



JUSTICE RALPH L. MAXWELL
FIRST DISTRICT

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE MARCH
TERM, 1957, ON THE LIFE, CHARACTER AND PUBLIC
SERVICE OF THE LATE MR. JUSTICE
RALPH L. MAXWELL

At the hour of two o'clock P.M., March 11, 1957,
other business being suspended, the following proceedings
were had:

MR. CHIEF JUSTICE KLINGBIEL:

This hour has been set aside for the purpose of receiving a
memorial concerning the life and public services of the late Mr.
Justice Ralph L. Maxwell. The court will be pleased to hear from
Mr. Dan McGlynn of East St. Louis, in the First Supreme Court
District.

MR. DAN MCGLYNN:

May it please the court—At the request of the members of the
bar and judiciary of the First Supreme Court District, I am hon-
ored by the opportunity to participate in these services to pay
tribute and respect to the memory of our departed friend and
brother, Justice Ralph L. Maxwell. I approach my part on this
program with mixed emotions. Not only do we pay tribute to
Judge Maxwell for his outstanding service as a lawyer in his own
county, as judge of the circuit court of the Third Judicial Circuit,
and as a distinguished member of this great tribunal, but, also,
I desire to pay tribute to him as a close and cherished friend.
It is not too difficult an assignment to speak of his outstanding
public service, but I feel an utter inadequacy to render proper
tribute and respect to him as a friend. Here, words seem to be
hollow and insufficient.

The great orator, John Temple Graves, in his memorial address on the life and achievements of that southern statesman Henry Grady, used finely turned phrases of matchless imagination when he said:

"I have seen the light come over the eastern hills in glory, driving the lazy darkness, like mist before a seaborne gale, till leaf and tree and blade of grass sparkled as myriad diamonds in the morning rays, and I have thought it was grand. I have seen the lightning leap at midnight athwart the storm-swept sky, shivering over chaotic clouds, mid howling winds, till cloud and darkness and the shadow-haunted earth flashed into midday splendor, and I have known that it was grand. But the grandest thing, next to the radiance that flows from the Almighty's throne, is the light of a noble and beautiful life, shining in benediction upon the destinies of men, and finding its home in the bosom of the everlasting God."

This eloquent description might well be a fitting and apt tribute to our departed friend. He, too, joined noble sentiments and burning thoughts with a determination to serve his fellow man that brooked no opposition; and his life and works now constitute a beacon light that illumines the way of hope and aspiration for his fellow man.

Once he had charted his course, he pursued it with a tenacity of purpose and a display of intellectual attainment that brought the admiration and respect of those with whom he labored. He did not look for dangers or pitfalls, but sought only to assure himself of the correctness of his position, and being so assured, he did not hesitate.

Judge Maxwell believed in our judicial system. He believed and supported the constitutional safeguards with which every man in this country is clothed. He could be and was stern with those who had sinned against the law, but at the same time, he did not permit vile hands to be laid upon the constitutional safeguards that protected that man until, under constitutional processes, his guilt had been established. He believed that equal and exact justice should be meted out to all men freely, without sale, fully, without denial, and speedily, without delay. Although he demanded strict compliance with all proper and accepted precedents and procedures and insisted upon the universal application of the law, yet he at all

times retained that quality of human sympathy and understanding of and for his fellow man.

Many times have I heard him say that he would not remove the bandage from the eyes of justice, but that if it should slip, ever so little, he would wish it to show only the side of the weak and the oppressed.

Judge Maxwell was endowed by nature with a superb gift of intellect and with the disposition to use it. Therefore, early in life the people in his community called upon him to render public service and elevated him to high positions of trust and responsibility. He served with distinction as State's Attorney of Washington County. He was then called upon to serve as a judge of the circuit court of the Third Judicial Circuit and he served with equal distinction. With the record of fine public service that he had thus made, the people of the First Supreme Judicial District called upon him to sit with his brothers on this exalted court, where he continued to render, but on a larger scale, the same outstanding and impartial service to the people of the State of Illinois.

In these troubled days of world tension when it seems that evil forces are seeking to strike down almost everything that we hold dear, it seems unfortunate indeed that men and public servants of the type of Judge Maxwell should be called away so early in life. However, we may well say that while his span here was short, yet to the fullest extent he used it, in the service of his people. He had a profound knowledge of our country's history, both legal and lay; the permanent interest and welfare of the United States were sacred to him and he sought always to promote and defend that interest. Not only in the field of law, but in any other matter of community interest where he lived, he took an active part to the end that, insofar as he might help, his community would be a better place in which to live.

