

1-1-2008

Walter Norwood Burnside, Jr: Leaving a rich legacy in politics, in law and in life ... (1927-1992)

Morison Buck

Follow this and additional works at: http://scholarcommons.usf.edu/flstud_pub

 Part of the [American Studies Commons](#), and the [Community-based Research Commons](#)

Scholar Commons Citation

Buck, Morison, "Walter Norwood Burnside, Jr: Leaving a rich legacy in politics, in law and in life ... (1927-1992)" (2008). *Digital Collection - Florida Studies Center Publications*. Paper 2505.
http://scholarcommons.usf.edu/flstud_pub/2505

This Article is brought to you for free and open access by the Digital Collection - Florida Studies Center at Scholar Commons. It has been accepted for inclusion in Digital Collection - Florida Studies Center Publications by an authorized administrator of Scholar Commons. For more information, please contact scholarcommons@usf.edu.

WALTER NORWOOD BURNSIDE, JR.:
LEAVING A RICH LEGACY IN POLITICS,
IN LAW AND IN LIFE
(Nickname: Boogie)
1927-1992

Only true political junkies old enough to draw social security will know or care about one particular primary election in 1962 in Hillsborough County. In that event there were 3 combatants seeking to succeed the recently deceased judge of the Criminal Court of Record-the Honorable L. A. Grayson. He had been in the public limelight for years and was always a good copy for area news reporters covering goings on at the County Courthouse. Grayson, a native of Virginia and having a record during World War I in the U.S. Air Service, was generally popular with the voters of Hillsborough County. After Judge Grayson died in office, having completed his earthly mission, Gov. Farris Bryant appointed Dwight Newcomb Barco, Jr. to serve out the unexpired term or the next regular election, whichever came first. After Judge Barco qualified to retain the office, two others qualified. They were: Walter N. Burnside, Jr. who had served as Municipal Judge in Tampa since 1959, and this scribe, just another lawyer, who had served since 1956 as magistrate (U. S. Commissioner) in the federal district court in Tampa. Judge Burnside's name may have been at the bottom of the ballot but when the finish line was crossed he was on top. It was only a minor moment in history but one well remembered by one now 84 year old participant. For those interested in what Dizzy Dean called "statics", the results of the first primary were:



Burnside	29,185
Barco	21,324
Buck	14,684

For this contestant, that was the bad news. The good news was that this aspirant had a short supply of money (someone called it the mother's milk of politics) and also without any organized political support, the run-off election was left to the two front-runners. Burnside won handily and served with distinction, until his retirement due to ill health, in the civil, juvenile, criminal and probate divisions of the court. Former judge Barco died in 1978 at age 67.

To digress briefly from the Judge Burnside story, it could be of some interest to those unfamiliar with local history, to identify the facilities, which have housed the judiciary of Hillsborough County from the late 19th century to the present.

There are probably few lawyers still living who practiced in the historic old courthouse downtown. Some of us still relish the recollection of working there. It was razed in 1952 after 60 years of serviceable use. As with most such structures throughout Florida it was built on the square.

It was bound on the west by Franklin Street, on the east by Florida Avenue, on the south by Lafayette St. and on the north by Madison St. The old courthouse, designed by J. A. Wood (who designed the Tampa Bay Hotel, now University of Tampa) was opened with great fanfare in 1892.

The grand old structure housed, in the modern era, only two Circuit Judges: Hon. L. L. Parks, and Hon. Harry N. Sandler. Later, following their appointment by Governor Fuller Warren, Hon. I. C. Spot and Hon. Henry C. Tillman had modest offices there. Hon. William C. Booker was the single County Judge. Hon. John R. Himes was Judge of the Criminal Court of Record, followed later by Hon. L. A. Grayson. At this writing, there are 52 Circuit Judges and 18 County Judges serving the Thirteenth Judicial Circuit in Tampa.

