

THE COLUMBIAN.

BLOOMSBURG, PA.

THURSDAY, OCTOBER 8, 1923.

ARGUMENT COURT.

Considerable Business Before Regular October Session.

Regular monthly argument court convened Monday morning at ten o'clock, with all the judges present. Before any business had been transacted Judge Little took occasion to pay a high tribute to the late Chief Justice J. Brewster McCollum whose death occurred on Sunday. He spoke of him in the most glowing terms. It is no surprise he said that he was so profoundly respected. He was an able jurist and his life was an exemplary one, and inspired esteem. In closing he expressed the sorrow of the court at his death.

W. H. Rhawn, Esq. also made a few remarks concerning the death of Chief Justice McCollum. He referred to the time that he held Court here, especially presiding for President Judge Elwell, and recalled the trial and argument of cases before him, his high degree of courtesy and kindly consideration. Mr. Rhawn spoke of him as belonging to that class of great lawyers and judges that are bowing to the ravages of time—the Elwells, Woodwards and others. His life and character is worthy of emulation, and will leave an influence for good.

Petition of the Almedia Mining Company to set aside summons served on them, as same was intended for service upon Almedia Mining Company, two different corporations.

Bond of Haines Yost, administrator of the estate of Susan Glassmeyer, late of Cleveland township, approved.

Ordered and decreed that charter for Franklin Band be approved, on prayer of corporation through C. E. Kreisher, Esq., on recommendation of Colonel John G. Freeze, examiner.

Order made for twenty-four grand jurors, forty-eight petit and traverse jurors for first week, and for thirty-six traverse jurors for second week of December court, the petit jurors for the first week to be in court at ten o'clock on Tuesday morning of the first week.

H. Mont. Smith presented petition of Anna M. Skeer, guardian of Joseph Skeer, praying authority to pay for the support, maintenance and education of her ward the sum of \$300, which would make an annual allowance of \$900.

Bond of H. N. Lutz, in the sum of \$500, as guardian of John Ashleman, approved.

William C. Johnston, Esq., presented petition of Maude Confer and Doyle Confer, minors, for the appointment of guardian. Frank Heller appointed and bond of \$200 approved.

Supplemental report, by master, William C. Johnston, Esq., in the divorce case of Seybert vs. Seybert, for adultery, recommending decree of divorce. Decree made accordingly.

Preliminary injunction granted on prayer of Louisa Small against Jacob Carl, to stay the defendant's digging of ditch, causing water to flood plaintiff's land. Hearing to dissolve same set for Monday, October 19, at ten o'clock a. m.

Argument upon the exceptions made to the report of viewers in favor of a new road in Cleveland township. C. A. Small, Esq., argued in favor of the exceptions, while C. J. Fisher, Esq., upheld the viewers' report.

Petition of Edna Averill, a minor child over fourteen years of age, for appointment of her brother, Charles S. Averill, of Wilkes-Barre, as guardian. Prayer granted and appointment made, with bond in the sum of \$100.

Report of sale of real estate of Daniel S. Kitchen, deceased, confirmed absolute.

G. M. Tustin, Esq., presented petition of R. R. Little, testamentary guardian of his minor child, Josiah T. Little, for authority to sell strip of ward's land to the Susquehanna, Bloomsburg & Berwick Railroad. Petition granted and sale ordered as prayed for.

S. B. Karns, Esq., moved that the license of Oscar Sutton, who has been

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proprietor of the Exchange Hotel in Benton, be transferred to Howard Hile. Motion granted.

In the matter of the petition of Samuel Knecht and William Hosier, supervisors of Mifflin township for the granting of a grade crossing over the Pennsylvania Railroad Company's tracks at south end of the new river bridge at Mifflin. L. E. Waller one of the counsel for the Railroad Company moved that the petition be thrown out by the Court on the ground that the petitioners were parties to the injunction now in force. The motion, however, was overruled.

In the respondents answer it is claimed that it is not the supervisors duty to build said road, that the petition was not brought under the act of June 1, 1902, and states that the respondents had offered \$1,200 toward making overhead crossing.

Defendant denied that it is the natural and convenient manner of crossing tracks to have grade crossing; denied great difficulties to construct overhead crossing, and also that such overhead crossing would involve an excessive burden of expense on the township.

At the conclusion of the reading of the answer Mr. Waller stated that the offer made by the Railroad Company to give \$12,000 toward making an overhead crossing had never been withdrawn.

Several witnesses were called by the petitioners which served to show the desirability of a grade crossing. In his testimony Dr. V. Hower, stated that it would be difficult to conceive of a grade crossing less dangerous than the one prayed for in this instance. All the freight trains run at night while nearly all the travel is by day.

The matter was laid over. It will be taken up again today.

