

In Memoriam

HONORABLE ROBERT V. DENNEY

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

CEREMONIAL PROCEEDINGS

for

THE HONORABLE
ROBERT V. DENNEY

Wednesday, June 23, 1982

3:00 p.m.

**Before: THE HONORABLE WARREN K. URBOM
THE HONORABLE ROBERT VAN PELT
THE HONORABLE RICHARD E. ROBINSON
THE HONORABLE ALBERT G. SCHATZ
THE HONORABLE C. ARLEN BEAM**



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JUDGE URBOM: We are here to honor the memory of Robert V. Denney. I shall be pleased to introduce to you members of the various courts who are here. In the jury box, member of the United States Court of Appeals for the Eighth Circuit, Donald Ross; Supreme Court of Nebraska, Nick Caporale; United States Magistrate Richard Peck; Darvid Quist, District Judge for the State of Nebraska; and David Piester, United States Magistrate for the District of Nebraska.

I have asked Robert G. Fraser to guide us through this memorial service and I introduce him to you now.

MR. FRASER: Thank you, Judge Urbom. Members of the judiciary, Mrs. Denney, and members of the Denney Family, members of the judiciary over on the other side of the room, fellow lawyers, and friends of the Denney Family: I want you all to know that it is a real privilege and a pleasure and an honor for me to be present as a former classmate of Judge Bob Denney, to act, if you will, as a sort of a master of ceremonies at this memorial.

I should tell you that we do have a letter from the Honorable Donald P. Lay, Chief Judge of the Eighth Circuit, who is ill and sends his regrets for not being able to attend today.

The person who will make the first and initial memorial presentation is the Honorable Albert G. Schatz. Judge Schatz.

JUDGE SCHATZ: Judge Ross, Chief Judge Urbom, members of the Bench and Bar of this Court, and Ruth Denney and the family, and family members, and gentlemen and ladies, I speak briefly with you today in loving memory of Bob Denney, who served this Court most ably and industriously for many years, and with whom I served for over eight years. I am happy and grateful that my fellow Judges called upon me to make this brief address to you on behalf of the District Court.

I am sure that all of us have some knowledge and recollection of the dedication which Bob Denney had to public service, to his community, to this state and to his country. We are all aware that he served in all three branches of this nation's government—executive, legislative and judicial. Very few men can claim or equal such service or the span of it. If there were a hall of fame

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as in baseball or football for this nation, I am sure that Bob would have been included.

But let me fill you in briefly on the aspects and details of his remarkable career and his service to this country. Bob was born in Council Bluffs, Iowa, on April 11, 1916, and as we know, passed away on June 26, 1981. He attended the public school system in Fairbury, Nebraska, attended Peru State Teachers College, and graduated from the University of Nebraska at Lincoln. He thereafter attended Creighton University School of Law, graduating in 1939, cum laude, and was first in his graduating class. Thereafter he joined his father, Arthur J., and his brother, Max, whom many of us knew, in the practice of law in Fairbury.

Meanwhile, in 1941 and 1942, he was a Special Agent for the Federal Bureau of Investigation, serving in Washington, D. C., and Chicago.

Bob enlisted in the Marine Corps in October, 1942, qualified for officers' training school at Quantico, Virginia, and after graduation, was assigned to the First Armored Amphibian Battalion, after which time he participated in the operations at Kwajalein, Marshall Islands, Guam, the Mariannas, Okinawa, and Ryukyu. On Okinawa he received the Bronze Star for meritorious service.

As a footnote, if I might put this in, little did I know, also as a Marine Corps officer, that I was sharing some common elements of combat with a man who I didn't know, but a man who later would be my colleague on this Bench.

Bob attained the rank of captain during his active service. After discharge, he remained in service with the Marine Corps Reserve, retiring in 1960 with the rank of Lieutenant Colonel.

Thereafter, in addition to practicing law in Fairbury, he served as Jefferson County Attorney, Fairbury City Attorney, and was a member of the Fairbury School Board.

