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***** CHIPS OFF THE OLD BENCH *****

NEIL C. McMULLEN: Hillsborough's Connection to FFP

(Famous Family of Pinellas)

Forested with deep roots in the landscape all over Pinellas County, and also in Hillsborough County, are family trees. And a large number of them bear the name *McMullen*. Current telephone directories of Pinellas list a combined total of 73 Scot-family McMullens. Not far behind is the Tampa phone book with 62. Only Plant City is unrepresented. In 1956, in his widely read column, 'Pioneer Florida,' D.B. McKay wrote that, with the possible exception of the Williams family, the annual McMullen family reunion in Largo, birthplace of Neil's father, was doubtless the largest aggregation of its kind in Florida.



Neil's grandfather, Daniel McMullen, was one of seven brothers who moved from South Georgia to what was then northwest Hillsborough County. That was about 1845. It was not until 1911 that Pinellas severed to become a separate political entity. The future judge's father, Donald (Don) C. McMullen, was a state senator and had pledged to get the enabling legislation before the senate. His predecessor had blocked passage in the previous session. The "St. Petersburg Times" stoutly advocated the Hillsborough-Pinellas division, but it was just as vociferously opposed by the "Tampa Tribune" and "Tampa Times" and by Tampa's business leaders like Peter O. Knight. Senator McMullen was a man of his word, and the controversial bill became law. He may have paid a political price, however, for he did not serve in the senate after 1911.

Known as an able lawyer but perhaps better known as an avid prohibitionist, the senior McMullen once debated the issue in Tampa Auditorium with Clarence Darrow. He reportedly acquitted himself ably and well. As his son, Neil, did years later, he became president of the Bar Association in Tampa. His sons, Fred and Neil, practiced as an integral part of Donald C. McMullen and Sons in the Petteway Building at the northwest corner of Twiggs and Florida Avenues. When the former senator died thirty-six years after standing by his position despite opposition by the press in Tampa, the Tribune lauded him editorially as an uncompromising exemplar of public and private morals.

Neil's daughter, Ruth, has a lasting memory of one of her father's preschool photographs. He is sporting long blond curls, with button-on shorts, and with bare feet, holding an obviously unhappy pussycat. Living with his parents and three older siblings on West Platt at Magnolia hard by Hyde Park Methodist Church, he attended Gorrie Elementary, just opened a few years before. He told his children that he rode his pony Bessie to school.

McMullen's pre-law education was accomplished at Emory University where he joined Kappa Alpha fraternity. His daughter laughingly recalls the story of how her father, an immaculate and fastidious dresser all his life, singed the back of his first 3-piece suit when he inadvertently got too close to the frat house live fireplace.

While earning his law degree at University of Florida, Neil formed a lifelong friendship with Stephen C. O'Connell, future Chief Justice of the Florida Supreme Court and president of the University of Florida. They gave each other nicknames – Neil was "Swoose" for no apparent reason. O'Connell was "Snazz" in recognition of his ill-shaped nose, broken numerous times in boxing matches. McMullen was an enthusiastic handball and racquetball competitor, and when O'Connell was stationed in Tampa during the unpleasantness following Pearl Harbor, they played at the downtown YMCA, and socialized at Merrymaker's Club.

The writer is indebted to the judge's son, Neil Jr., and his daughter, previously mentioned, for their help in the preparation of this article and vignettes about their father's past. A diabetic since childhood, Neil was ineligible for military service. Ruth mentions with pride that her father served honorably in the House of Representatives for four terms. Once during a long, difficult session, she says that he brought a tiresome filibuster to an unexpected closure. "Instead of using the customary 'Mr. Speaker, I believe the gentleman's time has expired,' he almost brought down the house (and the House) with 'Mr. Speaker, I believe the gentleman's *mind* has expired.'

