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# PROCEEDINGS

BEFORE THE

## Supreme Court of New Jersey

IN MEMORY OF

### Justice Harry Heher

May 8, 1973

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CHIEF JUSTICE WEINTRAUB: Ladies and gentlemen, the Court constituted a committee to prepare a suitable memorial to commemorate and record the contribution of Mr. Justice Harry Heher to the judiciary and to this Court. The committee was headed by Judge Sidney Goldmann and I understand he is unable to be here today and Mr. Wise will speak for him, or for the committee. Mr. Wise.

MR. WISE: May it please the Court, I'd like to say first that it is not only an honor to be able to be here to give this memorial to Justice Heher, but a privilege to do so in the words of Judge Goldmann.

In this fleeting moment of time we pause to record our enduring memory of Justice Harry Heher, for so long our colleague and mentor in the law. Affection and respect inspire this resolution and this recollection of things past.

Justice Heher was intimately concerned with the challenges of the twentieth century. Physically imposing and of stern mien, Justice Heher was withal a courtly, considerate and kindly gentleman. His was an inquiring and independent mind; the realities of contemporary life, the justice and equity of the matter, were the touchstone and concern of his thinking.

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A recital of the principle milestones of the 83 years he spent among us provides the merest outline of a rich and varied life span. Harry Heher was born in Trenton on March 20, 1889, of parents of modest means. His formal education ended when he graduated from the commercial course at Trenton High School in 1907.

The legal profession early attracted him. He studied law with Charles E. Gummere, an able and demanding preceptor, and was admitted to the Bar of New Jersey at the February 1911 term of our former Supreme Court. He conducted an active practice in Trenton until 1932, when Governor A. Harry Moore gave him an interim appointment as Associate Supreme Court Justice to succeed Justice Luther A. Campbell who had just become Chancellor. Justice Heher ascended the bench on October 24, 1932. The Senate confirmed his nomination for a full seven-year term at the ensuing session of the Legislature. He was reappointed in 1940 and 1947, and when the electorate approved the new State Constitution at the 1947 General Election, Governor Alfred E. Driscoll chose Justice Heher as one of his seven appointees to this Court on December 8, 1947. A second term followed upon reappointment in 1954.

In all, Justice Heher graced our highest courts for 27 years until his retirement on March 19, 1959. These were years of rich and valued accomplishment across the entire spectrum of the law. To rehearse his contributions — a number of them considered leading authority — would indeed launch us upon an almost endless recital. Whether one looks at his opinions in labor relations, municipal law, contracts, torts, administrative law, trusts, taxation, constitutional law — wherever he lent his pen to shaping our jurisprudence — there is evidenced a questing spirit, a liberal view, a mastery of facts and authorities. And always one finds a dedication to the equity of the matter. He often spoke of the natural law as a guide to judicial thought, and his opinions are instinct with that philosophy.

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Justice Heher's persistence in exploring the full reach of the case at hand sometimes led him beyond the immediate to indicate, by dictum, what might yet be. To fault his scholarship on that account would be cavalier. As one writer who analyzed Justice Heher's opinions has said, "when one cuts a new path in the forest of the law, he may be excused for not keeping his dimensions to mathematical precision." What is important is Justice Heher's thorough and scholarly treatment of issues, the force and thrust of his writing, whether in majority or dissent. The literary flourish, the epigram, the colloquial, are notable by their absence. Rather, the strength of his opinions lies in their solid, practical and straight forward quality in reaching for the just result.

Retirement did not put a period to the Justice's active interest in matters legal. Until almost the end, never a day passed but what he walked to the law office with which he had associated himself, there to enter actively into the work at hand.

No account could be complete without mention of Justice Heher's interest in politics before accepting judicial appointment. What started in 1912 as a hobby (to use his description) soon became an important part of his life. He served as chairman of the Mercer County Democratic Executive Committee from 1915 until 1922. He was at that time elected chairman of the State Committee, an office which he held until he came to the bench in 1932. He was delegate to the Democratic National Convention in 1924, and again in 1928 and 1932 when he was chairman of the State Delegation.

Harry Heher had an unquestionable talent for practical politics, a capacity for constructive party leadership. Politics was in his blood, but he had to forego what was an absorbing avocation when he donned the judicial robe.

So much for biographical prologue. What of the man himself?

Denied the advantages enjoyed by so many in his earlier years, Harry Heher persisted in gaining his heart's desire

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— the law. In time he attained the highest office the New Jersey judicial system affords. In that position of eminence, as in his law days before and after, he won the respect of all who knew him, in his native Trenton as well as throughout the State. He served the people with notable devotion and competence for some three score years. He never lost the most precious of all man's possessions — an admirable personal character and a deeply-held affection for family, friends and associates.

