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THE BUILDER



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ADDRESSES  
OF  
HON. NORRIS S. BARRATT  
AND  
HON. HAMPTON L. CARSON

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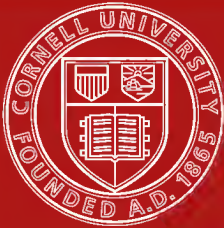
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Address of Hon. Norris S. Barratt, Presi



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HON. MAYER SULZBERGER.

JUDGE COURT OF COMMON PLEAS No. 2, 1895-1902, AND PRESIDENT JUDGE 1902-1916.

ADDRESS  
OF  
HON. NORRIS S. BARRATT

PRESIDENT JUDGE COURT OF COMMON PLEAS, No. 2  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

SATURDAY, JANUARY 8TH, 1916

UPON THE

PRESENTATION TO THAT COURT  
OF THE PORTRAIT OF

HONORABLE MAYER SULZBERGER

JUDGE, 1895-1902

AND

PRESIDENT JUDGE, 1902-1916

ALSO PROCEEDINGS OF THE LAW ASSOCIATION OF  
PHILADELPHIA. FRANK P. PRICHARD, ESQ.  
CHANCELLOR ADDRESS OF HAMPTON  
L. CARSON

PRESS OF  
THE NEW ERA PRINTING COMPANY  
LANCASTER, PA.  
E.V.



**A**T 11 A. M. on January 8, 1916, a meeting of the Bench and Bar was held in Court of Common Pleas No. 2, Room D, to mark the retirement from the Bench of Hon. Mayer Sulzberger, whose commission as President Judge expired on Monday, January 3, and who had served as a member of the court since 1895.

President Judge Norris S. Barratt said:

*Gentlemen of the Bar:* This is a very unusual occasion, different from what ordinarily is presented in a court, where we have a jury, and where we settle issues of fact and questions of law. To-day is a happy occasion where there is no issue, and we have only one thought, that of doing honor to a man who was President Judge of this Court for 14 years.

It is a great compliment to Judge Sulzberger to have over eight hundred of his brethren gathered together for the purpose of doing him honor, representing our Bar, the Courts of the United States, the Supreme Court of Pennsylvania, the Superior Court of Pennsylvania, the Courts of Common Pleas, Orphans' Court and Municipal Court.

Added interest is the fact that this is the first occasion upon which my brethren Judge Henry N. Wessel and Judge Joseph P. Rogers have sat with me, and it



## Address of Hon. Morris S. Barratt.

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affords me great pleasure and satisfaction to formally welcome them to the Bench.

There are two portraits, one painted of Judge Sulzberger by Albert Rosenthal, which is to be presented to Court of Common Pleas No. 2, and which will hang upon our walls; the other one painted by another artist, Henry R. Rittenberg, and which is presented by members of the Bar to the Law Association, and will be added to their celebrated collection.

In order to do Judge Sulzberger the greatest honor, the Court has met this morning for the purpose of formally presenting his portrait. That I will do, and after that is done the Court will formally adjourn, and we will turn the rest of the proceedings over to the Law Association of Philadelphia, when the Chancellor, Frank P. Prichard, Esquire, will ascend the rostrum, preside and accept the Rittenberg picture, which will be presented by ex-attorney-General Hampton L. Carson.

Mr. Albert Rosenthal, the wellknown artist, was directed by their Board of Officers to paint the portrait of the Honorable Mayer Sulzberger for the Jewish Hospital, one of our noble charities, which is dedicated to the relief of the sick and wounded without regard to creed, color or nationality.

At the fortieth annual meeting of this organization, on May 28, 1905, in grateful acknowledgment of Judge Sulzberger's unremitting efforts to promote the welfare of the hospital, this portrait was presented to it as an evidence of appreciation of his forty years' services in the office of secretary, director and vice-president.

