

JUDGE CLARENCE PEELER

RECORDING BEGINS DURING JAMES MACKAY'S INTRODUCTION OF THE SPEAKER:
[Speaking to unidentified person in audience] . . . it's your project, it's nobody else's. We've even got [inaudible] over there. We can take Tim and his office. [To a newly arrived audience member, likely James Venable, whose law office is across the street] How are you, Mr. Venable? Glad you could come over. [To Judge Peeler] Henry Crenshaw is coming out to hear you. We're keeping an eye out for him. [To general audience] But we've just got an extremely interesting and valuable library already. And we had a meeting this morning with Howard Worley, our senior court reporter, and he is to put the steam on this; and we hope to end up with a well-organized library. We—I'm trying to get Wyman C. Lowe to give us a bequest; and we're going to have Lowe's Grand Theater right here [laughter]. But we envision before long that [inaudible—could be "Grand Jewelers"?] and interested citizens will come over here and simply say, "I would like [inaudible name] or Mr. Scott or many of the interesting people"—[To newcomers] Welcome, Ann. Emmett, come on up here and sit on the mourners' bench [laughter].

We got a great list already, and we wanted to start off the New Year with a bang. And we're honored to have Mr. Clarence Peeler. Mayor Medlock is going to be our speaker in February; and he, I believe, has stayed continually elected longer than any other person in the executive branch of the city and county government, and we're looking forward to having him in February. We will continue our Fourth Saturday Series, but we will be picking up other people, too. We're making a tradition now of furnishing the speaker's family with a copy of his remarks, and we're going to prepare those; and we're not giving an appropriate introduction to our speaker, and we will dub that in later for the permanent collection.

And we wanted to start off with a sure-fire success. We wound up with two sessions over here in the courtroom, and we didn't like that over there because they wouldn't let us have our little reception afterward. We did have Clark Harrison--an outstanding time, and we had Mayor Mike Mears and Secretary of State Max Cleland. But we decided to come back over here. And [to Judge Peeler] Judge, this is the studio audience. We think this tape is going to be played before many people for many years to come. And I got an interesting phone call last night from Mr. Peeler. And he said,

“Mackay, I thought I was coming over there for a one-on-one session with you, and my wife says that she reads in the paper where I’m appearing [laughter]. Just what is the situation?” I said, “Don’t worry about it. You don’t have to have a speech or anything.” That the real pleasure that we’ve had from this is the spontaneous nature of it, in which we invite somebody who is deeply involved with the county, contributed mightily, as Judge Peeler has, to give us their recollections. [To Judge Peeler] And I think you’re pretty safe, because Andy Robertson is not here [laughter]. He is our permanent eyewitness. But I will warn you about this crowd. They are capable of dispute, and we’re not sure if you can find us in contempt when you’re not sitting on the bench. [To audience] But Judge Peeler, as you know, has had a great career in the army in World War II, as a lawyer, as a prosecuting attorney, and as a seated judge. And we got to see his portrait in there, which the Bar [Association] presented and we’re very proud of. [To Judge Peeler] So [glances at watch] without taking any more of your time, you have sixty minutes flat. At the end of this session there may be time for a few questions, but at the end of the session we’ve got a new thing we’re going to do. I am going to escort our speaker into the courtroom for our reception. And as you know, you’re all invited to see the *Gone with the Wind* exhibit without charge. We’ve made some money on it—I’m happy about that. But if you will let me escort Judge Peeler in there at the appropriate time, and then we want all of you to come in and enjoy some light refreshments in there. [Addresses videographer Fran Broadnax and Judge Peeler] Fran Broadnax, camera person—is that what you call them now? [Ms. Broadnax laughs]—will keep the camera on you. [To audience] It’s a pleasure to present to you Judge Peeler. [To Judge Peeler] You can remain seated or stand, whatever.