In 1952 the seat of County government was moved to the new courthouse at 412 Pierce Street. Some foresighted Tampanians sought to keep the 1892 building intact for use as a museum but those efforts failed and after the building was vacated it had to keep a date with the wrecking ball. The Pierce Street Courthouse is still intact although gutted in the interior. Plans have been announced that the 2nd and 3rd floors will be remodeled to accommodate the needs of the Hillsborough County State Attorney. Meanwhile, the Courthouse Annex across the street on Jefferson continues to provide Chambers for judges and courtrooms dealing with criminal trials.

In 2003, the George Edgecomb Courthouse on Twiggs St. was opened which provides offices for the Chief Judge of the Circuit, other judges, court clerk and non-judicial County Functions. The County Center opened in 1993, at 601 E. Kennedy Blvd. replacing the Pierce Street Courthouse as the seat of county government.

Walter Burnside is a name which was well known in Hillsborough County, more particularly in Pasco County, and in the Seminole Heights area of Tampa. In the first quarter of the 20th century, there were Burnside's aplenty. And more on the way. Starting with the Judge's grandfather, Walter J. Burnside, there have been four generations of men who answered to that name. In the Sept. 24, 1999 issue of La Gaceta, Tampa's famous tri-Lingual newspaper, there is a photograph of Tampa's earliest firefighters taken about 1909. It depicts the Horsemen of Station No. 1 posing in front of the station, Jefferson & Zack Streets, Tampa. The photo shows Walther J. Burnside on the corner of the first row complete with luxuriant mustache. The newspaper was promoting the restoration of Old Station #1 and creation of Tampa Firefighters Museum. It was also soliciting old photos and memorabilia for the attraction. The 1928 Polk directory shows that Walter J. was a real estate and rental agent with an office at 1428 ½ E. Broadway, Tampa.

Next in the Burnside lineage came the Judge's father, Walter N. Burnside, Sr. He was a journeyman lawyer who was admitted to practice in his home state in 1927 (he was a native of San Antonio in Pasco County). At the time of his death, October 17, 1969, he had been a member of the Tampa & Hillsborough County Bar Association for 43 years. One of Walter Sr.'s earliest offices was in Stovall-Nelson Building at Cass and Franklin Streets. Long demolished, it was a four-story structure with an Economical Drug store on the corner ground floor. The senior Burnside's obituary noted that he was active in Hillsborough County politics and that he reportedly wrote speeches for the candidates he favored. His acumen in local political affairs, according to some, is credited with helping his son win 1962. Boogie never lost an election whenever his name appeared on a ballot in this county.

Many years earlier, when Boogie was a pre-schooler, Walter was in a contest with George H. Cornelius for County Judge; that was the primary of June 7, 1932. Annexed is a copy of Walter, Sr.'s campaign card with cryptic message at the top, "Rememberest Thou This Kard?" written by a friend who sent it by Mail to W.N. Burnside, 308 Tampa Street, in 1939. Although he fell short of his goal, the contest was a clean, hard-fought one; the results, in terms of votes: Cornelius 12,810, Burnside 10,847.

Boogie and his younger sister (by about 3 years) Jackie Anderson, who now lives in Wesley Chapel, FL, were both born in the family home at 5806 Taliaferro in Tampa. His date of birth: July 9, 1927.

The writer is indebted to Anna Ruth for the following summary, of her late husband's history:

“Walter N. Burnside, Jr. was born and raised in Tampa. He attended Hillsborough High School, joined the Navy in 1945 (Radarman 3rd Class) and served for three years. He turned to Tampa, finished high school, attended the University of Tampa, the University of Florida, and graduated from Stetson College of Law In 1956. Immediately after graduation, Walter opened a private law practice, and then was elected as Municipal Court Judge in 1959. After serving in the city court for three years, he went on to serve in the 13th Judicial Circuit until 1989, wherein he presided over every circuit court division. Elected to the Criminal Court of Record-1962. He was reelected in 1964 and 1968.”

In 1972 he was elected to the Circuit Court and served in this capacity until he retired. He had two Judicial Assistants: Josephine Suarez (deceased) and Louise Domines. Neither worked for him when he had his law practice.

