

## Marvin F. Burt 1969-1970

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A longtime public servant, Marvin F. Burt was born on November 20, 1905 in Freeport, Illinois, the son of Ralph and Isabel Marvin Burt. Educated in local schools, Marvin Burt



graduated from Freeport High School in 1924. He continued his education at Harvard University, attaining a bachelor's degree. In 1931, he earned a law degree from Chicago-Kent College of Law. On June 17, 1930 he married Helen Woodruff, and they would become the parents of a son and a daughter.<sup>1</sup>

Returning to Freeport to practice law, Burt also served as city attorney and as Master in Chancery of the Stephenson County Circuit Court. He also held terms as a director of the Lena State Bank, Rock City Bank, and Bankers Mutual Life Insurance Company, as well as a director and president of the Freeport YMCA.

Burt launched his political and governmental career in 1945 with election to Illinois General Assembly as a representative. He held that position for four terms, then in 1952 won election to the state senate and reelection in 1956. There he headed the Illinois Commission on Care of Alcoholics and helped establish treatment programs for alcoholics, especially those confined to state mental institutions. He also helped draft a medical practice act to cover all health professionals and originated a banking act to prevent the infiltration of syndicate money into newly forming banks. During his second senate term, he led the Republican caucus.<sup>2</sup>

In 1960, Burt made a bid for nomination to the United States Congress, but was defeated in the Republican primary by John B. Anderson of Rockford. Later that year, Burt won election to the Fifteenth Judicial Circuit and served as Chief Judge. On October 9, 1969, he was chosen for the Illinois Supreme Court, succeeding Chief Justice Roy J. Solfisburg, who resigned at the request of a special bar commission. Burt accepted the appointment with the understanding that he would not seek election to the seat at the expiration of the term.

Despite his brief tenure, Burt wrote the Court opinion in numerous cases. *People v. O'Leary* involved the admissibility of a defendant's confession to a crime. In a 1968 Morgan County Circuit Court case, a jury found nineteen-year-old Kenneth O'Leary of Jacksonville guilty of burglary. According to police reports, during questioning he "began behaving like a child in a temper tantrum" and was administered tear gas and confined to a small cell. Half an hour later, calm but "still affected by the tear gas," he confessed to the burglary. In appealing the conviction, he contended that his constitutional rights had been violated, since he had not been adequately advised that he could remain silent nor that he could have counsel present at his interrogation.

Burt wrote that the "defendant brought his troubles on himself, and the police reaction was understandable. However, we find it difficult to hold that the confession of this defendant, coming so soon after the gassing, was free and voluntary. The question in each case is whether a defendant's will was overborne at the time he confessed. If so, the confession cannot be deemed the product of a rational intellect and a free will. . . . This case must therefore be reversed and the cause remanded for a new trial."<sup>3</sup>

In *People v. Howard*, T. G. Howard appealed his murder conviction by the Cook County Circuit Court, asserting that the arresting police officer failed to warn him of his constitutional

rights to remain silent and have an attorney present. The conviction came approximately four months after the U.S. Supreme Court in *Miranda v. Arizona* affirmed “that statements stemming from custodial interrogation of a defendant may not be used unless procedural safeguards to effectively secure the privilege against self-incrimination have been followed.” Since Howard voluntarily confessed to having shot the victim, the Illinois Supreme Court found the *Miranda* decision did not apply. “There is no showing at the time that the defendant was in custody,” wrote Burt in affirming the conviction, “and, in fact, the *Miranda* decision indicates that volunteered statements of this type are admissible.”<sup>4</sup>

Burt served on the Supreme Court until December 1970, succeeded by Charles H. Davis. Burt then became counsel to the Freeport law firm of Kroeger, Burt & McClanathan and its successor firm Schmelzle & Kroeger. In 1976, Illinois Attorney General William J. Scott named Burt as special assistant attorney general to investigate Illinois Secretary of State Michael J. Howlett, in the midst of a gubernatorial campaign against Republican James R. Thompson. Cook County Circuit Court Judge Raymond K. Berg had found no conflict of interest in the Democrat Howlett receiving an annual \$15,000 salary from Sun Steel Company of Chicago while also serving as Illinois Auditor of Public Accounts and then Secretary of State, but Scott pursued the issue of whether to file a civil suit.

Howlett was first employed by Sun Steel as a vice president in 1952 and continued in the position after his election as state Auditor in 1962 and Secretary of State in 1972. After studying the case, Burt reported in July 1976 that he found no conflict of interest while Howlett was Auditor. A conflict of interest did arise, however, when he became Secretary of State. In that position, Howlett served as chairman of state programs for recycling wrecked and abandoned automobiles, which comprised a major portion of Sun Steel’s business. Although no evidence

surfaced that Howlett exerted influence on bills pertaining to the scrap metal business, Burt asserted that elected officials should not place themselves in positions that could involve personal interests. “Illinois case law,” he wrote, “clearly established that a public official owes a fiduciary duty of undivided loyalty to the public and may not knowingly place himself in a position of temptation to act contrary to the best interests of the public.”<sup>5</sup>

A nature lover and twenty-five year member of the Freeport Park Board, Burt helped establish and became the first president of the Jane Addamsland Park Foundation and the Pecatonica Prairie Path, an abandoned Rockford-to-Freeport railroad route. Also active in the Illinois Association of Park Districts, Burt served as its president in 1949, crusading for more parks throughout the state. In 1977, the Association of Park Districts bestowed Burt with its Presidential Award, citing his more than two decades of service for the betterment of parks and recreation in the state. “His activity consisted of much more than presiding or board-sitting,” remembered a fellow Freeport attorney. “He participated in hiking, boating, swimming, ice skating and fishing and in other opportunities offered by the parks and natural resources of Illinois.”<sup>6</sup> Burt also held memberships in the Rotary Club, Freeport Consistory, and Elks and Germania clubs.

He died at age seventy-seven on October 15, 1983, at a Freeport nursing home. Following services at Grace Episcopal Church, he was buried beside his wife, who had died several years earlier, in Oakland Cemetery in Freeport.<sup>7</sup>

“I think he enjoyed his years in the Illinois State Senate the most,” his son recalled. “He was in his natural element in the legislature. He was superlative at pulling people together in a quiet way. That was the height of his effectiveness. As a judge, he was fair and impartial, but it was not his natural element.”<sup>8</sup>

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<sup>1</sup> 127 Ill. 2d, xix.

<sup>2</sup> 127 Ill. 2d, xxi.

<sup>3</sup> 45 Ill. 2d, 122-26.

<sup>4</sup> 44 Ill. 2d, 264-67.

<sup>5</sup> *Illinois Issues*, Nov. 6, 1976; [www.lib.niu.edu/1976/ii761106.html](http://www.lib.niu.edu/1976/ii761106.html)

<sup>6</sup> 127 Ill. 2d, xxii.

<sup>7</sup> *Freeport Journal-Standard*, Oct. 17, 1983, p. 3.

<sup>8</sup> *Chicago Tribune*, Oct. 22, 1983, Sec. 2, p. 12.