Petition of Poor Overseers of Borough of Berwick to compel the children and grandchildren of Samuel Schweppenheiser to support him. It was recommended that the four sons and four grandsons of said Samuel Schweppenheiser and wife should pay the sum of \$20 per month, according to the recommendation of C. C. Evans, Esq., attorney for petitioners, in such proportions as were set forth in said recommendation. Petition granted and recommendation as to parties and proportion of payment accepted by court.

The Court awarded citation on I. W. McKelvy, on petition of executors of Martha McKelvy, deceased, and Hattie C. Rutter, for a citation in re estate of William McKelvy, deceased.

The commitment of Warren Bloom in the Oyer and Terminer, was transferred to the Quarter Sessions.

At this juncture Col. Freeze addressed the Court and members of the Bar on the death of the late Chief Justice of the Supreme Court, J. Brewster McCollum. He said:

I am under obligation to the Court and also to the courtesy of the members of the bar for leave to say a few words this morning in commemoration of the Honorable J. Brewster McCollum, late Chief Justice of the Commonwealth of Pennsylvania.

Judge McCollum was born about the year 1832 or '3 in the county of Susquehanna, in the state of Pennsylvania, and passed almost all his life within its borders.

He studied law and was prepared for admission to the bar under Mr. R. B. Little, one of the members of a family of great lawyers; and in addition to the instructions that he received from his preceptor, he was aided by great natural abilities.

The Goddess of Good Luck presided at his birth, and the concatenation of circumstances which has enabled Judge McCollum to rise from the bar to the highest place in the judiciary of Pennsylvania is a little curious.

He was admitted to the bar about the year 1855 and practiced in the county of Susquehanna where he was admitted, until his elevation to the bench. And it is one of the curious facts—of which I shall mention several—that he was nominated for the bench and elected in a county largely Republican, being himself, however, a Democrat of the old school.

While upon the bench of the county of Susquehanna and the district to which it belonged, we came to be acquainted with him here in Columbia county, because upon several occasions during the time when Judge Elwell was in ill health, Judge McCollum was called here to preside over our Courts. All the members of the bar who were in attendance upon these sessions cannot help but remember, and must have been struck at the time by the urbanity and quiet

with which he maintained order, and carried forward without a jar or difficulty, the general business of the Court.

All the cases that were tried, in some of which I had the honor to have a part, were tried with equal care and judgment. And we were much impressed by the fact of the great knowledge of the law which Judge McCollum exhibited, his ability to grasp a point as soon as it was stated to him, and the knowledge of the law that he possessed in the application of it to any case that came before him. In some of these cases, one in particular, I remember the President Judge of this Court was one of the trial lawyers upon the other side. I do not think I ought to have any hesitancy in saying that I was beaten in the case.

Another case that I tried before him, which was one of very considerable importance, was not decided by Judge McCollum until three or four days before he took his seat upon the Supreme Bench.

It is a little curious in another matter, to show that the Goddess of Good Luck was always with Judge McCollum, that his term upon the bench in Susquehanna county expired about the time that there happened to be an election of a Justice of the Supreme Court.

We all know that the constitution and the laws of the State of Pennsylvania were such that when there was but one judge to be elected, as the condition of politics is at present, the Republican candidate was sure of an election. But Judge McCollum's friends in the upper end of the State had rallied to his support and were insisting very strongly upon his nomination to that office, although at the time it was impossible in the ordinary current of events to elect him.

I had the honor of being a member of the convention which nominated the Judge at that time; and when we boarded the train here at Bloomsburg we found it filled with delegates and friends of Judge McCollum from the upper end of the State.

It happened, however, that not very long before the occasion of which I am speaking, another gentleman had, at the instance of Judge Elwell, during his protracted ill health, been called here to hold Court, with whom we were extremely pleased; a man of less polished manners, perhaps, than Judge McCollum, of some more apparent force of character and speech, but a good lawyer who tried cases remarkably well. I allude to Judge Bucher, of Union county.

When it came to be ascertained by an interchange of views between the gentlemen from the northeast and ourselves that Judge Bucher was our candidate, the leader of the forces of Judge McCollum came to me and said: "If you gentlemen are in favor of Judge Bucher and it should happen that Judge Bucher retires from the contest or cannot make the nomination, we would be glad if they would go for Judge McCollum." I said to him, after consulting our friends in the different parts, that we would do so very gladly; that we knew him quite well.

Before we got to Harrisburg, where the convention was being held, word came to us by some messenger that Judge Bucher had concluded to retire from the contest, mainly because, as the Constitution and laws are, when but one candidate was to be elected to the Supreme Bench, he would of course be the candidate of the dominant party, and there was no chance for a Democrat.

Judge McCollum, however, through his friends stood to the contest, and with a little work on the part of his friends, was nominated and he went upon the ticket. That was another evidence of the fact that the Goddess of Good Luck was with the Judge.

