

the refuse, and took his kids home.

Several days later, Murnaghan—with the bottles in hand—stopped at a house in his neighborhood. The car he had seen earlier was parked in the driveway. His son remembers waiting while his father walked up the steps and knocked on the door. When a man opened the door, Murnaghan handed him the empty six-pack and said, "I believe you dropped this."

"He was a principled man," George Murnaghan says. "He wasn't going to call him names or get into his face. He just made his point."

That was 30 years ago. Murnaghan, who died Aug. 31 at age 80 after a long battle with health problems, came to be many things to many people—a World War II intelligence officer, a civil rights activist, a force in Maryland Democratic politics, and a dedicated Baltimore Orioles fan among them.

To his law clerks, he was a quixotic crusader. To the U.S. Court of Appeals for the 4th Circuit, where he sat for 21 years, he was the last liberal.

Appointed to the bench by President Jimmy Carter in 1979, Murnaghan was often a dissenter in the largely conservative court.

Last month, he sided with the challengers to a Montgomery County ordinance that allows schools run by religious organizations to develop land without heeding land-use restrictions. A First Amendment attorney for many years in private practice, Murnaghan also agreed with a challenge to rules barring public employees and state university professors from using the Internet to peruse sexual content.

In 1995, Murnaghan ruled that

action. In the past, Chief Judge J. Harvie Wilkinson has said the court doesn't need any more judges, and the nominations of Gregory and Wynn appear to be stalled.

When contacted for this story, Wilkinson declined comment on judicial vacancies.

### READING BETWEEN THE LINES

Murnaghan was born in Baltimore on June 20, 1920. As a child he was enamored of his uncle, a Supreme Court justice in Ireland to whom he attributed his love of the law and Irish art. In 1941, he graduated from Johns Hopkins University. Then he was commissioned by the U.S. Navy as a lieutenant in intelligence.

He served throughout the war as a cryptographer, helping the United States decipher Japanese code. After the war, he went to Harvard Law School, where he served as an editor of the law review. He graduated in 1948.

According to Sheila Murnaghan, one of her father's professors suggested that the class find outside interests: Take a night off and visit the Boston Pops.

"My father went for the first time to hear the Boston Pops and bumped into the professor," she says. "He was always sure that was the only reason he made the law review."

Murnaghan went into private practice in Philadelphia. He married Jane Espy in 1949, and the couple had three children—Sheila, George, and Janet.

After a two-year stint in Germany with the U.S. State Department, he returned to Baltimore in 1952 and joined the firm of Venable, Baetjer and Howard. That same year, the firm gave him leave to serve as an assistant attorney general of



**DETERMINED:** Frank Murnaghan Jr. sat on the 4th Circuit for 21 years.

integrate the Gwynn Oak amusement park in Baltimore.

Over the years, Murnaghan served as a member of Baltimore's Citizens' Planning and Housing Association, as chairman of the Charter Revision Commission in 1963 and 1964, and as chairman of the School Board between 1967 and 1970. He was also a trustee of the Johns Hopkins University and its Peabody Conservatory of Music. Murnaghan unsuccessfully ran for mayor of Baltimore in 1967, on a slate including African American and Jewish candidates.

Murnaghan was also involved in the campaigns of other Maryland Democrats, most notably the successful 1976 campaign of former Venable attorney Sen. Paul Sarbanes.

A few years later, Sarbanes submitted Murnaghan's name for a federal judgeship. A year after joining the bench, Murnaghan suffered a stroke that crippled half his body.

"He just refused to let it stop him," his daughter Sheila says. "He was a determined, pig-headed man who saw no obstacles in the way."

Murnaghan carried that philos-

long walks together to downtown Baltimore. However, when Sykes had a case in front of Murnaghan, the judge would cut off all contact.

"Murnaghan was walking up the street toward the courthouse and in his path was Sykes," Phillips says. "When Frank spotted him, Frank quickly crossed the street and just kept on walking. He was the straightest person that I ever knew."

In 1984, Murnaghan remarried, this time to Diana Lee Edwards. Two years later, he had his second stroke, on the other side of his body.

For the most part, Murnaghan used a wheelchair after that. But after each stroke, Murnaghan went immediately back to the bench.

"He showed enormous courage in fighting back from those two strokes," says Chief Judge Wilkinson. "He was an inspiration to all of us."

Mark Niles, a former clerk for Murnaghan who is now an assistant professor of law at American University, says Murnaghan "would scribble notes on the cases as after he'd review them before assigning them to his clerks to research. Ninety-nine percent of the time, he was exactly right about what law was relevant."

Niles says that the 20 or so clerks who flew in from around the country for the funeral thought the world of the judge. He let them wear shorts while in chambers, and many fondly recalled his 4 p.m. ritual every day. He would sit down for tea, talking about baseball, art, or whatever came to mind—just never the law. They always wanted to impress him, Niles says.

"I did once," he says. "I caught a fly ball at an Orioles game. He was so excited, he called up the other judges who were fans." ■