JUDGE PEELER: Thank you. I don’t know whether this is really safe or not if Jim is going to put the introduction after I get through speaking [laughter]. But I would like to start a good way back. I’ll say that back in 1932 my mother and father built a house out in the north end of DeKalb County, and we moved out there to live. Before we moved into the house, we moved in with my aunt and my uncle, Mabel and Joe Powell, who at that time were working for Dr. Fisher. Dr. Fisher and they got along very well, and he sponsored them, and they bought and started the Flowerland florist that is now on Peachtree Road. That land is still owned by Dr. Fisher’s estate; but as

long as Aunt Mabel lives—Uncle Joe is already dead—as long as Aunt Mabel lives, she has a permanent lease on it.

When I got out there, I was probably about thirteen years old, I believe; and we were having a big debate as to whether I would go to the ninth grade or the eighth grade. The big stopping point between us was that eighth grade began algebra. At that time we only had eleven grades in our county schools; and when I went into the ninth grade, I'd have to take second-year algebra without having had first-year algebra. We did prevail on Prof Smith to let me try the second year, and I will say that I graduated on time. I didn't fall behind any. But I had the opportunity to know Prof Smith—M. E. Smith—who I thought was one of the finest men that I knew. He was not a great speaker, but had the ability to get things done.

Now, this is one place where Andy Robinson [sic—means Robertson?] ought to be able to correct me, and maybe some other people, but due almost exclusively to the ability of Prof Smith—Moody [inaudible] Smith—the Chamblee High School became the second high school in DeKalb County to be accredited. The other one was Druid Hills High School. And Druid Hills High School at that time was in a special tax district. Chamblee was the first one [school] that didn't have a special tax ratio to be accredited. It is my understanding that it became a member of the Secondary—Accredited Colleges and Secondary Schools [SACS—Southern Association for Accreditation of Colleges and Schools] in the state of Georgia one year before Georgia Tech did. I know a lot of Tech people [inaudible] that [laughter].

But they had some great people out there teaching. We had Mrs. Mendenhall, who was my first English teacher out there. Her husband later became a teacher there. At that time he worked for the federal government, and he had some kind of education prospect or job at the Atlanta Federal Penitentiary. They later moved to Kansas and came back, and he became an English teacher at Chamblee High School. Mrs. Timberlake also was another teacher that I was very fond of while I was at school there, and Mr. Harold Smith started teaching the same year that I entered school.

I graduated in 1935 from Chamblee High School. When I think, really, one of the things that I have enjoyed more about that particular period of my life was the people who lived near me in the north end of DeKalb County. And one of the things

that sometimes causes me a little concern now is that these grown men seemed always to have the time to answer questions--I'm sure that I was a very abrasive youngster sometimes—as though I were a full-grown person and had all of my faculties; and sometimes I'm sure didn't.

But we had Jim Donaldson and Charlie Donaldson and the Marchmans—Charlie Marchman and Cleve Marchman—and the Dempseys and the Spruills and the Grants. A few of Mother and Dad's friends-- and I used to go to all their parties because I was an only child, at the beginning—were Mrs. Edith Bullard and Harold Bullard; Mrs. Bullard still lives out there; Mrs. Vivian Smith, and her husband's been dead for some time, she's still out there; and Roy Head and Mrs. Head. Now, that's not the Roy Head that's still living; this is Roy Head, Sr., father of the one who still lives out there. We used to get together from time to time, and I would take in all the festivities.

Not too long after that—about 1932—I guess it was shortly after I started school, we had a young man come over, and he had been a grandson of old man J. W. Donaldson, whose property was sold at the time Mother bought twenty acres of it. He was in a position where his aunt wanted him to quit work—quit school, rather, and go to work or pay her while he was going to high school. He was an orphan [inaudible], and the only money that he would have coming to him without a whole lot of trouble would be what little he could get from his grandfather's estate. He came over to see Mother and Dad to see if he could come over and live with us and if, by working after school and in the summertime he could pay for his education, board, and [inaudible] and not have to encroach on what little money he got. Mother and Dad wanted to talk it over, and they told him to come back the next night; and they talked to me first. I had met him in school and thought it was a great idea. He was three years older than I and a year ahead of me in school. So we had decided maybe he'd changed his mind when we saw a flashlight coming through the woods, and it was he and Keith. He became my foster brother, and he now lives in Carrollton. He has done well financially, worked for the government for a long time and retired. I still enjoy him, still see him as often as I can, which is not as often as I'd like. But he has been a real good influence on me, I'm sure, and has contributed a lot to the fun in the life that I had growing up.

