

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

PRINCE GEORGE'S COUNTY BAR ASSOCIATION

MEMORIAL SERVICE

FOR

JOHN F. KELLY

ROBERT DeMAURIAC KERNAN

DAVID A. McNAMEE

AUDREY E. MELBOURNE

FRANCIS A. BORELLI

THURSDAY, NOVEMBER 16, 2000

3:00 P.M.

COURTROOM 201

COURTHOUSE

UPPER MARLBORO, MARYLAND

Jane M. Smith
Official Court Reporter

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PROCEEDINGS

... The Court convened en banc at three o'clock p.m., there being present Honorable ROBERT J. WOODS, Chief Judge, Honorable SHERRIE L. KRAUSER, Associate Judge, Honorable RICHARD R. SOTHORON, Associate Judge, Honorable JOSEPH F. CASULA, Associate Judge, Honorable STEVEN I. PLATT, Associate Judge, Honorable MICHELE R. HOTTON, Associate Judge, and Honorable FRANK M. KRATOVIL, Associate Judge of the District Court.

CHIEF JUDGE WOODS: Welcome, everyone.

We gather today, as we have for many years, to honor our colleagues, associates and friends who, in the last year, have passed on.

FROM AUDIENCE: Your microphone is not turned on.

CHIEF JUDGE WOODS: Thank you. Let me do this again.

Welcome. We gather today, as we have done year after year, to honor our colleagues, associates and friends who have passed on. The Court is honored to welcome the family and friends of those who we are here to remember today.

Today we are paying tribute to Judge John Kelly, Robert Kernan, David McNamee, Judge Audrey

Melbourne, and Judge Francis Borelli.

The Court now recognizes the President of the Prince George's County Bar Association, Christopher R. Dunn.

MR. DUNN: May it please the Court, Chief Judge Woods, Chief Judge Kratovil, Judge Harrell of the Court of Appeals, and the Associate Judges of the District Court and Circuit Court, family and friends of Judge John Kelly, Robert Kernan, David McNamee, Judge Audrey Melbourne and Judge Francis Borelli, good afternoon and welcome. On behalf of the Prince George's County Bar Association, I would like to express our deepest sympathy and condolences to the family and friends of the Bar members who we honor here today.

According to the records of the Bar headquarters, this ceremony has been a tradition of our Bar Association dating back to at least 1858. As in all the ceremonies that have come before, we join together for the personal remembrances of these great men and woman, your husbands and wife, mother and fathers, brothers and sister, friends, officers and judges of this honorable court.

We are here today to pay tribute to their memories, to celebrate their lives, and to remember their many accomplishments. And, so that each will be

remembered, to make these memorials a permanent part of this Court's record.

At this time I am honored to call upon Judge Jacob S. Levin, who is Chairman of our Memorial Committee, who will preside over these proceedings and the presentation of these tributes.

Judge Levin.

JUDGE LEVIN: The first member to be memorialized will be Judge Jack Kelly, and he will be memorialized by his daughter, Karen Kelly Pasciuto.

MS. PASCIUTO: Good afternoon, everyone. You know him as Judge Kelly or Jack. To me he was Dad.

In a busy, complicated world he kept it simple. He adored his bride and he loved his children. A good time was wherever his family and friends gathered. A great job was whatever one he had.

When he needed to get away from it all, all he needed was that TV clicker and Home Team Sports, and life was fine. So it was fitting that the last thing he did was he watched his beloved Maryland Terrapins basketball team beat Duke.

He died peacefully in his sleep that night. Although it would seem very irreverent, there is a vision of him I cannot get out of my mind.

I picture him whistling up to the pearly

gates. The Fight Song, of course. He's got that hat on -- you all know the one I mean, the ugly beige one -- with his Maryland jacket. He's going along and poor St. Peter cannot get a word in edgewise. I mean he is like, St. Peter. Great to see you. How are you? Good Lord, what a game.

My dad was my hero. He was the oldest of six children. Raised by a single mom in a day when that was uncommon, he knew poverty and all the hurt inherent in being poor.

He worked in the mill, a paper factory. He delivered newspapers. And can you picture this? He even drove a milk truck while working his way through school to help his mother support their family. That work ethic, courage and determination found him in the night program at Georgetown Law, doing much the same.

Yes, Dad, you did great for a poor kid from Pawtucket, Rhode Island.

