

SPECIAL SESSION OF THE SUPERIOR COURT
OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

IN THE MATTER OF:)
)
Ceremony of Investiture) February 9, 1990
)
of) Superior Courtroom No. 301
) Public Building
HON. CHARLES H. TOLIVER, IV) Wilmington, Delaware
)
As an Associate Judge of) 2:00 p.m.
)
the Superior Court)

PRESIDING: Hon. Albert J. Stiftel, President Judge
Superior Court of Delaware

SITTING: Hon. Andrew D. Christie, Chief Justice
Supreme Court of Delaware

Hon. Vincent A. Poppiti, Resident Judge
Superior Court of Delaware

Hon. Vincent A. Bifferato, Associate Judge
Superior Court of Delaware

PRESENT: Victor F. Battaglia, Esquire,

James H. Gilliam, Jr., Esquire

Hon. Michael N. Castle, Governor
State of Delaware

Hon. Leonard L. Williams, Judge
Municipal Court

Rodman Ward, Esquire, President
Delaware Bar Association

Friday, February 9, 1990
2:00 p.m.
Courtroom No. 301

(The Bailiff opened Court.)

PRESIDENT JUDGE STIFTEL: Nice big crowd.

Thank you for coming to the Special Session of the Superior Court of the State of Delaware. Please stand for the invocation by the Reverend Maurice Moyer of the Community Presbyterian Church.

REVEREND MOYER: God of our lives, we invoke your presence just now to this very, very meaningful occasion. We pray that as we move forward, reenacted might be the scene long time ago, when solely man was about to stand in the shoes of his father, David. And he said to God, give thigh servant understanding to judge your people that I might discern between good and bad.

We thank you for this opportunity to see the culmination of love and affection and guidance by the parents of Charles Toliver, who has brought him thus far by faith, and we pray that as he sits upon that seat of importance, people might say of him in his courtroom, justice rolls down as waters, and righteousness as a mighty stream. Amen.

PRESIDENT JUDGE STIFTEL: Thank you, Reverend

Moyer.

New Castle County Resident Judge Joshua Martin left the Court on January 1, 1990 to become Vice President of Diamond State Telephone Company. Judge Poppiti was confirmed as New Castle County Resident Judge to take his place. Then Charles Toliver was appointed and confirmed as Associate Judge of the Superior Court to take Judge Poppiti's vacant position. Now Judge Toliver is to be sworn in as the Associate Judge today, and that is why we are here. The Judges sincerely appreciate the fast action of the Governor and the Senators in effecting their replacements.

Judge Toliver has deep Delaware roots. A fourth generation native Delawarian on his father's side, a third generation Delawarian on his mother's side. He graduated from public schools, and his two lovely daughters are now attending public schools; Denyonne, fifteen, is at Brandywine; and Megan, seven, at Lombardy. We greet them both. They must be proud.

Toliver got his college degree from Hampton Institute and his law degree from the University of Virginia. And as a side, it might be of interest to note that three other judges of this Court got their law degrees

from the University of Virginia, and another got a postgraduate law degree there. Two Superior Court Judges got their law degrees from the University of Pennsylvania, two from Villanova, one from Harvard, one from Yale, one from Catholic University, one from Emory, one from the University of Maryland, one from Delaware, now called Widener Law School, and, lastly, one from Dickinson.

Toliver worked two summers while in law school for Jim Tunnell, and then got Bill Poole of Potter, Anderson and Carroon to be his preceptor. No wonder he got to know so much law so early on.

Charles went to work for Leonard Williams for several years, and later joined the firm of Biggs and Battaglia, which he is now leaving.

Charles Toliver has all kinds of credits and credentials that presumably will be mentioned by the speakers that are here today. The list of his accomplishments is very long and impressive, but as I said before, I will leave that to others.

But before all that, he must be sworn into office. When the oath is being administered, I request that the audience stand. The Bible, his father's, will be held by Charles Toliver's children, and Judge Vincent J. Poppiti, a

University of Virginia Law School graduate, will robe him.

I now call on the Chief Justice, Andrew D.

Christie, a University of Pennsylvania Law School grad, to administer the oath. Chief Justice Christie.

Please stand.

CHIEF JUSTICE CHRISTIE: Will the two young ladies please hold the Bible. And, now, will Mr. Toliver place his right hand upon the Bible.