It happened, as another fact in connection with the matter, that Judge Trunkey, who was at that time in Europe for his health, died during the campaign. The result of that death was that there were two vacancies to be filled, and as no man could vote in a case of that kind for more than one, thereby Judge McCollum's election was as sure as that of Judge Mitchell. When the vote was counted of course that was the result and Judge McCollum went upon the Supreme Bench.

Another curious fact was, that under the law, when two judges are elected at the same time to the Supreme Bench, they drew lots for the right to take the oldest dated commission and to have the first Chief Justiceship, and in that, as in all his life before, Judge McCollum drew the lot and was entitled, by virtue of that, to the first Chief Justiceship when his turn came although he was elected at the same time with Judge Mitchell. In that way he came to be upon the Supreme Bench, and came to be Chief Justice.

I don't know that I need to say with how much care and judgment and legal knowledge and gentlemanly and kindly manners toward all members of the bar who practiced before him, Judge McCollum conducted the affairs of that Court during the time when he was Chief Justice. But his legal skill, his urbanity, all that goes to make up a judge, and a good judge, belonged to Judge McCollum.

The history of his life is, therefore, one that has a great many features in it; things that could not have happened to anybody, except for the apparently fortuitous incidents that were connected with them and immediately preceded the Judge's advancement.

It is impossible to say what may have been the reason for all these happenings, and we can only suppose that in the ways of inscrutable Providence something was known of Judge McCollum, of his own psychological influence over all men who ever came in contact with him that naturally turned them toward him, and that the death of Judge Trunkey was, perhaps, the crowning point of his career.

Whatever we may think, however, and whatever we may say, one thing is certain: that Judge McCollum won his honors fairly and wore them well.

W. H. Rhawn:—Gentlemen of the Bar: At this time and upon this occasion I offer the following resolution: That a committee of the members of the bar of this judicial district be appointed to draft appropriate resolutions to be spread upon the minutes of this Court, and to be conveyed to the family of Chief Justice McCollum, deceased.

C. A. Small, Esq., seconded this motion, which carried.

The Court then appointed William H. Rhawn, Colonel John G. Freeze and C. A. Small, to draw up proper resolutions.

Petition of Anna M. Skeer for further allowance of \$300 for the support, maintenance and education of her ward, Joseph Skeer; granted, and order made accordingly.

Argument in the case of Ada Scott vs. Harvey Carl and Jennie Carl. Judgment was entered upon a bond in mortgage, and execution issued thereon, the defendants in question insured, beside the usual bond in mortgage, with a collection fee allowed as part of mortgage of ten per cent. The contention was over the payment of the costs of execution and sale, amounting to about \$75 or \$100, and over the payment of attorney's fee of \$35.00 to C. A. Small, Esq., who secured assignment of the mortgage from Ada Scott to himself. The Court took the matter under consideration.

The petition of M. A. Bibby, guardian, vs. H. R. Grimer, deceased, was a dispute over an attorney's fee of \$65.77, now in hands of Sheriff.

Exceptions to Auditor's report in the estate of Abram Whitner, deceased, which was confirmed nisi on September 7th, was argued.

Motion by Hon. William Chrisman to quash indictment against John Harris and Henry Deighmiller, Supervisors of Hemlock township, for non repair of road, leading from the Red Rock Bridge to Mordansville, because the indictment failed to conclude to the common nuisance of the citizens of the Commonwealth of Pennsylvania. Judge Little took the papers in the case.

Mr. Benjamin Chapin as President Lincoln.

Mr. Benj. Chapin will appear in Normal Auditorium on next Monday evening Oct. 12, in a splendid portrayal of President Lincoln.

This is no mere caricature. It is a great study by a thoughtful student of biography. Mr. Chapin's work is of the highest order, absorbingly interesting and deeply impressive.

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Divorce Was Not Show's Nemesis.

We have been requested to contradict the report printed in a local contemporary which stated that "On the Trail" which appeared in Bloomsburg Monday night was closed because of domestic troubles. Such was not the case. The show was called in simply because it was not making any money for its owners. Mr. Peck, who was here with the Company, is a part owner. In conversation with the COLUMBIAN representative Monday afternoon, he stated that he had received word from Leon Washburn, the other half owner, suggesting that he pay their people the salaries due them and close. He accordingly telegraphed Mr. Washburn for \$500, and the money arrived by U. S. Express money order Tuesday morning. Mr. Peck left here at once to look after his interests in other shows.

It is true that Leon W. Washburn's wife has instituted proceedings for a divorce, and has attached the receipts of his No. 2 and 3 Uncle Tom's Cabin Co's. at their future stands, but these proceedings had absolutely nothing to do with the "On the Trail Co." neither have they any bearing on Mr. Washburn's company which appears here tomorrow evening, it being his No. 1 Company. The ponies belonging to "On the Trail" were left here to be picked up by Uncle Tom's Cabin Co. tomorrow.

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