



Archibald Randall

Born: May 24, 1797, in Philadelphia, Pennsylvania.

Died: June 8, 1846, in Philadelphia, Pennsylvania.

Federal Judicial Service:

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

Nominated by John Tyler on March 3, 1842, to a seat vacated by Joseph Hopkinson.

Confirmed by the Senate on March 8, 1842, and received commission on March 8, 1842.

Service terminated on June 8, 1846, due to death.

Education:

Read law, 1818

Professional Career:

Private Practice, Philadelphia, Pennsylvania: 1820-1842

Clerk, Philadelphia (Pennsylvania) Select Council: 1830-1833

Judge, Court of Common Pleas of Philadelphia County (Pennsylvania): 1834-1842

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Judicial Biography

* At the time of Judge Joseph Hopkinson's death in January 1842, John Tyler was President of the United States. Less than a year before, on April 4, 1841, he had succeeded William Henry Harrison upon the latter's death after only one month in office. Harrison, the

* 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.

victorious general at the Battle of Tippecanoe against the Shawnee Indians, and Tyler, a former Senator from Virginia, had run successfully together on the Whig ticket with the slogan “Tippecanoe and Tyler too.” Once in the White House, Tyler rejected some of the key Whig principles such as the party’s endorsement of a national bank, and as a result he earned the enmity of many Whigs who controlled Congress.

Tyler’s appointment of a successor to Joseph Hopkinson did not go smoothly, at least at first. Initially, Tyler selected Horace Binney, a prominent Philadelphia lawyer, who was a Whig and former anti-Jacksonian congressman (1833-1835). His name had been mentioned years before as a possible Supreme Court nominee. In what seems like a rather unorthodox move, the President nominated Binney, and the Senate confirmed him for the District Court without having obtained his consent. When Secretary of State Daniel Webster forwarded to Binney his commission signed by the President, he declined the appointment. He was then sixty-two years old and had been retired from the practice of law.

The President then turned to Thomas Bradford, another accomplished Philadelphia lawyer and a prominent Presbyterian layman, whose uncle William Bradford had been the Attorney General under President Washington and whose ancestors had been successful printers during the Revolutionary War era. Unfortunately for Bradford, he had spoken out publicly against the rechartering of the Bank of the United States which was supported by the influential Senator Henry Clay, among others. Consequently, the Whig-controlled Senate rejected him for a federal judgeship.

On the third try, Tyler nominated Archibald Randall, who would become the fifth judge of the court. This time the President met with success. The Senate confirmed Randall in March 1842, five days after his nomination. Born in Philadelphia in 1797, he had practiced law since 1818, had been active in Democratic politics, and had served for a time as Clerk of Philadelphia’s Select Council. In 1834, he was named a judge of the Court of Common Pleas of Philadelphia County, a position he held until his appointment as a District Judge. Randall was involved in philanthropic causes, including the Philadelphia Society for Alleviating the Miseries of Public Prisons. At one point, he had responsibilities as a Director of the Philadelphia Schools. He was also the first Roman Catholic to sit on the bench of the Eastern District of Pennsylvania. It appears that Tyler, in thinking about the next presidential election, was attempting to solidify his support among the Irish community of Philadelphia.

Within a month or so after Randall took office, Justice Baldwin and he presided over the trial of Alexander William Holmes for manslaughter on high seas. It was a case fraught with difficult legal and moral issues. In March 1841, the ship *William Brown* left Liverpool bound for Philadelphia with seventeen crew members, sixty-five Scottish and Irish immigrants, and heavy cargo. During the voyage the ship hit an iceberg off the coast of Newfoundland and began to sink. Two smaller boats were lowered into the water. Some passengers and crew were able to scramble aboard while those not so fortunate went to their deaths on the *William Brown*. Thereafter, one of the smaller boats in the charge of Holmes, a crew member, began to leak as it was buffeted by a severe rainstorm and high waves. Finally, after twenty-four hours, the crew, including Holmes, threw overboard fourteen male passengers in order to save the

boat from sinking and to prevent those remaining from perishing. Two women were also lost although it was not clear if they were tossed out of the boat. The next day, after the inclement weather had subsided, the survivors were rescued by a passing ship.

At his homicide trial in Philadelphia, Holmes was described as an able, brave, and compassionate seaman. In a detailed charge to the jury, Justice Baldwin with the concurrence of Judge Randall explained the obligation of a sailor to a passenger. He instructed the jury that a sailor had no right to invoke the law of necessity as a defense unless all ordinary means of self-preservation were exhausted. He outlined the duties of a sailor to undergo whatever hazard is necessary to preserve the boat and passengers. When danger is extreme with destruction imminent and when time exists, the Court declared that the proper method for determining who should be thrown overboard is by casting lots, “the fairest mode, and in some sort, as on appeal to God, for selection of the victim.” The Court also recognized that homicide is “sometimes justifiable.” Finally, the Court concluded in its charge that the case “involved questions of the gravest consideration and . . . the facts, in some sort were without precedent.” The jury struggled with its decision and at one point advised the Court it was unable to agree. “With some difficulty” it ultimately returned a verdict of guilty of manslaughter but recommended mercy. Holmes was sentenced to six months in prison in solitary confinement at hard labor at the Eastern Penitentiary of Pennsylvania and fined \$20. While President Tyler refused to grant a pardon, the record states that the “penalty was subsequently remitted.”