## Presentation of Mayer Sulzberger Portrait.

Five members of the Judiciary of Pennsylvania,\* friends and admirers of Judge Sulzberger, learning that this portrait was to be painted, and desiring to do him honor without his knowledge, commissioned Mr. Rosenthal to make a duplicate for Court of Common Pleas No. 2, of which he was then President Judge.

Mayer Sulzberger was born in Baden, Germany, on June 22, 1843. Six years later his parents brought him and the others of the family to this country and settled in Philadelphia. Thus, for sixty-six years, Mayer Sulzberger has been a citizen of Philadelphia. He was graduated from the Central High School with the degree of A.M., and later received the honorary degree of LL.D. from the Jefferson Medical College. He was admitted to the Bar of Philadelphia on September 15, 1865. At the time of his entrance into the profession of the law, one of his nationality and religion was not regarded as having a "prescriptive" right to practice at the Bar of Philadelphia. Of this almost insurmountable barrier he made but an obstacle which, by his indomitable courage, he quickly surmounted, so that at the very commencement of his career, without the powerful influence, either of money or of family connection, but by sheer force of his masterly ability alone, he commanded a recognition that to this day has remained indisputably his own.

At the Philadelphia Bar, which is noted for its learning and ability, Judge Sulzberger was prominent among such representative lawyers as George W. Biddle, Furman Sheppard, Lewis C. Cassidy, Theodore

\* Justice Mosehzisker, Hon. J. Willis Martin, Hon. Charles Y. Audenried, Hon. W. W. Wiltbank, Hon. Norris S. Barratt.

## Address of Hon. Morris S. Barratt.

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Cuyler, James W. Paul, William B. Mann, Richard C. McMurtrie, John G. Johnson, George Tucker Bispham, Wayne McVeagh, S. Davis Page, Joseph B. Townsend, Eli Kirk Price, Rufus E. Shapley, the two Brewsters—Frederick Carroll and Benjamin Harris—Joseph I. Doran, Samuel Dickson, William Henry Rawle, Thomas K. Finletter, who served the people so ably as President Judge of Common Pleas No. 3, Daniel Dougherty, Lewis A. Scott, W. Heyward Drayton, John B. Gest, James Gowen, Franklin B. Gowen, William Rotch Wister, Thomas J. Diehl, George Junkin, William A. Porter, Richard M. Cadwalader, J. Granville Leach, Richard P. White, A. S. L. Shields, William S. Price, and others whose names do not occur to me at the moment. At the time that he came to the bar, George M. Wharton, Henry M. Phillips, St. George Tucker Campbell and William L. Hirst were generally regarded as the leaders. Joseph R. Ingersoll, Peter McCall, William M. Meredith and James Campbell were not as active as they had been. Horace Binney, although he lived until 1875, had retired from practice; John Cadwalader, the eminent jurist, was upon the bench of the District Court of the United States for this district, and John Sergeant and John Morin Scott had been dead ten years; yet they were all accomplished lawyers who gave standing and reputation to the Bar, and their influence was still potent when Mayer Sulzberger was admitted.

What Horace Binney said of Jared Ingersoll is equally true of Mayer Sulzberger at the bar: "He was infallible in every statement he made whether of principle or of evidence; and the only hope of the opposite

## Presentation of Mayer Sulzberger Portrait.

side was to show that what he had said might be true without helping his cause.”

In January, 1895, Mayer Sulzberger, with the prestige of success and a reputation as an advocate of the first rank, gained in thirty years of active practice, with the loftiest ideals and unbending adherence to the highest standards of ethics, well-known and his attainments recognized beyond the borders of our State, became Judge Mayer Sulzberger, and the fitness of the change was universally recognized. He had been in the practice of the law a brilliant and a mighty figure, and he brought to the bench a wealth of learning and a fund of experience such as few men possess.

He had a large and lucrative practice, but he gave it all up willingly to serve the people in the administration of the law as a Judge. Justice and its administration concern every citizen, because they mean his liberty, his property, even his life. His view was that, after a man had secured a competence in his profession, it was his duty to devote his experience and professional services to the State. From this view he could not be tempted, either by the prospect of lucrative practice in New York City, or by the international limelight of a United States Ambassadorship to Turkey, which latter high office was tendered to him by the President, but declined by Judge Sulzberger.

