

THOMAS O'NEILL

EASTERN DISTRICT OF PENNSYLVANIA

extraordinary exemplar

by John R. Padova and Gene E.K. Pratter



Hon. Thomas N. O'Neill, Jr., a widely respected and admired federal judge in the Eastern District of Pennsylvania, died in January of 2018 at the age of 89. His adult life was dedicated to his family and the law. Prior to his retirement in September 2017, Judge O'Neill was a senior judge on our court, having served since his appointment by President Ronald Reagan in August 1983. But he was more than a smart and respected jurist and devoted family man. He also was our beloved friend and colleague; an exemplar for all of us.

First, a few of the basics. They are impressive, perhaps even singular, in an already sparkling judicial firmament. Born in Hanover, Penn., Judge O'Neill served in the United States Navy Reserve from 1948 to 1953. He earned his A.B., *magna cum laude*, from The Catholic University of America in 1950 and then his L.L.B., again *magna cum laude*, from the University of Pennsylvania Law School. In law school, he served as an articles editor of the *University of Pennsylvania Law Review* and was a member of Phi Beta Kappa and the Order of the Coif.

Upon graduation, Judge O'Neill served as law clerk to Third Circuit Judge Herbert F. Goodrich and thereafter to U.S. Supreme Court Justice Harold H. Burton. He was a Fulbright Scholar at the London School of Economics, where he also had a desk in Chambers in Lincoln's Inn. Tom treasured the friendships he formed in London and after his return home he traveled to the U.K. as frequently as possible to maintain and strengthen those bonds.

Returning to "the colonies" in 1956, Tom joined the Philadelphia law firm of Montgomery, McCracken, Walker & Rhoads, where he specialized in business litigation and defense of lawyer malpractice cases. He became a key leader at the firm, serving as chairman of the firm's litigation section and as a member of the management committee. At the same time, he was well known for mentoring his younger colleagues, an additional leadership role that he took very seriously. A consummate courtroom advocate, Tom was elected a fellow of the American College of Trial Lawyers and a life member of the American Law Institute.



Combining vocation and avocation, Judge O'Neill kept on his courtroom bench a framed cautionary reminder that read: “By the mouth the fish is caught.”

Judge O'Neill was counsel to the first and second Pennsylvania State Legislative Reapportionment Commissions and an appellate advocacy instructor at Penn Law School. He became chancellor of the Philadelphia Bar Association in 1976 and a member of the American Bar Association House of Delegates in the same year. These accomplishments were a testament to his colleagues' trust in him to always bring wisdom, nonpartisanship, and skill to his professional activities. Indeed, without fail, he always respectfully addressed demands and suggestions from all quarters and constituents.

Judge O'Neill served as a member of the board of overseers at the University of Pennsylvania Museum and a board member of the Lawyers' Committee for Civil Rights Under Law. He was an incorporator and board member of the Public Interest Law Center of Philadelphia and, along with his longtime friend and federal court colleague, Hon. Norma Shapiro (dec. July 22, 2016), cofounded Penn's American Inn of Court. Recognized and selected by the Chief Justice of

the United States Supreme Court, he served on the Codes of Conduct Committee of the Judicial Conference of the United States from 1995 to 2001. For years, Tom remained a go-to source for judges around the country who had ethical questions or concerns.

Beyond his profession, Judge O'Neill's diverse interests and civic involvement included, among a host of other activities, serving as a trustee of the Gladwyne Library, as a board member of the Pennsylvania Society of the Sons of the Revolution, and as president of his beloved Edgemere Club at Silver Lake in Pike County, Pennsylvania, where he looked forward each year to hosting his pals for a “guys only” weekend of fishing and storytelling, often in reverse order.

Indeed, combining vocation and avocation, Judge O'Neill kept on his courtroom bench a framed cautionary reminder that read: “By the mouth the fish is caught.” For many years, he sang with passion and aplomb in both the Savoy Company (a theater company) and the Counterparts (an a cappella singing group), and he could be counted on to be a strong

voice from the pews for his preferred hymns during mass. Tom was known as a sportsman and jokester, whether fishing for trout or for laughs, playing tennis or being an all-around engaging raconteur of very long jokes, which were rather funny no matter how often he told them. Judge O'Neill and our colleague Judge William (“Bill”) Ditter could entertain a room full of judges without missing a beat. Their timing in telling dueling jokes and stories was always impeccable, usually complementary, and sometimes even competitively complementary!

Between the two of them, no topic was too obscure or dubious to merit an apropos joke or parable.

One of the longest-serving judges in our district, Tom had a devoted following of friends, law clerks, fellow judges, and litigants. Unfailingly humble and honorable, Judge O'Neill instilled in his law clerks and younger colleagues his abiding belief that the jurist's job was to respect the litigants' ownership of the cases on his docket. Tom's close mentoring relationships with his law clerks are well captured by this description from one of his law clerks:

One sage piece of advice that he often shared, and which proved invaluable in fostering relationships that were cooperative rather than unnecessarily confrontational, was to record any festering complaints or disputes in a letter, put the letter in a drawer, and shut the drawer. Much more often than not, the drawer stayed closed, the letter was never sent, and time dulled the point of dispute.