Nick Nuccio, who was Mayor of Tampa, was responsible for Walter getting the “political itch.” When Bob Johnson, who was the Presiding Judge in Municipal Court at the time, would call in sick the Mayor was obligated to appoint a substitute judge. He insisted on appointing Walter, who was reluctant at first, but grew to enjoy the importance of the position.

Walter and I grew up in the same neighborhood and were married in 1954 (6 years after we met). We had two sons and two daughters. Both daughters and one son are married and made us proud grandparents five times over. The oldest son worked in the Public Defender's Office for several years before striking out on his own. He is a third generation attorney. The youngest son formerly worked in the Clerk of the Circuit Court's Office prior to his graduation from the University of South Florida. After several years working in property management he went back to school to become a registered nurse. The oldest daughter is an interior designer and the youngest daughter is a longtime employee of Tampa Electric Company.

He wasn't a joiner. He had been a member of the Merrymaker's Club, obligatory Bar Associations, and Temple Terrace Golf and Country Club, possibly other civic groups I don't remember. He was a founding member of the Italian-American Golf Association. This group sponsored, annually, a charitable, weekend golf tournament at the Temple Terrace Golf and Country Club that attracted many well-known sports and show business figures such as Johnny Bench, Roger Maris, Tommy Lasorda, Al Lopez, Sr. Tony Cuccinello, Joe DiMaggio, John McKay, coaches from the University of Florida, Bob Hope, Bobby Vint on and others. It was always a great time for the participants the recipients of the charities and many Tampa citizens.

Of course he knew the Judges who were presiding at the same times he was. Judges E. J. Salcines and Robert W. Rawlins (now deceased) were friends, as was Carl Durrance (deceased). But most of our friends were his fishing, hunting and golfing buddies who were not part of the judiciary or bar. These would include, James E. “Buck” Warren, his longtime friend, barber and fishing buddy. Louis Batten, golf and fishing, Sam P. Ferlita and George Klein (golf, occasionally traveling together, playing gin rummy, fishing), both deceased, whose memories hold a special place in my heart.

His hobbies were fishing, golfing, cooking, his family, friends, and making household repairs with whatever he had on hand. The challenge was to try and fix whatever was out of order without having to call a repairman, which I usually ended up having to do. He was a big fan of duct tape.

After he retired he purchased a 26' old Stamas hull to fix up and retrofit. My, what a challenge with sanding, fiber glassing, revamping the interior of the cabin and tinkering with the

motor (all in the backyard). Finally, she was ready to go on her maiden voyage. She was launched from Apollo Beach and headed out to the Bay with he and his friends aboard. Something happened to the gears and she would not go forward only backwards and this is how they returned to the launching site, sailing in backwards. Unfortunately, he didn't have enough time left to tinker with it and go to sea again. He passed soon after. I donated the boat to Eckerd College water safety/rescue program.

“Walter was a humble, kind, compassionate and generous man, whose integrity was above reproach. He was a good husband, father, son, brother, friend and neighbor who is missed very much.”

Boogie Burnside is the only judge in Hillsborough County known to have been featured in the Metro and Sports pages of The Tampa Tribune. When Tom McEwen was Sports Editor of the Tribune, he wrote a story in the edition of March 10, 1978, which explained in depth all about the Italian Invitational Golf Tournament. He noted that Judge Burnside was the only non-Italian on the Association's 12 men Board of directors. Boogie's friend, Sam Ferlita (now deceased) related that Judge Burnside was referred to at meetings as *Burnsidio*. Twenty-one years after the Tribune Article, Steve Otto, then a Metro page featured columnist (and a much slimmer and leaner one, he was, come to think of it) wrote a story about Adrian “Baby” Castro's first spaghetti dinner honoring Walter Burnside, Jr. who was running for judge. That had to have been in 1962 when this scrivener ran third in a 3-man race for judge. That result is no surprise when you consider that at that time the writer had barely enough wherewithal to take his wife out to dinner.