The late Judge M. Russell Thayer's pithy and rather pertinent statement, "In the Court of Common Pleas a Judge has to work like a horse and live like a hermit for a very small reward," did not deter Judge Sulzberger. He knew it, but he made the sacrifice notwithstanding. He has given twenty-one of the best years

## Address of Hon. Morris S. Barratt.

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of his life, as a priest serving upon the altar of justice, living, as I once heard him say upon a public occasion, a semi-monastic life. As a reward for his sacrifice he is recognized by the Bar and the community as one of the great Judges of Pennsylvania.

Alexander Simpson, Jr., Esq., one of the leaders of our bar, has so precisely word-painted the picture of "An ideal court" and "An ideal judge," in nominating Hon. Samuel W. Pennypacker to the bench of this court, that I take the liberty of here quoting it because of its pertinence, in many respects, to the judicial character of Judge Sulzberger:

"An ideal court, it has been said, is one in which justice is judicially administered. Necessarily, therefore, an ideal judge is one who judicially administers justice. But what a wide vista that opens! May I delay you a moment to briefly point out what it does mean as applied to a Common Pleas Judge in this State. It means not only that the judge must be honest, industrious, learned and sober, but that he must have patience to hear all that is to be said, keeping his mind receptive until the last word is spoken in argument, though his own rulings are being criticized, at the same time by appropriate inquiry bringing out all that is valuable in the argument, and yet must have a keen legal sense enabling him to understand, and oft-times on the spur of the moment to apply to the particular case under consideration the foundation principles abstracted from the arguments and authorities presented. It means that he must be in touch alike with the individual citizens and the community as a man, solicitous to preserve individual rights and yet

## Presentation of Mayer Sulzberger Portrait.

equally solicitous to conserve the general public good; anxious that matters of discretion may be as few as possible, yet doubly anxious because of increased responsibility when they do arise; with abundant friendships, yet blind to the counsel and suitors before him, and to everything, whether of poverty, wealth, influence, friendship or otherwise, possessed by them, save, and save only, the facts and the law applicable to the particular case. He must have a broad and philosophical mind in a sound and healthy body; must be able to see not merely the rights and justice of the particular case, with a keen desire to decide it in that way, but to see also the effect its decision will have upon the body of the law; must be able to avoid posing for or being influenced by present public applause, and yet constantly recognizing that the greatest good to the greatest number, within the limitations necessary to protect the minority, is the end and aim of all republican government. He must steadily bear in mind the fact that the judiciary is not the law-making body in the community, and yet recognize that under the common law his decisions, on the novel questions constantly arising, may establish rules of action with the same effect as legislation. He must have the horse-sense to know that men in other walks of life than his own are actuated by motives that influence him but little; that, therefore, juries drawn from all classes of the community are better able than he is to judge of those motives, and yet be willing to take his just share of responsibility for every verdict rendered before him, and to set aside or modify it when justice so demands. It means that he must profoundly love the institutions

## Address of Hon. Morris S. Barratt.

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of his country; must have a genius for and love of the law he administers; must have a proper respect for the place that he occupies, and yet be approachable; must be modest and civil, yet dignified and firm in his demeanor; must be prompt, clear and consistent in his rulings, and plain, direct and concise in his charges, and yet must recognize that he is but human, and, therefore, the other lawyers who practice before him may be right and he be wrong; must loyally follow the decisions of the appellate courts, whether or not appealing to his legal sense, to the end that the law may not be looked upon as uncertain, nor made the subject of reproach; and more than all these, with an abiding sense of responsibility to his conscience and his God, he must so act as to avoid the least appearance of evil, that every one, including the unsuccessful suitors before him, will at once recognize that he does in fact possess all these qualities. He who enters a court presided over by such a judge as I have described knows at once that he has entered a place instinct with justice; though blind as the Goddess herself, he sees and feels that there justice is judicially administered."