Although he was blessed with an incredible spirit, he was not blessed with good health. For as far back into my childhood as I can remember, he was dealing with illnesses that would have left many of us on the sofa each day. Not one to complain, he got up early and went off to work like it was easy. Now, imagine making the life of a trial attorney seem fun and easy.

Today, as an adult, I know he did this to care for us, and because he simply loved life too much to be defined by his physical limitations.

He took nothing in life for granted. He taught through his example that life is not always fair, and people do not all have equal burdens. But nothing can destroy your love of life and the willingness to live life to the fullest unless you allow it.

My dad loved the practice of law, and he really loved being a judge. But when he put on his robe, he did not forget who he was. It is often said that the measure of a man is what he does in small private moments, not the larger public ones.

As many of you know, being an attorney is a second career for me. When I got close to my graduation from night school, I came past the courthouse one day to have lunch with my dad. Lou Hobbs, Judy Coxon, Linda Schultz, and all the bailiffs, kept coming over to me and saying, "My God, your dad is busting at the seams about your becoming a lawyer."

Well, I have to tell you, he was very low key with me about the whole thing. So I went into his chambers and I said, "Gee, Dad, is there something you'd like to share?"

He leaned back in his chair in that

characteristic way, and in that deep voice he said to me, "You know, Karen, I went to night school with a family and job, and I know how hard it is. And I didn't want to put pressure on you." And he said, "And I did not want you to ever think that being a nurse was not enough for me, for I am very proud of all you have done to care for the sick." That was so touching and so him.

The truth be told, he was thrilled that I actually pulled it off.

It was a wonderful, wonderful experience to serve as a law clerk for Judge Hotten here in Upper Marlboro, in the courthouse he loved, among the people he loved, and to join the Bar Association that he loved and was a past president of.

Without fail my dad and I would be walking down the corridor, or walking down Main Street, or we would be having lunch in Al's Deli -- Meatloaf, mashed potatoes and gravy, of course -- and people would invariably come up to me and say, "Oh, my God. You admit to being his daughter?" And after a moment of silence, I would say, "Yes." And they would say, "Well, thank God you look like your mother."

You know, he loved it. He absolutely loved it.

But when it comes to the practice of law, I

hope that some day people will say I have my father's eyes, for his eyes were full of compassion. They looked for good. They searched for truth and fairness.

He always saw the people standing before him, and he always looked to lift up those around him. His body may have lost the battle, but I like to think his warm, funny, gentle spirit won the war.

The first Christmas I started practicing law I gave him a poem, and I would like to share it with you. It is called Walk a Little Plainer, Daddy.

Walk a little plainer, Dad, said a little child so frail. I'm following your footsteps, and I don't want to fail.

Sometimes your steps are very plain. Sometimes they are hard to see. So walk a little plainer, Dad, for you are leading me.

I know that you once walked this way, many years ago. And what you did along the way, I'd really like to know. For sometimes when I am tempted, and I don't know what to do, walk a little plainer, Daddy, for I must follow you.

Some day when I am grown up, you are like I want to be. And I will have some children, too, that will want to follow me. And I will want to lead them right, and teach them to be true. So walk a little

plainer, Dad, for we must follow you.

JUDGE LEVIN: Robert Kernan will be memorialized by Richard Marcus.

MR. MARCUS: Judges of the Circuit and District Courts, fellow members of the Bar, family and friends of Robert Kernan. And I particularly want to acknowledge Robert and Daniel Kernan who, I believe, are here from Delaware, two of his sons.

As we honor our departed brother lawyer we reflect that memorial services aren't for those who have passed away, but for the living. It gives us a chance to get away from the notion that is stated by the playwright George Bernard Shaw that, "God created man in his own image, and man returned the favor."

Today's memorial service is a time for humility as we confront, if only indirectly, our own mortality. It is a time to acknowledge that life, like money, is a medium of exchange, and to ask ourselves what we are spending it on.

Robert Kernan spent his life in the service of his country, his profession, his family and his faith.

Bob Kernan served in the United States Navy during World War II in the Pacific. He was later honorably discharged and received decorations for that service.

After graduating from Catholic University Bob attended the Georgetown Law Center in Washington, D.C. and received his Doctorate of Law in 1955. He was admitted to the District of Columbia Bar in October of 1955, and later to the Court of Appeals of Maryland in 1965.

