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William H. Keller

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# GREETINGS FROM THE SUPERIOR COURT TO CHIEF JUSTICE KEPHART\*\*

HONORABLE WILLIAM H. KELLER\*

I bring to the guest of honor this evening not only my own personal felicitations but the congratulations and good wishes of every member of the Superior Court. We take some measure of pride in the fact that the guest of honor spent the first five years of his notable career as an appellate court judge on the Superior Court, and that it was recognition of his work in that court that won him his place in the highest court of the Commonwealth. And may I be permitted to suggest that his association on the Superior Court in the formative period of his judicial career with a preeminent appellate court judge, such as President Judge Charles E. Rice, and with eminent judges such as Judge Orlady, Judge Porter, Judge Henderson, Judge Head, and Judge Trexler played some part in fitting him to become the great judge he now is.

It must be a matter of gratification to the guest of honor that his accession to the chief justiceship has met with such general approval and with such hearty good will. He has been swamped with messages of congratulation and he has been feted and feasted almost to the point of satiety, and yet the beauty of it is that it has not affected his balance nor destroyed his equilibrium. I am sure that he will continue in the future, as he always has in the past, to observe Rule VI, of which the late Dwight Morrow was so fond of speaking. You will recall that Mr. Morrow during the War, on one of those patriotic errands which some Senators are unsuccessfully endeavoring to prove were wholly mercenary, called on Sir Joseph Maclean, who was the Minister of Shipping in the English cabinet. While he was there some Under-Secretary came in with a report, and in as positive and self-assured way as Father Coughlin is accustomed to use, he announced what would happen if his views were not adopted. Sir Joseph interrupted him and said, "I am afraid you are forgetting Rule VI," whereupon he folded up his papers and in a rather crestfallen way departed. Mr. Morrow said to Sir Joseph, "What is Rule VI?", and he said, "Don't take yourself too seriously." Mr. Morrow

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\*\*An address at the testimonial dinner for Chief Justice Kephart tendered by the Philadelphia Bar Association and the Lawyers' Club.

\*A.B., Franklin and Marshall College, 1891; LL.B., George Washington University, 1893; LL.D., Franklin and Marshall College, 1920; Admitted to Pennsylvania bar, 1893; Member of firm, Steinmetz and Keller, 1894-99, Coyle and Keller, 1899-1919; First deputy attorney general of Pennsylvania, 1915-19; Judge of the Superior Court of Pennsylvania since 1919, re-elected in 1929.

said, "That is a very good rule. What are the other rules?" He said, "There aren't any."

If the story is true,—and I don't vouch for it, it probably is just a manufactured story,—that a prior Chief Justice rebuked a lawyer, who was arguing before the Court, because he addressed them as "Gentlemen", it was due to a temporary forgetfulness of Rule VI, for I agree with Mr. Justice Maxey that there is a growing conviction both among the Bench and the Bar that there is no irreconcilable incompatibility between being a judge and a gentleman. On the other hand, knowing the Chief Justice as I do, I doubt whether it will be very healthy for anyone while he is acting as Chief Justice to get gay with the Court. The story is told of the late Wilson C. Kress, who was State Reporter at one time, that when he was arguing a case before the Supreme Court which had to do with the Susquehanna River at the City of Lock Haven, one of the Justices said to him, "Mr. Kress, the Susquehanna River at that point runs east and west, doesn't it?" Kress, in that nasal drawl he was accustomed to use, said, "May it please the Court, I have lived all my life in Lock Haven. My home faces the river. It has a broad porch on which I spend a great deal of my time, my leisure hours. My bedroom is in the front of the house directly over the porch, and I have a good view of the river from there. I think, possibly, I am as competent to judge of the matter as anyone, and during all the years that I have known it it has uniformly run east, never west." Somebody said to Mr. Kress, "Kress, did you actually say that to the Court?", and he said, "Yes, and did you hear the result? I lost my case."

The relations between the Supreme Court and the Superior Court have always been pleasant. I can certify that for the past seventeen years we have received nothing but kindness and consideration from the Supreme Court. Of course, we get reversed,—that is to be expected,—but we remember that Holy Writ says, "Whom the Lord loveth he chasteneth," and we accept our chastenings in the same kindly spirit in which they are given. I have no patience with judges who take the reversal of their decisions as a personal affront, or feel that there is some personal animus involved in the decision of a higher court. There are many things that enter into the decision of a case; a judge's approach, his point of view, his understanding of the facts, his interpretation of the law, his philosophy of the law, among other things might be mentioned, but personal animus is not one of them. Generally the opinions that reverse us are so clearly right that we ourselves recognize the error that we committed and wonder how we ever got so far wrong. Occasionally we are not quite so sure about it, and then while we cheerfully accept and follow the ruling of the Supreme Court, we sometimes think sympathetically of the late Judge O'Connor of Cambria County. I have told this story before, but it bears repeating. Judge O'Connor was attending a party at Lancaster given by Honorable W. U. Hensel, when news was brought to him that the Supreme Court had reversed him in five cases out

of six. He turned to his host and said with tears in his voice, and more in sorrow than in anger, "Hensel, this thing grieves me. The Supreme Court ought to know the law."

There is a story told of Campbell of Glenorchy, with a reference to which I will close my remarks. When William the Third was King of England, during the uprisings in the Highlands that followed the expulsion of the House of Stuart, the King asked Campbell of Glenorchy to take Caithness for him. He promised him the title and the possessions of the laird of that county if he would do so. Campbell gathered together a thousand of his clan, made a forced march and arrived at Caithness to find before him fifteen hundred of his enemies prepared to do battle. He told his men who were with him that they were outnumbered but that if they had a stout spirit and the courage that he expected of them, they could win—and they did. In closing he said to them, "Those who stand with me this day, I will stand by them, my sons by their sons, my grandsons by their grandsons." In this spirit of loyalty, Mr. Chief Justice, we bring to you our good wishes, and we tender you our support as under-officers in the great army of justice. We have confidence in your leadership. You have youth and strength, great ability and untiring energy. You have wide knowledge of the law and a clear and forcible habit of expression. And above all you have a sincere desire to do justice, rather than what is merely expedient. These qualities combined with your strong and dominant personality insure the successful administration of your high office.

William H. Keller