believe that the well-springs of his talent for human relations was two-fold. He recognized that man could be uplifted by nobility and debased by frailty, that all of us possess both these qualities in varying degrees. That we can build a bridge of soaring beauty and at the same time befoul the river valley below. And he derived from his religion one of its perceptive intuitions—a wry recognition that a man is a very tiny dot in a huge cosmos; that there are other matters engaging God's attention than our individual problems.

He drew upon these well-springs to enrich his life and ours. We are all poorer for his passing.

MR. LEWIS P. STERLING:

May it please the Court, I too wish to second this Minute of respect as presented by Mr. Senft. Herbert Cohen was my preceptor. He was my friend

and my preceptor and he moved for my admission to this Bar and in my association with him in the practice of law I feel that one of the most important things that he taught me was to have a more compassionate, humane and charitable attitude toward my clients and he is a friend that will be sadly missed by me.

MR. WILLIAM H. KAIN:

If it please the Court, I rise to second the Minute. Not only was Herb Cohen an able attorney but also a distinguished jurist. In the practice of the law I remember Herb as being a person who combined both a practical approach to the problem but also a keen wit and keen sense of humor. I remember on one occasion Herb was representing the City and we were counsel for Metropolitan Edison Company and Herb had conducted a very keen and harassing cross-examination for most of the morning. At the noon recess I saw Herb in the hall and in a joking way I said, "Herb, lawyers like you cause lawyers like me an awful lot of trouble." And just practically within a fraction of a second he came back with, "But, Bill," he said, "don't forget, if it weren't for lawyers like me, lawyers like you wouldn't have a job." So I thought it was appropriate at this moment to add an appropriate recognition of his keen sense of humor as well as his ability as a lawyer and jurist.

MR. EDWIN M. BUCHEN:

If the Court please, in my very early days as a Member of this Bar, I became acquainted with Mr. Justice Cohen because my alter ego of those days, Cotton Lawyer, was employed in his office and we formed the habit of having lunch together when all three of us were in town. The Justice was an articulate man and I very soon learned a great deal about his philosophy of the law and of life in general and I think it consisted of a somewhat unusual and rare blend of idealism and realism and I think it was the combination of these qualities which perhaps laid the foundation for the success which he enjoyed throughout his career.

In later years when I was a member of the District Attorney's staff, I tried a number of cases against him and still later on in a number of political campaigns in which he was the general on the one side and I was a soldier on the other, I learned that he was a very tough and a very formidable opponent.

Nonetheless, I always discovered over the years and right down to the very recent time that there was an astonishing number of occasions when he went out of his way to extend to me friendship, expressions of kindness and professional suggestions that were extremely helpful in the conduct of my work.

He was an able man and he was a good man and of the two adjectives I am inclined to think the latter is by far more important. I wish to second the motion which has been made by Mr. Senft.

MR. JOHN F. RAUHAUSER, JR.:

May it please the Court, I have known Herbert Cohen for longer than I have been a member of this Bar. I considered him to be a practical man; a man of wisdom, wit and good humor. I second the motion.

MR. RICHARD H. HORN:

May it please the Court, as one of the younger Members of the Bar who is practicing less than ten years, I did not know Justice Cohen very well as a practicing attorney. I had occasion to speak with him on two occasions. Both times he gave me his time willingly and courteously.

I recall that because I knew him prior to the time that I became a lawyer. When I was still going to high school I lived in the same block that Justice Cohen lived at that time. I can recall having spoken with him on occasions while he, in the summer, would sit on the curb stone occasionally with his son, Donn, and on the few occasions I had the pleasure of being there I heard the humorous anecdotes Justice Cohen told about himself in those days.

When I reflect back on those days I

think how magnificent a pleasure it was to be able to be in the company of a man such as Justice Cohen. As a teenager in those days I had someone of great distinction who I could look to and who I could respect and the courtesy he showed me as a young teenager he also showed me when I came to this Bar to practice. These are the things that I recall about Justice Cohen. He seemed to be a very humane and humble individual and it was a pleasure to have known him both as a young man, a teenager, and now as a practicing attorney. I second the motion.

MR. EMANUEL A. CASSIMATIS:

May it please the Court, I want to second the motion and resolution so ably prepared and presented by Mr. Senft to which I can add nothing. I consider myself very fortunate to have been touched by his life. My life has certainly been enriched by that touching.