ANNA RUTH BURNSIDE

Born: December 15, 1930-Tampa, FL

Married Walter (July 23, 1954) 6 years after we met. We were raised in the same neighborhood, but with the few years' difference in our age we didn't meet until he was mustered out of the service in 1948.

“I attended local schools, graduating from Hillsborough High School and attending the University of Tampa. I took a 2-year course in secretarial science, worked as a playground director for the City of Tampa Recreation Dept. while in school and transferring to the Superintendent's Office when I completed my course. An opening for receptionist occurred in the Mayor's Office and DeDe Hunt, Who was my boss, recommended me for the job. I worked in that position for approximately 8 years. Curtis Hixon was Mayor at the time and hired me. He died in office, 1956, and J. L. Young, Jr., Chairman of the City Council at the time, stepped in and served as Mayor Pro-Term until Nick Nuccio was elected to fill his term. Hence Walter's appointments as substitute judge in municipal court. (I was not thrilled about the turn of things as I was opposed to becoming a politicians' wife...but what is to be, will be). When he was elected municipal judge in 1959 I was expecting my second child. The deal was, if he was elected, I could quit my job and be a full-time housewife and mother. Which I did. Nick Nuccio was defeated in 1959 by Julian Lane. Nick ran again 4 years later and was reelected. I became involved in the PTA at the children's' schools. And also, was active as a hospital volunteer at the Hillsborough County Hospital, serving as president and on the state board of the Association of Florida Hospital Auxiliaries, as recording secretary and state chairman of teenage volunteers. As the children grew and I went back to work in 1974 as secretary at Tampa Catholic High School, retiring in 1993. The children are all grown and settled and life is good at this particular time. I'm very lucky to be in reasonably good health for my age.

The one thing that I am most proud of (besides my children) is the fact that we (the children and I) were able to take care of Walter at home during the final months of his illness. And his family was able to be with him as he took his final breath. It gave us all a sense of closure to know that he would no longer suffer. He handled his illness such dignity and lived his last days to the fullest.”

“One of Boogie’s lawyer friends and admirers is a distinguished attorney and past President of the Bar Association of Hillsborough County who also established a splendid record as an Asst. State Attorney Under Hon. Paul B. Johnson during his tenure as State Attorney. I am referring, of course to A. Dallas Albritton, Jr. of Tampa. His cogent remarks about Judge Burnside are as follows:

“Boogie” and his father, Walter Burnside, Sr., practiced on the third floor of the 308 Tampa Street Building during the time when I was a junior partner with Hardee & Ott. I probably saw him several times a week. I recall Walter Burnside, Sr., as a gentleman very well known in Hillsborough County, having practiced here many years, a courtly gentleman, and kind, soft-spoken and polite. Walter, Jr., on the other hand, was a brisk and bustling young lawyer on his way to a better future than the general practice of law seemed to offer. At some point he became engaged to the very attractive Anna Ruth, who I think for a while was secretary to the Mayor, and whom he later married. He was elected judge, which was something of a surprise perhaps to him and to most of the bar, there being very few openings for judges in those days. But he worked hard at being a judge and was most exacting.

He ran a tight courtroom and was courteous, but I do not think he tolerated fools gladly and I would not describe the atmosphere as relaxed. He liked to move litigation along and he usually decided questions quickly and decided without much argument from the lawyers.

I have met his son, Walter Burnside, III who seems to be a sharp and able young lawyer.

It was earlier stated that Walter, Sr. had an office in the old Knight & Wall Building at 308 Tampa Street, and that Boogie shared space with him before being elected to Judge of Municipal Court. During the years that building but also the site for Justice of the Peace Court then presided over by Hon. Joseph G. Spicola. One of Tampa’s most respected and an experienced judicial officer is Hon. Ralph Steinberg. He now serves as a Senior Judge and is kept busy trying both civil and felony trials. Judge Steinberg vividly recalls that he opened a small office at 308 Tampa Street upon becoming a Florida Bar member in 1959. There he formed a casual friendship with Boogie and his father. Clients were not too plentiful in the early days, and one day Boogie inquired if he would be interested in handling collections for Merchants Association of Tampa and, if so he would recommend Steinberg. The connection was made and Steinberg was forever appreciative to Boogie for one of his early legal clients.”

