

S. MAXWELL FLITTER

By Gus Milides

With Permission Of The Court. It is beyond my comprehension, indeed my capability or anyones capability, to portray the life of this very singular and incomparable person. It is impossible by mere words to do honor to the memory of a man whose entire life and more than one half a century at this Bar, did honor to him. I doubt that the privilege afforded me in being permitted to address this Court at this ceremony will ever be exceeded in my lifetime. Only one greater honor can be bestowed upon me and then only posthumously, and that honor would be if S. Maxwell Flitter were standing in this place before this Court and before such a notable audience, supplicating and pleading the cause in support of my own eulogy. But this cannot be. I state this because of the love and esteem that I and every member of this Court and Bar have for this exceptional man.

On the portals of the Department of Justice, in Washington, D.C., there appears an inscription. It reads:

"THE PLACE OF JUSTICE IS A HALLOWED PLACE."

Today this room becomes particularly and uniquely so.

We have gathered together this morning to pay tribute to S. Maxwell Flitter, one of the beloved members of this Bar. And it is my humble purpose to express this Bar's appreciation for the life and work of so able an attorney.

What was said by Judge Learned Hand at the memorial services of Justice Brandeis is particularly applicable to S. Maxwell Flitter:

"A man's life, like a piece of tapestry, is made up of many threads, which when interwoven make a pattern. To separate a single one and look at it alone, not only destroys the whole, but gives the strand itself a false value."

So must it be with what I say today. This is no occasion to praise the life and work of a man whose memory we have met to honor. It would be impossible at this time to do justice to the content of so manifold a nature and so full a life. Its memorial stands in the records of this Court and best preserved in the minds of the Judges, the Members of the Bar, his family and friends.

Max Flitter was born in Philadelphia, Pennsylvania on October 18, 1900. He received a Bachelor of Arts Degree from Ursinus College in 1924, and an L.L.B. Degree from Yale University Law School in 1927. From the time he was graduated from Law School he practiced law continuously until the day of his death on August 24, 1980. During the earlier years of his career, he co-authored a Legal Primer, a study aid on how to pass the Bars. Throughout his lifetime he was an active practitioner engaged in the general practice of law and served for eight years as a Deputy Attorney General with the Public Utility Commission.

If you want to know what a good attorney should be, if you want to know that there are intelligent men who serve their profession, who use their talents in defense of the highest ideals of freedom and equal justice, then think of S. Maxwell Flitter. There was a man who gave his best. He had the capacity to listen patiently, probe deeply, explain lucidly and decide wisely. He was a trial lawyer whose manner during trial exemplified the true advocate. He was always courteous and considerate. He listened with attention following closely, opposing arguments, and was always taking copious notes. He seldom objected, and when he did so, it was for the sake of judicial economy, or to exclude immaterial or inadmissible hearsay. His artful questions on cross examination were designed to get to the heart of the matter and were always helpful to the Court.

He possessed a keen sense of humor that was evident to all that knew him. His quick wit, dry humor and the anecdotes told by and about him are legion and legendary. His humor was the sweet of Thoreau, the wit of Wilde, and the salt of Samuel Butler. He was Mark Twain and Bernard Shaw, back to back. And, like Will Rogers, he knew that:

"A gag, to be good, had to be fashioned about some truth."

Max always gave a story his own slant; exaggerated a wee bit so his listeners would not miss the point and get the message across. His humor was never at the expense of other persons. The sparkle of his wit during trial frequently broke the tension and made temporary the barrier of communication between counsel and the Court.

Max Flitter's Legal Briefs are classics. Those Briefs, too many to be analyzed during this ceremony, dealt with myriad legal and Constitutional issues which arise in the practice of law. A definitive appraisal of his technically skilled treatment of many of the varied legal issues with which he dealt must

await the legal scholar. To those, however, intellectually interested, I suggest they study the brief that Max submitted on behalf of his client in *Russell Russo v. the City of Easton*, 1980-C-1951, the very last brief he wrote.

In the area of criminal law, Max was moved to see that every Defendant received the full extent of the Constitutional protections due him. He was an instinctive friend of the underdog. He was filled with a deep compassion for any unfortunate who was being charged and tried for personal misdeeds, a compassion which often expressed itself in these comforting words: "Don't worry about it, everything will work out alright."

That same feeling of compassion led him to sympathetically understand the plight of an indigent Plaintiff in a personal injury claim.

About 25 years ago, when I began my practice, I represented a bass player who believed that his brothers and sisters wrongfully divested him of his rightful share of his father's estate. I related to Max this musician's plight and explained to him, also, that the father's estate consisted primarily of 9 valuable parcels of real estate located in Chester County. Max decided that a trip to Chester was necessary in order to search the records lodged in the Office of the Recorder of Deeds. On a very hot and damp day in July, we set out to accomplish our assignment. We arrived there, introduced ourselves to the clerk and proceeded with our work. Our unfamiliarity with the indexing system, the location of the books, the heat and humidity, as well as the size and weight of the books themselves, made a difficult task more difficult and tedious. Weather conditions notwithstanding, Max searched the records for 3 hours and concluded that the father did in fact own 9 valuable pieces of real estate, but that during his lifetime he conveyed these properties to his other children, deliberately disinheritting the bass player. On the return trip, we spoke of a variety of things although there was conspicuously absent in our conversation any reference to what we discovered. We arrived tired, perspired and I, especially, disappointed. Max reached for his jacket to leave my car and he leaned over to me and whispered out of the corner of his mouth: "What does your client do for a living?" "He is a bass player in a popular band", I replied impressively. Max then opened the door, got out of the car, put his head through the open window and said: "Gus, a word of advice to your client." "What's that?", I answered. There was an obvious pause which made me uncomfortable. "Tell the BUM not to sell his fiddle." "Good night, Max", was my feeble response as I drove away.