After graduating from the Georgetown Law Center he went to work for the Justice Department as a tax attorney. Later he became a Deputy United States Attorney in Baltimore.

After leaving the United States Attorney's Office he went into practice as a private practitioner with Sherbow, Shea and Doyle in Baltimore. During his last fourteen years of active practice, he was a general practitioner in Hyattsville.

I got to know Bob during that period from 1989 to 1994, when we both practiced law in what was then known as the Greer building.

Bob Kernan had a very active and busy private practice. He specialized in business and tax law, but he also achieved some very good results in his occasional criminal case. I was always a little suspicious of Bob, as he actually seemed to enjoy reading cases.

We would occasionally argue about criminal cases, generally with Bob taking the more conservative

position. I personally miss his perspective and the chances I had to get his thoughts on some of my cases.

Bob was a very careful and thorough lawyer, and he had many clients remain loyal to him over the years.

Bob Kernan was very devoted to his family. He and his wife, Mary Kernan, had nine children -- of which eight are still surviving -- over the course of a fifty-one year marriage. There were also fifteen grandchildren and a great granddaughter.

After retiring in 1994, Bob and his wife moved to his vacation home in Dagsboro, Delaware. He was a man of deep religious faith, and a Grand Knight in the Knights of Columbus.

He remained very active in church, pro bono, and community affairs up until the day he passed away in March, 2000, at the age of seventy-three. He was loved by his family and respected by his public. He will be missed.

JUDGE LEVIN: David McNamee will be memorialized by Robert J. Kim.

MR. KIM: Thank you, Judge Levin. Judges of the Seventh Judicial Circuit, the entire panel of judges, family members and friends.

Dave McNamee was a local product. His

father, Harry McNamee, was a prominent local businessman and owner of the Berwyn General Store, which was the site of the first branch of Suburban Trust Company. Through many mergers and acquisitions it is now Bank of America. His father was also one of the founders of Suburban Trust Bank.

In forty-five years of private practice, I think Dave McNamee can call as his friends and colleagues Judges Meloy, Ahalt, Femia, Northrop, McCullough, Garrity, Bowie, Blackwell, Digges, and others, and Callie Mae Heffron, who was the former Register of Wills. He was also a high school class mate of Judge Levin.

Is that right?

JUDGE LEVIN: (Nodded.)

MR. KIM: He is survived by his wife, Phyllis, his son, Michael, his daughter, Lee, and his grandson, Bill.

He graduated from the University of Maryland with a degree in business and attended Georgetown University Law Center on the GI Bill. He graduated in 1955.

Apparently there were only twelve in his graduating class, one of which was U.S. District Court Judge Miller.

In 1955 he and Carroll Beatty started the

firm of Beatty and McNamee, which over the years became one of the prominent law firms in Prince George's County.

That firm of Beatty and McNamee -- I guess he was a mentor to some of these people -- produced some fine young lawyers, although no longer young lawyers, Jack Fossett, George Brugger, Sam Steelman, Gary Greer, Tom Price and Steve Hosea.

In 1982 Dave McNamee and Steve Hosea went off and started a firm called McNamee and Hosea in Greenbelt in Capital Office Park. It is now McNamee, Hosea, Jernigan and Kim with offices in Greenbelt and Annapolis. I think he was very proud of what he accomplished in producing a firm of good size and credibility.

I don't think I would be stretching the fact if I told you that Dave McNamee was probably one of the finest lawyers in Prince George's County. He was widely respected and admired. He was meticulous and detail-oriented, without being excessive.

I remember going through some of Dave's old files many, many years ago when I joined the firm, before computers, looking through onionskin paper, and finding documents, contracts for multi-million dollar deals that were done on two pages. So I know it can be done. That is what he tried to install in all of us. It doesn't necessarily have to be forty pages long to be a good

document.

As many of us know, David was an estate and trust lawyer, but in the early days of his practice he was involved in many types of civil practice.

As a matter of curiosity, I actually went on Lexis. There are lawyers laughing at me. But I went on Lexis and did a search to see whether Dave had been involved in many Court of Appeals cases, and I stopped counting after a couple of dozen cases.

He was, apparently, at the Court of Appeals on a regular basis. In one year I think he was there four times with four different opinions. It is just something that a lot of people are not aware of.

One of the advantages of having practiced with Dave McNamee is, when I joined the firm in February of 1985, I remember going to see my old boss, Judge Femia, and saying, "Hey, Judge, I am going to start working for Dave McNamee."

