

Remembrance by Elizabeth Kuniholm

University Presbyterian Church
Chapel Hill, NC
November 4, 2017

Good afternoon. It is my honor to speak to you today about my mentor and friend, Judge Phillips. I clerked for him from 1980 to 1981, his third term on the Fourth Circuit. It was a gift to be able to know and learn from this giant of a jurist. I know I speak for all his clerks when I say that we were humbled by the chance to watch him at work and now marvel at the legacy he has left.

It was our privilege as clerks to apprentice to this wonderful man. We called him the Judge, of course. For me, the year as his clerk was probably the most significant influence in my professional life. He modeled for us what it meant to be practicing a profession as Roscoe Pound defined it: a profession is a group of men (and now we would also say women) pursuing a learned art in the spirit of public service. And he also modeled for us the Boy Scout Laws he lived by – especially the imperative to be trustworthy, brave, and reverent.

The glimpse into the workings of the court was more than we could have imagined. The Judge was a patient and careful tutor. He was always accessible. If there were an issue I had some trouble with, I knew that I could knock and ask for his help. Without fail, when I asked whether there might be a time we could talk about a certain issue, he would put down whatever he was working on and say, “How about now?”

Our trips to the Carolina blue carpeted chambers in Richmond were tutorials in themselves as we watched the humanity, dignity, and care with which Judge Phillips and his colleagues worked at administering the law. Although we thought of ourselves as powerful and mature, toward the end of the year we learned that he referred to us as “the children.” “Are the children in yet?” he would apparently ask Becky. His evident affection and care bound us to him all the more.

During our year, he had only recently left UNC. Once, a young UNC law graduate began his argument by saying it was an incredible honor for a young lawyer to argue before his former dean – a frequent and for the judge embarrassing occurrence – and went on a little too long. Judge Haynesworth, who was presiding, leaned across the bench and said
..... “That’s OK son, we didn’t do it just for you.”

We quickly learned of Judge Phillips’ wry sense of humor and his appreciation for life. Part of our responsibilities, we believed in our youthful enthusiasm, was to entertain the Judge. He was indulgent of us and our antics with him and with one another. Once when the Court was

sitting in Baltimore, we thought we had reached a pinnacle when our practical joke got a chuckle from Judge Murnaghan and a wry smile from Judge Phillips, leading him to use his two favorite words in a single sentence – “utterly” and “unseemly.”

The life and work of a federal judge, we learned, can be lonely. Ethically, he could not pick up the phone to call his law school colleagues to sort out the thorny issues in a case involving subject matters he was not as familiar with. He was strict and true to these constraints, and we were thus blessed with access to intense tutorials and insight into his thoughtful approach to the law. We went to lunch with him every day – he told us Jean had admonished him that he must go to lunch – “a person can’t drive drive drive all day long,” he said she told him. Thank goodness for Jean. I cherish those lunches, and knew at the time how unusual it was. There weren’t many choices in Durham in those days, and we alternated between the American Tobacco Company cafeteria with its Eastern North Carolina barbecue, hush puppies and Brunswick stew, the hippie lunch place (where he commented on the sprouts on everything and the combat-booted waitresses), and the one or two traditional southern lunch places.

He struggled over his decisions and his opinions. He fervently wanted to do what was right and just under the law. As we left the shelter of his chambers, we gave him a Magic Eight Ball to help him decide the hard cases – shake it and it will tell you “yes,” “no,” “maybe,” or “ask again later.”

He taught us restraint, compassion, and tolerance. He showed us what it was like to be guided and limited by your internal compass. He taught us to love the law, and to respect the rule of law. He taught us that the law is an instrument of justice and of change. He nurtured and grounded us with his common sense. And we thrived under his loving tutelage.

Countless young lawyers have been guided and mentored by the gentle wisdom of this amazing man. His passion for his community, for the state he loved, and for his family infused his life, and we knew it. We miss him so and always will, but he lives on in his loving family who must now go forward without his physical presence. For Jonathan, Abigail, Emmaline, Stella, and Fletcher, fill your hearts with the stories of your beloved Papa, knowing that the spirit of this special man will guide you as you grow and find your own way in the world.