Mr. Toliver, are you ready to take the solemn oath of office as an Assdociate Judge of the Superior Court of the State of Delaware?

JUDGE TOLIVER: Yes, I am.

CHIEF JUSTICE CHRISTIE: Will you repeat after me the various phrases of this somewhat lengthy oath.

I, Charles H. Toliver, IV . . .

JUDGE TOLIVER: I, Charles H. Toliver,
IV . . .

CHIEF JUSTICE CHRISTIE: . . . do proudly swear . . .

JUDGE TOLIVER: . . . do proudly swear. . .

CHIEF JUSTICE CHRISTIE: . . . to carry out the responsibilities . . .

JUDGE TOLIVER: . . . to carry out the

responsibilities . . .

CHIEF JUSTICE CHRISTIE: . . . of the office
of Associate Judge . . .

JUDGE TOLIVER: . . . of the office of
Associate Judge . . .

CHIEF JUSTICE CHRISTIE: . . . of the
Superior Court . . .

JUDGE TOLIVER: . . . of the Superior
Court . . .

CHIEF JUSTICE CHRISTIE: . . . of the State
of Delaware . . .

JUDGE TOLIVER: . . . of the State of
Delaware . . .

CHIEF JUSTICE CHRISTIE: . . . and to the
best of my ability . . .

JUDGE TOLIVER: . . . and to the best of my
ability . . .

CHIEF JUSTICE CHRISTIE: . . . freely
acknowledge . . .

JUDGE TOLIVER: . . . freely
acknowledge . . .

CHIEF JUSTICE CHRISTIE: . . . that the
powers of this office know . . .

JUDGE TOLIVER: . . . that the powers of this office know . . .

CHIEF JUSTICE CHRISTIE: . . . fom the people . . .

JUDGE TOLIVER: . . . from the people . . .

CHIEF JUSTICE CHRISTIE: . . . I am privileged to represent . . .

JUDGE TOLIVER: . . . I am privileged to represent . . .

CHIEF JUSTICE CHRISTIE: . . . I further swear . . .

JUDGE TOLIVER: . . . I further swear . . .

CHIEF JUSTICE CHRISTIE: . . . always to place the public interest . . .

JUDGE TOLIVER: . . . to place the public interest . . .

CHIEF JUSTICE CHRISTIE: . . . above any special or personal interests . . .

JUDGE TOLIVER: . . . above any special or personal interests . . .

CHIEF JUSTICE CHRISTIE: . . . and to respect the right of future generations . . .

JUDGE TOLIVER: . . . and to respect the

right of future generations.

CHIEF JUSTICE CHRISTIE: . . . to share the rich historic . . .

JUDGE TOLIVER: . . . to share the rich historic . . .

CHIEF JUSTICE CHRISTIE: . . . and natural heritage of Delaware . . .

JUDGE TOLIVER: . . . and natural heritage of Delaware . . .

CHIEF JUSTICE CHRISTIE: . . . in so doing . . .

JUDGE TOLIVER: . . . in so doing . . .

CHIEF JUSTICE CHRISTIE: . . . I will always uphold and defend the Constitution . . .

JUDGE TOLIVER: . . . to uphold and defend the Constitution . . .

CHIEF JUSTICE CHRISTIE: . . . of my country . . .

JUDGE TOLIVER: . . . of my country . . .

CHIEF JUSTICE CHRISTIE: . . . and my state . . .

JUDGE TOLIVER: . . . and my state . . .

CHIEF JUSTICE CHRISTIE: . . . so help me

God.

JUDGE TOLIVER: . . . so help me God.

CHIEF JUSTICE CHRISTIE: Congratulations,
Judge Toliver.

PRESIDENT JUDGE STIFTEL: You may sit down.
Thank you, Chief Justice Christie.

I now call on the Governor of the State of
Delaware, Michael M. Castle, a graduate of Georgetown Law
School.

GOVERNOR CASTLE: Chief Judge Stiftel, since
we are now going to designate all sorts of behind the
memories of the judiciary, I would just like to announce to
the lawyers here, if they went to Georgetown Law School,
make sure your names are submitted next time we entertain
applications for the Judiciary in the State of Delaware.