Thus has Mr. Simpson clearly stated the standards of official conduct that we upon the bench to-day aim to attain and carry out. They are the ten commandments, so to speak, of the judiciary, and they should have the same absolute obedience that the children of Israel gave to the ten injunctions engraved upon the tables of stone delivered to Moses on Mount Sinai.

Law, to Judge Sulzberger, is a progressive science, designed to vindicate or obtain a person's rights, and if in the changing conditions of society he thought it

## Presentation of Mayer Sulzberger Portrait.

fell short of doing so, he was among the first to perceive it and to formulate a new rule to prevent a denial of justice. He was especially restive if the law was grossly revolting to his sense of justice. He enjoyed the thought that right prevailed, especially if he was sustained by the Supreme Court in a new principle or in the teeth of accepted law.

He has, to an almost unlimited degree, the pertinacity to which No is not an answer, the egotism, without pride of opinion, quick logical comprehension, tenacity, perseverance, readiness, timidity, bravery, earnestness, skill, ingenuity, subtlety, vanity, keenness, fluency, learning, generosity and cleverness that distinguishes the Semitic race. Its mere statement seems like a paradox; and it is equally true he is entirely devoid of ill-will, envy, bigotry and selfishness.

It has always been an intellectual treat for him, as a judge, to analyze difficult propositions of law. The more involved, the greater pleasure it gave him to solve them. And his methods of analysis never have been from the angle of the ordinary man. He was strikingly original in thought, if not eccentric, as pioneers are apt to be,—yet, as a whole, when our minds met his, the thought appeared so simple and convincing that most men would say that his conclusions were correct. His purpose was to formulate the true rule of law. He regarded a trial as a battle. He took and gave blows, and figuratively he has often left the field filled with the dead and dying. He did not realize how almost invincible he was—when it was over, it passed from his mind. And nothing surprised him more than to find lawyers and witnesses complain of “scars.” I do not



## Address of Hon. Morris S. Barratt.

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think that he realized the force of his blows, or the extent to which men resented and fretted under what he did or said. Was he critical with others? Yes; but how charitable, too. He was infinitely more critical with himself, and had no patience for his own mistakes, and we know how generously and completely he corrected his occasional errors. What he did as a Judge, he intended to have the elements of thoroughness and durability, and it was always the best work he was capable of; if not, if it was the draft of an opinion, for instance, it never saw the light, and was destroyed as ruthlessly as one ordinarily kills a reptile. Each word he used weighed so much in his mind, and it expressed his exact meaning to a precise shade. He carefully abstained from doing or saying anything, either in public or private, that would bring his impartiality into doubt.

Did Judge Sulzberger have his faults? If he had not had them, we should not to-day love him as we do. The ordinary human being detests self-asserted perfection in another. Faults are the frailties that hold men as human. The test is, are the faults of the mind or of the heart? We know, and we can have no mental reservation as to it, that his heart is tender, warm, true and pure. His strong and sincere personality equally endears him to his friends as it enrages his critics. When he spoke, either as an advocate or a judge, the bar knew that it would get some new thoughts and ideas most entertainingly and instructively stated, and it was never disappointed, even when it disagreed. To listen was to learn.

If asked to sum up Mayer Sulzberger as a judge to

## Presentation of Mayer Sulzberger Portrait.

you, his brethren of the bar, sitting as a jury, I would say he has a piercing genius, a ready wit, a subtle and logical mind and a big and lovable heart. He is endeared to all who know him by those generous and kindly qualities which true greatness always possesses, and revered and admired for the high and commanding quality of his intellect.

His statements were so clever and clear, his knowledge of law so profound, and his reasoning so strong and fascinating that even if one disagreed with him and felt that he was mistaken, or his conclusions unsound and wrong, either in principle or upon authority, it was no mean task to attempt to demonstrate it, and sometimes it was impossible to do so.

