

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Memorial Service

for the

HONORABLE PHILIP NEVILLE

Minneapolis, Minnesota

May 3, 1974

2:00 O'Clock P.M.

CHIEF JUDGE EDWARD J. DEVITT, Presiding

IN MEMORIAM

JUDGE DEVITT: This special session of the United States District Court has been called to record the death of our beloved colleague, Philip Neville, and to memorialize his life and professional achievements.

We have asked the Right Reverend Hamilton H. Kellogg, a long-time friend of Judge Neville, to offer a prayer.

Bishop Kellogg.

BISHOP KELLOGG: Dear Father: Thou has bestowed upon us many precious gifts which we may share with others; the gift of prayer, the most precious gift of all.

So today we pray for Thy servant Philip, O Lord, according to the favors Thou bearest onto Thy people. Grant an increasing in knowledge and love of Thee. May he go from strength to strength in the life of perfect service in Thy heavenly kingdom.

Comfort all who mourn his loss, especially her who was his inspiration and partner in life and his children who were his comfort and his pride.

Be with them in their grief. Sow them with a sense of Thy presence and give them faith to look beyond their present sorrow and know that neither life nor death can separate them from His love.

We bless and thank Thee, O God, for lives like those of Thy servant Philip who had a vision of life where honor, justice and truth might prevail; and where all men might have an equal opportunity before the law.

May his life and work always be to us and to those who shall follow us an inspiration and a tall tower of strength to help us to persist, choosing the difficult and the right when the easy and unrighteous might seduce and beckon us.

We believe that Thou, O Lord, can hear us and we believe that thou, too, Philip, can hear us as we pray; that thou will realize how much we loved and miss you. We shall always remember that however great were your accomplishments and your privileges, and they were many, you have never forgotten the humble fellow man who was your brother.

May your soul rest in peace and light perpetual shine upon it.

JUDGE DEVITT. Thank you, Bishop Kellogg.

The Court recognizes the presence of Mrs. Philip Neville, her daughter Mrs. Frenzel, and Sons James and Philip, Junior, grandchildren and other family members and Judge Neville's former secretary, Joan Klaverkamp

Sitting on the Bench today are Circuit Judge Gerald Heaney, Senior Judge Gunnar H. Nordbye, District Judge Earl R. Larson, and District Judge Miles Lord.

In the jury box we are honored with the presence of several judges, Chief District Judge Fred Nichol of the District of South Dakota; Chief District Judge James Meredith of Saint Louis; Chief Justice Robert Sheran of the Minnesota Supreme Court and Associate Justices James Otis, Lawrence Yetka and George Scott; Chief Ramsey County District Judge Ronald Hachey; Judge Kenneth Gill of the Hennepin County Municipal Court as well as United States Bankruptcy Judges Kenneth Owens, Jacob Dim, John Connelly Hartley Nordin and Patrick McNulty and United States Magistrate J. Earl Cudd.

We recognize and welcome them, other judges and public officials, members of our Federal judicial family, Federal officials and all of the friends of Judge Neville.

When Philip Neville was sworn in as a Federal judge on August 4, 1967, he said:

“I am fully aware of the responsibilities that I take on to sit in judgment of other men. I now approach the Bench with eagerness, with desire, with willingness, and, I hope, God willing, with some judgment and ability.”

Judge Neville's record fully supports the hopes and aspirations he expressed on that day. In his six years, six months and nine days of judicial service, (certainly a sorrowful aborting of a great career), Judge Neville established an outstanding record as a United States judge. He did approach his responsibilities with eagerness and desire and willingness. And we, his fellow judges, and hundreds of lawyers who practiced before him will attest to his unquestioned ability and sound judgment.

If it could be said of any man, it could be said of Philip Neville, that he was born and trained to be a Federal judge. He came to the Bench a competent and seasoned lawyer with wide experience in private practice and in public law. He was a diligent student, well blessed with common sense and an equable disposition. He was a man of patience and a man of conscience.

I say for my fellow judges and for myself he was a most agreeable confrere.