JUDGE JAMES E. BUCKINGHAM:

I'll not presume to cover again the life and accomplishments of Justice Cohen which were presented here today by Mr. Senft and the other Members of the Bar. I think it is a self-evident truth that he was the outstanding Member of the York County Bar Association.

I only wish to note several things that were covered. Mr. Senft mentioned that Justice Cohen was interested in the general practice of the law and I remember very well just a few short weeks before he took the office of the Attorney General of Pennsylvania, he and I were together in a Magistrate's hearing at Bill Nickey's office. We had the hearing and we walked back from Bill Nickey's office to our respective offices and we had a nice chat and it occurred to me at the time that here's a man who is going to a really high office in this Commonwealth and he takes the time from his busy life and his busy practice to represent someone at the level of a Magistrate's hearing, and I admired him for it.

There is one other thing that was

noted by many people here and this was the Justice's marvelous sense of humor. I didn't get to witness this until we both started to come to the Law Library Committee meetings at the Yorktowne. I can safely say that nine-tenths of the fun out of those meetings are going to disappear or have disappeared because Justice Herbert Cohen will not be there.

He was a marvelous dinner companion. He had a delightful sense of humor and we listened to all the stories that he had to tell not only in his practice as a young lawyer and as Attorney General but also the stories that he had to tell about the happenings on the Supreme Court of Pennsylvania and we got an insight as to how this Court operated which we never could have had except for his telling us about it.

I shall miss him personally. He was a fine man. He was a great lawyer and a great Justice.

JUDGE ROBERT I. SHADLE:

I fully endorse all that has been said about Justice Herbert B. Cohen. In his passing the Bar and the Judiciary have lost one of their most able and respected Members and at the same time I feel that I have lost a cherished and respected friend.

JUDGE RICHARD E. KOHLER:

It is always particularly sad when you have to mourn the passing of one with whom you have been pretty intimately connected throughout your entire legal career. Such was my relationship with Justice Cohen.

I had not been admitted to the Bar a month when it became my duty to file a final accounting in an estate that had been fraught with litigation for years in which the parties interested were represented by counsel from out of town who employed Justice Cohen as their local counsel. His kindness and his courtesy and consideration to me as a young, inexperienced lawyer in a situation like that will never be forgotten.

It has been mentioned that his political philosophy was similar to that of

Franklin Delano Roosevelt. It was my pleasure to be trying a case with him and to be driving down from Harrisburg on the afternoon in April of 1945 when there flashed over the radio the news of the passing of Franklin Delano Roosevelt. He commented to me for fully five or ten minutes on the philosophy of Mr. Roosevelt and what he did for the United States of America. I only wish at that time I had a tape recorder as we now have to record those statements.

It has been intimated here but it has not been expressly referred to that Justice Cohen had an extremely sentimental nature and I want to relate a little anecdote in that regard. I represented some people who were very anxious to sell a half block of real estate in the fourth ward where Justice Cohen was raised. The real estate embraced four houses that bore the imposing address of 1, 3, 5 and 7 Wall Street in the City of York. Perhaps some of you never knew such an address in the city. We couldn't sell it and finally in a joking way one day I suggested to Justice Cohen maybe he'd be interested in purchasing it. Surprisingly, he immediately did show an interest in it and spoke to his associate concerning the real estate. It was not a particularly attractive investment as real estate investments go. I asked what invoked his interest in this property and he replied, "Well, Dick, I think it's a good investment. But one thing that interests me about it in particular is the fact that as a boy I played hide-and-seek around 1, 3, 5 and 7 Wall Street. I have a very particular affection for that particular area of the city."

I shall never forget Justice Cohen. He was a good friend to me. We had our offices across the street from each other for many years. We were the only lawyers on South George Street at the time and we jokingly referred to ourselves as the South George Street Bar Association. As Mr. Cassimatis said, Justice Cohen made a great impression on the lives of all of us. I know he did on my life. I shall never forget him.

PRESIDENT JUDGE GEORGE W. ATKINS:

I certainly concur in everything that has been said this morning about Justice Cohen. My association with him began shortly after my admission to the Bar and particularly after the Second World War it became a close association.

