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A Tribute in Rhyme

Justice J. Michael Eakin*

INTRODUCTION**

Justice Eakin was elected to the Pennsylvania Supreme Court in 2001, after having served on the Superior Court of Pennsylvania for six years. During his tenure on the Superior Court, Justice Eakin had developed a creative writing style that occasionally erupted in rhyme.¹ This talent to take a complex legal question and engagingly revise it into a rhythmic rendering reveals his inclination toward the musical side of language, an aspect of his personality normally expressed through harmonic displays. (The sight of Justice Eakin on stage with harmonica at the ready is a common one for many of us in the legal profession.)

Justice Eakin's colleagues, however, did not always appreciate his talent of turning a poetic phrase. The nature of the judicial dispute on artistic license was revealed to the public when Justice Eakin penned his dissent in *Porreco v. Porreco*.² At the time *Porreco* was published, two of Justice Eakin's colleagues, then-Chief Justice Zappala and then-Justice Cappy, penned concurring opinions motivated solely by their desires to take Justice Eakin to task for his choice to write a dissent in verse.³ In memory of that occasion, Justice Eakin was inspired to draft the following tribute to his friend and colleague, Ralph J. Cappy, Chief Justice, retired.

* Justice, Pennsylvania Supreme Court.

** Elizabeth Surgent Minnotte, Esquire, the former Chief Clerk for Chief Justice Ralph J. Cappy, authored this brief introduction to Justice Eakin's poem.

1. Mary Kate Kearney, *The Propriety of Poetry in Judicial Opinions*, 12 *Widener L.J.* 597 (2003) (discussing judicial opinions in verse, focusing primarily on the opinions of Justice Eakin).

2. 811 A.2d 566, 575 (Pa. 2002) (Eakin, J., dissenting). *Porreco* involved the validity of a prenuptial agreement, and one of the major issues in contention was the discovery that the engagement ring at the heart of the case did not contain a real diamond. *Porreco*, 811 A.2d at 568 (majority opinion).

3. *Porreco*, A.2d at 572 (Zappala, C.J., concurring); *Id.* at 572-73 (Cappy, J., concurring).

POET'S FOREWORD

Near the end of my first year on the Court, I penned a proposed dissent in rhyme, an occasional practice carried over from my time on the Superior Court. Then-Chief Justice Zappala was none too pleased with this idea and enlisted Justice Cappy in his efforts to dissuade me, unsuccessfully—while some might call me stubborn, I prefer to think of it as being of firm resolve. In any event, in the years that followed, Justice Cappy and I had a few smiles about the whole thing, and from time to time, he sent me a rhyming note about some matter or other. This personal touch and sense of humor was typical of him, and facilitated his ability to lead by consensus—the Court and the Commonwealth have been the better for it.

Hence my feeble attempts to integrate a few thoughts with Poe's masterpiece, an effort I am certain would have been appreciated by Ralph. The joke about the midget buying the horse, his favorite, well, I'll leave that for a more appropriate time and venue.

Once upon a midnight dreary, while I pondered, weak and weary,
Over a certain quaint and curious opinion; I'd dissent for sure.
While I nodded, nearly napping, suddenly there came a tapping,
As of someone gently rapping, rapping at my chamber door.

T'was Chief Zappala and Justice Cappy,
Looking stressed and none too happy.
How could I dissent in rhyme? they asked me, looking sore.
"These are some visitors," I muttered, "tapping at my chamber
door—

Holy Cow, I'm toast for sure!"

Ah, distinctly I remember it was in the bleak December,
And each separate dying allocator wrought its ghost upon the
floor.

Eagerly I wished the morrow;—vainly I had sought to borrow
From my books surcease of sorrow—sorrow for the lost rapport—
For the rare and radiant status whom the Justices name
rapport—

Nameless I'll be for evermore.

Presently my soul grew stronger; hesitating then no longer,
“Sirs,” said I, “dear sirs, truly your forgiveness I implore;
The fact is I was not quite napping, nor was I doing hip hop or
rapping,
And file I must despite your tapping, tapping at my chamber door”
I scarce can argue and sure I’d heard you—but your
blandishments I’d ignore;—
Stubbornness here, and nothing more.

I filed the rhyme and all survived. With you as Chief, the Court
soon thrived,
Doubling programs, making real some dreams no mortal dared to
dream before;
By personality, by tour de force, and collegial sharing and
discourse,
And the only words there spoken was the whispered words, “Of
course!”
This I whispered—that and an awful joke about a midget buying a
horse—
Merely this, and nothing more.

Now your legacy, never failing, still is sailing, still is sailing
O’er the pallid bust of Scalia just above my chamber door;
And the heritage you’ve left for us, would inspire an Italian
chorus,
And the light you shone is streaming, throwing your shadow o’er
my door;
And the respect of all for you still is floating above the chamber
floor, and
Quoth this Justice—will be evermore!