I know that one time he was courting the lady that he's now been married to for forty-odd years. He had been sent to Villa Rica to act as a sort of Conservation Service engineer. He always came home on the weekend, and she didn't care for that at all because she thought he ought to stay at home—stay at Villa Rica, rather, and take her places. On this particular occasion she told him it wasn't as though these people were his real parents--they weren't; that there was a dance that Saturday night, and if he didn't stay over that weekend and take her to that dance, he didn't need to come see her anymore. He said, "Well, I'm sorry you feel that way. Clarence Jr.'s coming home from college this weekend, and I'm going home." But they did finally make up, they did get married, they've had two fine children, and they've lived together for quite some time.

We knew some of the people over here [Decatur/DeKalb County] in the courthouse at that time. Mr. Vess Morgan was the Ordinary. They called him "Uncle Vess" mainly because Katherine—Edelman, at that time; she later became Katherine Mann and was the Ordinary that succeeded him after his death—she did most all of his work. It would take him twenty minutes to walk from here to the—out of this room. He moved rather slowly. But whenever anyone came to see him, he would simply call, "Katherine?" And she'd say, "Yes, Uncle Vess," and come do whatever it was that was necessary to be done by the Ordinary of DeKalb County.

When I left Chamblee High School, I went over to the Citadel and spent some four years there. I graduated at twenty; and, believe it or not, when I graduated, they wouldn't give me my commission for two reasons: I was too young, and I was underweight. I think I weighed about 118, 119 pounds at the time. The army decided that they wanted my services. They had, prior to that time, given me a lot of X-rays, doctors' examinations at Fort MacPherson. The last thing they said to me was, "If you'll gain [weight] up to 127 pounds, we'll give you a commission." I wrote my first political letter. I wrote Senator Russell saying that I was entitled to my commission. They won't give it to me because they claim I don't weigh enough. I got a letter back from him saying, "I'm looking into it." About that time here comes Pearl Harbor. I got my commission on the 27th—I mean the 16th—of December, and I was on active duty on the 3rd of January.

After four years in the army I came back. I'd had a year at Atlanta Law School, and I was working at Decatur Federal Savings and Loan. I would leave home, come down to Decatur, and I'd be here in time to open the vault and have everything read at 8:00. I would work during the day, I would get off work, go to Atlanta, have dinner, go to law school, and I'd get home about 10:30 that night, and that was three nights a week at the time. At that time we were living on what is called Peeler Road. The reason it was named that is because Mother and Dad were—it was all a dirt road back then, incidentally. I think Clairmont Road was paved from here to North Decatur—not North Decatur Road—yeah, North Decatur Road and dirt from there on out. I think there were three or four houses between the intersection of North Decatur Road and Clairmont Road and the big Arch of Triumph they had over old Camp Gordon. Now, old Camp Gordon was paved all the way into Chamblee there. Chamblee had a paved road that led not nearly as far as what is now Peachtree Industrial Boulevard, and you were on a dirt road to get to Chamblee High School.

Doctor Fisher used to have a team of horses [inaudible] Nancy Creek bridge to pull his car up the hill in wet weather. And those of us who lived on the other side of Nancy Creek had to go around by Mount Vernon Road in Sandy Springs in order to get to town. They named Peeler Road for Mother and Dad for the simple reason that we were always after Mr. Charlie Matthews to get it scraped and rocked so that we could get in in wet weather. Finally he named it for Mother and Dad simply so he could tell the work crews where to go when we prevailed to get anything done. As you probably know, Mr. Charlie Mathews died of a heart attack. He died in the arms of Chief J. K. Daly, just about where Ponce de Leon and Lullwater cross; and his successor was Scott Candler.