He shared the joys and sorrows of life; sometimes he suffered disappointments as do we all; but more often, he experienced the satisfaction born of successful endeavor. So that he was entitled to say, as I believe he must have said at the end of the journey, in the words of John Quincy Adams: "I have the approbation of my own conscience."

I should feel that my part in these memorial services was far less than adequate if I did not recount that Judge Maxwell, along

with his other sterling qualities, had the welfare and comfort of his family in mind at all times, and it was a matter of prime concern to him. He was married to a sister of the distinguished lawyer who today has taken his place on this court as his successor. He was the proud father of a daughter, who herself is a member of our great profession. He has seen to it that she has been provided with the finest education. In short, during all his married life, the wants, needs, and desires of the members of his family have been commands to him. And I am sure that the last summons that he has answered has produced a void and regret in his family that time alone can soften to any extent.

Finally, I trust your Honors will induge me one further comment. It is difficult enough to pay proper tribute to the memory of a departed public servant whose service to his people has been as outstanding as has Judge Maxwell's,—but it is so much more difficult when such departed public servant is at the same time a trusted and cherished personal friend. The untimely death of Judge Maxwell strikes me doubly hard because he was my friend, and I his. Unlike many men with superb qualities otherwise, Judge Maxwell was capable of being a friend. We visited socially, and when I was apprised of his physical condition last summer, I, like many other of his true friends, tried to ascertain whether there might be something that I could do that would alleviate his condition and suffering to which finally he succumbed. At the risk of being sentimental, sirs, friendship is one of the most satisfying and compelling relationships that exists between men. And so I say frankly, that the passing of Judge Maxwell has left within my being a feeling of regret that even time cannot erase.

And so the curtain falls upon the life of a fine, outstanding citizen. Lawyer, prosecutor, jurist, husband, father, friend—to him the untimely end has come. And while we are stricken with grief that the Ruler of the Universe has seen fit to summon him home, we know that our community and our State are the better that he lived.

Death, my friends, is not an end; it is a separation, a transition, a beginning. So that while we here today mourn the departure of our friend from this earth, yet we may well believe that he has passed on to the beginning of a new existence, free from the troubles, turmoils, burdens, and vicissitudes of this life to that

undiscovered Country where, on the bright and glorious morning of some tomorrow, we shall all be united again.

Therefore, instead of weeping, let us look up and address him in the words of the poet:

“Thy day has come, not gone,
Thy sun is risen, not set,
Thy life is now beyond the reach of death or change,
Not ended, but begun.
Oh, gentle heart! Oh noble soul!
Hail and farewell.”

MR. CHIEF JUSTICE KLINGBIEL:

The court will be pleased to hear from the Illinois State Bar Association which is represented by its President, James G. Thomas of Champaign.

MR. JAMES G. THOMAS:

May it please the court—Illinois Supreme Court Justice Ralph L. Maxwell, of Nashville, passed away on Wednesday, August 29, 1956, at the age of 51 years.

Judge Maxwell was born in Nashville, Illinois, on April 9, 1905, the second son of the late Ira Maxwell and Laura Reidelberger Maxwell.

Ralph L. Maxwell received his elementary schooling in Nashville, and condensed four years of high school studies into two while he worked as a power company lineman. He graduated from the University of Illinois in 1931 with a Bachelor of Arts degree, and in 1932 with a Bachelor of Law degree from the University of Illinois College of Law, and immediately commenced the active practice of law in Nashville.

Justice Maxwell was married to the former Beulah House of Nashville. They have one daughter, Madalyn, who is an Assistant Attorney General of Illinois, and resides in Springfield.

The life and record of Mr. Justice Ralph L. Maxwell is mute testimony that man's accomplishments are not measured by days on earth. In the relatively short time that he graced the bench and bar of Illinois, judges and lawyers alike were inspired by his devotion to the duties and obligations of the legal profession.