One of the things that I remember about him particularly was the affection with which he always referred to his family, to his children and, in later years, to his grandchildren, which was simply a demonstration of the sensitivity and the compassion that Herb had not only for his family and those intimately associated with him but for people in general.

I also had a close association with him as a trial lawyer because when I became Assistant District Attorney his then associate Mr. Kagen, who spoke earlier, was my colleague as Assistant District Attorney. Because of the association that had existed between Justice Cohen and Mort, it fell to my lot to try all of the criminal cases that were tried by Judge Cohen and I soon learned to respect him and regard him highly as an exceptionally competent trial lawyer and to a large extent I think whatever success I myself had as a trial lawyer was due in no small part to the things that I learned from Herb when I was in opposition to him in the courtroom.

When he was elevated to the Supreme Court of Pennsylvania there were many of us who expressed some question whether he would enjoy his work on the Court in light of the extremely active life that he had led up to that point, both in a professional and in a business way. After he was on the Court I had occasion to visit him in his Chambers from time to time and, if he were not too busy, sometimes we had the opportunity to engage in more or less casual conversation for a time and occasionally he would discuss his work on the Court and the thing that impressed me more in that regard than almost anything else was the attitude with which he approached the work on that Court.

There is no question that it is a high honor to be a Member of the Supreme Court of any state and I am sure that he did not look with any small favor upon the honor that was his in that respect. However, it was not the honor of the position that was most important to him and he expressed this many times in our conversations and that attitude was the sense of responsibility that he felt toward the work of the Court and the importance of that work to the people of the Commonwealth of Pennsylvania, not simply to the litigants in any particular case that may then have been the subject of consideration by the Court but the realization that every decision that was made by that Court affected seriously not only the litigants of that particular case but that because it was the highest Court in Pennsylvania, he realized that every decision of that Court had a profound influence upon everyone else in the Commonwealth. I feel that the sense of responsibility that he felt toward that position was perhaps the thing that made his work on the Court the fine work that it was.

I direct that the Minute which has been presented by Mr. Senft, his former colleague in practice, be spread upon the Minutes of this Court and that copies of it be provided for the Members of his family and that this meeting now adjourn in his memory.

Commonwealth v. Brodie

Indictment — Motion To Quash — Constitutional Right To Speedy Trial.

1. Where it appeared that the defendant was indicted within seven months of the offense and within six months of the filing of the complaint, and within three days after receipt of defendant's letter disclosing his whereabouts and requesting trial, a writ was issued to procure his appearance for trial at the next available trial session, it was held that his motion to quash the indictment on the ground that his constitutional right to a speedy trial has been violated was without merit.

In The Court of Common Pleas of York County, Pennsylvania, May Sessions, 1970, Criminal Action No. 17 *Commonwealth of Pennsylvania v. Westley J. Brodie, Jr.* Motion to Quash Indictment. Refused.

Shadle, J., December 14, 1970.

Defendant has filed a self-prepared handwritten pre-trial application to quash the indictment herein on the ground that his constitutional right to a speedy trial has been violated.

The indictment charges defendant and others with committing robbery while armed and with accomplices on January 3, 1970. The complaint was filed on February 9, 1970, and a warrant issued for defendant's arrest on the same date. The transcript from the magistrate sets forth that the warrant was sent to the Dauphin County Prison to act as a detainer against defendant.

On August 5, 1970, the Grand Jury approved the bill of indictment. The file contains a letter from defendant to the District Attorney, dated November 7, 1970, received November 10, 1970, requesting a prompt trial. On November 13, 1970, on petition of the District Attorney, the court issued a writ of habeas corpus ad prosequendum for the return of defendant from the Cumberland County Prison for trial beginning on January 11, 1971, the next ensuing criminal trial session. Defendant's instant application was filed on November 13, 1970.

The application is totally without merit. Defendant was indicted within seven (7) months of the offense and within six (6) months of the filing of the complaint. Within three (3) days of receipt of defendant's letter disclosing his whereabouts and requesting trial, a writ was issued to procure his appearance for trial at the next available trial session. There is no indication that defendant's actual whereabouts were known until the receipt of such letter.

Although defendant's request for trial did not comply with the requirements of the Act of June 28, 1957, P.L. 428,