His mere statement of the law seemed to give it new force and vitality. While it was an abstract principle before, upon hearing him state it, it became a living, breathing thing, for the protection of life, liberty or property. From his lips it seemed so simple and correct that one knew it must be so—*res ipsa loquitur*.

His ears are always open to those in sorrow, misfortune or distress, and his generous hand is ready to relieve if he finds them worthy. But his mind is naturally of that discriminating quality that if the difficulties or misfortunes of others are the results of their own inefficiency, he must analyze the whole situation, not only to determine the true cause, but also to find the remedy. He then extricates them or not, as circumstances warrant. He is the most sensibly and intelligently charitable man that I have ever known.

He has great intellectual powers, and his mental superiority is not confined to the law. It embraces

## Address of Hon. Morris S. Barratt.

such subjects as history, politics, philosophy, &c.; in short, he has the business head of the merchant and financier as well as the learning of a scholar joined to the wisdom of a philosopher, in all of which subjects he is justly regarded as an authority by experts, because he is accurate and illuminating and knows what he is talking and writing about.

I have attended many interesting and instructive meetings at his residence, No. 1303 Girard Avenue, Philadelphia, of the Oriental Club of Philadelphia, of which Judge Sulzberger was one of the founders. He is deeply versed in Oriental lore to which his leisure hours have been directed throughout his career. I there learned of the many monuments and tombs in the great cemeteries of Sakkarah and Gizeh, and that the scriptural date of Noah's Flood is no longer to be relied upon as the extent of the authentic records of history, but that the Sumerian and Babylonian records carry us back five thousand years. That it was a period of prosperity and progress, during which the pyramids were built, literature flourished, as well as the industrial and fine arts, which obtained a high degree of perfection. In short, that we actually know the life of Memphis five thousand years ago better than that of London under the Saxons or of Paris under Clovis. It was my privilege to meet at these gatherings of the Club, oriental scholars who are not only known but famous over the world. Speaking of the law of nature, as defined by Rousseau and Voltaire, so great an authority as Sir Henry Sumner Maine, in his "Ancient Law," states: That some of their errors could have been avoided by examining sacred

## Presentation of Mayer Sulzberger Portrait.

history, which was prevented by their prejudice and disdain of all religious antiquities particularly those of the Hebrew race. They believed that the institutions called after Moses were not divinely dictated but that they and the entire Pentateuch was a gratuitous forgery, executed after the return from captivity. And he added (p. 86) "that there was but one body of primitive records that were worth studying—the early history of the Jews." Judge Sulzberger evidently approves this statement of Maine's because he has devoted some of his time to investigating Jewish Jurisprudence and Institutes of Government. His views he has given in lectures before the Dropsie College of Hebrew and Cognate Learning of this city. Examine his "Am. Haaretz, The Ancient Hebrew Parliament" (1910), "Polity of the Ancient Hebrews" (1912), and "The Ancient Hebrew Law of Homicide" (1913), now published in three volumes and you will perceive what I mean. It is safe to say, that looking at the matter from the merely human standpoint and regarding Moses as being the author of the code of law which bears his name, the Mosaic law, he has more largely influenced the human race than any other lawgiver that has ever existed.

As a tribute to his life long interest in Oriental studies and as a mark of esteem and of gratitude for the stimulus he afforded by his valuable discussions of the many papers read before the Oriental Club in the course of its existence for twenty-eight years, the members of the Club united in presenting to Judge Sulzberger recently an album containing greetings and tributes to him in seventeen ancient languages written

## Address of Hon. Morris S. Barratt.

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by the members. The little volume is unique of its kind and also furnishes an illustration of the learning and scholarly activity represented in the membership of this local society.

He presided with dignity in a court whose bench has been graced by three Chief Justices of the Supreme Court of Pennsylvania—Sharswood, Mitchell and Fell, and such eminent jurists as J. I. Clarke Hare and Samuel W. Pennypacker, the latter of whom resigned as Judge to become Governor of Pennsylvania. Judge Sulzberger not only maintained the high and honorable tradition of Court of Common Pleas No. 2, but also added to its lustre and distinction by his high degree of intellectuality.