As a competent and capable practicing attorney, Justice Maxwell fulfilled every responsibility to his clients, and as State's Attorney of Washington County he made an outstanding record as a public servant. In 1945 he was elected a judge of the Third Judicial Circuit and, after serving with distinction for a full term, was elected to the Illinois Supreme Court. Modest and unassuming, he applied himself diligently to his judicial duties, fairly and impartially rendering justice. In his opinions we and future generations of lawyers will find everlasting evidence of his competence.

Daniel Webster once said, "Justice is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness, and the improvement and progress of our race. And whoever labors on this edifice with usefulness and distinction, whoever clears its foundations, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher in the skies, connects himself, in name, and fame, and character, with that which is and must be as durable as the frame of human society." It was thus that Justice Maxwell labored.

MR. CHIEF JUSTICE KLINGBIEL :

The court has received with appreciation and with gratitude these observations upon the life of our great colleague. Mr. Justice Bristow will respond for the court.

MR. JUSTICE BRISTOW :

The Chief Justice has asked me to express for the court our appreciation of the resolutions presented here today honoring the memory of the late Mr. Justice Maxwell and our concurrence in the words of eulogy that have been spoken of our associate.

It was during the March term just one year ago that this court discovered that Ralph was a very sick man. When he arrived for the May term it was evident that there was no improvement although he had been treated by his local doctor for what he diagnosed as stomach ulcers. When we all came together again in June for another conference, his marked deterioration was noticeable and frightening. Suspecting the presence of cancer, Ralph

was prevailed upon to consult an expert in that field in Chicago. A thorough and complete examination at the Presbyterian Hospital in that city revealed the sad news. He then proceeded to Rochester, Minnesota, where the Mayo Clinic confirmed this diagnosis. However, with his characteristic fortitude and unflinching desire to live, he traveled daily from his home in Nashville, Illinois, to the Barnes Hospital in St. Louis, Missouri, where he received severe radium treatments. All this was without success, for medical science to this date has found no answer for this type of cancer. Ralph died at 2:12 A.M. on Wednesday, August 29, 1956.

Ralph Maxwell was a self-made man in the Lincoln tradition. He received all of his secondary education after he was grown, married and the father of a daughter. In two years he received his high school diploma. At the University of Illinois he conquered a seven-year course in the span of five years.

Thus finishing his preparation for his profession, Judge Maxwell returned to his home town of Nashville, Illinois, to become a practicing lawyer. Shortly thereafter he was elected State's Attorney of Washington County, and as evidence of his sterling performance in that important office he was twice re-elected.

Talent such as he possessed, made it inevitable that he should quickly achieve recognition beyond his local community. In 1945 he was elected judge of the Third Judicial Circuit. This was a signal honor, since he was selected from one of the smaller counties in a heavily populated area, and then with surprising quickness his advance on the professional ladder was marked with his election to this court from the First Supreme Court District in 1951.

Ralph in his younger days was a superior athlete, and his ability and skill in baseball and basketball was known throughout southern Illinois. He undoubtedly would have played on the varsity of both sports at the University of Illinois, but being a father, a husband, and a busy student he had no time for athletics. As a boy, Ralph learned the strength and solace that comes from nature and out-of-doors life. He was an ardent fisherman and hunter. As a camper he excelled everyone as a cook. He could prepare a complete meal and have every ingredient ready for the table in timely fashion.

Ralph was an extremely valuable and delightful personality on our court. Friendliness was one of his outstanding characteristics.

His engaging humor, his refreshing modesty, frank and forthright manner of expression, his loyalty to his friends, and his deep sense of gratitude endeared him to all who knew him. He never turned his back upon a friend and never forgot a favor. These were guiding precepts in his life.

Ralph was not given to superfluous and inane talk. He was shy in that he was completely unassuming, yet he never lacked courage to take a stand. It was because of his timid nature that Ralph asked Justice Hershey to take his turn as Chief Justice of this court, which according to our system of rotation, fell to Justice Maxwell. At the conclusion of the May term last year, Justice Hershey very thoughtfully asked Ralph to try his hand at presiding, which he did excellently, so with that confidence he then resolved to assume the responsibilities of Chief Justice in the fall.

Many, many times this has occurred: After a prolonged and heated discussion of a problem in a conference of all of the judges, and a solution of the problem under debate had not yet been reached, one of the group would say: "Ralph, I am anxious to hear your views, so far you have said nothing." He had the faculty of stripping away nonessentials and laying bare the heart of a controversy. In agreement or disagreement his position was always abundantly clear.

