



John P. Fullam

Born: December 10, 1921, in Gardenville, Pennsylvania

Died: March 8, 2018, in Wallingford, Pennsylvania

Federal Judicial Service:

Judge, U.S. District Court for the Eastern District of Pennsylvania

Nominated by Lyndon B. Johnson on January 19, 1966, to a seat vacated by Abraham Lincoln Freedman.

Confirmed by the Senate on August 10, 1966, and received commission on August 11, 1966.

Served as chief judge, 1986-1990. Assumed senior status on April 1, 1990.

Service terminated on March 8, 2018, due to death.

Education:

Villanova College, B.S., 1942

Harvard Law School, J.D., 1948

Professional Career:

U.S. Naval Reserve: 1942-1946

Private Practice, Bristol, Pennsylvania: 1948-1960

Judge, Court of Common Pleas of Bucks County [Pennsylvania]: 1960-1966

Other Nominations/Recess Appointments:

Nominated to U.S. District Court for the Eastern District of Pennsylvania, August 24, 1965; no Senate vote.

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Judicial Biography

*In 1966, President Lyndon B. Johnson nominated John P. Fullam to join the Court with the endorsement of Senator Joseph Clark, but only after about a year's delay caused by fellow Senator Hugh Scott, who was urging President Johnson to nominate a Republican to the Court. Fullam, a native of Bucks County, was a graduate of Villanova University and Harvard Law School. During his deployment as a Naval officer on a tanker in the Pacific during World War II, the ship had occasion to fuel the *U.S.S. J. William Ditter*, a destroyer-mine sweeper named for J. William Ditter, a Pennsylvania Congressman from Montgomery County. As fate would have it, Fullam and the Congressman's son, J. William Ditter, Jr., were destined to be colleagues on the federal bench many years later.

In the 1950's, Fullam served as Chair of the Delaware River Joint Toll Bridge Commission and twice ran unsuccessfully for Congress on the Democratic ticket. In 1960, Governor David Lawrence appointed him to fill a vacancy on the Bucks County Court of Common Pleas, as Fullam put it, to get him out of the hair of the politicians. He was then elected with the endorsement of both parties to a ten-year term and became the first Democrat to have won election to the Bucks County Court in many years. Six years after he joined the state bench, he was sitting on the Eastern District where he was destined to hear cases for almost forty-five years before his retirement. His tenure in this regard was longer than that of any other judge in the Court's history, surpassing by over a year the previous record set by Judge Kirkpatrick.

In addition to sharing his legal acumen, he acted as the District Court's grammarian and resident Latin scholar. He never hesitated to flag both grammatical and spelling errors in his colleagues' opinions. His own opinions he kept extremely short, often unencumbered by legal citations. When singing was required at court functions, it was he who took the lead with his fine tenor voice.

The lobby of the courthouse is usually a place of calm where people enter and exit the courthouse in an orderly manner and where quiet conversation often transpires. From time to time, judges, lawyers, and guests gather there for receptions held after sessions in the nearby Ceremonial Courtroom to induct a new judge, to memorialize a deceased colleague, or to unveil a judicial portrait. In the early part of 1979, the tranquility normally experienced in the lobby was disturbed. It became the site of a controversy over the exhibition of art which eventually resulted in a lawsuit. Under a federal program to encourage the use of public buildings for cultural and educational purposes and to stimulate pedestrian traffic, the works of local artists were displayed in the lobby. Some of the paintings featured females whose countenance left nothing to the imagination. Other artwork contained purportedly offensive political content. Chief Judge Joseph Lord, acting in his administrative capacity, directed that ten paintings of nudes be removed forthwith by the General Services Administration ("GSA") which

* The following material is excerpted from JUDGE HARVEY BARTLE, III, *MORTALS WITH TREMENDOUS RESPONSIBILITIES, A HISTORY OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA*, 3-12 (Saint Joseph's University Press, 2011). Reproduced with the permission of the author, Judge Harvey Bartle, III, and the publisher, Saint Joseph's University Press.

administered the federal program. Leaving no doubt about his feelings on the matter, he declared emphatically that the subject matter was not fit for viewing by priests, nuns, or school children.