To-day we add to our gallery of distinguished judges of Common Pleas No. 2 the portrait of our friend, Honorable Mayer Sulzberger, Judge 1895–1902, and President Judge 1902–1916, who declined re-election, and whose term expired January 3, 1916—my colleague of fourteen years, for whom I have the highest esteem as my predecessor and genuine affection as a friend. I shall never think of him without deep appreciation of the privilege of intimate association with him, and sincere gratitude for the opportunity of absorbing, I hope, some of the overflow of his great learning.

It can be said as well of him as the late Henry M. Phillips said of Chief Justice Sharswood: “Judge Sulzberger in closing his judicial career does it with honor to himself, with honor to us, with honor to the State. He leaves behind him monuments of his work which will long be remembered.”

In my own poor way I could continue on indefinitely,

## Presentation of Mayer Sulzberger Portrait.

enumerating the graces of the man and the attainments of the Judge, but you know all these things almost as well as I do. His retirement from the bench can be regarded by the bar only as a distinct loss, in many respects irreparable. I am only honest when I say that to me his leaving us has made a void that at times weighs upon me with profound distress.

To his brethren upon the bench he was a rare and gifted leader, of skill and strategy, joining to a ripe scholarship a profound knowledge not only of the common law and equity, but a wide experience, the result of an active practice at the bar, that made him a storehouse of information. He always seemed to speak from original sources of knowledge with authority, and in consultation, or *in banc*, he had a wealth of ideas that seldom failed of furnishing at least a basis upon which to work out a correct conclusion.

I always went to him with matters of moment relating to the court, and no matter what he himself was engaged upon, he was always ready to lay it aside and give me advice and assistance. His was a marvelously efficient arm to lean on, and I have already learned what a loss I have sustained.

But, happily for me and for the rest of us, this is not an obituary. Judge Sulzberger is still among us, sound in mind and in body, for which Heaven be praised, and his years will be long and useful in the new fields to which he will freely give of his virile energy and matchless mind. He will never be idle, for to him "Leisure is spare time in which to do some other kind of work."

Sir Walter Scott beautifully expressed this thought

## Address of Hon. Morris S. Barratt.

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about portraits. He said: "It is impossible for me to conceive a work which ought to be more interesting to the present age than that which exhibits before our eyes our fathers as they lived, accompanied with such memorials of their lives and characters as enables us to compare their persons and countenances with their sentiments and actions."

And to sit here and look at Judge Sulzberger's portrait hanging upon that wall will always be an inspiration and a spur to the faithful discharge of the judicial duties of the judges upon the bench—not only to me, but to all others who follow him.

Long may he live as an ornament to the City of Philadelphia, and a living example of the clean and pure-minded man and upright Judge.

Who more than he has earned the benediction, "Well done, thou good and faithful servant."

The court then adjourned, and a meeting of the Law Association was held in the court room.

ADDRESS OF HONORABLE HAMPTON L. CARSON, SATURDAY, JANUARY 8, 1916, IN PRESENTING, ON BEHALF OF THE BAR OF PHILADELPHIA TO THE LAW ASSOCIATION OF PHILADELPHIA, THE PORTRAIT OF HONORABLE MAYER SULZBERGER, JUDGE COURT OF COMMON PLEAS No. 2, FIRST JUDICIAL DISTRICT OF PENNSYLVANIA, 1895-1902, AND PRESIDENT JUDGE, 1902-1916.

Frank P. Prichard, Esquire, Chancellor, said:

*Gentlemen of the Law Association and of the bench and bar:* Long before Mayer Sulzberger was elected to the bench he had become one of the leaders of the bar, and we of the bar claim him as our own no less



HON. MAYER SULZBERGER.

JUDGE COURT OF COMMON PLEAS No. 2, 1895-1902, AND PRESIDENT JUDGE 1902-1916.