We will sorely miss our beloved friend and colleague and we share with Mrs. Neville and her family the loss of this genuine person, this fine gentleman, and this outstanding jurist.

The Court now recognizes Mr. Richard Johnson of the Hennepin County Bar. Mr. Johnson was a close friend and long-time associate of Judge Neville in public service and in the private practice of law.

Mr. Johnson.

MR. RICHARD JOHNSON: If it please the Court, Mrs. Neville, and the Neville family; Bishop Kellogg, the friends of Judge Neville:

It is my privilege to spread on the record and to refresh our recollections with certain facts about the Honorable Philip Neville and to memorialize certain of the incidents in the hopes that his grandchildren some day may have the opportunity to recognize the tribute that we pay him.

Judge Neville died February 13, 1974, at the age of sixty-four. Through the last week of his life he well and ably bore his responsibility as a judge. During the last few weeks of his life, while he was in the hospital, he conferred with Judge Devitt, Judge Larson, Judge Lord, on matters of importance. His secretary, Mrs. Klaverkamp, came to him daily so that he could attend to his judicial business. He kept his law clerks busy.

To recount at this time all of his activities and accomplishments, and to record the honors which were earned by him through merit and hard work, would more than take the afternoon. He was born November 5, 1909 in the City of Minneapolis. His father was James E. Neville, an editorial writer for the Minneapolis Journal; later a bank officer. His mother was Laura Edith Kelly, who originally came from Milwaukee. She passed on at the age of forty-eight in 1926 when Judge Neville was seventeen.

He graduated from West High School in 1927. He received his Bachelor of Arts Degree from the University in 1931, his Bachelor of Laws from the University of Minnesota Law School in 1933. While he was an undergraduate at the University he was elected to the Union Board of Governors. He was selected as a "Representative Minnesotan" by a committee of faculty and students.

He enjoyed his membership in Sigma Alpha Epsilon academic fraternity. He belonged to Delta Sigma Phi business fraternity and the Garrjck Club Dramatic Society as well as other organizations.

In law school he was one of the five selected from his class of seventy to receive the Order of the Coif. He was a member of Phi Delta Phi. He served two distinguished years on the Law Review Editorial Board, the last year he was Note Editor. On graduation, while taking the Bar, he was retained by Professor William Prosser to do research on one of Professor Prosser's books.

While he was going to school, he like many of us, had his occasional summer employment. He worked as a farm hand near Foxhome. He worked as a

caddymaster, as a starter. He was a deckhand for two summers on an oreboat on the Great Lakes. I think he was a better sailor than any of us realized. He could talk about a taffrail log and a polyconic projection and he could not only spell them but he knew what he was talking about.

After graduation Phil served two years as law clerk to Chief Justice John P. Devaney of the Minnesota Supreme Court. He taught at the University and at the Minneapolis College of Law and conducted bar review courses; he founded them. For eleven years he was a member and secretary of the State Board of Law Examiners.

He was a Fellow of the American College of Trial Lawyers. He was a great trial lawyer. He had the happy faculty, because he loved people, of being able to remember an associate, names and persons. When he would examine a jury, a panel of jurors, not for a six-man jury but for a twelve-man jury, there would be eighteen people in the panel, he would listen to them be introduced, walk in take their seats, and then he could stand up there without a note and go through juror number one down through panelist, number eighteen, and tell that juror his name, his address, his occupation. It was kind of pleasant. After this happened on the third or fourth jury you would see a smile, they would be waiting to see if he could remember the next one.

He was an excellent appellate lawyer. In the briefs that he wrote he wanted his words to sing, and they did. The analyses that he would write would be razor-sharp and his argument before the appellate courts would be good.

He served the Bar Association in many capacities. He was the President of the Hennepin County Bar, he was the President of the Minnesota State Bar Association. All of the problems that would arise during either of these presidencies, he approached with one basic premise and that was that the law is a profession and as such it has duties and responsibilities. Given that premise he gave well of himself to the Bar.