He was elected as Nebraska's First District Congressman to the 90th Congress and the 91st Congress where he served as a member of the House Public Works Committee, the House Veterans Affairs Committee, and the House Special Committee on Crime.

In 1971, Bob was appointed to the Bench and remained there until his death.

Bob and Ruth Conklin were married in 1941 and raised certainly a fine family, V. Barrett Denney and family, Honolulu; David C. Denney and family, Portola Valley, California; Michael R. Denney and family, Knoxville, Tennessee; and Deborah Denney Kohler and family, here in Omaha.

As mentioned above, I served on this Bench with Bob for over eight years, and I find it almost impossible to adequately express

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or describe for you the tremendous devotion that this man had to this country and to the judiciary. Nor can I describe the sense of duty that he gladly assumed. To that end, if you will bear with me briefly, the best analogy I can deliver is to repeat just a portion of a famous American's parting words to the cadets at West Point twenty years ago last month, and I would like to think that General MacArthur had men like Bob Denney, and exactly like Bob in mind when he said, "Duty, honor and country—those three hallowed words reverently dictate what you want to be, what you can be, what you will be. They are your rallying point to build courage when courage seems to fail, to regain faith when there seems to be little cause for faith, to create hope when hope becomes forlorn. These words build your basic character, and they mold you for your future role as the custodians of the Nation's defense. They make you strong enough to know when you are weak, and brave enough to face yourself when you are afraid.

"They teach you to be proud and unbending in honest failure, but humble and gentle in success; not to substitute words for action; not to seek the path of comfort, but to face the stress and spur of difficulty and challenge; to learn to stand up in the storm, but to have compassion on those who fall; to master yourself before you seek to master others; to have a heart that is clean, a goal that is high; to learn to laugh, yet never forget how to weep; to reach into the future, yet never neglect the past; to be serious, yet never take yourself too seriously; to be modest so that you will remember the simplicity of true greatness; the open mind of true wisdom, the meekness of true strength.

"These words give you a temperate will, a quality of imagination, a vigor of the emotions, a freshness of the deep springs of life, a temperamental predominance of courage over timidity, an appetite for adventure over love of ease.

"These words create in your heart the sense of wonder, the unending hope of 'what next,' and the joy and inspiration of life. They teach you to be an officer and a gentleman."

The General went on to say, "The shadows are lengthening for me. The twilight is here. My days of old have vanished—tone and tints. They have gone glimmering through the dreams of things that were. Their memory is one of wondrous beauty, watered by tears and coaxed and caressed by the smiles of yesterday. I listen then but with thirsty ear, for the witching melody of faint bugles blowing reveille, of far drums beating the long roll.

"In my dreams I hear again the crash of guns, the rattle of musketry, the strange, mournful mutter of the battlefield, and in the evening of my memory, I come back to West Point, and always there echoes and re-echoes those words: Duty, honor, country."

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I am sure that before Judge Denney crossed the river, his last conscious thoughts were of Ruth and the family and of those words: Duty, honor, and country. He served his family and his country and this Court exceptionally well as an outstanding American, and we are all forever grateful that Bob Denney came our way, and left an example for what all of us can be.

On behalf of the Judges of Nebraska, we will always cherish the memory of Bob Denney. Thank you.

MR. FRASER: Thank you, Judge Schatz, for your very inspirational remarks.

Ladies and gentlemen, I note in the audience, I failed to acknowledge Senator Roman Hruska and his dear wife Vicki, who are long-time friends of the Denney Family, and further, just to point out the fact that Roman Hruska served with Bob Denney in his dual, or I should say, almost triple capacity, not only as a lawyer and a friend, but also as a Member of the Congress of the United States.

At this time I would like to call on Mr. Robert Spire, who is president of our state bar association for some remarks, if he will, please.

MR. ROBERT M. SPIRE: Mrs. Denney, Chief Judge Urbom, dear friend Bob Fraser, and friends all: In the final analysis there really is no guarantee of justice except the character of the judge. The greatest task that can ever be given to any man or woman to discharge is the dispensing of justice, which requires a mental and a moral greatness far above the common average; and all of us know that true professionalism is a very delicate thing which rests upon the fundamental concept that integrity cannot be negotiated.