## Presentation of Mayer Sulzberger Portrait.

than do his brethren of the bench. By a happy coincidence, while this portrait which has just been presented was being painted a few members of the bar offered, on behalf of the whole bar, to also donate a portrait of him to the Law Association. That portrait will now be presented by our most eloquent member, Hon. Hampton L. Carson.

Hon. Hampton L. Carson said:

*Mr. Chancellor:* The Law Association, as is well known, is the possessor of a valuable and interesting collection of portraits of men who, whether on the bench or at the bar, have, from the days of Chief Justice Chew to those of Chief Justice Fell, shed light and lustre upon the legal profession. That collection has been a rapidly growing one. It is valuable, not so much for its monetary value, although that is large, as for its power to draw together the scattered light of many lives and focus their rays upon the broad pathway which leads men to justice. It is easy enough to simply wander through an ordinary gallery, gazing on this face or on that, and call up perhaps some personal reminiscence, if it happens to be the picture of a contemporary, or some anecdote of which a man has read, if the subject-matter of the biography be in his grave; but it is the correlation and the grouping, the intensity and the identity of aim, of purpose, and achievement which make a great collection of pictures of value, not only to the present as a stimulus to action, but as a precious memorial of the past to future generations. We talk about the body of the common law. I do not know of any more expressive reference to that phrase, "the body of the law," than that which occurs in one

## Address of Hon. Morris S. Barratt.

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of the essays of Sir Frederic William Maitland, where he says: "It is not so much a metaphor as the expression of a fact, a body of which every atom is subject to change, decay, repair, and yet the body remains the same," and although we extend our minds back in contemplative review of the past, and we allude to this generation or that generation, or to this century or that century, it makes but little matter whether we say the common law of Blackstone, or the common law of Hale, or the common law of Coke, or the common law of Littleton, or the common law of Bracton, or the common law of Glanville, we still find a great body of jurisprudence which stands for the protection of British and American justice, and which constitutes the broad and solid foundations as well as the over-arching domes of our temples of the law. We find also that it is the lives of the men who have illustrated these thoughts, that as atoms have built up the science, as Justice Mitchell expressed it, "the beautiful science of the common law, which is the science of living justice, changing simply in its application of principles to the changed affairs of men." So in this our own Commonwealth, a splendid and most brilliant illustration of the life of the common law and of the ability to apply old principles to new conditions, was exhibited here, modestly, unobtrusively, but now in the eyes of the world revealing as in a vision what we have done and seen, far beyond that of other states, and in anticipation of that which has been done recently in England. I mean that it was the most brilliant achievement in the history of jurisprudence when the early judges of Pennsylvania fused equity and common law, and ad-

## Presentation of Mayer Sulzberger Portrait.

ministered equitable principles through common law forms, but it took more than one hundred and fifty-years for England to come to the same conclusion, and it took our lagging sister states from fifty to seventy-five or one hundred years to follow our example.

In the examination of this total mass of juridical work, so to speak, we may pick out this man's labor and that man's labor, and as long as we are close to it we can see perhaps the individual marks of the individual tool and the particular style and genius of the workmanship. But as we recede, like removing from a building, where walls begin to tower and we get the mass in proper perspective, we ascertain that the individual worker does not stand alone, but that he is a part of a greater movement, and that although his individual expression for the time being, when he was in action, seemed to be personal, peculiar and individual to himself, yet he was somehow or in some way the mere instrument, his lips touched by divine fire, for expressing those molten principles which flow through the centuries, fusing, melting, and reducing into the form of precious metal the raw, rough ore dug from the mines of life on either side of life's highway. So when we come to regard what it was that was done during the twenty years that this great jurist, whose portrait we now present, sat upon the bench, it seems to me that when we come to estimate what Mayer Sulzberger actually was called upon to do, and that which he did do to perfection, it was simply to complement and supplement the work of those early judges who administered equity through common law

## Address of Hon. Morris S. Barratt.

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forms, and that Judge Sulzberger proved a magician in fusing the common law and equitable practice.