Judge O'Neill was the first boss I ever had as a lawyer and my first legal mentor and role model. He set a high bar. The things he taught me, by words or example, have stayed with me for the 25 years since my clerkship ended. The Judge liked lawyers. He believed in the nobility of the legal profession. He revered the role the judiciary plays in our democracy. He thought good advocacy meant persuading through analysis of facts and law, not by grandstanding. Judge O'Neill treated everyone — lawyers, parties, witnesses, jurors, fellow judges and those of us who worked in his chambers — with kindness, decency and respect.

As a law clerk, you felt like an extended part of the Judge's family, and that didn't end with the clerkship. He would tell us story after story . . . new ones or ones from his days at the Supreme Court or in private practice or from his earlier days on the bench. The Judge loved giving advice — important career and life advice, and also on topics like the best places to buy meats in

Reading Terminal, the benefits that come from giving a good toast, and the importance of wearing properly formal shoes with a tuxedo.

There is no question that my time with Judge O'Neill made me a better lawyer and a better person. And I am pretty sure every one of the Judge's 40-some law clerks feels exactly the same way.

As a lawyer and judge, Tom never acted as though he had all the answers, though he frequently had the best ones. This made him an invaluable resource, a treasured confidante, a wise mentor, and a clever architect of legal, practical, and innovative solutions to just about any life or legal problem. One sage piece of advice that he often shared, and which proved invaluable in fostering relationships that were cooperative rather than unnecessarily confrontational, was to record any festering complaints or disputes in a letter, put the letter in a drawer, and shut the drawer. Much more often than not, the drawer stayed closed, the letter was never sent, and time dulled the point of dispute that had seemed so important

in the moment but was, in fact, actually insignificant. Essentially, this was Tom's wise version of "counting to 10."

Undaunted by physical challenges that crept up as Tom continued to carry a substantial load of the court's work, he served as an inspiring example of a judge who was never shy about showing how much he loved being a judge and coming to work in the courthouse each day. Of course, part of the example he set was the certainty that as much as he loved his job and his judicial colleagues, he loved his family and his faith more. Tom's priorities were clear and uncompromised, making his enjoyment of each of them — from the courthouse, to the schoolhouse, to the clubhouse, to the vacation house, and beyond — worthy of respect and emulation.

As we and Tom's many colleagues gathered in Philadelphia's Cathedral Basilica to honor and recall Tom O'Neill as a family member, counsel, jurist, friend, and leader, we even then were reminded of his special brand of compassionate conscientiousness: A longtime resident of the Philadelphia suburbs, he had previously expressed

Who is your judicial hero?

History is full of judges who took a courageous stand in the face of contrary popular will, whose decisions over time affect countless individual lives and shape communities, whose daily work contributes in ways large and small to the functioning of democracy. But these stories are often untold. *Judicature* publishes *The Storied Third Branch* to honor these judges and to create greater public awareness of the lives of those who work to protect and advance the rule of law.

his preference that his funeral — whenever that should be — would be held on a weekday and in Center City, rather than near his home. He hoped it would be during the business day, so that those who, like him, enjoyed the challenges of continuing to work and serve others could come to bid him adieu but then return to work with relative ease and minimum intrusion. What Tom likely did not anticipate was the reflection on the faces of those who came to his funeral of a different kind of ease that they obviously felt — ease that did not depend on the site of his funeral, but appeared because he had graced their lives, personally and professionally. Just thinking about Tom O'Neill made them — indeed, makes all of us — feel better about our profession and our future.

A Postlude. Sadly, just as this piece about Tom O'Neill went to press, the Eastern District of Pennsylvania lost another leading light, Judge Stewart Dalzell, who passed away over Presidents' Day weekend, three years after his retirement from the bench. It is fitting to acknowledge our court's latest loss as part of our tribute to Tom

O'Neill. Judge O'Neill was an enthusiastic mentor for his fellow Penn Law School alumnus, Judge Dalzell. Like Tom, Stewart joined our bench from private practice and a host of community activities. Upon his commission in 1991, Judge Dalzell immediately and continually shared Tom's abiding respect for the intellectual challenges of the law, and they shared even more passionately a lifelong love of music. Their judicial colleagues take some small solace in recalling fondly — and now imagining happily — Judges O'Neill's and Dalzell's charming harmony.



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We invite you to submit a tribute to a judge who has inspired you — a mentor, a colleague, or perhaps a historical figure whose life or example has taught you something about a life in the law and the work of judging. Please contact Melinda Vaughn for details on submissions: melinda.vaughn@law.duke.edu.