These two concepts, the character of the judge, and the non-negotiability of integrity, were readily evident in everything that Judge Bob Denney did during his years of genuine public service.

Those of us who had the privilege to appear in Judge Denney's courtroom never had any idea just how our individual cases might be decided, but one thing we knew as an absolute certainty: We knew that Judge Denney would bring to each case great character and true moral sensitivity. This, after all, is what our system of justice is all about, and is the fundamental premise and foundation upon which it rests. So as we gather this afternoon to memorialize, and indeed to celebrate, the life of Judge Denney, we are reminded that there is no guarantee of justice except the character of the judge.

And so, Mrs. Denney, and good friends all, with Judge Denney we had left to us, through the substance and example of his good works, a permanent legacy of justice and the way that our system should work which will last far beyond the lives of all of us.

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I thank you for the privilege of being allowed to speak on behalf of the lawyers of Nebraska on this significant and touching occasion.

MR. FRASER: Thank you much, Bob Spire.

It now gives me a great deal of pleasure to call on a long time friend of Bob Denney's, the Honorable Robert Van Pelt, Sr., United States Judge, District of Nebraska. Judge Van Pelt.

JUDGE VAN PELT: Friends of Robert V. Denney: He is not dead who lives in the memory of his or her friends.

Today as we celebrate Bob Denney's life, I will have served my purpose if, instead of listening to me, you close your eyes and reflect for a little bit on some of the deeds of Robert V. Denney that mean much to you, and I assure you that if you made me this offer, I not only would quit talking, but I would reflect and in my mind reminisce and not listen.

I am confident that I met Bob Denney when he was a boy. His father and his grandfather were my friends. I had supported his father unsuccessfully for public office.

I first recall Bob Denney when he became a pledge at the social fraternity on the campus of the University of Nebraska, of which I had earlier been a member. The boys felt they had landed a prize, as they had. I recall him as tall, handsome, erect in stature, a young man who already was somebody.

Later we were in litigation on the same side in several cases. I see him then no longer a boy, but a man, unusually mature for his years and still erect in stature.

I knew him as an FBI Agent. I knew him as a Marine in the service of his country, and I recall him as always proud of the United States of America.

I remember him when he entered politics and I learned from his father-in-law that he wanted some day to be a Federal Judge. I see him campaigning with his kindly face emerging through the wearing winds of Nebraska's daily life, and I see him still erect in stature.

I see him a Congressman in the House cafeteria on a Saturday afternoon when other Congressmen had gone home. He was there welcoming a Nebraska Judge who was also not at the end of a work week. I see his smile and I feel the warmth of his friendship, and I still picture him towering and erect in stature.

I see him when he takes the oath of office as a United States District Judge, dedicating himself to the administration of justice without respect to persons and promising to do "equal right to the poor and to the rich."

I hear him in his first published opinion one month after his taking a seat on this Court, saying that he, the Court, was not

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bound by the strictures of Nebraska rules of pleading. And I see him thereby taking his position early as a believer in a strong, independent federal judiciary.

I see him in the later days of his life with his locomotion impaired but always alert, still erect in stature, a Judge's Judge.

Comment was made by several at the renaming of the Federal Building in Lincoln as the Robert V. Denney Building of his service in all three branches of government—executive, legislative and judicial. I see him placing his judicial career above the others in the satisfaction that its opportunities had furnished to him.

Now these are just a few of my recollections of the life of this Judge. Each of you have your own. They are mentioned not to enter into a theological discussion with you on the question of life or death. They are mentioned only to suggest to you that as long as he lives in your memory or as long as he lives in mine, there will be cause for celebration of his life.

You need not be ashamed this afternoon or at any time if you feel as the poet when he said, "They say I have died and yet I speak."

Many of you in the tomorrows will frequently recall this good man, tall and erect in stature, moving forward to the very last, a Judge fulfilling Micah's advice to do justly, to love mercy, and to walk humbly.