When I got back from the army--and I am jumping around, I know, but I wanted to put that into perspective, I'd had a year at Atlanta Law School, and I got back and went over to see Dean Reese at Emory. I told him that I had been gone four years and hadn't cracked a law book, but I knew that I would be able to do much better as a lawyer than I could as a layman financially. What did he think about me standing the bar exam? Back in those days you didn't have to have any particular schooling; you simply had to be able to pass the bar exam. And he said, "Yes, that's the trouble with you young bloods. You want to hit the ground a-runnin'." I went in to see Dean Gilkey

[spelling?], and he told me he wouldn't profess to know. At that time he was dean of the law school. He told me to go down and see Dean Finster [spelling?] of John Marshall Law School and to be guided by what he said. I went down to see Dean Finster [spelling?]; and he listened to me and said, "Mr. Peeler, it's possible; it's just not probable. However, my bar review course started last night. It's fifty dollars, payable in advance." I might tell you also that I got out of the army the first part of October, and my terminal leave ended the 27th of December '45. I was flush with my mustering-out pay, I guess you'd call it, my leave pay, and I paid him the fifty dollars and took his cram course, and Julius McCurdy made his law office [McCurdy & Candler] available to me so I that could read all these voluminous books that we were supposed to read. I stood the bar exam on the 12th and 13th of December of '45 and was sworn in as a lawyer on the 4th day of January of '46, and then I went back to law school [laughter].

I ran out of money not too long after that, after about a year of law school, because at that time the army would not allow you to make more than \$90 a month, or they would cut down on the money that they gave you for law school. So I had to quit and go to work full time, and I worked for Julius McCurdy from the time that I passed the bar till the time that Oscar Mitchell left the solicitor's office. When I was working for Julius McCurdy, I was checking titles all day long; and they had those big, red books; and I always said title examination was a great job for a man with a strong back and a weak mind. It was tiring, and it was sort of a dead-end street, the way I saw it. My idea of being a lawyer had always been to be in court, and I was not getting there checking titles. So when Oscar left the solicitor's office, I went over and applied for the job. At that time it paid the princely sum of \$200 a month plus a \$50 car allowance. There were two people in the office, Roy Leathers and me. And we had no secretary, no investigator; all we had to do was run the Superior Court's prosecution department for four counties: that was Clayton, Rockdale, Newton, and DeKalb. I will say that when I retired here recently in 1984, Bob Wilson [DeKalb County District Attorney] came down to the office and was saying [inaudible—car horn blowing]. I said, "Bob, I'd like to ask you something. How many people do you have in your office?" He told me. I said, "How many people do you think are in the office of the District Attorney of Clayton County?" He told me. I got him to give me an estimate of those in the prosecuting attorneys' offices in Newton County and Rockdale County. I added the

figures up, and I said, "Do you mean you now have ninety people doing the job that I used to do by myself?" [laughter] Of course, they have a lot more business now. I would say that when I moved into DeKalb County the population was probably about forty thousand people. It wasn't a whole lot bigger than that when I started practicing law. It has certainly grown since then.

Anyway, Roy and I tried cases, as Jim Mackay knows; and I remember one time, we didn't have all that much work to do. I know that from 1948 to about June of 1950 I kept wondering why there wasn't more work. And in June of 1950, for a period of some couple of months, we had nearly a murder a week. I never had to worry about enough work to do from then on. But Roy and I carried the load there for a number of years. We had only one judge at the time, Judge Frank Guess. Judge Jim Davis is the one who swore me in, but that was just before he went to Congress. Frank Guess took his place.