Judge Toliver, Chief justice Christie, Judges
Bifferato and Poppiti, Vice President Martin -- has a nice
ring to it -- the Toliver family, who I've known for some
of those generations the Tolivers have been in the State of
Delaware, and ladies and gentlemen:

There's a certain concern I suppose in the mind of
any Governor when the swearing in of a Judge attracts more
people than did the inaugaration of the Governor himself.

It is with some trepidation that I approach this particular podium to talk to you, but I think since Judge Toliver is now a Judge of the State of Delaware, he's removed from politics and cannot successfully challenge me politically, so I feel more comfortable with the group that has shown up today.

We thank all of you very, very much for being here. I think the extent and the breadth of the people who are here indicates the popularity of the selection of Judge Toliver to be a distinguished Jurist in what is one of the most distinguished Courts in the entire United States of America, and you have shown that by your appearing here today. And I'm sure that he thanks you, and I would just like to personally thank you as well.

There are a number of speakers to come after me, I'm always glad to be first in this. If you watch the gentlemen in this row right here, you will see them all cross things off as I talk, go through various things that need to be said.

I'm glad to have Reverend Moyer here, who I turned to Judge Williams and said, "He will liven things up now, as he always does." He is a perfect choice to lead us through our blessings here today. And it is a special day

of blessings for a lot of different reasons.

Judge Toliver, as has already been indicated, is extremely well qualified, obviously, by his education, and it's sort of interesting in the mind of a Governor what to look for when you appoint somebody to the Judiciary. I've been very blessed with those opportunities. People I've had a chance to appoint to the Judiciary in the last five years I think have been extraordinary, and I'm very thankful they have come forward to apply to be members of the Judiciary. And while I look for the widest experienced possible, I like to see what else they've done in society, I like to think -- see what people think about them before that decision is made. In your case, sir, so many of those things came forward. We learned so much, most of which I knew, because I had had the opportunity to appoint you to other things in our community and our society. And Mr. Toliver has been somebody who has been willing all these years to come forward and to serve his community in one way or another. Those with whom he has been employed spoke very highly of his legal ability; of no small consequence when one is selecting an attorney to become a Judge, particularly of a Court of this magnitude, which handles so much trial work and so many other important matters as far

1 as the State is concerned.

2 In every test there was, Judge Toliver passed with
3 distinguished honors, as he did through his accademic
4 career, and I was very appreciative of that. Because when
5 the time came to name him to be a Judge of the Superior
6 Court, it became an easy and willing choice for me, and you
7 reflected that here today.

8 And for all those reasons, I just want to convey
9 the thanks of everybody in the State for your willingness
10 to do this.

11 I think another word needs to be stated here
12 today. I attended with Mr. Goodman, we're going to hear
13 today, a dinner last night of former Governor Tom Kean of
14 New Jersey, who is now the President of Drew University,
15 which he started about a month ago. It was a
16 scholarship -- it was a dinner to raise money for minority
17 programs at Drew University, and the speakers there stated
18 their concerns about that. And I think that is a concern
19 for many of us. And I think true leaders in our minority
20 community -- sometimes I don't know what's minority
21 majority anymore. But in any event, true leaders in our
22 minority community I think are vitally important in this
23 day and age. People who have been willing to work hard to

become educated, to work hard to be successful, to set an example for everybody else. A lot of people in this room have done that, but certainly nobody has done it any better than has Judge Toliver. He is a fine example for every single young person who is out there. Somebody we can point to and say, there goes somebody who by the depth of his hard work was able to achieve much more than the average person can achieve. He has done so very much, and he will be and serve as an inspiration for each and every one of us.

For all these reasons, that I take great pleasure and delight in being here today, to welcome you to the bench, sir, to wish you the very best for your twelve years. I will not be around for your re-appointment. The Constitution prohibits me from that. But I am sure twelve years from now that some other Governor will look upon your re-appointment favorably, and will be talking about the astounding term of Charles Toliver as a Judge of our Superior Court. We wish you the very best.

PRESIDENT JUDGE STIFTEL: Thank you very much. Thank you very much, Governor Castle.

Rodman Ward, Jr., a Harvard Law School graduate, a partner in Skadden, Arps, Slate, Meagher and

Flom -- a firm which has almost as many lawyers as the State of Delaware, they have 1053 lawyers in that firm -- the President of the Delaware Bar Association, will now speak to us. Rod.