Former Circuit Judge and astute lawyer, Charles H. Scruggs, shares his experience pertaining to Judge Burnside and how they impacted his own career:

“My father and both Boogie and his father were hunting buddies who leased hunting rights to acreage in Balm, FL. Several of the lessees set up old travel trailers on the land and would spend weekends hunting quail. Boogie’s love of the outdoors consisted of hunting and fishing and he scoffed at golfers. Then one day he had a “Road to Damascus” experience, took up golf and was an avid golfer thereafter.

When I was elected Municipal Judge in 1967, Walter, Jr. took me aside and gave me what I consider sage advice. He said, “City Court had a dubious reputation,” and cautioned me to keep my nose clean and to be careful who I associated with. I was always grateful that Boogie and Jim Calhoun took me under their respective wings and guided me.”

Reading the initial portion of Chas. Scruggs letter above reminds me of the 4-cassette audio book this scribe is now listening to with enjoyment. It is the 2001 book entitled, “An Hour Before Daylight” written and narrated by Jimmy Carter. It is an account of his youth growing up in southern Georgia, and is highly recommended.

Regardless of whatever division assignment he was in at the time, every poll of local Bar Association membership while Burnside was serving as judge, gave him consistently high marks for excellence. These polls evaluating the performance of judges in this Circuit were conducted for many years by the Association, but Director Connie Pruitt, the highly capable and delightfully personable lady who runs the group advises that such polls were discontinued about 10 years ago.

Illustrative of Burnside's standing with lawyers is a brief narrative from Thos. J. Ellwanger, Esq. of Tampa who has been a member of the prestigious firm of Fowler, White, Boggs Banker for 32 years.

"Late in his judicial career, Judge Burnside was assigned by Chief Judge F. Dennis Alvarez to the Probate Division. In the eyes of the probate bar, he came into the division with two perceived handicaps: first, he did not seem to have any background in probate laws; second, his reputed nickname ("Boogie") suggested that he might not have the solemn attitude one expects in a probate judge.

As it turned out, these "handicaps" were probably his greatest strengths. Because he never claimed to know anything about probate law, he was not afraid to ask the "stupid" questions which so often don't get asked. He might have known a little more than he let on; his questions typically went right to the heart of things. And, while I am sure that he could appear solemn if the situation demanded it, more often he displayed an easy-going manner and a willingness not to make anything more difficult than it needed to be.

I found Judge Burnside to be possessed of an uncommon amount of common sense. As an example, he was never one to let a pointless technicality stand in the way of doing the right thing. As a result, the Probate Division has rarely run as smoothly as it did while he was in charge."

"I had little opportunity to appear before him because I seldom was in Municipal Court and seldom handled criminal cases while he was on the Bench in the Criminal Court of Record. I may be mistaken, but I believe that he went to the Civil Division of Circuit Court either shortly before Article V went into effect or just after Article V went into effect beginning January 1, 1973. I was elected to the Circuit Court in the fall of 1972 and took office on January 3, 1973, being immediately assigned to the Civil Division. I know Judge Burnside was in the Civil Division the entire time I was on the bench.

It is my impression that Judge Burnside never was recognized in legal circles as being a scholarly type, but I feel that he did an outstanding job while I was on the bench. He was decisive and had a good innate sense of right and justice, which served him and the bench well. After ascending to the Circuit Bench, and even during his later time served on the criminal bench, he was recognized as a solid, fair-minded judge.