The District of Nebraska and the nation are better off for the wide range of Robert V. Denney's public service. It is proper that we pay tribute to him and thus that we celebrate his life.

Eighty years ago, a man who later was to become a distinguished Justice of the United States Supreme Court, Oliver Wendell Holmes, Jr., said, "I think it a noble and pious thing to do whatever we may by written word and molded bronze and sculptured stone to keep our memories, our reverence, and our love alive and to hand them on to new generations all too ready to forget."

For Ruth, for Debbie, Barry, David and Michael, and their loved ones, we wish God's peace. Living men like Robert V. Denney are always hard to spare.

MR. FRASER: Thank you much, Judge Van Pelt. We are deeply appreciative of your remarks. Now, ladies and gentlemen, I will call on a former classmate of Bob Denney's. Will you please come up, Clayton Shrout?

MR. CLAYTON H. SHROUT: Distinguished and esteemed members of the Bench, both Federal and State, colleagues at the Bar, Ruth Denney, Jim Denney, members of his family that aren't present: I want to start out by telling you first of all that

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anything that I may say here is not intended in the form of any sacrilege. I am simply recalling things that Bob Denney himself said, told his colleagues who were in the 1939 Creighton Law Class, and that is really the reason that I am here, I guess. There aren't too many of us left, and I think Bob Fraser, when he was hunting for somebody to talk about the 1939 graduating class at Creighton, thought about me because I was only a block from his building so he said, "I'll call Shroul and let him have at it."

But it's a pleasure to talk about Bob Denney. The first time that I met him was when he came to Creighton in 1936 to enter Law School. And this law school class of ours faced a couple of stumbling blocks. First off, of course, we had the faculty of the law school that we had to face and get by them. Then the next stumbling block was that in 1939, the first bar exam was given to members of the Creighton and Nebraska Law Schools. So we had what we considered to be an indignity that we ought not have had to suffer, but there it was, and we were going to have to take the bar exam if and when we got by the faculty. So it was unusual from that point of view and also unusual because this was the largest freshman class that had appeared, I think, at any time in the history of the law school at Creighton. There were 90 people in this class. I suppose some of us were there because we didn't have anything else to do, and tuition wasn't great. Somehow, some way, we could scrape that together so this was the class in which I first met Bob Denney.

Early on in the academic life of this group of the peers of Judge Denney, it was apparent to all of us that he was going to be Number One, no doubt about it, and I learned from some research, as a matter of fact, that he was not only Number One in the Class of '39 but he had the highest grades of anybody in the law school from sometime back in the early 'teens when Bob Fraser's father and I think Raymond Young wound up tied as the leaders of their class and they and Bob Denney were about tied I think in grades. So there was no doubt that he was going to be Number One.

Now his inspiration came from places maybe that you wouldn't suspect. In the late 30's the University of Nebraska had a great football team then, too. They were Number One in the Big Eight at that time, but I don't think they were the reason that Bob Denney was Number One in his law school class. The way he told it to his fellow class members on a number of occasions, the background for this inspiration occurred while he was an undergraduate at the University of Nebraska. And there were occasions during this period of time that he didn't indulge in such mundane things as going to class or opening the books that were involved in the various subjects that he reputedly was taking, and he said that he was very surprised toward the end of the semester

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before he came to Creighton when he was awakened one morning by no less a fellow than Arthur Denney, who was an eminent jurist in Fairbury and who was Bob's father, who had become concerned about whether or not he was attending classes regularly, and showed up in this fraternity house, and when he got there, say at 10:00 o'clock in the morning, Bob was in a reclining position, sound asleep. And he says that at that point in time, after some conversation, his father said to him, "Well, Robert, you are going to change schools. You are going to wind up at Creighton to get away from your friends, and you damn well better go to work and become a student, or you are going to be supporting yourself before you know it." And serious student Robert Denney became. No doubt about it. He spent hundreds of hours in the library at Creighton. He never missed a class. And he became kind of a quintessence of knowledge for the rest of us who were in that Class of 1939.