5 MR. WARD: Judge Toliver, Governor Castle, Chief Justice Christie, President Judge Stiftel, distinguished members of the Judiciary, members of the Toliver family, and an enormous number of distinguished guests.

When I became President of the Delaware State Bar Association, my predecessor, Arthur Connolly, Jr., advised me that he had examined the appropriate entrails and he predicted that insofar as the number of judges was concerned, my term as president would coincide with a lean year. In fact, Judge Toliver is the first Judge whom I have had the honor, on behalf of the Bar, to hail as he enters his office. It has been, I am delighted to say, well worth the wait.

Lawyers in Delaware revere their Courts. Very high on our list stands this distinguished Court, the Superior Court. On this bench, in the past, have sat Judges Victor B. Wooley and Richard Rodney, Chief Justices Terry, Hermann, and Christie; Associate Justices Duffy,

Walsh, Quillen and McNeilly. The list goes on and on, and it continues in its distinguished level of ability and service.

So when we, as a bar, look at a new appointment to this bench, we ask ourselves: How will this lawyer compare to those great figures in the past? And has this lawyer's career up to this point given promise to the greatness and service so many of his or her predecessors have shown?

I'm happy to say that the first Judge of my tenure, Judge Toliver, passes with flying colors all of the tests for past achievement as a lawyer and citizen that we may choose to apply. As a result, Judge Toliver gives tremendous promise for service as a Superior Court Judge in keeping with the great and honorable traditions of this distinguished Court.

First, let us look at his legal experience. Judge Toliver needs no map or guide to help him find the courts. His career at bar in the field of litigation has been both active and varied. He has litigated, and ably litigated, cases in every court we have, and ably prosecuted and defended appeals in our Supreme Court and in the Third Circuit. As a result of this broad trial and appellate experience, lawyers who appear before Judge Toliver may

rely upon two very important traits.

First, he will understand the effort and thought a good trial lawyer puts into his or her case. This understanding will help him shape the appropriate judicial response. It will, I am confident, be a response informed by experience and realistic in application. This judge will not live in an ivory tower; he will live in the here and now of the real world.

Second, like all active trial lawyers, Judge Toliver has experienced at first hand the frustrations a difficult client can visit upon a conscientious lawyer, and he will understand the limits to which a lawyer can and should go to impose the lawyer's will upon his client.

Judge Toliver will know that not all the apparently silly things we lawyers before him do, or say, are the lawyers self-created ideas of how to vex the patience of the Court.

As I have said, Judge Toliver's reputation as a able trial lawyer is well-known. Perhaps less well-known is Judge Toliver's long history of selfless dedication to the community at large and to the community of the law. In this area, as well, he has been a star. You should know that Judge Toliver has served the distinction on, among

other civic groups, the Board of Corrections, the County Commission on Equity, the Violent Crimes Compensation Board, the City Pension Arbitration Board, St. Anthony's Community Center, the Greater Wilmington Convention and Visitor's Bureau, and the Layton Home for the Aged, among others.

Judge Toliver is a man who has generously shared his talents with his neighbors and he has given himself fully to the legal community. He has served as an officer and member of the Executive Committee of the Delaware State Bar Association. He has kept watch on his colleagues as an Associate Member of the Board of Professional Responsibility. He has taught in the legal field at the University of Delaware Division of Continuing Education at Wilcastle.

I could go on and on, but I won't. I think you have the flavor. Judge Toliver is not a novice and he is not a bystander. He does not wash his hands with regard to the problems of his fellow citizens. On the contrary, he has been a full participant in the rich and varied life of the Courts of our community. Such full participation has broadened Judge Toliver's knowledge and experience so as to provide him the background that is ideal for a Judge. He

is then, truly, one of our best.

We will miss him at the Bar, but we proudly offer him to the Court. In so doing, we are confident that he will continue to exercise his conscience, his breadth of experience, and his learning in the public interest as a Judge of the Superior Court.

Governor Castle, you have, as you seem so often to do, exercised the very wisest of discretion in appointing Judge Toliver to this distinguished Court. It is my special privilege on behalf of the Delaware State Bar Association to salute the propitious inception of what I am confident will be an outstanding judicial career, fully deserving favorable comparison to that of any of his distinguished predecessors.