I only have one lasting memory of appearing before him. It involved a case where I accepted an appointment as counsel for a young indigent defendant charged with vehicular manslaughter. The case arose out of an occurrence in East Hillsborough County in which my client was driving a motor vehicle on a two lane country road when he was approached by several motorcycles (I believe there were three) traveling in the opposite direction. My client's vehicle struck one of the motorcycles, resulting in the death of one of the motorcyclists, whose father happened to be a well known Hillsborough County Deputy Sheriff. My client claimed the motorcyclists were playing "chicken", i.e. driving towards his vehicle with the intention of dodging his automobile at the last minute. He claimed he swerved to try to avoid hitting one of them, but collided with the motorcycle of the deceased. The State (represented by Assistant State Attorney Mark Hawes) claimed."

Julianne M. Holt, Hillsborough County's able and experienced Public Defender, outlines her own opinion Of Judge Burnside's judicial demeanor and brainpower:

"Thank you for allowing me to share some of my memories of Judge Burnside with you. As we discussed with my primary practice being criminal defense, I had only one general civil trial with Judge Burnside. I had met him socially and was certainly aware of his rather quiet, unassuming nature. Although judicial positions can sometimes be rather political, Judge Burnside was known for never introducing politics into any decision. The facts and the law were always at the heart of his decisions. How do I know? When you are trying your first civil trial with a judge whose style is unknown to you, you ask of those who do know the judge.

My trial lasted several days involving several witnesses and numerous financial transactions about theft, the misappropriation of funds and undue duress of an elderly person. Not once did Judge Burnside take notes. I kept wondering if he had already made up his mind and did not need to clutter his mind with the facts (I was representing the defendants). When the trial concluded I was so nervous that I was going to have a judgment in the full amount entered against my client's rights there in their presence, I asked the judge if he would like written closing arguments as well as an order inclusive of findings of facts. Quietly he said, "No, ma' am. If you wish, you may give closings now and I will render my order orally as soon as all arguments are complete." Now I was really nervous. All counsel argued the general principles of law but, when it came to the numbers, we found ourselves saying "as testified to." What was truly amazing however was, as promised, Judge Burnside made well over thirty findings of facts and rendered his order all without taking a breath or referring to notes. He was courteous, on target, to the point and not appealed (yes, we the defense won). I remember going home that night and thinking if ever I became a judge, he is who I would want to emulate.

Years later I would have the good fortune to work with his son Walter Burnside, Jr. It was no surprise, he was courteous, polite, hard-working, liked by all; he is just like his Dad. If you are fortunate enough to know Mrs. Burnside, then you realize they are very special family. Each adds to the lives they have touched, all in positive ways."

Cogent comments from Richard D. Muga, atty. and friend:

"My recollections and memory of Boogie Burnside were all pleasant. He was a dear friend whose presence I will always miss. See, we had the common affliction of being fishermen. It was because we took delight in the outdoors and fishing in particular that our paths crossed.

Through mutual friends that knew of our infatuation with fishing we became acquainted on a fishing trip to Charley knight's ranch on highway 39 south near Lithia. Together with old friend Cecil Bugbee and others we would board the small aluminum boats kept there for Charley's friend's use. Boogie would smoke his menthol cigarettes and fish for bass with an unorthodox spinning reel and limber rod outfit. The traditional bass outfit being a casting reel and a shorter stiffer rod. Traditionally, I would steer the boat from the stern using an electric trolling motor on the edges of the old phosphate pits that existed on the property. Many times after fishing was over we would clean the fish at the water's edge and fry some of our catch inside a camp house Charley had built for such purpose. Grits, cabbage palm and beans and other Southern delights were the accompaniment for the fish filets.

Later in our relationship, when the practice of law became a bit more lucrative I managed to buy a saltwater boat. Inevitably, Boogie was one of my guests exploring the best fishing holes in Tampa Bay. He loved trolling for mackerel. As I recall, we had found a spot along Gandy Bridge, close to the structure, that we would troll West and East. With his menthol dangling form the corner of his

mouth he was great company with his old stories of fishing with his buddies. He would reel in his catch and flash that inimitable smile of his.