In late 1842, not long after the Holmes case was decided, Francis P. Kenrick, the Roman Catholic Bishop of Philadelphia, wrote a letter to the Board of Controllers of the public schools requesting that Catholic children be permitted to use their own Bible rather than the Protestant King James version and be excused from what in effect was Protestant religious instruction in the public schools. After months of correspondence between the Bishop and school officials, Protestant-Catholic friction escalated. In May 1844, an anti-Catholic riot broke out in the Kensington District of Philadelphia after outsiders allegedly disrupted a meeting being held by a group of Protestants. A second more serious riot erupted in the Southwark District of Philadelphia in July. In this instance, the militia had to be called out to quell the violence.

After the May riot, a state grand jury was impaneled. It issued a report that was critical of “efforts of a certain portion of the community to exclude the Bible from our public schools.” It concluded that the riot had been caused after a “band of lawless irresponsible men, some of whom had resided in our country only for a short period,” had disturbed and fired upon those of the District of Kensington who sought “the peaceful exercise of the sacred rights and privileges guaranteed to every citizen by the Constitution and laws of our State and Country. “This was a thinly veiled attack on the Irish Catholic community.

Judge Randall chaired a meeting of Catholic citizens at St. Mary’s Cathedral on Fourth Street in June 1844 to prepare a public response to the grand jury report. The “Address,” which he signed and which was printed in the newspaper, criticized the grand jury for failing to call all witnesses and fully examine the circumstances as to what had occurred. Randall denied that the Catholic community ever sought to exclude the Bible from the public schools. He then wrote eloquently about religious freedom, the rights of minorities, and the Constitution:

[T]hey [the Catholic community] limited their request to the liberty of using their own version [of the Bible], and did not in any way interfere with the use of the Protestant version by such as chose to adopt it. In this age and country, and especially in the city to which William Penn gave the name and impress of brotherly love, we presume it is unnecessary to put forward any plea in support of our constitutional and legal right to have our religious predilections respected. Freedom of conscience is a fundamental article of the social compact which we are bound to maintain, and we cannot consent to see it violated, in ourselves, or our fellow citizens. We appeal to all whether we do not scrupulously respect it in all the various relations of life.

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We have heard it affirmed that because Catholics are a minority, they must submit to the regulations which the majority may please to adopt. We are willing that the principle should be applied to all things wherein public interest and order are concerned, saving always those principles and rights which the Constitution holds to be inviolable. We are the minority; and for us, therefore, does the Constitution exist. The majority need not its protection, for they have the power to take care of their own interests. Unless for the shield which the Constitution gives to those who are the smaller, and, therefore, the weaker party, this government would be a Despotism, for the governing power would be uncontrolled. To-day one class may be lashed by the tyrant of numbers, and to-morrow another may feel the scourge. No man, no sect, no party, would ever be safe. Peace and order would be destroyed, and soon the wreck of the Republic would add another to the many melancholy instances of the danger which always attends the conferring of unbounded power.

In Randall's day, the federal court was not the place to obtain redress against a school board in matters of Bible reading or religion. The First Amendment, which was ratified as part of the Constitution in 1791, provided that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . ." It was not until the third decade of the Twentieth Century that the Supreme Court held that these provisions of the First Amendment also applied to the actions of the states and their municipalities and school boards as a result of the post-Civil War Fourteenth Amendment. Thereafter, the Eastern District was destined to decide a number of significant cases on the issues of religious liberty and the separation of church and state. But all of this lay well into the future.

On the bench, Judge Randall presided primarily over admiralty and maritime matters as well as criminal offenses committed at sea such as *Holmes*. He also adjudicated cases alleging violations of the postal laws. On one occasion he heard a lawsuit in which the Government sought penalties of \$2,000 from a person for carrying mail for a fee on railroads and steamboats between Philadelphia and New York in competition with the Post Office. The jury found in favor of the United States. Judge Randall rejected the contention that the statute providing the Government with exclusive authority to establish and regulate post roads was unconstitutional. He cited Article I, § 8 of the Constitution which gives Congress the power "to establish Post

Offices and Post Roads” and “to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers.” Relying on Supreme Court precedent, he concluded that “the presumption is always in favor of the validity of the law, if the contrary is not clearly demonstrated.”

When Judge Randall died in June 1846, only four years after he began his federal judicial service, a “Tribute of Respect” appeared in a local newspaper. It referred to him as “the Judge in Admiralty” and reported that the flags of all vessels in the port of Philadelphia had been flown at half mast in his memory.