Thank you, President Judge Stiftel.

PRESIDENT JUDGE STIFTEL: Thank you.

Our next speaker will be Judge Leonard Williams, a famous University of Delaware quarterback of a good many years ago, maybe 35 years ago, and also, a Georgetown graduate. Judge Williams.

JUDGE WILLIAMS: Judge Toliver, Chief Justice Christie of our Supreme Court, Honorable Judge Stiftel -- misquoted me again, I was never a quarterback, forgot about

1 football a long time ago, but we'll talk about that.

2 PRESIDENT JUDGE STIFTEL: What were you?

3 Fullback?

4 JUDGE WILLIAMS: I was a lineman, I was a
5 center -- as Judge Terry used to tell me about that. But
6 we're here to honor Charles Toliver today, and I'm going to
7 move on.

8 When Josh Martin decided he wanted to go up the
9 ivory towers and make his bank account a little heartier
10 each month, a lot of us were very much surprised. But
11 those of us who practice law, and some of us who also
12 administer it, understand. And I think the thing that
13 struck most of us was who would replace Josh, who had
14 really worked hard at becoming, for not having any real
15 litigation experience, in a very short period of time,
16 worked very hard in becoming a very, very able and
17 respected Judge of this Court. And the very first thing
18 that comes to mind, if you're in the system, is who
19 replaces Josh Martin? And I don't think there was anybody
20 I spoke to, and I'm sure Victor is smiling at me, and I too
21 felt that the guy was Charles Toliver, we felt he was the
22 person who do this. Not only because Charley wanted to do
23 it, but because Charley is ably suited to do it.

1 And I have to tell you that I am bias, I think
2 I've known him probably as long as anybody here, other than
3 Key and Cora Toliver, and his brother. His father and
4 mother were my clients, they're my friends. They've known
5 me since I was a young guy, and I've seen Charley grow up.

6 Matter of fact, I'll tell you a little story about
7 him calling me one summer when he came home from law
8 school. Key had him call me about a driveway problem they
9 had, and he started lecturing me about his daddy's rights
10 to the driveway, and I tried to teach him a little bit
11 about the law of easements and so forth. But we laughed
12 about that sometimes, because after he graduated from law
13 school and he came to work for me, I reminded him of that.

14 But at any rate, I watched him grow up. I've
15 watched him mature, not only as a lawyer, but as a person,
16 father, husband. And I know, I promise you, he's ready,
17 and he's going to do a job.

18 For those of you who may think that because of his
19 pigmentation he's going to give away the shop, that he's
20 flamingly liberal, forget it. Charley is not a flaming
21 liberal. A lawyer, maybe in here today, said to me one
22 day, "Why did you hire Charley?" I said, "Why? He's the
23 most conservative guy I know, black or white." That's not

1 necessarily true. Charley is on key in the areas where it
2 counts, in terms of civil liberties and so forth. But he
3 is a conservative guy. So if you're looking for a flaming
4 liberal who is going to be out there, no, it's not going to
5 happen. But he's fair. And he's articulate. And he's
6 prepared to do a job.

7 Charley's experience is such that unlike a lot of
8 our new people who come to the bench, he is a litigator.
9 He's had wide experience in many fields, and despite the
10 fact he's not yet 40, he is quite able and capable of
11 taking on the responsibility of this position, and will do
12 the job as I indicated earlier.

13 I know he's going to bring to this bench some
14 balance, because when I look at Andy, Stiftel and
15 Bifferato, and I look at some of the new people that Mike
16 put on the bench, I mean, they now have another small guy
17 they can relate to.

18 Charley is unique in other ways. In that resume
19 that arrived, I thought that Rod or the Governor would have
20 said it by this time, Charley is one of the few long line
21 black republicans in the State of Delaware. The Toliver
22 family has been Republican for all the time that anybody in
23 Delaware knows, and all of them were Republicans, no

question about it.

So that he comes ably qualified to do the job. We are friends, there have been times when I have been able to lean on him, and he's leaned on me, and he goes forward with tremendous respect of everyone. And I can promise you, I can promise you, he will do a great job.

Thank you, Charley.

PRESIDENT JUDGE STIFTEL: We'll change that quarterback to star football center. When he first came to the Bar, I used to hear about his great football prowls all the time.