Roy was one of those people who was a pleasure to know and a pleasure for me to work with. I'm sure Jim [Mackay] will tell you the same thing. Roy one time was running against [Claude] "Major" Smith, who was his predecessor and solicitor general, which the prosecuting attorney then was known as. And he thought he was going to beat him; and he knew before he started running, though, that Young Frasier [spelling?] wanted to run for the job. He had run for it the time before. He had lost the election, but he had run a rather close race. Roy knew that Young wanted to run, but he knew he was broke and couldn't run. And so he asked one of Young's friends, and the friend said, "Roy, I know he wants the job, but there's no way he can run. He simply can't finance it." So Roy says, "Great." He raised up some money, and he got people to give him money. He started running his campaign. About that time Young Frasier [spelling?] gets a real good fee in a case; and he called Roy and said, "Roy, I'm going to run for solicitor general." Roy said, "My God almighty, Young! I've already announced, I've already paid my fee." He said, "Well, if you withdraw now, they'll probably give you your fee back." He said, "I can't do that. I've accepted money from people. I'm running. But you just beat us both." And he did. They ran—at that time you ran on plurality; you did not have to have a majority. And [Claude] Major Smith again beat both of them. Roy ran against him next time, and he did win the next time, one-on-one.

But when he was running the first time, he was talking about it in Newton County. He went up to the courthouse and was trying to get them to support him instead of Major Smith. The clerk of the court down there at the time said, "What makes you think that we ought to support you instead of Major?" He said, "Well, for one thing, Major's a bachelor. I'm married, and I got two children. And Major doesn't have anybody to cry with him when he loses or rejoice with him when he wins. Doesn't have anybody to worry about but himself." The clerk looks at him and says, "Well, I'm a bachelor. I don't have anybody to cry with me when I lose or rejoice with me when I win. Hey! Mr. Wright Robinson, come over here. I asked the county commissioner, and he's a bachelor. He don't have anybody to cry with him when he loses or rejoice with him when he wins. There's the janitor over there; he's a bachelor. Here's the Probate Court judge, he might as well be a bachelor; just he and his wife, no children. We can't help you, Mr. Leathers" [laughter]. He came back up here, and he said, "Man, that's sad. You get down there, and you're a long way from home, and you work like the devil." And if any of you have ever been in a political campaign, I'm sure you'll agree that that's the hardest work you can do. Came up here to the last meeting that happened to—the thing that used to carry elections were really the debates that we had between people, and the broadcasts were carried on radio or on television at the time, and there wasn't enough money to go around to do a whole lot of advertising, so primarily you did your campaigning before a crowd. You got up there, and as usual the incumbent always had the chance to speak last. And Roy got up there, and he said, "All right, now, I know that Major's gonna speak in back of me. He's been speaking in back of me everywhere we've been, all over the circuit, so I've got a pretty good idea about what he's going to say. One of the things is that he's gonna say that he taught me in law school, that he taught me all I know. He's half right. He did teach me in law school, but he didn't teach me all that I know. He taught me all that he knows" [laughter]. He said, "Also, Major Smith has gone around here for the last twelve years introducing this lady that he's been going with and saying that when he gets elected, he's going to marry her. I just want to tell you that a man that can't make up his mind in twelve years just can't move fast enough to be a solicitor general" [laughter].

We had some interesting cases. I know that Jim [Mackay] remembers some of them. I know when Jim first got to be a lawyer, he came over here and filed lawsuits.

On one occasion Judge Guess was called to the calendar, and Jim's cases were not on the calendar. Jim gets up, and he says, "May it please the Court, I've had these cases, and they've been filed for x-number of months, and I just want to know when my cases are going to get on the calendar." With that, Oscar Mitchell spoke up and says, "Boy, don't you know you're too young to have a case tried in DeKalb County?" [laughter] [To JAMES MACKAY]: You remember that?