He said, "You know, you don't get any better than that. I think that is a wise move. You will have a wonderful time, and you'll learn a lot from Dave McNamee."

That statement has been true.

My recollection of going to court and dealing with other attorneys after starting with the firm was, as

soon as I mentioned that I was with Dave McNamee, it gave me instant credibility. I think just for them to know that I was with David McNamee made them think that I was a better lawyer and I think that certainly worked to an advantage in my career.

In addition to being an attorney for forty-five years, Dave was very active in the Prince George's County Bar Association. He was Chairman of the Orphans Court Committee for over twenty years. He was active in the Maryland State Bar. He was Chairman of the Charter Committee for the Seventh Judicial Circuit and a local representative to the Attorney Grievance Commission for over twenty years.

He helped found the Prince George's County Medical Society. He was the first chairman of the Prince George's County Hospital Foundation. He was a director of the Maryland Federal Savings and Loan Association, which now is BB&T, for over twenty-five years.

He helped develop College Heights Estates, and was an active member of the Prince George's Fish and Game Club.

I have a lot of memories today because, even to the last day, he was in the office every day. You could just mentally set your clock by him. He would be in the office at eight-thirty. He would go home about

eleven for lunch, coming back about one, and be back by three-thirty every day, without fail, unless we had flurries of snow. If there was snow, he would never get out of the house.

Let me finish with a couple of personal stories.

Dave McNamee was known for his crew cuts. And I don't see Judge Love, but he was known for his crew cuts.

I know Judge Dawson is a collector of bow ties, but Dave McNamee was a collector of bow ties before Judge Dawson was even born.

One of the interesting things I remember about Dave, I remember seeing one of the Bar Association photographs with all of the Bar Association's members.

In those days, when you only had fifty or sixty attorneys, you could put everybody on a ten by fifteen board, all of the attorneys in the Bar Association. I would see that everybody would have regular long ties, and Dave would have a bow tie.

But a couple of years there were times when attorneys wore bow ties. Well, he was the guy wearing the regular long tie.

There were some interesting quirkinesses about him that people didn't realize.

One of the funny stories is that he's known for his police cars. As you know, Dave, when he used to go to get a new car, he would get them from Bob Banning in New Carrollton. And they would get police cars for all of the Police Department in Prince George's County. And he would go to Bob Banning and get a white car that was a police car without the sirens, but he would have all the electronic stuff. It would look just like an unmarked police car.

And I remember Steve Hosea telling me this. That he would park in the lawyers' parking lot, and he would get tickets because people thought that a police officer was parking in the lawyers' lot and he shouldn't be there.

But one day I remember going to a meeting with Dave. And, again, with his crew cut, driving down Kenilworth Avenue, twice a police car either went by us or pulled up next to us, and the police officer saluted I looked over at Dave, and both times Dave would salute back and just keep going.

That is my memory of Dave McNamee.

JUDGE LEVIN: Judge Audrey Melbourne will be memorialized by Howard Goldman.

MR. GOLDMAN: Honored members of the Circuit and District Court of Prince George's County, and members

of the Bar, and family and friends of all the honorees.

I often think of Audrey as the first lady of Prince George's County. Not because she was married to the president, but because, as you know, those of you who knew her intimately, she was married to someone we affectionately knew as "the Defendant."

She was the first female appointed to the Court here in Prince George's County. She was one of the first female members of the Iron Bridge Hunt Club. She was one of the first female members of the Marlboro Hunt Club. She was one of the very early members of the Prince George's Bar Association.

It is for those reasons that I, in part, think of her as the first lady.

She started out working as a legal secretary in the law office of Cory, Boss and Wright, and early on showed an inordinate amount of talent. At the urging of Jim Boss and Ernie Cory, they persuaded her to go to law school at night.

They found that while she was in law school at night that she had become such an integral part of running what was then called State Bank that they really had second thoughts about having persuaded her to go to law school.

State Bank, fortunately for Mr. Cory, was

shortly after that acquired by the Equitable Trust Company, so that all ended well.

Audrey then graduated from law school and opened up her own law practice in 1961.

I had the good fortune of meeting her for the first time in 1966 when she approached me about practicing law with her, and we formed a partnership in 1966.

We never had any disagreements or arguments about anything except the economics of the practice.

