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John Rutland Himes: The Man, The Judge

1905-1980

The year was 1905. It was a singularly important moment in the history of the world, since that is when a man named Albert Einstein first introduced his special theory of relativity on the electrodynamics of moving bodies (whatever that may be). It was also significant to the future history of Tampa, then a small but growing community of



about 25,000 souls. Only three days before the end of that year, John Rutland Himes was born to William F. and Margaret May Rutland Himes.

As great as he was, Mark Twain’s definition of biography: “little more than clothes and buttons,” seems, at least to this unlearned scribe, less trenchant than one from an unknown writer who described it as “an interplay of character and incident, of the person and the world about him.”

There are rather skimpy records at Tampa Bay History Center which trace the movement of the Himes family through several states in the South. John R. Himes’ grandfather, William (who served as a Confederate officer from Alabama during the Civil War) and his second wife, Jessie Virginia Adams, relocated to Florida, first settling in Sumter County in 1882. William’s parental responsibilities after the move increased seven-fold, with a total of eight children being born in the Sunshine State. William

Fraser Himes became a lawyer in Tampa, thus setting a tradition which was carried on by his son, John R., and his grandson, J. Fraser. It might be said (to use a Jeffersonian phrase) that the Himes family is “an aristocracy of talent and virtue.”

John R. Himes, as with most men in that era, signed his name using only his middle initial, grew up in the Hyde Park neighborhood of Tampa. The family occupied a stately 3-story red brick mansion at 801 South Delaware, corner of Inman, which W.F. Himes built in 1909. Still standing and destined, it would appear, to remain solidly intact for many generations to come. The house was later acquired by Jas. A. Griffin, president of The Exchange National Bank of Tampa. Other prominent Tampans who at one time or another lived in the same 800 block were: attorneys Morris E. White and Alonzo B. McMullen, Cecil M. Webb, and Ray B. Cralle (Studebaker dealer).

A fascinating and beautifully written account of the odyssey of the Himes family in Tampa can be found in *History & Heritage*, penned by Leland Hawes, Tampa Tribune issue of Sunday April 28, 1991. Special attention is given to how Himes Avenue, the thoroughfare that wends its way in serpentine fashion inside the city limits and beyond, got its name.

While his son John’s character was developing and his early schooling attended to, W.F. Himes was busy with his own colorful career. The senior Himes studied law in the office of Col. John A. Henderson of Tallahassee. In 1916 he became a member in the Tampa firm of Whitaker, Himes and Whitaker. He was appointed City Attorney during the administration of Mayor Horace Caldwell Gordon, and for 10 years was lawyer for the Board of Education in Hillsborough County. Becoming involved in politics, W.F. served in the Florida Senate from 1913-1917; while there he introduced the bill which

created the State Road Department. In 1926 he was chosen president of the Tampa Bar Association thus starting another family tradition, a source of great pride to the entire family. The future judge Himes was elected chair of the association in 1940, and the latter's only son was similarly honored in 1980. A photograph which depicts J. Fraser Himes' being administered the oath of office by his father (the year of the latter's death) will appear with this story, space permitting.

During the early 1920s, W.F. Himes was the lawyer for the developers of Gary Gables Subdivision, and one of the major dedicated streets in the project was given his name. John Himes' father was not bashful about aggressively asserting his rights when circumstances warranted. In the mid-1930s, he was employed by the County Commission as a special counsel for a particular legal proceeding. Upon completing his assignment, W. F. Himes submitted a bill of \$1,000 for services. The Clerk of Circuit Court)and the County Commission) refused to pay Himes, contending that the contract of engagement was not authorized because the county had its own lawyer. Represented by the Tampa law firm of McKay, Macfarlane, Jackson, & Ramsey, Himes promptly brought suit against Culbreath. The Supreme Court of Florida upheld the contract. *State ex rel Himes v. Culbreath*, 128 Fla. 210, 174 So. 422 (1937). Sometime during that same era, there was in progress some sort of politically inspired feud (not uncommon in Tampa) between W.F. Himes and Peter O. Knight. If there were indeed hard feelings between those two men, they were exacerbated when, according to the story, Himes allegedly caused the automobile he was driving to collide with a streetcar on 7th Avenue. Tampa's streetcar system was owned by Tampa Electric Co., a creation of Peter O.

Knight. An abstract of an article published September 25, 1994 in the *Tampa Tribune* described Knight as “a lawyer, a businessman, a philanthropist, and political kingpin.”

Martha (Mrs. James) Ferman remembers that until his death at age 70 in 1949, W.F. Himes (known as “Colonel” to his friends) was for many years treasurer of the first Methodist Church in Tampa.

When John Himes was ready for his undergraduate college work, the decision was made for his attendance at Vanderbilt University. It is manifest that he had an extraordinary scholastic record there, being awarded an A.B. degree in his 20th year in 1925. His next stop was at Harvard Yard. Probably the country’s foremost political historian, Theodore H. White, said of that place: “If there is any one place in America that mirrors better all American history, I do not know it.”