Now, James Gilliam, a Columbia grad, Executive Vice President of the Beneficial Corporation, and formerly Secretary of Community Affairs and Economic Development, will be our next speaker.

MR. GILLIAM: Thank you, Judge Stiftel.

May it please the Court, Governor Castle, Chief Justice Christie, members of the Judiciary, Senator Holloway, and friends.

It's both a pleasure and an honor for me to participate in this ceremony. Charles H. Toliver, IV, is a personal friend, someone I've come to know well over the last few years. And I believe I speak for many of his

other friends and associates when I say we all take great pride today in seeing him achieve what is a lifelong ambition, and that is, of course, becoming a Judge of the Superior Court of the State of Delaware.

I first met Judge Toliver in 1974 when I served as Secretary of the Board of Bar Examiners. He was then a law student at the University of Virginia and working for the summer in a Wilmington law firm. In 1975, it was a very distinct pleasure for me, as Secretary, to note as I matched up numbers, names, and bar examination results, that Charlie, as I had come to know him, has successfully completed the written examination.

Admission to the Bar I knew would come shortly afterwards, because the results of the investigation into his background made it quite clear that he was well respected by attorneys with whom he worked, and by people in the Delaware community generally. The overall view at that time, in fact, was that he was not only extremely intelligent, diligent, and hard working, but he was also a young man with good judgment and a true sense of fairness accompanied by strong values.

As for those strong moral values, I also had the pleasure of meeting Charles' family and talking on numerous

occasions with his father during those years. There was no question but that there is a strong sense of right and wrong and adherence to the proverbial "do unto others as you would have them do unto you" runs through the entire Toliver family, which is a very strong and wonderful family.

8

Our relationship continued to grow as Judge Toliver began and continued his law practice, first working as an Assistant City Solicitor, then with Judge Leonard L. Williams; just prior to today, with Victor Battaglia, and while he was in private practice I never hesitated to recommend our newest Judge to people who asked for a recommendation for counsel. Almost always, when a matter was concluded, those to whom I had made the recommendation told me they felt they had been represented by a very careful, thoughtful, and extremely able advocate; views I share because I know firsthand of his very competent work as counsel of Beneficial National Bank on a number of matters.

I've also observed Judge Toliver's involvement with the community and know of some of the very difficult challenges he has taken on solely because he felt there was a job that had to be done. He made significant

contributions as both a member, and subsequently as Chairman of the Wilmington Housing Authority, and despite some very severe criticism of certain segments of the community, he never hesitated at any time to do what he thought was in the best interests of the Housing Authority and its constituency.

I've also observed him as a devoted father of two lovely children, and looking at Charles H. Toliver, the man as a whole, Governor Castle, I don't believe you could have chosen more wisely.

Judge Toliver, Charley, speaking once again on behalf of your many friends, we wish you only the best as you take on this very important position of trust and responsibility. We all know that you will discharge your day-to-day duties with the same thoroughness, honesty, and fairness with which we are all so familiar and have only the utmost respect.

Good luck from us all in a tough and demanding job, but one we know you can handle with ease.

Thank you.

PRESIDENT JUDGE STIFTEL: I now call on Victor Battaglia, Esquire, the number three speaker from Georgetown Law School, and a former President of Delaware

1 State Bar Association, for his remarks. Vic.

2 MR. BATTAGLIA: Governor Castle, Mr. Chief
3 Justice, Judge Stiftel, Judge Poppiti and Bifferato, Judge
4 Toliver, Senator Holloway, Representative Sills,
5 distinguished members of the bench and bar, Mr. Howard
6 Toliver, Mrs. Cora Toliver, Terry Toliver, Denyonne and
7 Megan Toliver, family and friends of Charles Toliver.

8 I am grateful for the opportunity to share with
9 you some comments about Judge Toliver. I'm delighted that
10 Judge Stiftel kept my Georgetown lineage in mind, Governor,
11 in view of your remarks, both Judge Williams and I, by the
12 way.

13 I first noticed Charles Toliver when he worked in
14 the Wilmington City Solicitor's Office. He was a talented
15 young man who showed a lot of industry, but was a tad on
16 the serious side. Later, he went to work in Judge
17 William's office, and frequently when I had occasion to be
18 downtown to return to work, I would see Charles on his way
19 back to the office for evening hours. I was impressed. I
20 thought if I could get Charles to come work with me, I
21 would be able to give up some of my own trips -- nightly
22 trips to the office. No sense both of us working at night,
23 Charles.