Natural talent and a determination to excel in whatever he undertook brought him merited rewards — in his law practice, in politics, and eventually on the bench.

When one thinks upon the man who is no longer with us we must realize how much his useful life was enriched by spiritual values. He found strength in his faith, in the love of his wife Anne and his sons Harry, Jr., John and Garrett, and in the respect paid him by his colleagues and countless friends.

Justice Heher was of a generation now almost gone. But the qualities and values he believed in and so unremittingly embraced should serve as exemplars for all who hold devotion to family, to the community and to government above all price and ambition.

To pay tribute to the memory of such a man is fitting, but even more so is it to emulate the way of life he stood for. A noble spirit has left us, and all who knew Harry Heher as citizen, lawyer and judge stand diminished thereby. Thank you.

CHIEF JUSTICE WEINTRAUB: Thank you very much, Mr. Wise. The memorial has certainly captured the essence of Harry Heher. Mr. Justice Jacobs will speak for the Court.

JUSTICE JACOBS: The committee's presentation is greatly appreciated and there is little to add. I had the special fortune to practice before Justice Heher and to sit with him in our former judicial system as well as in this Court.

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His opinions from the very start displayed his tremendous ability to master the facts and the law, but far beyond that, they displayed his passion for justice and his compassion for his fellow man. Almost immediately after he became a Judge he was to alter the course of labor law within our State in a well known opinion which greatly strengthened the rights of working men. His voice was heard early and often in support of broad approaches to workmen's compensation and most of his liberal views, expressed originally in dissent, were later embraced in majority opinions of his own and his colleagues.

His insistence on fair treatment for all was carried over into other fields of the law, including the criminal law. He gave early support to broad discovery principles to the end that criminal trials would be genuine searches for truth and justice rather than gaming events. He vigorously opposed watering down the double jeopardy principle and although in the *Hoag* case he was unable to swing a fourth vote his way he lived to see his dissenting views accepted not only by the members of our Court but by the United States Supreme Court as well.

Many other grand opinions by Justice Heher come to mind but this is neither the time nor the place for detailing them. His opinions all forcefully demonstrated that the Court on which he sat was not only a Court of law but a court of justice as well. Those of us who sat with him know best that he was truly one of New Jersey's legal giants. A recent Law Journal tribute to him, under the beautifully apt caption, "An Ideal Judge", concluded, as I now shall, with this encomium:

"Although at home in all branches of the law, Justice Heher was at his best in the field of equity. He loved equity. To him equity was a way of life. Indeed it may be said that all of his opinions breathe a spirit of equity and righteousness which exalt the law. Justice Heher loved his judicial work. It was his vocation and his avocation. His opinions have enduring worth \* \* \*."

We take delight in citing them and I am sure our successors will do the same. Thank you.

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CHIEF JUSTICE WEINTRAUB: Thank you very much, Justice Jacobs. Mr. Wise?

MR. JAMIESON: Mr. Chief Justice, I think there is a matter of —

CHIEF JUSTICE WEINTRAUB: Yes. Mr. Wise, I think, was going to present you, Mr. Jamieson.

MR. JAMIESON: Okay.

CHIEF JUSTICE WEINTRAUB: All right.

MR. WISE: On behalf of the committee and the family, I would like the privilege of presenting Mr. Thomas Jamieson, President of the Mercer County Bar Association who will make a presentation to the Court.

CHIEF JUSTICE WEINTRAUB: Thank you. Mr. Jamieson?

MR. JAMIESON: May it please the Court, upon the occasion of his retirement from the Supreme Court in 1959, the Mercer County Bar Association presented to Justice Heher the portrait which we see here which was done by a noted artist, John Follingsby. It was Justice Heher's desire that this portrait be presented to the Court and so, on behalf of the Mercer County Bar Association and the Justice's family, Mrs. Heher and his three sons Harry, Jr., John and Garrett, I am pleased to make this presentation and to take this opportunity to thank the Court for its willingness to accept this gift which brings further honor to this distinguished jurist.

CHIEF JUSTICE WEINTRAUB: Thank you very much, Mr. Jamieson. The Court is delighted to have this portrait and I assure you it will be with us and our successors as a con-

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stant reminder of his really great contribution. Thank you very much. And all members of the committee, may I express the thanks of the Court for your participation in the program and to all of those in audience, may we thank you too for attending today. Thank you.