We all remember the old examinations and masterships, where time was wasted afternoon after afternoon, week after week and month after month, an appointee of the court sitting simply as a scribe to take down testimony, with no judicial power to raise or rule on a question of evidence, but turning in a mass of manuscript, in the early days before those of typewriters and copyists, to be read by another man appointed as a master, and all this time the living sources of the truth, the witnesses themselves in flesh and blood, were excluded from the eye and ear of the Chancellor. No wonder that in the course of time we remodeled our practice. Our equity trials now, though conducted without the aid of a jury, bring to the trial equitable judge the witness himself to tell his story in person, and to be subjected to personal cross-examination. The old mastership is wiped out. The old referee, the examiner, as he was called, is wiped out. The judge now sits, with economy of time, in contact with the actual source of the evidence.

In that respect, Judge Sulzberger certainly exercised a most remarkable power. I know that it was at times extremely uncomfortable to trial lawyers at the bar to wrestle with his strong, vigorous mind and his clear-sighted eye, penetrating like a flash of light by instinctive judgment to the truth and heart of the issue, but we do not permanently judge of men by the passions of the moment which pass, or by feelings of irritation which are evanescent. We all want to do justice to a strong sense of right and a determination to reach,

## Presentation of Mayer Sulzberger Portrait.

and reach speedily, the truth of the cause. If I were to sum up the matter, by suggesting well known careers as illustrations of my meaning, I would say that Judge Sulzberger will be remembered largely, after having turned like Erskine from the bar, for having united on the common law side the qualities of Lord Ellenborough and of Lord Campbell, and on the equity side those of Sir George Jessel and Sir William Brett, afterwards Lord Esher. A marvellous gift of expression, not simply the ability to play, so to speak, with the iridescent hues of a topic as he turned and turned it and turned it so as to catch new light from each angle,—that was mere intellectual pastime on his part,—but an ability to take a principle and state it with precision, and, at the same time, to recognize where the limitations were and how far the facts or doubts in the case might modify the just and true application of that principle, these gifts he had to perfection. To listen to him was a delight, but his ability to state principles in strong, clear, simple words, while it excited our admiration, provoked our despair. I know of no judge in Pennsylvania, long as her roll of judicial biographies is, that is exactly like him. He is himself. He is a great man. He fulfills Emerson's definition of greatness, "that he is truly great who is himself, and who reminds us absolutely of no other." Of what man, calling to mind all the names of judges and of lawyers that we can recall, does Judge Sulzberger remind us? Of what mind or type is he a facsimile? We may say other men were industrious, other men able, other men eloquent, other men learned, other men vast in comprehension and full of the power to grasp the learning of

## Address of Hon. Morris S. Barratt.

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the ages and bring it to the service of the present moment, but in every one of those particular fields Sulzberger has stood as a model for himself and himself alone, and in that respect we regard him as one of the strong, virile, original, unmistakable embodiments of legal genius.

It is fitting that his Association, represented by the gentlemen for whom I speak, should present to you, Mr. Chancellor, and ask you to accept, this admirable portrait by Mr. Rittenburg of Mayer Sulzberger.

Mr. Prichard said:

The Law Association gratefully accepts this portrait. No collection of portraits of the great men of the bench and bar of Philadelphia would be complete without the portrait of Mayer Sulzberger. His scholarly tastes, his wonderful command of language, his legal attainments, his originality, his love for actual justice as distinguished from the mere enforcement of legal rules, his practical sagacity, his almost uncanny insight into the hidden motives that underlie human speech and action, have made him as notable a figure on the bench as he was at the bar, and the brilliant flashes of his trenchant wit, his shafts of sarcasm leveled during a trial indiscriminately at parties, witnesses and counsel, have been at once the delight and the despair of the bar. We are glad to have this portrait, and yet after all it is but the counterfeit presentment, and we echo the wish and expectation so beautifully expressed by Judge Barratt, that we shall have among us for many years to come the living original, if not as a judge on the bench, at least as a valued friend and comrade, and as an honored citizen.