Audrey was very passionate in terms of people's issues. I, on the other hand, understood that you needed to generate funds to pay the rent and to pay the secretaries. That never seemed to be a major concern of hers, and I often attributed it to our differences in background.

I recall once that we had a big estate come into the office, and Audrey was handling the estate as counsel for the administrator, and I anticipated that we were going to have a very nice fee in the case. When the case was settled, I found out that, in lieu of a fee, she agreed to take sheep that were on a farm in South Dakota.

And I went in and I said, "Audrey, are you crazy? Consider the logistics. What are we going to do with these sheep?"

But that was generally her attitude.

With regard to the ten years that we practiced together, she certainly had some rather landmark decisions.

She represented the first female woman to be licensed as a jockey, being able to race the thoroughbreds. It was a lady by the name of Kathy Kushner, who was a very accomplished Olympic equestrian.

In the mid-sixties, because of the inherent dangers of thoroughbred racing, she was not able to get a license, and Audrey took this on. Actually she was retained by an organization called the Mary Cook Foundation. It was a woman suffrage foundation that promoted women's rights.

Again, we didn't know how we were going to be paid, because they didn't talk in terms of fees.

But Audrey took the case all the way to the Court of Appeals, and Kathy got licensed. We got what they called an award for what, at the time, seemed a lot of money.

In 1975, which was five years prior to the enactment of the Marital Property Act, Audrey was involved in what, at the time, was the first case, Gosman v. Gosman, in which the Court, in its infinite wisdom, found it appropriate to award the wife a vested interest

in the husband's business, as well as his other holdings, regardless of how the property was titled.

Near the end of our partnership we represented a number of people associated with the racing industry, and there was the Valentine's Day fixed race, which occurred about six months before her appointment to the bench. In that race we had nine of the twelve jockeys as clients. Audrey took the lead in strategizing how we would handle this without regard to any conflict, since all nine had been prior clients.

We instructed them that you give your name, your address, and answer no other questions; to invoke the Fifth Amendment.

When they appeared before the Federal Grand Jury, we waited outside in the hall and, one by one, they went in and did that.

We got back to our office. At the time a fellow by the name of Paul Kramer was the Assistant U.S. Attorney. Paul called us up and said we were being targeted for obstructing justice.

As it turned out, each of these jockeys went separately. We ended up with one and the story really had a tragic ending.

Governor Mandell then appointed Audrey in March of 1977 to the District Court, and she served

there for about a year. Acting Governor Blair Lee appointed her to the Circuit Court in April of '78, where she served for the next twenty years.

In those twenty years most of you in this room, I know, got to know her. She became probably as knowledgeable as anyone in the state on the death penalty. She was thoroughly conversant with post convictions.

She really loved the law. And I would think that a part of her legacy, aside from opening the doors for a lot of people so that the playing field today is level, where it wasn't in the early '60's, she promoted a higher standard of advocacy in her courtroom. She did not have patience if you were ill prepared, but she was a very fair-minded person. And she at all times, I think, always rooted for the underdog.

I am going to close by pointing out what I think is an example of what Audrey's realist-type character was all about.

Very early on she and I appeared together in People's Court in front of Judge McGrath. I'm sure most of you remember Judge McGrath. And the first time that Audrey appeared in front of him the routine would go like this:

"What is your name? Where is your office?

Are you a lawyer?" And this would prove to be extremely embarrassing.

This happened on three occasions, and on the fourth occasion, when he went through this routine -- it was embarrassing, obviously, with having your client there -- Audrey puts her hands on her hips and she reaches over and she says, "Judge McGrath, either your memory is flawed or you have an inherent gender bias. But, in either event, my name is Audrey Melbourne. I am a lawyer, and from this day forward you will remember that."

Judge McGrath, with his head tilted a little, and glasses down and clearing his throat, he reached over and he said, "Lawyer Melbourne, I will remember you."

And I think so will I, and so will all of you. We are most appreciative for her legacy.

JUDGE LEVIN: Judge Francis Borelli will be memorialized first by Melvin Bergman and then Sal Daniello.

What is that?

MR. BERGMAN: Sal was going to go first.

THE COURT: I was doing it alphabetically.

But, in case you are wondering why Franny Borelli gets two speakers, it is because he was one of the few Republicans and probably, the way things are

going in this county, the last.