He was elected and served as a Municipal Judge for the Village of Edina. He was the Regional Attorney for the War Production Board. He was the Regional Director of the Office of Price Stabilization of the four states, Minnesota, the Dakotas and Montana. That was a temporary emergency administrative agency. It wouldn't have been created unless there was an emergency. As such it drew to it people of strong character and definite personality. I am referring to people like Paul Thuet, the leader of the State Senate; Joseph Robbie, presently the owner of the Miami Dolphins; Edward Glennon, trial lawyer; Harry Sieben, who is now our Clerk of Court; and sometimes I was in that group.

Phil, with his good sense of humor, kept the main goal before the people who worked under him and he had a successful office. He served with distinction as United States Attorney for the District of Minnesota. Again he had strong personalities working in what he termed, "his law office"; Chief Judge Ronald

Hachey, the late Alex Dim, Bill Essling, Cliff Hanson, the Honorable Miles Lord, and I was one of those.

Phil used to say that he ran the greatest law office in the State of Minnesota. Under his leadership and guidance it was a good office.

He first began the practice of law with George Smith and Edward Callahan, Senior, and then when Chief Justice Devaney retired he practiced with Judge Devaney. He was a partner in the firm of Vennum, Neville, Wright & Newhall; that is Tom Vennum, Wells Wright and Norman Newhall. He was a partner in that firm when he was appointed United States Attorney. In 1953 he formed the firm of Neville, Hachey & Johnson. Ultimately it amalgamated with the David Shearer firm of Shearer, Price, Farrell & Thompson and at the time he went on the Bench he was practicing law with Neville, Johnson & Thompson.

As our Chief Judge has pointed out Judge Neville was sworn in as United States District Judge for the District of Minnesota on August 4, 1967. He was pleased and honored to succeed Judge Nordbye when Judge Nordbye became the retired judge. I think that meant a great deal to him.

There was no opposition to his appointment. I think the Bar and the Bench considered him exceptionally well qualified. One of the things about him is perhaps best illustrated by this story:

When the nomination was pending, he wanted to be a judge but he didn't go out and fight for it. He wanted to be a United States District Judge but while his nomination was pending Phil took one of his infrequent vacations and with Mrs. Neville, his golf bag and some friends, he decided to go to Hawaii. His friends back here had to almost physically threaten to fly to the West Coast to take him off the plane to stay here so people would understand that he was interested in the appointment. So he let Maureen, his golf bag and his friends go alone to Hawaii and he did come back.

He served and respected his church. He was a proud member of the Church of St. Stephen the Martyr. He served as Vestryman, Junior Warden, and Senior Warden. While he was in the hospital he had the Book of Common Prayer, I believe it was, with his name on it given to him in memory of his services to the Church. He was pleased and proud to have been a member of the choir. He was a great singer. He was an active member of the Board of Trustees of St. Mary's Hall.

He belonged to other organizations. He and Judge Larson belonged to the Lincoln Day Memorial Society. I have never quite known what that meant but I know it meant on Lincoln's birthday they celebrated solemnly and well. He belonged to the Minneapolis Athletic Club and the Minneapolis Club; the Edina Country Club and the Minikahda Club. He loved golf and he loved bridge. As I said before he was a great singer and he was a great entertainer.

Phil was proud, and justly so, of his family. He and Maurene Morton were married February 6, 1934. He had just started the practice of law. He started out in the world as a lawyer. Her inspiration and her devotion and her steadfastness were a great thing in Phil's life. When he would work the long hours that a lawyer must work he would come home to the scrambled eggs and soup, the things that meant so much to him.

Their three children, as the judge indicated, are Laura Neville, Mrs. Peter Frenzel; James Neville and Philip Neville, Junior. He was proud of these children. There are five grandchildren that were a source of pleasure to him.

Phil had no sisters, he had one brother, Richard. We share with him the sense of sorrow and loss after his passing.

Judge Neville will always be remembered as an outstanding lawyer, a jurist, and as a man. He will be remembered by the Bench, the Bar, and his clients for the compassion, the scholarship and the integrity which were his.

His friends were legion. He will be remembered by them for the humor and dignity and the many, many contributions made to them, and his impact on their lives.

JUDGE DEVITT: Thank you, Mr. Richard Johnson.