Boogie retired and shortly thereafter he bought a boat. It was a superbly strong 21-foot long hull made by Stamas Boats out of Tarpon Springs. The small cabin served as refuge from the rain and as storage space. Initially he kept the boat in the Hillsborough River behind his house. Later he moved it to a nearby facility where he would constantly work on it. Many times he told me of how many good times we were going to spend once he got the boat finished. I had an extra marine radio, antenna and Loran unit that I donated for placement on the boat. I really don't know if he ever installed it. According to his son Walter Jr. they did take the boat out once into Tampa Bay. Unfortunately the forward gear broke and they had to return to port in reverse. I never did like that fact that the boat was powered by an inboard/outboard system and I had suggested re-doing the stern and rigging for an outboard motor. But it was never to happen.

I will never forget the sadness the day he called me to announce he had been diagnosed with brain cancer brought. Shortly thereafter I visited him and we talked in his private kitchen about his desire to fight the disease. But eventually, as I think we both knew from the beginning, the fight was lost and death took another great friend. The void he left has never been filled. The death of most of the fellows that I fished with during those glorious days has made the void yet more significant.”

Judge Burnside's secretary, Louse A. Domines, went to work for him in 1977. She said it was interesting how she was hired. She had an appointment with the Judge for him to interview her. She attended and after a few minutes, she asked what he needed to know about her. He said, “Not anything, if you could work for Judge Bruton for 13 years, you could, work for any judge. Judge Bruton was a scholar who wouldn't have hired an incompetent secretary.” She said Judge Burnside was not only the best employer, but a friend to all.”

Judge Burnside's secretary said he handled his cases proficiently, without frivolity, but leaving the necessary. He was well respected by the lawyers and parties to the cases. Several cases she remembered that he handled:

- 1. While on the Criminal Bench, he sentenced a man who had committed a crime for murder and Judge Burnside said sometime later, he sure hoped this man outlived him because this is one case he thought the defendant would come looking for him, even though the jury had convicted him and Court was right in his decision. He said all judges have cases that decisions have to be made to protect the defendant and the public.*
- 2. A case in the Juvenile Division, a young juvenile was up before him. The juvenile was asked to answer the Court. The juvenile used such foul language the Judge had ever heard or any other adult. Juvenile was not his favorite division, since the Court could not give proper punishment to correct the problem.*
- 3. A case in the Family Law Division, where a husband had taken \$10,000 cash from a joint bank account of he and his wife and refused to return her portion of the money. He said he had burned the money. Judge Burnside convinced the husband with his ruling that the husband found a way to repay the money.”*

Probably the most famous case in which Judge Burnside presided was a murder trial, State v. Charles William Proffitt in 1974. The grim facts were that during the course of a burglary of Robinson High School's wrestling coach, Joel Medgebow's home, the latter was stabbed to death by defendant. Judge Burnside sentenced him to death and for many years the case was reviewed up one side and down the other in both state and federal courts. In a remarkably lengthy opinion (45 pages), the federal appeals court ruled that the 6th and 8th

Amendments to the U. S. Constitution mandated that a new trial be held because the defendant had been denied the right to cross-examine the psychiatrist who testified at the penalty phase of the case prior sentencing. The only issue at the new trial would be the imposition of sentence said the appeals court. Citation: Proffitt v. Wainwright, 685 F. 2d 1227, 706 F. 2d 311, 49 L. Ed 2d 913.

The person who covered the trial was talented, veteran journalist with the Tampa Tribune since 1972, Philip Morgan. A native of Tupelo, Miss., Morgan grew up in Miami, attended Univ. of Florida where he obtained his degree in journalism; a staff writer at Lakeland Ledger for two years. After connecting with the tribe, he covered local courts for 3 years, and since 1978 has been a feature writer. One of Morgan's most vivid experiences during the Proffitt trial follows:

"In March of 1974, a prison doctor testified in Judge Walter N. Burnside's court that the defendant on trial, Charles William Proffitt, had told him he had an overwhelming urge to kill someone. That's why he broke into a home and stabbed wrestling coach Joel Ronnie Medgebow while he slept.

The doctor testified out of the presence of the jury so Burnside could decide whether to allow it. The jury, expected to get the case the next day, had been dismissed. The judge hadn't sequestered the juror, and he was afraid they would read this explosive testimony the next morning in the Tribune.