If I were asked to abbreviate his professional performance, this credo would follow: "No case was unimportant to him and to all his cases, he gave his best shot."

Max Flitter's professional interests, as well as financial enterprises, were many. At one point in his career he found himself a partner in a hotel and supper club. One day on the way to the track with his partner, his partner brought the car to a screeching halt, exclaiming to Max: "My God, I left the hotel safe open!" Max looked at his partner, studied his actions, and calmly remarked, "What are you worried about, Sam, we are both here." With this reassurance, they then both proceeded to their destination without further interruption.

After a serious illness several years ago, Max was working in the library when he was greeted by a fellow member of the Bar, George Weitzman, who said, "Max, it's nice to see you." Max's witty response was, "George, it's nicer to be seen".

His courage, determination and undaunted spirit after his illness will always be an inspiration to us all and can truly serve as a contemporary definition of Henely's "unconquerable soul".

Horace Mann once said:

"Be ashamed to die until you have won a victory for humanity."

S. Maxwell Flitter had nothing to be ashamed of at death because the victories he had won for humanity as a husband, a father, an attorney, a friend, and a human being are countless.

To Miriam Flitter, Marc Flitter and Merle Flitter Grollman, I say that today's ceremony has, in a small way, rekindled in our memories and in our hearts, the figure and spirit of S. Maxwell Flitter. We, as you, miss him and love him and will continue to miss and love him greatly. We are truly grateful for the privilege of having to know and work with him and we will forever have inscribed in our hearts his memory.

We ask that when the Court adjourns this morning, it does so out of respect to the memory of S. Maxwell Flitter.

November 5, 1980

S. MAXWELL FLITTER

By Daniel E. Cohen

May it please the Court, members of the family of S. Maxwell Flitter, my fellow attorneys, ladies and gentlemen:

My first impressions of S. Maxwell Flitter were from the perspective of a seven or eight-year-old boy playing with his son Marc. Many pleasant hours were spent in that house filled with love and good humor, and some not-so-pleasant hours also, as is the case with all boys on occasion. I vividly recall the afternoon that Mrs. Flitter exhibited perfect timing by catching Marc and me just as we were about to burn down the house experimenting with the propensity of toilet paper to burn when strewn around the bathroom. But the punishment was always short-lived, and the incident generates laughter in that special home three decades later.

As a young attorney, my initial contacts with the father of my boyhood friend were warm, cordial and informative. S. Maxwell Flitter always carried himself with dignity, compassion and a marvelous sense of humor, and in so doing, set an example for all of us to follow. He was particularly kind to young attorneys and was always available to assist them in any way that he could. His experiences over 50 years of the practice of law, sometimes apochryphal in part, we always suspected, were instructive and enlightening. Several examples may help to demonstrate the point. Fortunately, the incidents that I chose both relate to his two greatest loves outside of his family—the practice of law and horseracing. I leave the setting of priorities between the two to others more wise than I.

He always fought for his client, fought hard, and stood by him to the bitter end. On one occasion, he had an appointment at one of the area tracks with a local racing fan who sometimes, unbeknownst to Max no doubt, carried other's wagers as a favor; as they entered the track, his friend was stopped at the gate unceremoniously. His companion was informed that he was no longer welcome at that facility because of his gambling background. Unquestionably, Max's sense of fair play was violated—after all, this was a track, not a theological seminary. Taking up the underdog's position, as he did so often, Max stated, with his usual authority, "As this man's legal counsel, I protest." He was then advised that, due to his protest, he too was barred from entering. Although other racing facilities were available in the area, Max appealed the ruling and was victorious eventually both for his "client" and for himself.

He never gave up, either, in the relentless pursuit of justice for his client. On one occasion, our office had represented an agency that had condemned a building owned by his client, a friend of his, as were so many of his clients, who also frequently drove Max to the track. The case was concluded, and his client paid in full. Some months later, Max was approached by his client-friend who apparently needed a new set of tires if the excursions to the track were to continue. Max researched the case again thoroughly and, sure enough, found that my client had neglected to pay his client certain moving expenses. The result—money for new tires, a grateful client and a guaranteed ride to the track for Max. And, probably as important to us, another page in the legend of S. Maxwell Flitter.

His sense of humor was absolutely of the highest order. No member of our bar who was present several years ago at the judges' reception will forget the stand-up performance that Max put on. For upwards of one-half hour, Max regaled the bar and bench with stories of our members, past and present, judges and lawyers, stories that will stand as classics for literally generations to come. His timing was impeccable, easily as good as any stage performer. That sense of humor, always with him, made him a delight to be with and to work with.

It was a sense of humor that infected an entire family; a family that he was tremendously and justifiably proud of. He and Mim were the perfect couple, she understanding of his hobby of handicapping and anxious to meet his every need, he loving and caring and never denying her anything. Of his son, Marc, Max was so proud—a son who had studied so hard and become so successful as a neurosurgeon, first in Philadelphia and now in Miami. On several occasions, wanting the best for his injured clients, he referred them to the best physician he knew—Marc.

His daughter Merle was also a great source of pride to him and, fortunately, was close by and thus always available to enjoy and be with. She shared his sense of fun and gave him three more sources of joy, Julie, Michael, and Peter Max, all the apples of their grandfather's eye. Of his family, Max could not have been more proud or derived more pleasure. He played with them, enjoyed them and imparted to them, as he did to all who came in contact with him, his wonderful and indomitable love of life.

The life and career of S. Maxwell Flitter will stand as a model of perspective and purpose. His humor and style have given rise already to a legend of this illustrious Bar, a legend for our generation and future generations of lawyers. Our recollections of him will be warm and human and always will cause us to reflect on his memory with a smile and with gratitude for his having lived among us.

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