Judge Neville was very close to his law clerks and his law clerks were very close to him. Mr. Alan Weinblatt of the Ramsey County Bar, one of his former law clerks, is recognized now.

MR. ALAN WEINBLATT: May it please the Court, Mrs. Neville, Members of the Judge's Family, Distinguished Guests:

On behalf of all fifteen of Judge Neville's former law clerks it is a privilege for me to appear here today to express our feelings about Philip Neville, the judge and the man.

As has been told Judge Neville took his oath of office on August 4, 1967. He immediately commenced his judicial duties with the same dedication and the same integrity that had marked his prior service as United States Attorney, as a business law teacher, a Secretary to the Board of Law Examiners, as a Municipal Judge in his home community of Edina and as a private practitioner; indeed with the same dedication and integrity that marked his entire life.

We all, I believe, have a model in mind of what a judge ought to be. For those of us fortunate enough to work with Judge Neville he was such a model. The characteristics and hallmarks of his life and judicial tenure were there for all of us to see and emulate. His intensity of his work was such a model as was the intensity of his play.

The mounted golf ball he received for scoring a hole in one was to him a measure of that intensity. To the judge, golf, bridge or singing were problems to be constantly attacked and analyzed and mastered; no less than was each legal issue presented to him for decision.

For those of us fortunate enough to serve as his law clerks, the long hours he spent working on his opinions were likewise, to us, a measure of that intensity. It was a rare occasion when he did not take work home, work that would always be completed the next morning.

To the judge thoroughness was the key. His constant belief was that each argument presented had to be answered and decided. No argument was to be ignored and no argument was to baldly be dismissed as being without merit.

Perhaps chief among the characteristics that made Philip Neville a model for us to emulate was his judicial temperament. Though an advocate for his clients during his years of public and private practice, his demeanor and attitude on the Bench was one of rigorous impartiality and neutrality. He treated every attorney and every party who appeared before him with the same even-handedness and consideration. He was concerned that each side be given the fullest opportunity to present its case and to control that presentation unfettered by what a particular judge thought might be the proper way to conduct the case.

This judicial attitude was supported by his view of what the role of a judge was. He often said that a court does not seek business but is there solely as a vehicle for deciding disputes that are brought to it. The court does not initiate action but once moved into action by a party will resolve the dispute with all the judicial means at its disposal.

In short, Judge Neville was a trial lawyer's judge and those who practiced before him can testify he was both firm in his rulings and decisions and yet careful to avoid rebuke or humiliation. He was a doer, a man concerned with keeping his court both uncomplicated and workable.

From his view it was always the judge's schedule that was to be changed to serve the convenience of counsel and not the reverse. This awareness of the demands of trial practice was often manifested when this district adopted an individual calendar system and individualized pre-trials. The judge felt it was his special duty to explain the new procedures to the Bar so all would be aware and all would clearly understand.

Because of this same empathy with his fellow trial lawyers and their needs, he felt it a personal obligation to ride the circuit of this Court twice a year to the Duluth term of court.

The judge was concerned with the good reputation of both the Bench and Bar in this district, seeking to avoid not only impropriety but also the appearance of

impropriety. He epitomized integrity in his person and profession.

I recall one instance in particular. Two large publicly held corporations were just beginning protracted litigation against each other in the courtroom just down the hall. At the very first pre-trial Judge Neville announced from the Bench that he had owned two or three shares of stock of each of the corporations and he had sold that stock, he said, for a handsome profit. But, in any event, if either of the parties felt that he ought to disqualify himself he would not feel bad. The attorneys from outside of Minnesota scarcely believed he was serious until their local co-counsel explained the earnestness of the man before whom they were appearing. My own wife who happened to be in the courtroom that day reminded me of this and later said to me, "That man is a real judge."

Judge Neville was both a teacher and student of the law. His previous experience as a business law teacher at the University of Minnesota School of Business where his courses were much in demand, carried over to his service on the Federal Bench. In written opinions as well as instructions and rulings from the Bench, he carefully chose his words in such a way as to educate the parties involved without lecturing, to make clear and explicit his decision and the reasoning behind it.