The publicity and stir over the removal of the nude paintings had barely subsided when artwork allegedly critical of the FBI appeared in the lobby. Chief Judge Lord promptly banished it from the courthouse. He was quoted as having said, 'I order it out and I don't care who takes it out as long as it's out.'

At that point, eminent Philadelphia lawyer Henry Sawyer filed a lawsuit in this Court for an injunction to overturn Judge Lord's directive and its execution by GSA. The matter was assigned to Judge Fullam. After Sawyer presented the case and made an impassioned argument in support of liberty and freedom of speech, Judge Fullam, ruling from the bench, ordered the politically offensive art to be restored to the lobby.

The Pennsylvania Railroad and the Reading Company, were two venerable institutions headquartered in Philadelphia. The Pennsylvania Railroad, incorporated by special Act of the Pennsylvania General Assembly in 1846, ultimately became one of the largest privately owned railroads and one of the most powerful corporations in the United States. Its passenger and freight lines ran from Boston to Washington and as far west as Chicago and St. Louis. It also operated six commuter lines ridden by thousands each day into its Suburban Station in downtown Philadelphia. The Pennsylvania Railroad was so much a part of the life of the Philadelphia region that the Western Suburbs were called the "Main Line" because of the railroad's main track line to Pittsburgh and Chicago that intersected the area. The glory of the railroad can still be seen in its 30th Street Station in Philadelphia which was completed just before the onslaught of the Great Depression.

The Reading Company was a much smaller railroad centered in eastern Pennsylvania and New Jersey, but it too in its heyday was formidable. At the beginning of the twentieth Century, its President, George F. Baer, a confidant of J.P. Morgan, made headlines as a vocal opponent of the United Mine Workers Union and of the efforts of President Theodore Roosevelt to settle a 1902 strike on terms favorable to the coal miners. The Reading's main source of revenue came from the transportation of coal from the anthracite region of northeastern Pennsylvania. into Philadelphia. It also had six important commuter lines reaching from the Philadelphia suburbs into the landmark Reading Terminal with its expansive train shed at Twelfth and Market Streets where the railroad had its main offices.

By the 1970's, the golden era of the railroads had come to an end. In an effort to solve their financial woes, the Pennsylvania Railroad and the New York Central Railroad Company had merged in 1968 to form the Penn Central Transportation Company with over 20,000 miles of track in sixteen states, two Canadian provinces, and the District of Columbia, close to \$7 billion in assets, and more than 100,000 employees. This merger, however, did not bring about the profits and cost savings for which the two railroads had hoped. By late June 1970, in the words of a Penn Central spokesman, it was suffering "a severe cash squeeze" and was "unable to acquire from any source additional working capital."

The unthinkable happened on Sunday, June 21, 1970. The railroad's law firm, Dechert Price & Rhoads, had drafted a petition to place the Penn Central in reorganization under the Bankruptcy Act. Judge Hannum, the emergency judge that weekend, was alerted but deferred to his colleague Judge Kraft. After approval of the Penn Central's Board of Directors at an emergency meeting that Sunday afternoon, H. Francis De Lone, a partner at the Dechert firm, and Lawrence Turner, a Dechert associate, rushed the petition to Judge Kraft at his farm in Edgmont, Delaware County, where Kraft signed the fateful Order placing the railroad in reorganization at 5:40 p.m.

At a meeting of the judges of the Court the next day, all in attendance realized that this bankruptcy would be a massive undertaking and would not be resolved anytime soon. It was quickly decided that it should be assigned to a younger judge. Due to the fact that some judges owned Penn Central stock or had other reasons to recuse, there remained just four available contenders. Their names were placed into the fedora of Chief Judge John Lord. Judge Fullam's name was drawn, and he received the assignment.

The case thereafter proceeded under the Regional Rail Reorganization Act of 1973 after the Supreme Court rebuffed a challenge to the Act's constitutionality. A phalanx of lawyers appeared before Judge Fullam, and endless hearings and arguments took place. He could become exasperated when a lawyer did not meet his high expectations. On one occasion, an issue arose involving the disappearance of 352 Penn Central boxcars. When a lawyer kept pressing a meritless argument, Fullam exclaimed, "Did it ever occur to you that the reason you are having such a difficult time with this case is that you don't have a case to present?"