Judge Borelli was born November 19, 1929, in Philadelphia, Pennsylvania. After attending Washington, D.C., public schools he attended George Washington University where he earned his A.A. degree in 1951.

He interrupted his education to serve in the United States Air Force during the Korean War.

He graduated from the American University, Washington College of Law in 1959. He was admitted to the Maryland Bar in 1961, established his private practice the same year, and was then appointed as a District Court Judge in 1977.

In his personal life, Francis met Jacqueline Icenberger of Memphis, Tennessee. They married on June 2, 1956, and greeted their first child, Rose Mary, in 1959 and Francis, Jr., in 1964, and Virginia in 1971.

Francis retired on February 1, 1994, after seventeen years as a District Court Judge.

I first met Francis in about 1966, '67. Probably '65. I was a law clerk then to Howard Smith, who was the Assignment Commissioner for Montgomery County.

Francis would come in. He had set up his law practice in Langley Park.

Which was pretty close to you, wasn't it,

Judge Levin?

Judge Levin was in the highrise building at Langley Park, and he was making the money. Francis had to settle for over the movie theater in Langley Park.

Francis was a very interesting lawyer in that his private practice was basically personal injury law and domestic relations. He wanted someone to go into civil practice, corporate law and criminal law, so he joined our firm and we opened an office next to the Mount Rainier Post Office in Mount Rainier, Maryland.

I don't know whether you know it or not but, as I was going through what I was going to say, there were approximately seven or eight law firms in Mount Rainier at the time. And, just for a brief history, I would like to let you know the names of these firms: McCullough and Pace; Couch, Miller and Blackwell; Roscoe Parker; Mathias and Vradenburg; Smith, Finley, Gray and Ahalt; Borelli, Daniello and Bergman; Caulfield and Holford.

Those were the law firms in Rainier at that time. As Judge McCullough could tell you, those firms were the firms that broke the Marlboro wall because, up until that time, you could not become a judge unless your offices were here in Upper Marlboro.

Francis enjoyed the company of these lawyers

and these future judges. We had a great Bar there in Mount Rainier, and Francis enjoyed it to the most.

On many occasions when Francis got finished at the end of the day -- And he was very organized. Francis came in at eight o'clock in the morning.

Blair Smith had the law firm next to us and owned the post office there. Kathy would go in. She would get the mail for the day. She would come over to the office. She would put every letter that came into the jacket that it was going to. She would put this little Norelco recorder on it because, him being an ex claims adjustor, that was the way he was taught. You would dictate on each one of these files.

At ten o'clock he would have his first client, at eleven o'clock his second, and so on through the day. He would go up to one o'clock. Francis finished his day at two o'clock every day. He was meticulous. His work was all caught up, and then he would go out.

Now, he did this five days a week during the wintertime. In the summer he did the same. He had the same schedule. However, there was one difference. Franny and Jackie owned a condo in Ocean City, and he would go down there Thursday after two o'clock, and he would come back early Monday morning.

He was consistent in the way he did everything. He was consistent in the way he practiced law and prepared his cases. He always had his files up-to-date.

In his private life it was the same way. I know his children and his grandchildren will miss him this Christmas. They had a way at their home that what happened was they would put up the tree. Franny would put the lights on the tree. They had an open house for about two or three days. Everyone who came to visit them during the season put a decoration on the tree.

I remember Francis would always tell me, if, you can't make chicken soup out of chicken feathers. He always had the right advice to try to make the case.

Francis taught me a lot. He was two years my junior, but he was six years my senior as far as the practice of law.

When Francis got on the bench, I thought he was a perfect match for that bench, for the simple reason he had gone through the trials and tribulations of trial lawyers. He understood the people doing domestic relations and personal injury work.

When he got on that bench, I think he was the type of person that I would like to come up in front of if I were to be judged on anything except theft. He had

a funny manner with thieves, and those lawyers that practiced in front of him could tell you just how he reacted to what he called a thief in his courtroom.

Each and every one of the members of our bench will leave a legacy, and the legacy they leave is the image they project from that bench.

I never had the opportunity for a long time to go before Francis. Because we had so many business dealings, I was not allowed, ethically, to go before Francis. When I finally did get to go before Francis, I lost the case. So that was the kind of judge he was, also.

I had the honor of representing Francis one time in a case before the Honorable Robert Woods and lost.

I don't know if you remember that case, Your Honor.

But I enjoyed him as a partner. I enjoyed him on the bench. I enjoyed him in life.