His semi-annual speeches to the Legal Secretaries Association is but one example of his continuing interest in legal education.

Younger members of the Bar particularly found him easy to approach with practical problems new to them. I recall the first time that a young attorney appeared in Judge Neville's courtroom wearing a turtleneck shirt. To Judge Neville this was a new experience and concerned as he was about the courtroom decorum, he wondered if he should say something about it, but didn't. After court that day we were talking about the substance of the young man's motion and all of a sudden the judge said, "I decided, the turtleneck has nothing to do with his motion." We all laughed at the time but I always recall that episode as an example of his truly judicial temperament.

Sentencing of those convicted of crime was most difficult for the judge. It was the one thing he did not discuss with others. While he would often speak of the need for some uniformity in sentencing procedures each case was to be decided on its own merits and in depth. Each probation report was exhaustively examined and considered and each comment of the accused and his counsel weighed in the balance.

The judge was particularly conscious of his relationship with juries. He felt strongly that a Federal judge in his instructions to the jury and in his comments on the evidence must be fair and evenhanded. He recognized that jurors often look to the judge for what his view of the result ought to be and that this tendency required the judge to be particularly circumspect in his comments.

Yet, at the same time, he felt at ease with jurors. I recall a condemnation case we tried in Duluth. The judge decided to permit the jurors to be flown by small plane into the Boundary Water Canoe Area to view the premises that was at issue. He agreed to do this unless any of the jurors objected. So, he put the question to the jurors. One elderly juror asked if they permitted little old ladies who had never flown to go too. He sensed some hesitation on her part and some reluctance and promptly reassured her that senior citizen jurors as well as—he said more senior judges—could all have a new experience. I noticed that that juror was his personal charge during the trip.

Perhaps the judicial temperament and mind that we admired so much in the man were the result of his warmth and compassion. He was a family-oriented man with two families. One, was his own personal family of whom he was very proud, and the other was his judicial family, the secretary, clerks, reporters and other staff whose efforts he constantly openly acknowledged and appreciated.

He enjoyed a close working relationship with his law clerks and particularly enjoyed the bantering back and forth, discussing each matter under advisement. At such times especially he was both teacher and student of the law. Not once to my knowledge did he exhibit any impatience or irritation with any of us, no matter how often our inexperience showed. We were expected and encouraged to express ourselves fully and freely and he never ridiculed the work we did or made us feel in any way inadequate.

Judge Neville stands also as a model of judicial courage and innovation. While refusing needlessly to exercise the great power of the Federal Court, he never feared to speak out in his decision on the heated issues that came before him. His many reported decisions give ample testimony to that courage.

The judge commented several times that he viewed the role of law as being the grease and oil of our society. Only when that grease and oil was not usable and not functioning properly did it have to be changed. But, when the change was necessary it was to be done without hesitation.

Judge Neville was a man without arrogance or vanity. Yet, in a short tenure on the Federal Bench, he earned the respect of attorneys and judges not only in this state but around the country. His national reputation for fairness and the highest quality judicial craftsmanship is a credit to the man, his family and the bench he served.

In the Book of Proverbs it is said: “In the way of righteousness is life and in the pathway thereof there is no death.” Therefore will Philip Neville’s memory live.

Judge Neville’s decisions and rulings are only a part of his judicial legacy. Standing alone the depth of reasoning, the scholarly approach to each matter decided, and the clarity of thought which they show, paint a far greater tribute than any of us here can articulate. When coupled with the judicial and personal qualities of Philip Neville, the man, they leave to us a living model which will long endure.

JUDGE DEVITT: Thank you, Alan Weinblatt.

We will now hear from the judge's colleagues and we will first recognize Judge Heaney.

JUDGE HEANEY: Mrs. Neville, Judge Devitt, Bishop Kellogg, Judges and Justices, Members of the Bar and Friends:

All of us in the Federal judiciary will miss Philip Neville. We will remember him as a wise man, a fair man and a compassionate man.