Admitted to practice law in Florida in 1937, McMullen did not limit his public service to the state legislature. He was appointed Assistant County Solicitor in 1944. During his time in Tallahassee, Allen Morris, Florida's legislative historian in-residence, wrote that Neil McMullen was not a man who spoke often, but he commanded attention when he did. He reminds one that the late H. Allen Smith had a favorite Spanish proverb: "En boca cerrada no entran moscas" (If you keep your mouth shut, the flies can't get in). Not bad advice for those of us who talk excessively.

McMullen was an active leader in numerous organizations, professional and social, including presidency of the state Bar's junior section, Elks, Knights of Pythias, Lions Club and most notably, the Boy Scouts of America. For many years he was a Counselor for the Citizenship merit badge and he was honored

with the Silver Beaver Award, the achievement of which he was the most proud. In 1955 he was elected president of the Bar Association of Tampa and Hillsborough County. He was chosen King of Gasparilla Krewe in 1947, the perhaps bittersweet year of two major events in his life – his father's death and his marriage to the former Ruth L'Engle of Jacksonville.

McMullen was practicing law and also served for a time as a part time Assistant City Attorney advising City Council in zoning and property matters, when he got a call from Governor Leroy Collins advising him of his appointment to the Circuit bench, and he served with distinction until retirement in 1983.

T. Paine Kelly, Jr. Esquire remembers one unusual trial before Judge McMullen:

"I was representing a black woman named Sudella Ford in a bodily injury action against a corporation as a result of a downtown Tampa collision. Vernon Evans (now retired Circuit Judge) represented the defendant. After conclusion of the evidence we convened in chambers to settle instructions. Judge McMullen announced that he was going to give an instruction of his own composition that practically accounted to a directed verdict for plaintiff. Vernon objected strenuously and I should have also, but didn't. The result was a verdict for \$20,000 for my client, which Vernon appealed based on the unwarranted instruction. The judgment was reversed on that ground. Vernon refused to settle for \$15,000 and the case was retried without the aberrant instruction. This time the verdict was \$40,000, with no errors. I asked Vernon if he wanted to go for \$80,000, but he declined and paid off."

Calling Neil McMullen one of the most delightful gentlemen he ever knew, successful trial lawyer A. Dallas Albritton of Tampa won a disappointingly small verdict for plaintiff in a case where the Court had omitted the element of "mental anguish" as an element of damages in his instructions to the jury. The 2nd District court reversed Judge McMullen and granted a new trial. Later he learned that the judge, realizing that the error had occurred, notified the appeal court and the judgment was reversed, which Dallas regarded as "a very gentlemanly thing to do." The case was settled before retrial.

"A happy family is but an earlier heaven" – a thought credited to an early 19th century English statesman. By all accounts, the household headed up by Judge McMullen was solid and serene. His history of legislative, professional and judicial service assures him of a secure place in the annals of Hillsborough County. Even without those achievements, Neil's record of fidelity as Ruth's husband and father to their children: Ruth Bursi, Reverend Neil C. McMullen, Jr., Development Director, Suncoast Gerontology Center at USF, and Dr. Donald F. McMullen II, will be a memorial to his 79 years of life.

Morison Buck

AFTERWORD:

A FATHER'S PRAYER

Build me a son, O Lord, who will be strong enough to know when he is weak, and brave enough to face himself when he is afraid; one who will be proud and unbending in honest defeat, and humble and gentle in victory. Build me a son whose wishbone will not be where his backbone should be; a son who will know thee and that to know himself is the foundation stone of knowledge. Lead him, I pray, not in the path of ease and comfort, but under the stress and spur of difficulties and challenge. Here let him learn to stand up in the storm; here let him learn compassion for those who fail. Build me a son whose heart will be clear, whose goal will be high; a son who will master himself before he seeks to master other men; one who will reach into the future, yet never forget the past. And after all these things are his, add, I pray, enough of a sense of humor, so that he may always be serious, yet never take himself too seriously. Give him humility, so that he may always remember the simplicity of true greatness, the open mind of true wisdom, the meekness of true strength. Then I, his father, will dare to whisper, "I have not lived in vain."

Douglas MacArthur