The one thing that is really confusing to me to this day is what he was doing on that roof. Because I can truly tell you, when Francis and I were practicing law, and even after that, we knew who our electricians were. We could call them and get service twenty-four hours a day. We knew who did home improvements. Anybody

who was going to do anything in our home, we knew who they were because of his problems.

He never should have moved far away, but he moved down to Ocean City. He loved his golf. He took pride in his hole-in-one. He was a great partner. He was a great judge, but he was a lousy golfer.

One thing we did. When we were first starting out in Mount Rainier, back there in the early or middle '60's, late '60's, the largest firms in town or in the county were only four or five members, and most of them were down here in Upper Marlboro. So we were going to do it in one fell swoop.

It was Borelli and Daniello. We couldn't get another Italian, so we went out and got a little Irish kid.

And with that fell swoop, I'll introduce our other partner, Mel Bergman.

MR. BERGMAN: That is a hard act to follow.

Distinguished members of the bench, distinguished members of the bench on both sides of the rail, with and without their robes on, distinguished retirees out in the audience, and everybody who heard all these memorial services today. I don't want anybody to leave you with the wrong impression that there was another firm. For those of you who are old enough to

remember, it was Reichelt, Nussbaum and Brown.

One of their distinguished members is sitting on the bench at the present time. So, if Joe Brown is around to hear me, I know I will get some leverage the next time I appear before you.

But, putting that aside, when you come to a memorial service I was trying to think what anecdotes I could do, because I knew Sal would do the biographical things.

What I can say is Sal and I had gone to school together. We had been friends for thirty-five years. He came to me and said, "I want you to meet this guy. He's looking for a partner to do these things. It is a perfect match." The chemistry was instant. We all got along well, and the friendship remained for all of us over the thirty years since we got together.

And the best way I can characterize our firm -- and I'm sorry he's not here, Vince Femia. Once we were at a Sons of Italy meeting, and Vince got up and introduced us all, and he said, "This is the only spaghetti house under rabbinical supervision in Prince George's County." And that is the fond memory I have.

I did a lot of socializing with the Borellies. Even when he went on the bench, and I remained in practice, we remained good friends.

As Sal said, even though he was an Irish boy, being an Irish boy and being a boy from Brooklyn is an oxymoron. But when he hit the bench he hit it in stride. This was the culmination of what he was looking for in life, and he enjoyed it thoroughly.

I remember once when he was over at the house. He had been on the bench five or six years. I said, "Francis, don't you ever get bored asking people how fast they think they were going and when they are going to pay their rent?" And he stopped me, in real candor, and said, "You know, as long as that mob of people out in my court here to me are still human beings, I am okay. When they become statistics, then I'll think about retiring."

I will always remember that remark, and I know that is an adage that I am sure any member of the bench still appreciates with respect to that type of attitude.

He did have a zest for life. We had a great time. We had some legendary parties. We ate well at Bass's. I know Judge Blackwell remembers that place well. We just enjoyed being in Mount Rainier, and it was just a hub. It was just an exciting time to practice law, in the early '70's, in Prince George's County. Not that it was an exciting time then, but it was an exciting

time of growth for the legal profession.

But I would like to say one thing on a personal note. I always felt bad that I could never share Fran's passion for golf. I told him one day, I said, "Fran, look. I was born and raised in Brooklyn, New York. The way you get a ball into a hole is with a cue stick, not with a putter." And I said, "If you want to really learn a game, that is the game you should take up."

But, unfortunately, I could never, ever, persuade him to return from the putting green to the green of a Brunswick table.

Sal and I had the same problem. It took a number of years before I was also allowed to appear before Francis. I appeared before him three or four times, only on civil matters. I would never do a criminal matter with him.

We came to a point where he could do it, and he would make a big speech to the attorneys on the other side. "Mel and I had been partners together, but we have no financial connection. Now, does anybody have any objection to me hearing the case?" Of course we all hear a chorus of noes.

Like Sal, I got my brains beaten out every time, and then he would call me that evening and say,

"Come by the house and I'll tell you what happened." I would come by and get a blow-by-blow description of how I lost my case.

But I will say one thing that I have a legacy from him. Those of you who know me, I don't take myself too seriously, and Francis taught me that legacy.

I was a pretty serious guy. Because, after all, I practiced in Montgomery County for several years before I came to P.G. in 1968, '69. So it was like coming from Washington and being transplanted to a different environment.