MR. MACKAY [laughing]: Yeah. Well, [inaudible] we had Mr. Francis come in. We've got an eyewitness now. [laughter]

JUDGE PEELER: But we had fun. I saw a lot of good lawyers operate because, as I said, when I first started as—now it would be assistant district attorney--at that time it was assistant solicitor general, when the work was done, you got to go in and listen to some lawyers operate and see how they tried cases. I did enjoy watching some of them, sometimes I didn't know—one of them that was well-known was Mr. Jim Branch—no kin to Gene Branch. I'd heard of him, and I saw these two young men from Atlanta that I knew would be very fine lawyers. They were arguing murders before Judge Guess, and I thought they did a very fine job. Then this old country-looking fellow gets up and puts one foot up in the chair and sticks one thumb through his suspender, and he says, "May it please the Court, it seems to me like" so-and-so. Wham! He got about half the argument. And he went around Robin Hood's barn, and he came back, and he got about half the rest of the argument. And I turned to Ben Burgess, who was the clerk up there with me, and I said, "Who is that old man?" And he looks down his nose at me and said, "[inaudible] Gene Branch." And I said, "Oh," because his reputation had preceded him.

We tried a number of cases. I know one time there that Roy and I had to indict the sheriff. Scott Candler came to us, and he said, "I hate to do it. I got a hold of him. Sheriff's been taking—" Clem Jolly was his name; he succeeded Bill Broome, was sheriff when Bill Broome died. He said, "He's been taking money from the bond fund, and I called him in when I got the report of the audit and told him that if he didn't have the money that I would go with him to the bank and sign his note with him so he could replace it. He told me it was none of my business, and he wasn't going to do anything about it." Well, we had already known at that time, looking at the law, if you indict a candidate, you have to give him an opportunity to go before the grand jury. I think

they found that out in Fulton County about four years later, when they didn't do that. But anyway, I went to the grand jury, and I told them that it looked like we were going to have to present an indictment against Clem Jolly. One man stood up and said, "Boy, I've known Clem Jolly for seventy years. He has been an asset to this community, and personally cannot vote for an indictment against him." I said, "Now, wait a minute. We're not asking you to indict him or to vote for him or against him at this time. We're simply asking—telling you that we're going to have [inaudible] Mr. Clem will be able to come in and tell his side." Well, we presented the indictment; and Mr. Clem went before the grand jury, and he told them [inaudible] as long as he had the money to pay off the bond, he was [inaudible], and reluctantly the grand jury would turn in an indictment against him. I had to draw the indictment, and I drew it.

I had a City of Warner Robins case just before that that the Supreme Court had ruled on very explicitly where they had thrown out the indictment, so I had to draw one to skirt the [inaudible—aegis?] of that decision. I did, and I was expecting Roy to try it. At about 5:00 Monday morning, the day that we were going to have to start trying Mr. Clem, I get a phone call, and [Roy Leathers] says, "Clarence, I been sick all night. You're going to have to try that case." Well, it's a lot different when you think you're going to be sitting by, holding someone's hand while they do the work and when you are going to be the one that's in the ring yourself. So I got up early; and incidentally he also told me, "I've called Pooley Hubert [H. O. Hubert, Jr.]" This was before Pooley was a judge; he was a lawyer. He [Leathers] says, "He's going to come up and hold your hand, but he don't know anything about the case."

So I was up here [DeKalb County Courthouse] about 7:00 [a.m.], checking to make sure my witnesses were all subpoenaed and my indictment was still the way I thought it was when I drew it; and Pooley comes and knocks on the door of my office. At that time we were down in the basement, and I let him in. He says, "Roy called me, told me to come up here and hold your hand. I don't know a damn thing about the case, but you know they're going to throw demurrers at you." I said, "Yes, I know that. They'll be basing them on the *City of Warner Robins* case, and this is what I did to try to get around that decision." And I told him, and I said, "What do you think?" He says, "I don't know."