Judge Fullam signed the order consummating the plans of reorganization of the Penn Central Transportation Company in August 1978. The adjudication of the reorganization continued thereafter, and a few subsidiary issues remain open even today. It was one of the most complex cases the Eastern District had ever seen, with over 4,300 court orders issued to date.

In November 1971, the Reading Company, because of its grave financial condition, took the same track as the Penn Central and filed for bankruptcy and then reorganization under the Regional Rail Reorganization Act. Again, the assignment of a judge had to be accomplished. In a similar fashion as with the Penn Central, the names of the judges were placed into a hat at a judges' meeting, and a name was drawn. The winner was J. William Ditter Jr., who happened to have been absent from the meeting that day. After this turn of events, it has been said that Judge Ditter has had perfect attendance at all subsequent gatherings of judges where Court business is conducted. The Reading Reorganization was likewise a protracted undertaking which also took years and over 3,500 orders to resolve. Ultimately, the Reading's rail properties were transferred to Conrail for approximately \$186,000,000 from the Government. All the Reading creditors were paid as were its stockholders. The reorganization was ultimately resolved in 1980.

Political corruption was a focus of the Justice Department in the 1970's and 1980's, and many well-known political figures in the region were successfully prosecuted in the Eastern District. They included: Congressman Joshua Eilberg; State Senator Henry J. "Buddy" Cianfrani; the Speaker of the State House of Representatives Herbert Fineman; State Representative Matthew Cianciulli; Philadelphia City Councilmen Leland Beloff, Harry Jannotti,

George X. Schwartz, and James Tayoun; Philadelphia City Commissioner Maurice Osser; the Mayor of the City of Chester John Nacrelli; and Chester County Republican Party leader Theodore Rubino.

The case against George Schwartz and Harry Jannotti is perhaps the most memorable. In the late 1970's, the FBI undertook an undercover sting operation known as ABSCAM. In 1980, the Government indicted Schwartz, the powerful President of Philadelphia's City Council, and Jannotti, the Majority Leader, under the Racketeer Influenced and Corrupt Organizations Act and the Hobbs Act. FBI agents had posed as representatives of Arab sheiks from Abu Dhabi who were interested in building a hotel in Philadelphia. Ultimately, Schwartz agreed to meet with a corrupt attorney, Howard Criden, and an undercover FBI agent posing as an intermediary for the Arab sheiks at a suite in the Barclay Hotel on Rittenhouse Square. After discussion about local politics, Schwartz's power, and the need for his help to smooth the way for the construction of the hotel, the undercover agent opened a briefcase and without comment handed Schwartz an envelope which contained \$30,000 in cash. Schwartz then placed it in his jacket without counting it. Unbeknown to Schwartz, the entire meeting was videotaped.

The next evening, the lawyer and undercover agent met with Councilman Jannotti in the same suite at the Barclay. Again, after a conversation similar to what had occurred the previous evening, the undercover agent gave Jannotti an envelope containing \$10,000 in cash. As with Schwartz, this event was videotaped.

A jury convicted both councilmen of conspiracy to violate the Hobbs Act which makes it a criminal offense to conspire to affect interstate commerce by extortion. Schwartz was also found guilty of conspiracy to commit racketeering. Judge Fullam, before whom the case was tried, reluctantly overturned the jury verdicts on the ground that the Government had overreached and had improperly entrapped Schwartz and Jannotti. He wrote:

These conclusions have been reached with great reluctance. No-one who has viewed the videotape evidence in this case could avoid feelings of distress and disgust at the crass behavior the tapes reveal. The jury's verdict represents a natural human reaction to that evidence. But, in the long run, the rights of all citizens not to be led into criminal activity by governmental overreaching will remain secure only so long as the courts stand ready to vindicate those rights in every case.

The Government appealed. Initially, the three judge appellate panel affirmed Judge Fullam by a vote of 2 to 1. Nonetheless, after hearing argument en banc, the Court of Appeals reversed and reinstated the verdicts. The political careers of Schwartz and Jannotti came to an end, and they went to prison.

Judge Fullam served as Chief Judge from 1986 to 1990. He assumed senior status on April 1, 1990. He passed way in Wallingford, Pennsylvania on March 8, 2018 at the age of 96.