He told me how to love life, how to practice, and how to be a little organized, which I still haven't learned. But he did teach me how not to take myself too seriously. That was always his attitude.

But he enjoyed being a judge. He enjoyed it immensely.

His son, Buddy, is here. I know that the natural reaction is, after all these memorial services are done, and these things are sort of faded into the past, will your dad still really be remembered?

Let me tell you this, Buddy. As long as we are alive, we can still hear his voice and we can still see his smile. He is not only going to be remembered, he'll still be alive.

Thank you.

JUDGE LEVIN: If it please the Court, this concludes our annual memorial service. I have been chairman of this service I think it is about ten years now, and I sat through ten years of proceedings and listened to the memorials that have been given. My tragedy is that I knew everybody that has been memorialized in the past ten years.

I came to Prince George's County in 1957, after eight years with a firm in the District of Columbia, and opened an office in Langley Park, the garden spot of America. In the ensuing forty-three years as a practitioner and judge in this county, I have had the occasion to meet everybody, one way or the other. I particularly remember distinctly everyone that has been memorialized today.

As has been said before, I was a classmate of David McNamee. We went to McKinley Tech High School. I graduated in February of 1942. He got out in June of '42. I got out in February of '42. He wanted to go another half year because it meant something at that time.

I knew Franny Borelli. I don't want to correct Sal, but my office originally was over the bank in Langley Park, which was, at that time when I moved

there, the Citizens Bank of Takoma Park. I had a one-room office in Langley Park.

I met Franny a few years later when he moved over the theater. We had a theater in Langley Park at that time. During the course of our friendship, he had me try a case for him in Montgomery County against Al Blackwell, and we had a big fight. We had a big fight afterwards, because Franny tried to con me out of my fee, claiming that he only had it on a fourth instead of the usual third.

The last memory I have is of his former partner, Melvin Bergman. There was an Italian restaurant in Langley Park that is no longer there. We had a restaurant named Leonie's. In addition to Ledo's, there was Leonie's up the street. The booths were so small in Leonie's that Melvin Bergman couldn't get behind one of the booths. And times have never changed.

I knew Audrey as a colleague and as a practitioner. I knew Jack Kelly as a colleague and a practitioner. I knew Bob Kernan because he practiced in front of me. I knew Dave McNamee because of our long friendship.

Accordingly, Chief Judge Woods, I move that a record of these proceedings be spread in the minutes of this court, and that a copy of these proceedings be sent

to the families of the individuals memorialized, and that we adjourn in memory of our departeds' memories.

CHIEF JUDGE WOODS: Thank you. The court will grant that motion and we will have the reporter transcribe the record and send a copy to the families of those here today.

We are grateful to the Bar Association and members of the Committee for the presentation of the memorial. This is a tradition we have maintained for many, many years. We bring people to honor our brethren and to pay tribute to their memory.

Judge Levin, do you not have plants for the memorialized's families?

JUDGE LEVIN: Yes. I was going to tell you that, Judge Woods. There is an individual plant for each of the members of the memorialized's families here.

CHIEF JUDGE WOODS: Thank you. If they will come up.

All right. Thank you.

Mr. Bailiff, in honor of our departed brethren, we will stand in recess.

(Whereupon, the memorial service was concluded.)

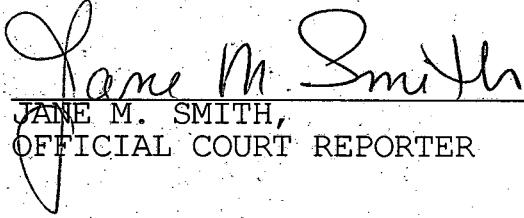
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REPORTER'S CERTIFICATE

I, Jane M. Smith, an Official Court Reporter of the Circuit Court for Prince George's County, Maryland, do hereby certify that I stenographically recorded the proceedings at the Bar Association's memorial serve in the courthouse in Upper Marlboro, Prince George's County, Maryland, on November 16, 2000.

I further certify that the page numbers one through thirty-seven constitute the official transcript of the proceedings as transcribed by me from my stenographic notes to the within typewritten matter in a complete and accurate manner.

In Witness Whereof, I have affixed my signature this 24th day of January, 2002.



Jane M. Smith

JANE M. SMITH,
OFFICIAL COURT REPORTER