The late, redoubtable self-styled “country lawyer,” Senator Sam Ervin, Jr. of North Carolina talked about an encounter during the Watergate hearings with fellow Senator, Edward Gurney (occupying a seat which a lot of us thought should have gone to Leroy Collins). Gurney, a Republican, complained about Ervin’s style of questioning one of Nixon’s political cronies. Ervin deflected the criticism by his self-effacing confession that he was only a country lawyer doing the best he could. He was in fact a graduate in law from Harvard. Ervin liked the way he once was introduced in his home state: “I’m told our speaker (Ervin) is a graduate of Harvard Law School, but, thank God, no one would ever suspect it.”

Early on, John Himes demonstrated his loyalty to old friends. One of them, G.L. (Gibby) Reeves was also a Vanderbilt alumnus. His son, Dick, a Tampa lawyer, tells the story that his father initially decided not to practice law but expected to make a fortune in

Sarasota real estate. In the early and mid-twenties, however, real estate had hit bottom. While in Tampa for the day, Gibby ran into John Himes on the street and was encouraged by the latter to talk with his father, W.F. Himes about a connection with Himes & Himes. He received an interview forthwith, and when asked when he could start, he said, “after lunch,” and did start that very day. Thereafter, Dick’s father moved permanently to Tampa, later becoming the King of Gasparilla, and the rich history of the Reeves family in the Tampa community was underway.

Receiving his L.L.B. in 1928, Himes became one of a small but proud number of Tampa lawyers with the stamp of Harvard upon them: Norman Stallings, *Norman S. Brown*, *John P. Corcoran, Jr.*, *Miles Draper*, John Germany, *Albert I. Gordon*, Robert T. Mann, *Charles R. Talley*, *Robert S. Thompson*, *Beavan Woodward*, Leonard H. Gilbert, Byrne Litschgi, David Maney, Harry L. Mead, Albert C. O’Neill, Thomas A. Smith, and John I. van Voris. (Those whose names are italicized are deceased). Himes joined his father’s office in First National Bank Building, and Himes & Himes continued until John’s election to Criminal Court of Record in 1936.

The Hillsborough County Criminal Court of Record (later abolished by amendments to Article V, Fla. Constitution, effective Jan. 1, 1973) has an interesting history. It was created by Chap. 4223, Laws of Florida 1893, then amended in 1905 by Chap. 5563. The Court was given jurisdiction to hear and decide all non-capital crimes. The governor was given power to appoint the judge , whose salary at that time was \$1,000 annually. In the early years, judges were not restricted from practicing law. To fill the vacancy created in 1936 when Judge W. Raleigh Petteway resigned to run for governor, eight lawyers contended. In the first primary, Himes finished a close second to

Municipal Judge Tom O. Watkins, who led the field. In the runoff, however, Himes prevailed by about 3,000 votes. During the campaign, Himes made his speeches in Spanish in West Tampa and Ybor City; that tactic was most effective, and surely attracted Latino voters to him.

To all outward appearances, John Himes was an unemotional individual in total control of his feelings. But he was not immune from emotion. During the course of his swearing-in ceremony in the wake of his victory in 1936, attorney Edmund Worth representing the Bar Association, extolled the new judge's character and ability. At that point, according to one observer who was there (Bayard Angle, at 93, the last surviving member of the original Tampa Bar Association, and this scribe's oldest and best friend and former associate in the practice) Judge Himes lost his composure, covered his face with his hand(s) and briefly put his head down on the lectern.

Himes was a judge who was popular with the press and the public. The Tampa Junior Chamber of Commerce named him Young Man of the Year in 1939. Only the criminal element in Tampa which controlled gambling and the lottery, and their lawyers, complained about his alleged bias when they sought to have him disqualified from presiding in their cases. There are two reported cases heard by the Supreme Court of Florida illustrative of the last point. In *State ex rel LaRussa v. Himes*, 197 So. 762 (1940), an affidavit was filed asserting that in his campaign for election in 1940 (where he was reelected by a four-to-one margin over attorney Frank Ingram) he stated:

The people are shot down in cold blood; the people are assaulted and their homes broken into, and what is a judge who will put people like Philip La Russa and his associates away in Raiford.

The Supreme Court granted the petition to disqualify Judge Himes, with Justice Terrell, in his uniquely colorful style, stating:

The moment he (the judge) allies himself on either side of the issues or individuals, he endangers his position as a judge * * *. The man in the moon and the weather man are about all the people he can with impunity talk about without attitudinizing himself. He may indulge in a few pleasantries at the expense of Uncle Remus and the crops but that is the limit of his tether.

Curiously, the lawyers who represented LaRussa (Whitaker Bros.) were the same ones who practiced law with the judge's father, W.F. Himes.

In *State ex rel Fuente v. Himes*, 26 So.2d 433 (1948), on essentially the same allegations of prejudice made in LaRussa, plus an in-court colloquy with counsel who asked for postponement of the Fuente trial (which was denied), the post-Terrell Court disallowed disqualification.