You never saw him down in the locker room. He never paid any attention to the rattle of the dice that were surreptitiously thrown down there at times. I see one member of the Class of '39 who is sitting out here, whose name I won't mention, smile because he knew something about the rattle of the dice, that fellow.

You never saw him involved in any kind of a poker game down in the locker room either because he was busy working all this period of time. In fact he acquired the nickname, and I think it was probably given to him by the chairman of this meeting, "father." We all called him "father." And we called him "father" not only because of all of the help that we got from him academically, and we did. I am serious when I tell you that, but also from the help that we got from him by way of advice and consultation.

Now he always wanted to be a Federal Judge, and as Judge Schatz says, he graduated cum laude, number one in his class, but he always had this in mind. He said several times that he really became a candidate for Congress only because he felt that election to this post would give him some valuable background for appointment to the Federal Bench. He made no bones about this. This was his ultimate goal. And, as we all know, he attained that goal. His time in Congress was, he felt, a kind of an interim time in his career, but ultimately he would get to the bench, which he did.

There were times after he got to the bench that I personally had some doubt as to whether or not he should have been number one in the Class of '39. And you can all guess as to why those doubts occurred to me. I would think to myself, "Great Heavens! I knew this guy when he was just a student, and it seems strange to me that he has such a poor opinion of my abilities as a

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student.” But I finally came to realize with emphasis that he deserved his number one academic spot in the Creighton Class of '39, and his position as an eminent member of the Federal Bench, when I was told at least twice by the Eighth Circuit—it may have been more, but I don't intend to think any beyond that—that his reasoning was faultless so I ultimately came to the conclusion beyond any question of doubt, both as a student and as member of the Bench, that he was Number One, and I have no reference at all to the robed gentlemen sitting up here now.

He wasn't only scholarly as far as those of us in the Class of '39 were concerned and all the rest of you who knew Bob Denney, but he can be described as a great guy because he was. He was a human human, and again I—pardon the personal reference—but I came to that conclusion one day when I was down here representing somebody in connection with a case in which the IRS was involved, and I loved Judge Denney forever before that hearing was finished, even though he beat us, because he said to me from the bench, “Mr. Shrout, I feel the same way that you do about this proposition involving the IRS, and I want you to know that while I was a member of Congress, I tried to get this particular situation changed, but with no success so the only thing I can do is beat you.” And I agreed with him, but as I tell you, I loved him more than ever from that day on and realized that he was a human human being of stature. He was a man of tremendous character, and I am sure that with all the rest of you who are remembering, the Class of '39, those of us who are left, will carry him in our hearts forever.

MR. FRASER: Thank you much, Clayton.

I would like to acknowledge three other former classmates, Ben Shrier, would you stand? Dan Murphy and Bob Thurman. Thank you, gentlemen, for aiding and assisting in putting on this memorial.

And also I would be remiss if I didn't thank the representatives of the Barrister's Club present who helped in ushering you people in attendance.

I want to thank you all for being here and paying tribute to Bob Denney who was an outstanding scholar, obviously, a great intellect, but most important of all, ladies and gentlemen, a very dear friend of all of us. He will long, long be remembered.

Judge Urbom, I would move that we present these memorials to Robert V. Denney, and move that they be spread on the minutes of the records of this Court and made available for publication for delivery to Ruth Denney and members of the family. This concludes the meeting.

JUDGE URBOM: Thank you, Mr. Fraser. That will be done.

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Robert V. Denney's last public service was as a member of this Court so we have thought it appropriate to have this ceremony, and we have done it appreciatively because of his contribution not only to this Court but in all the other ways that these gentlemen who have spoken have mentioned.

The present members of the Court are at the Bench: C. Arlen Beam, Albert G. Schatz, Richard E. Robinson, and Robert Van Pelt.

We personally and as a Court are grateful to you for being here and grateful to Robert V. Denney for having served this Court.

This now concludes the ceremony and we stand adjourned.