During his five years on this Court, Justice Maxwell was the author of 139 opinions, starting in Volume 410 and ending in 9 Illinois 2d. During this period a number of vitally important questions arose and were decided. In *People v. Gholson*, 412 Ill. 294, in a learned opinion he wrote "The doctrine of purgation by oath will no longer be adhered to by this court, and all previous decisions of this court upholding and applying that doctrine * * * are hereby expressly overruled." "The power to punish as contemptuous, acts obstructing, impeding or burdening orderly and impartial administration of the judicial process is inherent in the courts and has been since their inception. Yet the common-law rule of purgation by oath practically emasculates that inherent power." By assuming the slight risk of a perjury charge, a contemnor can escape punishment by filing a verified answer denying the charge. Judge Maxwell refused to "follow this anachronistic rule."

Filled with human understanding and good humor is his famous case of *People v. Hermes*, 5 Ill.2d 277. "This case involves three very bibulous miscreants and nine little pigs that illegally went to market." In this vein of permissible levity, the opinion continued and was concluded by awarding the alleged wrongdoer a new trial. In our joint deliberations and in his opinions, Ralph made valued contributions to the product of this court.

As a circuit judge, Ralph was called upon to preside in the circuit court in Randolph County, where many times he had occasions to pass upon the various petitions of the inmates of Southern Illinois Penitentiary which is located in that jurisdiction. He became an authority in that field of law. During the past five years, because of the new post-conviction law, we have been literally swamped with prisoners' claims that they are being detained illegally. Some of these petitions contain valid charges that their constitutional rights have been violated. It requires a careful reading and study of all of them so that those with merit are not overlooked. Ralph, with remarkable willingness, did more than his share of work in this department.

Judge Maxwell was constantly assisting his constituents in their quest for political appointments. It was only six weeks before his passing that he came to see Governor Stratton and procure the appointment of Byron O. House as circuit judge to fill the vacancy left by Judge Juergens when he advanced to the Federal Bench of the Eastern District. Ralph's last public appearance was in the Court House at Nashville, Illinois, on July 11, 1956, when he administered the oath of office to Byron O. House as circuit judge. Isn't it a remarkable coincidence or indeed a happy turn of fate that only this morning there was seated on this bench in Ralph's place his own brother-in-law, Byron O. House, the man whom he started on his judicial career?

This short canvass of things of importance in Justice Maxwell's life would indeed be incomplete without a reference to his wife and daughter. Beulah was a gracious and devoted wife. It required determination and willpower for Ralph to acquire his formal education at such a late stage in life. Beulah supplied much inspiration for the accomplishment of this difficult undertaking. She was like an angel of mercy in his final days, for, without exception, she went with him on his daily journeys to the

St. Louis hospital. The relationship between Ralph and Madalyn was a beautiful one. There was a genuine mutuality in their admiration, devotion and loyalty. They were very proud of each other's progress in life.

In Nashville, Ralph's memory will long be an inspiration to those who revered him as a country lawyer, a jurist and a friend. On this court we shall greatly miss Ralph's wise counsel and genial companionship.

MR. CHIEF JUSTICE KLINGBIEL:

The remarks made here today will be spread upon the records of the court and copies thereof will be transmitted to the family of the late Mr. Justice Maxwell by the Reporter of Decisions. As a further mark of respect the court will stand adjourned until 9:30 o'clock A.M., Tuesday, March 12, 1957.

KFF
1245
.A2
2nd ser
v. 11

SUPREME COURT LIBRARY
SPRINGFIELD, ILLINOIS

REPORTS
OF
Cases at Law and in Chancery

ARGUED AND DETERMINED IN THE

SUPREME COURT OF ILLINOIS.

SECOND SERIES

VOLUME 11 ILL. 2d

CONTAINING CASES IN WHICH OPINIONS WERE FILED IN MARCH,
MAY, JUNE, AND SEPTEMBER, 1957, AND CASES WHEREIN RE-
HEARINGS WERE DENIED IN MAY AND SEPTEMBER, 1957.

ALSO TABLE OF CASES ON LEAVE TO APPEAL AND
WORKMEN'S COMPENSATION DOCKETS FOR THE
MAY AND SEPTEMBER, 1957, TERMS.

EDWIN HILL COOKE,
REPORTER OF DECISIONS.

BLOOMINGTON, ILL.

1957.

63278