Judge Himes served three terms, interrupted, however, by his service in Jacksonville and Tampa as a Lieutenant in the U.S. Navy Reserve from 1944-1946. With one year remaining on his term, after his return to the Court on Feb. 1, 1946, he announced that he would not run in 1948. That decision led to the election of L.A. Grayson, who had been serving as Acting Judge during Himes' absence.

For the remainder of his active life, John Himes practiced law in small firms which he headed, showing a marked preference to associate much of the time with fellow Harvard Law grads. Former judge John F. Germany teamed with him in 1952; a few months later, A. Pickens Coles (a South Carolina product) joined them which the firm of Coles, Himes & Germany was established. Germany makes the following observations about his late partner (Himes): "He created his practice earning a reputation as a meticulous sometimes even picky lawyer. Ambler Liggett hired John not only as his

personal lawyer but also as attorney for the First National Bank of Tampa. Himes also sat on the Board of Directors of the Bank for years. Germany left in 1959 to go on the bench. On Coles' death, Charles Talley, then Byrne Litschgi and Thomas A. Smith comprised the firm. William Terry and Charles F. Ketchey, Jr. were the last of his lawyer associates from 1978 into 1980. Ketchey observes: "Judge Himes was an impressive person. He had a razor sharp intellect * * He was 'hard-nosed' but deep down he was a very humane and sensitive person. Judge Himes was a generalist in many ways but focused on property and commercial matters most often * * He was especially proud of registering the first condominium in Hyde Park." One of his friends was T. Paine Kelly, Jr., one of Tampa's preeminent legal talents, and now the most senior of Tampa lawyers still to some extent engaged in the practice of law. He comments: "Because of his nature, he did not initiate or encourage intimacy. While pleasant on most occasions, he was somewhat withdrawn and even aloof. Nevertheless, he was a brilliant, talented and honorable man and friend."

This reporter was a much younger, neo-practitioner in a different time. Some might call it BLAH (before lawyer advertising hoopla). Billable hours was then a futuristic concept given life by the Supreme Court of Florida. In those days, novice lawyers seeking experience could stop by L.D. (Jack) Simmons' office (Criminal Court Clerk) in the old courthouse where Judge Himes presided, just across the street from the Elks Club, a watering hole for a lot of older lawyers. Simmons had a stack of Informations filed by the County Solicitor (Prosecutor) on his counter and all that was needed to get a pauper for a client was to take a copy, then head for the County Jail. Income from legal fees was for some of us as scarce as a Democrat in Mississippi today.

For some inexplicable reason, despite the lapse of more than half a century, I can remember seeing Judge Himes sitting in the same judge's chair shown in the photograph featured in this story. He must have hurt his finger in some way as he had a Band-aid on one forefinger which he kept rigidly pointed toward the ceiling on the occasion which I remember. Bill Graham, retired Chief Deputy Tax Collector of Hillsborough County, remembers that Judge Himes was a singularly handsome man, and his photograph attests to that.

Secretaries to lawyers are commonly a reliable source of truth about their employer. Virginia (Ginny) Miller who worked for Himes in his post-judicial career felt, she says, like a member of his family. She writes:

He was very generous. When he felt I should be making more than the firm was paying me, he supplemented my salary from his own funds and paid the employment taxes on it. When he bought his wife a new car, he drove her old one and gave his old one to me. When he bought himself a new car, he also gave us his old one for our teenage son. He gave our son a couch and chair when he moved into his own apartment. He gave me the bonds the firm gave as Christmas bonuses to employees with three years or longer employment, although I had been working there for less than six months.

Probably the best decision Himes ever made, in or out of his courtroom, was his marriage to Elizabeth Whidden of Bartow. She was the first woman to be elected to public office in this county—member of the Hospital and Welfare Board, and her life is a remarkable story in itself, independent of her husband. She was honored by former University of South Florida President, Betty Castor, as one of a handful of ladies who were vigorously active in the founding of the University. Borrowing a tribute paid to Eleanor Roosevelt by Winston Churchill back in 1942, Elizabeth Himes certainly left golden footprints behind at her death in 1999. She was regarded as the *grande dame* of

The Seville, the first condominium developed in Tampa about 30 years ago located at 902 S. Dakota Avenue. She and the Judge had a son, J. Fraser Himes, who is a partner in Holland & Knight, LLP. Their daughter, Sara Allen Himes predeceased her mother.

John Rutland Himes was a quiet and thoughtful man who had the gift of silence. That quality was ascribed by John Adams to his predecessor, George Washington, as one of life's most precious talents.

Judge Himes dies December 28, 1980, twelve days prior to the 75th anniversary of his birth.

Morison Buck

AFTERWORD:

We have a criminal justice system which is superior to any in the world; and its efficiency is only marred by the difficulty of finding 12 men every day who don't know anything and can't read.

Mark Twain