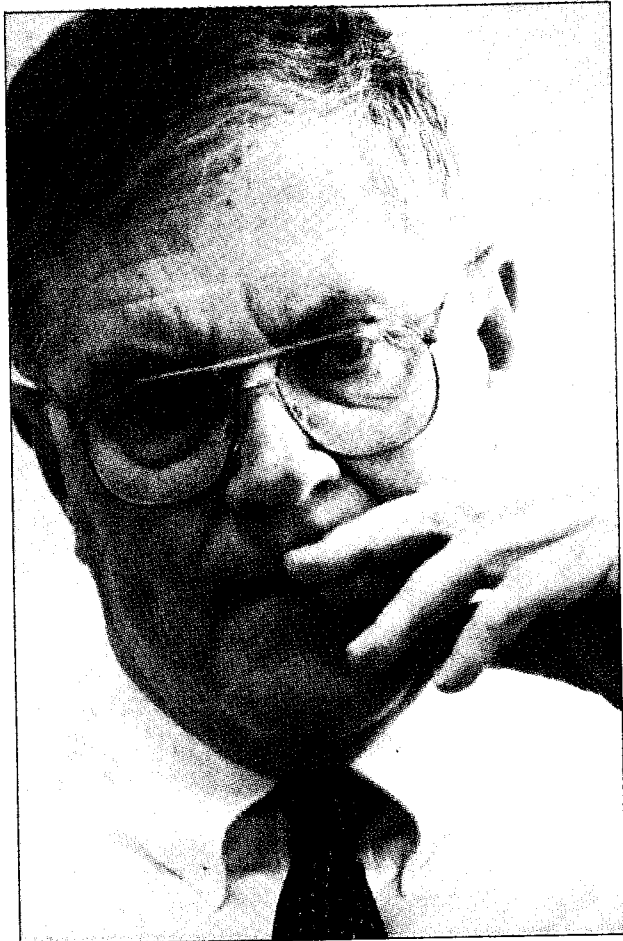


ATTORNEY GENERAL Philip McLaughlin makes a point yesterday while reviewing his term of office.

Anger and Pain



Bob LaPree/Union Leader

ATTORNEY GENERAL McLaughlin weighs his response to a question yesterday.

AG McLaughlin looks back on high, low points of term

By TOM FAHEY
State House Bureau Chief

CONCORD — He's investigated leaders of the Catholic church, the alleged misdeeds of the Supreme Court and put cold-blooded killers away for life.

But outgoing Attorney General Philip McLaughlin said yesterday he believes his best achievements had nothing to do with crime.

He lists passage of a state civil rights bill, letting doctors prescribe pain medication for the dying without fear of prosecution, the breakup of the Optima-CMC hospital merger and an \$80 million health care endowment he forged from the Anthem takeover of New Hampshire Blue Cross Blue Shield as his best moments as the state's top lawyer.

McLaughlin, 57, returns to private practice in Laconia tomorrow with his wife, Janice, after serving in office since May 1997.

Gov. Jeanne Shaheen appointed McLaughlin, a former Belknap County prosecutor whose father was a Nashua police officer and an investigator with the Attorney General's Office. His term expired in 2001, but he continued in office in holdover status after Shaheen saw the Executive Council was not going to approve his renomination.

Gov.-elect Craig Benson will nominate his successor. In the interim, Deputy Attorney General Stephen Judge will be acting attorney general.

During McLaughlin's five-plus years in office, he joined suits against the major tobacco companies and the Boy Scouts of America. He issued a report that led to the impeachment of a state Supreme Court justice. He lost the landmark Claremont II decision. He made decisions to take plea bargains on two possible death penalty cases. And he forced the Catholic church to open up 10,000 pages of docu-

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ments related to sex abuse scandals among its priests.

Along the way, he said, he's taken plenty of lumps from politicians and the press.

His advice to the next attorney general?

"I have no advice," he said. "The best thing my predecessors ever did for me is nothing, and I say that in the most positive way. The one thing you deal with every day in this job is intense criticism. You get to the point where you say the best gift I can give the next person is let them do it themselves."

McLaughlin took heat when he plea-bargained the case against two young men accused in the murder of Epsom Police Officer Jeremy Charron, then again when he plea-bargained the case of Robert Tulloch in the Zantop murder case in Hanover.