Charles and I began to work together in 1984. I found out quickly that he is as bright as I suspected he was, hard working, and has a great sense of judgment, and also a sense of humor. I found that more and more when a judgment call had to be made in the office, Charles could be relied upon to give good, sound advice. It soon became obvious that a great many important people in our community shared my judgment about Charles.

9

And important people sought out Charles for legal, political and business advice. His practice grew rapidly, he was active in pro bono matters. He served as a member of the Board of Professional Responsibility, on a number of Governor's Task Forces, New Castle County Commission on Equity, The Vital Crimes Compensation Board, and the Pension Arbitration Board. With all of his pro bono activity and all of his community service, Charles worked longer and longer hours, attended evening meetings, and at the same time, continued his school as a trial lawyer.

He developed a skill and a reputation for handling complicated cases. My plan failed, because it became necessary for both of us to journey back to the office at night. And so, President Judge Stiftel, we deliver to you a young Judge, skilled as a trial advocate who has earned

1 the respect and love and the admiration of his colleagues
2 at bar and the community. I am confident that he will
3 perform in the best tradition of the members of this bench,
4 and to Charles' father and mother, Terry, and Denyonne and
5 Megan, I say congratulations to you and thank you far
6 allowing us to share your pride with Charles.

7 And to Judge Toliver, congratulations, we're proud
8 of you, we will place you in the kitchen, but we will save
9 a place, we will save a place on the kitchen wall for you.

10 PRESIDENT JUDGE STIFTEL: Thank you very much
11 for the delivery.

12 I now call on the new Judge, Judge Toliver, for
13 his remarks.

14 JUDGE TOLIVER: I wanted to make sure I
15 didn't trip over the robe.

16 Let me say that first of all I am proud to have
17 graduated from the University of Virginia, and that I
18 never, although, Governor, I would have, never applied to
19 Georgetown University. I would also like to note that my
20 brother is a graduate of the University of Virginia Law
21 School, as well.

22 It is an understatement to say that I am pleased
23 that you all are here. My family, my friends, my

1 co-workers, judges, my peers, public officials and
2 community leaders. I am also very pleased and thankful to
3 be here because I am a native Delawarian, and I'm proud to
4 be a native Delawarian.

5 I would also want to indicate to you that I'm not
6 the first member of my family to work in this building. As
7 my mother recently informed me, my grandfather was a
8 janitor in this building, and as a matter of fact, locked
9 her in the county jail as a child, when I guess she got in
10 his way.

11 My uncle, my father's brother, was a painter here,
12 Alvin Toliver, and my father's other brother, Charles,
13 didn't work at this building, as Victor would remember,
14 apparently he was a custodian of the 5th Street comfort
15 station, and very few of you here would remember that, I
16 believe.

17 So we have been in and out of this building
18 before, and I'm pleased to be here and work here at this
19 time as a Judge of our Court.

20 I'm very proud of our court system in Delaware.
21 No court system is perfect, but I think we have one of the
22 best. I had occasion to talk to a lawyer from Philadelphia
23 who is critical of our Court, and maybe it was a sense of

pride, or whatever, but I told him if he didn't like it, Philadelphia was straight up 95. Not that we're not right, not that we don't make mistakes, but I've always felt that in fifteen years of practice, that the judges try, and I hope to continue that tradition. I never felt that a Judge in this state did anything but what he thought was the best for those before him, and I'm pleased to join that group of individuals.

Nobody is here alone, and I have been fortunate to associate with a number of people. I would like to thank also the Governor for having faith in nominating me, the State Senate for confirming me, and particularly Senator Holloway who has been a good friend of my parents and mine, and some of the other leadership of the State Senate were all very kind and cordial to me. As a matter of fact, when I went down for my confirmation hearing, I expected an -- or I didn't expect, but I got very, very nice treatment. I didn't know what to expect, but I guess I was very nervous, never having been in that type of forum before for that type of position.

