

Timothy Patrick McNally (1938 – 2013)

ADVOCATE Tim McNally (74), the last of the old-style attorneys-general of Natal, died in Pietermaritzburg on 25 July within three months of being diagnosed with cancer. That, despite the handicaps of being both an English-speaker and a Roman Catholic, he should have been appointed by the Nationalist Government to high office in the Department of Justice, speaks much for his ability.

The son of a British army doctor, McNally was born in Faisabad in India (the colonial Fyzabad) in 1938. Although his father was a doctor, the family had strong links with the law: his maternal grandfather had been a judge in Ireland,



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his paternal grandfather a magistrate and his elder brother became a judge of appeal in Zimbabwe.

Having spent the war years in Ireland, the family emigrated to South Africa in 1946 where his father set up practice in Bathurst. He was evidently notoriously unbusinesslike, accepting payment in kind (such as chickens!) for his services. McNally attended St Aiden's School in Grahamstown on a scholarship, but straitened family circumstances precluded his being sent to university. So he joined the Department of Justice (in Durban) at the age of 17 in 1955 as a clerical assistant, second grade.

He gained his BA and LLB the hard way, by part-time study, paid for by himself. Between 1962 and 1969 he worked as a state advocate in the Attorney-General's office in Pietermaritzburg. It was during this period that he met and married his wife, Jill, in 1968. Thereafter he was transferred to the A-G's office in the Transvaal, where, while still in his thirties, he became a senior counsel in 1974 and Deputy Attorney-General of the Transvaal from 1974 to 1984. From 1984 to the end of 1992 he was Attorney-General of the Orange Free State, and at the beginning of 1993 was appointed Natal Attorney-General.

It was an important office. McNally headed a staff of 43 state advocates and 287 public prosecutors while eight judges presided over high courts to hear the charges they brought. He claimed that his office achieved a 68% conviction rate. Probably his most high-profile case was when he charged General Magnus Malan with involvement in the kwaMakhutha massacre, leading the prosecution himself. He did not gain a conviction in this instance. Years later he attributed his failure to

the fact that an Afrikaner judge simply could not bring himself to convict a fellow-Afrikaner, certainly not one as legendary as Magnus Malan.

In the fraught political atmosphere of those years it was almost inevitable that the post of Attorney-General should become highly politicised. McNally found himself the man in the middle between the IFP, which supported him as model of judicial impartiality, and the ANC, which claimed that he had his own agenda and failed to enforce law and order. It even organised a march of protest to his office in August 1998. He was also slandered in a *Mail & Guardian* article and was paid R50 000 in an out-of-court settlement when he sued that paper for libel.

By that time the pressure upon him had become insupportable. He was offered, and declined, a post of special director in the office of the national director of public prosecution in Pretoria. His counter-proposal, that he should continue in Pietermaritzburg in a special post focusing on white-collar crime, was turned down, a personal meeting with President Nelson Mandela notwithstanding. And so he took early retirement at 60, which he reached at the end of November, 1998.

Senior State Advocate Dorian Paver, who served under McNally wrote of him:

He was the doyen of the prosecution service within the Department of Justice. Upon his retirement from service, he was the most senior Attorney-General (Director of Public Prosecutions) within the Department of Justice. He was greatly respected by his colleagues and counterparts alike. He had a most ordered and disciplined mind, which led to decision-making which was precise and almost inevitably free of fault. In this respect, he stood head and shoulders above his peers.

The opinions, which he wrote or gave, were greatly respected not only by his colleagues but also by judges in the various divisions of the Supreme Court in which he practised as an advocate. McNally had spent much of his time as a junior advocate prosecuting in commercial matters. These matters, by their very nature, required outstanding skills in the preparation of cases and in their presentation before the courts. He was highly regarded as a prosecutor by the judicial officers of the courts in which he appeared. His arguments were, without fail, elegant and exceedingly logical expositions of the law, delivered simply and without unnecessary flourishes of verbiage. The law reports are littered with examples of the persuasive arguments delivered by him.

McNally was not averse to hard work, a quality he was at great pains to instill in those whom he managed. He cut an imperious figure in the corridors of the offices he controlled, but he always displayed the utmost fairness to all with whom he came into contact.

McNally was an ardent Roman Catholic and he was certainly one to demonstrate his faith by his works, especially in retirement when most of his time was devoted to charitable endeavour. He said that what inspired him was the vision of working for Jesus, quoting the passage, "I was hungry and you gave me to eat and thirsty and you gave me to drink". He said that he could not imagine meeting Jesus at the gates of Heaven and being asked why he did not give food to the hungry and water to the thirsty and clothes to the poor, when this was what Jesus expected of him.

During his working life he served as chairman of the National Institute for Crime Prevention and the Reintegration of Offenders (Nicro) in Johannesburg,

Bloemfontein and Pietermaritzburg, an organisation which works to address the negative spin-offs of crime, where families of convicted persons are also assisted. Rotary International presented him with its highest recognition, the Paul Harris Award, for his outstanding community service.

Other community involvement was serving on the board of the Pietermaritzburg Children's Home and John Peattie House (for the mentally disabled). He was also chairman of the Marian Villa Home for the Aged for many years. He served as treasurer and chairman of the allocations committee of the Pietermaritzburg Community Chest. Well versed in the ways of the Johannesburg Stock Exchange, he generated a great deal of money by shrewd equity investments of Chest funds.

Professor Colin Gardner, chairman of the Community Chest, said of him: "Tim McNally had a wonderful amount of generous energy. Helping people in need, sometimes in the most hands-on way, became a way of life for him."

However, the charitable endeavour to which he was most committed was the Society of St Vincent de Paul. St Vincent de Paul was a seventeenth-century Catholic priest, much devoted to works of charity. The Society of St Vincent de Paul was founded in 1833 by French students to serve impoverished people living in the slums of Paris. Today the society numbers some 700 000 members in 148 countries worldwide and operates through "conferences", each usually based on a church, composed of Catholic volunteers who dedicate their time and resources to helping those in need in their community.

McNally joined the SVdeP as a young man of 18 and remained devoted to it throughout his life. At the time of his

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death he was the treasurer of the St Mary's Conference after serving as its chairman for many years, as well as treasurer for KwaZulu-Natal. He served as national chairman of SVdeP for the maximum permitted six years and continued to act as legal advisor to the national board. Characteristically, he celebrated his 70th birthday by hiring the St Mary's Parish hall to hold a party for the poor and needy whom the St Mary's conference supported.

Given his lifelong dedication to being a "Vincentian", it was fitting that McNally was awarded the Papal Medal in May 2012, the highest recognition the Catholic Church can bestow on a layman. At a ceremony in St Mary's church, the medal was presented by Cardinal Wilfred Napier.

McNally leaves his wife Jill, three daughters and two grandchildren.

JACK FROST