Burnside turned to me and said he knew he could not legally order me to delay writing that story (another judge might have tried), but he was making a request. I told him I'd have to run that by my city editor. (I wasn't too worried about being scooped since no other reporter was in the courtroom at the time).

"Did he order you to not write it?" the gruff old city editor asked. "No, he just asked."

The latest word concerning the Proffitt case came in 2004 when the Florida Parole Commission decreed that Proffitt (now 57) would not be released from prison for at least five years and could remain incarcerated until 2025.

Former Judge Larry Goodrich has some candid but complimentary things to say about Judge Burnside:

Only recall one case before him where my client allegedly drove his auto directly into a group of motorcyclists or that my client (who at least knew the identity motorcyclists) intentionally ran into the decedent's motorcycle because he was irritated with the group of motorcyclists. (One side note: I may be the only attorney who ever both prosecuted in a trial in which the defendant was represented by Mark Hawes and defended in the trial of a case in which he was the prosecuting attorney in a trial in which he represented a defendant and who represented a defendant in an appeal when Hawes was an Assistant State Attorney General handling the defense of criminal appeals on behalf of the State).

The physical evidence was highly contested and I did not feel that the accident had been fairly and impartially investigated by the Sheriff's Office. It was a very hard fought, emotion filled trial. It was pretty obvious to the jury where the sentiments of the investigating officers lay, although I really felt that the physical evidence supported my client's contention that the accident had occurred on my client's side of the two-lane road.

I made a motion for Directed Verdict at both the close of the state's case and at the close of all of the evidence. Judge Burnside withheld ruling until after the verdict was returned. Having done so, I really thought he would grant my motion if the jury, in fact, returned a guilty verdict.

The jury was out for about three hours and returned a guilty verdict. Thereafter I reargued my prior motion and to my consternation, Judge Burnside then denied my motion. I was devastated at the time. Judge Burnside then told me that I was probably correct (i.e. that the greater weight of the evidence did not support a finding of guilty) and encouraged me to appeal; adding that there was probably a ninety percent or better chance that the Second District would reverse. I remember questioning him as to why he would deny my motion if he believed that, to which he replied that he would rather leave it to them to do so. Well, he was correct. On appeal, the Court reversed based on the greater weight of the entire evidence. I was lucky that at least one of the judges had reviewed the entire transcript of testimony.

I called Judge Burnside after the opinion came down from the Second DCA. He graciously congratulated me, complimented me on doing a good job (pro bono), and said, "See, I told you they would reverse." I thought to myself he'd make a great politician.

I thought that Boogie Burnside was a good circuit civil judge. He had overcome a stigma from his days on the city Court bench. He had a great demeanor. He treated all with respect and I never saw him demonstrate anger or frustration. As I said before, he had a wonderful innate sense of right, fairness and justice. He was patient, and a good listener who would hear everyone out and then act with decisiveness.

After a valiant struggle with a deadly disease for several years, Judge Burnside finally yielded and succumbed on Sept. 6, 1992. It was a sad farewell to a beloved husband, father and grandfather. His was a life well lived and dedicated to family and public service. He was survived by wife, Anna Ruth; children, Carol Trice of Dade City, Nancy Grotecloss of Apollo Beach, Walter Burnside, III, of Tampa, and Albert Burnside of Bayonet Point and five grandchildren.

Morison Buck

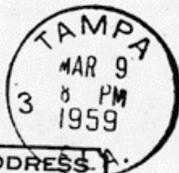
AFTERWORD:

Energy will do anything that can be done in this world, and no talents, no circumstances, no opportunities will make a two-legged animal a man without it.

Goethe

*Addendum & also
pages of judges
as addendum*

REMEMBEREST THOU THIS KARD?



THIS SIDE OF CARD IS FOR ADDRESS

AT. EA
HE
ED CHI

*WALTER N. BURNSIDE, ATTY.
308 TAMPA STREET.
TAMPA-2-FLA.*