He understood how delicate is the fabric of our democratic society and how important is the role that the judiciary plays in maintaining that fabric. He had the courage and the wisdom to hear and decide the most difficult and divisive of matters and to do so in a way that commanded the respect of all.

Long after our time he will be remembered as one of our nation's greatest jurors.

JUDGE DEVITT: Thank you, Judge Heaney. Now we turn to our senior judge, Judge Nordbye.

JUDGE NORDBYE: Judge Devitt, Mrs. Neville, and Ladies and Gentlemen:

A memorial service is always a solemn occasion when we pay our respects to a departed friend and, particularly this is true when we are gathered together to pay tribute to a departed member of our corps, one who was so close to us during the years of service on this Bench.

We speak of our brother on the Bench and Philip Neville surely was a brother to us who remain to carry on the work which he so loyally and effectively performed.

There was a close bond of devoted fellowship and judgeship between us. He loved his work and we loved him for his untiring and high judicial contributions to the work of this Court.

He was my successor when I retired in 1967 and became a senior member of this Court. I always was so proud of my successor and the high standards of his judicial temperament and the performance he always evidenced during this judicial career.

In his relatively short judicial tenure he truly fulfilled and was faithful to the well-known biblical admonition to judges which reads:

“Hear the causes between your brethren and judge righteously between a man and his brother and the stranger that is with him. Ye shall not respect persons in judgment. Ye shall hear the small and the great alike. Ye shall not be afraid of the face of any man.”

Judge Neville truly fulfilled this ancient biblical advice to judges.

We shall sorely miss him.

JUDGE DEVITT: Thank you, Judge Nordbye. Now we will hear from Judge Larson.

JUDGE LARSON: Mrs. Neville and Friends:

I will be somewhat brief. My personal friendship with Phil Neville extended back some forty-one years. I have lost a wonderful friend. We have all lost a great and compassionate judge.

JUDGE DEVITT: Thank you, Judge Larson. Judge Lord.

JUDGE LORD: Judge Devitt, My Brothers on the Bench, the State Court Judges, My Brother Practitioners, Ladies and Gentlemen, and I should note the presence of Phil's brother here today who hasn't previously been mentioned:

I have often reflected on my association with Phil Neville and this is the second time that I have been present at a memorial service for him and I just must observe that it is easy to say good things about Phil Neville, because he had so many fine characteristics.

I know that almost everyone in this room could get up and give his measure of this great man and his view of him and from his point of view to add to those things which have been said by us all here today.

I, of course, had the opportunity of knowing him as a young practitioner when he offered me advice. When I was an Assistant U. S. Attorney he became my boss as the U. S. Attorney, and that is where Hachey and Johnson, Neville and Lord, and some more of us, thought we had a great law firm; I think we did.

We all loved the opportunity to get together with Phil Neville at the end of a day and review matters and get his counsel and advice. When I became Attorney General I immediately appointed him as an assistant on a part-time basis so I could get more benefit of that kind of advice.

Our lives have been entwined many ways and in many places.

Frequently at a meeting of this kind one hears all those fine things about an individual. You are reminded of the story of the wife who said, "Is that really George, you had better check."

I am here to tell you, I know Maurene and the family will agree with me, that the man we are talking about today was real; that that man was really Phil Neville, that

he had every attribute that has been attributed to him and that this Court is a finer place for his having been here and we will all sorely miss him.

Thank you.

JUDGE DEVITT: Thank you, Judge Lord.

JUDGE DEVITT: Daniel Webster is quoted as saying that:

“There is no character on earth more elevated and pure than that of a learned and upright judge for he exerts an influence like the dews of heaven falling without observation.”

Judge Neville was such a judge.

The Clerk is directed to spread the transcript of these proceedings upon the permanent records of the Court.

We thank you, Bishop Kellogg, for coming and for your prayer, you, Mr. Dick Johnson for your talk and you Mr. Al Weinblatt, for yours, and each of the judges for your statements. For Mrs. Neville and for ourselves we thank each one of you for coming.

As a further mark of respect for Judge Neville the Court will recess the remainder of the day. ■

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Posted MLHP: August 26, 2011.