I would also like to thank the Governor's staff, who they were also very helpful during this period of time, my family, today, my parents, my kids, Terry, my

1 co-workers, and in particular, my secretary, who is
2 remaining at Battaglia law firm, and my friend, Rob
3 Goldberg, who is going to inherit a lot of the stuff I
4 leave behind. So I thank them in advance, and hope they
5 will be understanding when they find some of the things I
6 didn't do.

7 The speakers here, Judge Williams -- and let me
8 say that I was right on the law of easement and Judge
9 Williams was wrong -- James Gilliam, and Victor Battaglia,
10 were all chosen because they've been very close to me at
11 various points, and remain so, in my career.

12 There are a lot of people, and I think an
13 individual is a subtotal of that type of association.
14 There are people here, and I obviously can't name everyone,
15 the individual, I don't know if he's here, who first hired
16 me in the City of Wilmington. My tutor from law school is
17 here, Dave Brown, Bill Kirk, some of my best friends. Mr.
18 Cross, whom I never agreed with, but we were always friends
19 anyway. My roommate from law school, Mr. Tucker, is here.
20 Nate Palmer a close friend. A lot of other people, people
21 in the audience that I see, I would like to mention if I
22 could.

23 I've had some good associations, and some tension,

1 as Judge Williams pointed out. As a matter of fact, he and
2 I never agreed on anything, I don't expect that to change.

3 Reverend Moyer who has known me, I would have to
4 say at least most of my life, if not all of it. I don't
5 remember when he came to Community Presbyterian, but I
6 couldn't have been more than three or four years old.

7 Reverend.

8 Some people from the community, and I've had some
9 interesting contacts with people in the community. Miss
10 Anderson, good friend of my father's. Skinny Wilson, who
11 unfortunately is not here today, passed away sometime ago.
12 Basil, close friend of mine. Hal Haskell. Other people,
13 Bill Poole was my preceptor; as was another good friend,
14 Judge Tunnel, who unfortunately passed away years ago and
15 was very, very close to me, and I'm very sorry he is not
16 here today.

17 To all of you, I say thank you for making this day
18 possible. I do not and will not make a long-winded speech.
19 I'm not that eloquent at all. But I would like to make a
20 couple points, and the first being that when I went through
21 the confirmation hearing, I was asked what kind of Judge
22 did I think I would be. I paused, and had some difficulty
23 searching for, I thought, an articulate answer. But what

it came down to, is I want to be a Judge that is both fair and considers the issues. You can't predict philosophy, you can't predict outcome. You can't predict anything in life, except that you're going to die. So I can only hope that I will be fair, and give issues before me that type of consideration.

After I left the confirmation hearing, I did some additional thinking because the question kind of made me think. And I've talked since then to a number of attorneys, Judges, lay people, and I've had some additional thoughts, and what it boils down to is, I think, I know there are five principles that I would very much like to follow.

One is that I would always like to be prepared. It's not always easy to do, but you hope that the Judges that you appear before are prepared. And I would like to add, I have not had the misfortune of someone not being prepared.

I would like to be decisive, and it doesn't mean I'm going to be right. Lord knows I've been wrong more times than I've ever been right or ever will be right, but to make a decision I feel it's important, and help resolve a matter, because that's what Judges are for.

11

I would also like to be civil. The public, the litigants, the parties, are all entitled to be treated with respect. Respect doesn't flow simply one way, it flows two ways, that is to the bench.

I also want to remember that revolution applies to the law; that people, ideas, and institutions are subject to and do change.

Lastly, I would like to remember from once I came, that I was a practicing attorney, once a parent, a friend, and that being a Judge does not make me any smarter or better than I was yesterday.

Thank you.

PRESIDENT JUDGE STIFTEL: Please remain standing for Reverend Moyer, the benediction.

REVEREND MOYER: Our God, as we go down from this place, we will still remember the warmth ringing in these chambers of the words, the feelings, the promise, and the whole attitude of a young man who says putting those things behind, reaching forth to those things which are before, I press toward the mark of a price of the high calling, sitting on a bench, meeting justice, patience, love and compassion to all in Jesus' name. Amen.

PRESIDENT JUDGE STIFTEL: Now these

proceedings are at an end. You may greet Judge Toliver and family after the ceremony. There will be a reception immediately after the ceremony on the first floor.

Everyone is invited. Thanks again. God bless you all.

Court is recessed.

(Proceedings concluding at 2:45 p.m.)