



C. William Kraft, Jr.

Born: December 14, 1903, in Philadelphia, Pennsylvania

Died: January 18, 2002, in Key Biscayne, Florida

Federal Judicial Service:

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

Received a recess appointment from Dwight D. Eisenhower on August 12, 1955, to a new seat authorized by 68 Stat. 8; nominated to the same position by Dwight D. Eisenhower on January 12, 1956.

Confirmed by the Senate on March 28, 1956, and received commission on March 29, 1956.

Assumed senior status on November 11, 1970.

Service terminated on January 18, 2002, due to death.

Education:

University of Pennsylvania, A.B., 1924

University of Pennsylvania Law School (now Carey Law School), LL.B., 1927

University of Pennsylvania Law School (now Carey Law School), J.D., 1930

Professional Career:

Private Practice, Media, Pennsylvania: 1927-1955

District Attorney, Delaware County, Pennsylvania: 1944-1952

Other Nominations/Recess Appointments:

Nominated to U.S. District Court for the Eastern District of Pennsylvania, May 20, 1955; no Senate vote.

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Judicial Biography

*Eisenhower's third appointment went to C. William Kraft, Jr., of Delaware County to fill a new judgeship Congress had created for the Eastern District. He was given a recess appointment in August 1955, and was confirmed in March 1956.

Kraft was born in the Brewerytown neighborhood of Philadelphia in 1903, but his family moved to Delaware County when he was five. He received both his undergraduate and law degrees from the University of Pennsylvania. His leadership ability and political skills developed early in life. At the age of seventeen, while he held a summer job as a marble setter's helper, he was elected vice president of the local union to which the marble setters belonged. At the age of twenty-one, having already become involved in Republican politics, he was elected a councilman in the Borough of Clifton Heights where he served two terms.

Kraft was engaged for ten years as an assistant district attorney. He moved on to higher office as Delaware County's District Attorney from 1944 to 1952 and then returned to full time private practice. Senator James H. Duff recommended him to President Eisenhower for the position of United States Attorney when the President first took office. Upon consulting with Gerald Gleeson, a former United States Attorney, Kraft decided he would not enjoy having to deal with the bureaucrats in Washington. He also had misgivings about the pay cut he would suffer if he left his law practice. Consequently, he declined the offer.

Several years later, he was approached about accepting a federal judgeship. He agreed to do so only after a candidate supported by Senator Edward Martin and a different candidate supported by Senator Duff both failed to make it through the evaluation process and after being assured that Congress was about to enact a substantial pay raise for judges.

Once on the bench, he and Judge Van Dusen, with the approval of Chief Judge Kirkpatrick, totally revised the Court's local rules which had not been updated since 1913. Judge Kraft also had strong views about opinion writing. In an interview long after he had retired, he reiterated the importance of "very short, well-reasoned opinions," and stressed "the shortness thereof I would commend to the attention of many of the judiciary today whose inclination toward verbosity seems at times to be getting a bit out of hand." By common consent, he was considered one of the best trial judges ever to sit on the Court.

In 1961, *Fortune* magazine carried an article entitled "The Crisis in the Courts." It painted a gloomy picture primarily of state courts because of their large backlog of untried civil cases, their lack of innovation, and their judges who were the product of machine politics and not merit selection. It also mentioned one federal court (not the Eastern District) which had had a huge backlog until decisive action was taken by an out-of-district judge appointed to deal with the situation. Yet, the article noted signs for optimism. It singled out six federal and six state

* 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.

judges for praise, calling them “a Blue-ribbon jury of American judges.” Included in this illustrious group was Judge Kraft about whom it was stated, “C. William Kraft, fifty-seven, ex-district attorney, rated a political appointee in 1955, has won the Philadelphia bar’s respect for cutting through complex cases.”

During the 1950’s, as had occurred in the 1940’s and would continue into the 1960’s, there was continual antitrust litigation in this District over control, distribution, and bookings for theatrical productions and movies in theatres in Philadelphia. Goldlawr, Inc., controlled by magnate William Goldman, was in the general theatrical and amusement business including the presentation of legitimate attractions and motion pictures. In 1956 and 1957, it sued a number of entities and individuals alleging conspiracy in restraint of trade. Judge Kraft presided over the cases for more than ten years. While the defendants ultimately conceded that they had maintained monopolistic control of the legitimate theater business at one time, Judge Kraft found, after a non-jury trial, that it had ended years before in 1950. He entered judgment for the defendants.

In a case involving the First Amendment, Edward Schempp and his wife Sidney Schempp, who were Unitarians, sued the School District of Abington Township, Montgomery County where their children attended school. They sought to enjoin as unconstitutional the daily reading of ten verses of the Bible by a teacher or student as required by Pennsylvania law.

The case was heard by a three-judge panel consisting of District Judges Kirkpatrick and Kraft and Circuit Court Chief Judge John Biggs. At that time, the law mandated that two District Judges and one Circuit Judge preside over an action where the constitutionality of a state statute was challenged. The Court unanimously agreed that the statute violated both the Establishment of Religion Clause and the Free Exercise of Religion Clause of the First Amendment as applied to the States by the Fourteenth Amendment. As Chief Judge Biggs stated in the Court’s opinion, “Whether or not mere reading of the Bible, without comment, is a religious ceremony, a state supported practice of daily reading from that essentially religious text in the public schools is, we believe, within the proscription of the First Amendment.”

Pennsylvania, however, did not give up easily. The General Assembly proceeded to amend the law. It continued to require that ten verses of the Bible be read daily without comment but now allowed any student to be excused from attending Bible readings upon the written request of a parent or guardian. After further legal maneuvering by the parties, the three judges unanimously struck down the amended statute on the ground that it too violated the constitutional prohibition against the establishment of religion. The Court reasoned:

The fact that some pupils, or theoretically all pupils, might be excused from attendance at the exercises does not mitigate the obligatory nature of the ceremony for the ‘new’ [statute], as did the statute prior to its 1959 amendment, unequivocally requires the exercises to be held every school day in every school in the Commonwealth.

The defendants appealed to the Supreme Court. On June 17, 1963, the same day the Supreme Court decided *United States v. Philadelphia National Bank*, it handed down its ruling affirming the District Court. In the words of Justice Tom Clark:

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality. Though the application of that rule requires interpretation of a delicate sort, the rule itself is clearly and concisely stated in the words of the First Amendment.

From that point forward, Bible reading in the public schools of the Commonwealth was a thing of the past. But in the process, as often happens in controversial cases, the Court in Philadelphia received a plethora of hate mail. Incongruously, some of those who professed to favor the nurturing of school children with a message from the Scriptures filled their correspondence with obscenities.

The Pennsylvania Railroad and the Reading Company, as previously noted, 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.

During the 1970’s and 1980’s, the Court had several Chief Judges. John Lord stepped down on his seventieth birthday in December 1971, after two years in that position. He died shortly thereafter in May 1972. Judge Kraft would have been next in line to succeed him, but in 1970 had taken senior status. He soon began to spend most of his time in Key Biscayne and heard cases in the Southern District of Florida for a number of years.

Judge Kraft aptly observed years ago, a judge is “a mortal charged with tremendous responsibilities. You’re dealing with other people’s rights, not your own. . . .”

Judge Kraft assumed senior status on November 11, 1970. He served in that capacity until his death on January 18, 2002 in Key Biscayne, Florida, at the age of 98.