He said he did the most prudent thing, ensuring justice was done in light of a very high bar any death penalty case must clear. Death sentences need a unanimous jury, he said. The "beyond a reasonable doubt" standard essentially becomes "beyond a moral doubt," McLaughlin said.

He said he sat with Jeremy Charron's father and explained his reasons for the plea bargain and the weakness in the state's case.

"I did not expect him to understand but I thought he deserved to hear it from me. I know I would not have understood," he said. "But anger is not a good reason to do the wrong thing."

He said that's the prime emotion every prosecutor feels in a murder case.

Asked if his view of the death penalty has changed in the last five years, he was silent for nearly a full minute before answering.

"I think it has," he said. "What goes unreported in these cases is the incredible visceral anger you go through. Just anger. Anger . . . I've had to discipline myself to not let anger play a role in the decisions of this office, and that's particularly so in regard to the death penalty."

He cited the deaths of children — 5-year-old Elizabeth Knapp of Hopkinton, raped and murdered in her home; Robbie Mills, 14, of Laconia, killed for a bicycle, and Cassidy Bortner of Rochester, who died of child abuse — as deaths that infuriated him and his associates.

"But fury is not a basis for a justice system. Evidence is. Proof is," McLaughlin said.

Had Carl Drega not died in a hail of gunfire after killing two state troopers, a judge and newspaper editor in Colebrook, he would have been a prime candidate for the death penalty, he said. Capital punishment is one thing that gives criminals pause when they come up against a police officer. He wants that ultimate penalty to stay in effect to protect them.

McLaughlin, who once studied for the priesthood, said he was not out to persecute the church when he investigated sexual assault complaints.

"Goes to my theory, the way to deal with basic corruption or corrupt practices is to disclose it," he said. In its settlement, the church agreed to the release of 10,000 pages of records and investigative files.

"It was plain the church was not going to reform on its own," he said. "Rather than a victory or a defeat, I describe this as contributing to a reformation occurring all over the United States."

What the state will see in records, to be released in about six weeks, "is the truth and truth is not pretty."

Some in the state bar association resented his treatment of the Supreme Court justices in early 2000. His investigation of a memo by Supreme Court Clerk Howard Zibel led to the resignation of Justice Steven Thayer and impeachment inquiries against Chief Justice David Brock and Associate Justices John Broderick and Sherman Horton. A Senate trial acquitted Brock, the only judge to face senators.

McLaughlin said he doesn't care what the bar leadership thinks.

"I don't anticipate having any difficulty in practicing law because of it," he said. "I just don't care about that."

He said the public was entitled to an explanation after Thayer quit following a 60-day investigation of alleged improper influence.

He said he could not just set the Zibel memo aside. He mentioned a case of alleged bribery solicitation in Kingston his office now has.

"Am I supposed to go out and zealously prosecute a guy like that, but just turn my head when something, in my view horrific, had happened at the Supreme

him when he joined nine other state attorneys general in suing the Boy Scouts of America over their ban on homosexual scout leaders.

McLaughlin said he would join the suit again, "at the drop of a hat." He said a decision by the BSA office in Texas set rules for individuals throughout the country.

"When you make a decision of that kind it ought to be that the people who make the judgment are the ones who know the person as an individual and can do it on the basis of personal character," he said. And despite a common impression, he said, he never really thought a settlement of the Claremont school funding lawsuit was possible. He had no authorization to bargain for the House and Senate, and legislative leaders failed in exploratory talks.

"Andy Volinsky said we should settle. Well, yeah, we should learn to levitate, too," he said. House Speaker Donna Sytek told him at the time that getting approval of a settlement in the Legislature would be like trying to get hundreds of cats into a bag.

In civil matters, the Attorney General's Office has 150 clients, namely agencies that range in size from Health and Human Services to the Board of Accountancy.

"You represent them the way you would any client on the outside," he said. Commissioners and directors establish their rules, and consult with his office when faced with legal action, he said.

McLaughlin said in criminal matters his office, "must remain absolutely free of politics. When you're dealing with criminal division, you are a law enforcement officer and there is no room for political interference. It can't happen. The client there is the public and the public's interest . . . you speak in the name of the people."

In his public career, it was the homicide cases that bothered him most, he said. He mentioned the difficulty of dusting a murder scene, like the home of Dartmouth professors Half and Suzanne Zantop, for fingerprints and photographing every detail while victims' families begin mourning in shock.

He will miss the challenges of the job, he said, but, "I would