So we go to the courtroom; and, of course, Young Frasier and Harvey [inaudible—possibly “Armistead”] are the lawyers for Clem Jolly, and they throw the demurrers at us. I answer them the best I can; and I when I sit down and turn to Pooley, and I say, “What do you think now,” he says, “I think we beat them.” Frankly, the judge agreed with us, so we went on with the trial. We tried the case for about four or five days. I put in nineteen checks that Clem had taken out of the bond fund and used for purposes other than what he should. And they had one defense: that was, he had paid the money back [laughter]. When he got indicted, Clem then went to the bank, borrowed the money, and paid it back. And he had his receipt from the Fulton National Bank, showing where he borrowed it and paid the money back into the bond fund.

Judge Dave Phillips’s son-in-law, Tal Leake [spelling?], was on that jury. The jury found Clem not guilty. I got a hold of Tal, and I said, “Tal, what did I do wrong? What did I miss? What didn’t I do?” He said, “Nothing. You did exactly what you said you’d do in your opening statement. You proved everything you said you was going to prove.” I said, “Well, then how in the hell did you find him not guilty?” He said, “Clarence, you made one mistake. You think that we’re going to send old man Clem Jolly, who’s eighty—seventy-eight, to the penitentiary after he’s paid the money back and as good a citizen as he has been in this county? You’re just mistaken” [laughter]. That was the end of my prosecution of that case.

We tried a lot of them. One of them, I remember, we had the first big automobile [theft] ring. And I had about forty-seven counts in one indictment. It took quite a while to read to the jury panel before we struck them. Sitting up there in the old, rather high witness box, when I was reading the rule of indictment, the front [top of the first page] of the indictment was on the floor, and the bottom [bottom of the last page] was on the floor. We tried it, and I put 135 witnesses on the witness stand between Monday morning and Thursday afternoon. We could not prove the continuation of evidence—the chain of evidence—that we needed to, and I asked the judge to direct a verdict against me on all of them except for twenty-one or twenty-six, I believe—the twenty-six that I thought I had proved. Incidentally, Jimmy Venable was the lawyer for the defendant in that case—he’s right back there [in the audience] now. So fortunately on that case they [the jury] came back with a verdict late Friday night,

after Jimmy had put in his defense, and found him guilty and sentenced him to not less than twenty-six nor more than [inaudible over audience member's coughing] years. Jimmy carried it up, I believe, but I think it stuck.

One of the things that did disturb us is that after he [the defendant] got down there [prison], he sent us word and said there were other people in this room [group?] besides him. We knew that; we indicted four of them—three of them. He was the only one we could really get to, and he wanted to talk to us. And we went down there, and he said, "If you'll just help me get out of this hell-hole, I'll try—I'll help you with some of these other people." We tried to get him to give us some specific information; he never would. We found out later that they were giving—paying his wife two or three hundred dollars a month while he was in the penitentiary. We had problems with that case—well, not with that case, but we had problems trying to convict the others. I don't know that we ever did convict the other three that we indicted.

We—the way that case started, a man bought a Chevrolet automobile from a used-car dealer; and he was trying to find—going through the glove compartment, he found a receipt for the sale of gas with a man's name on it. And he called him to see what kind of gas mileage he got in this car. The man stalled him and called the police; and the next thing he knew, the police was out there to see about the automobile—it was his car. That's the way it started. The police department got to investigating it; and every time anybody turned around, they turned up a number of other automobiles. I was trying to keep Roy abreast of everything that was happening; and finally he said, "Look, this thing is breaking too fast for me, I've got other counties, and I'm down in so-and-so. You keep up with it; you try it." And then the day before we go up there to try this case with all these witnesses, he comes in and drops down, and he says, "Clarence, you know we're running for election shortly. I just want to tell you now, if you don't get a conviction in this case, we might as well not even qualify." And so we went on with that, tried it, and won it, fortunately.

We had a number of other big cases. One of the things that had attracted me to Roy Leathers besides what I knew about him already was in 1947 I had sat up there at the windowsill at the trial of the Fred Phelps case for murder before I came over in 1948. And Roy was making his closing argument to the jury in that case. He said, "Look at the array of lawyers that Fred Phelps has got. He's got more good lawyers

than they ever had in this courtroom on one side before. He's got Hugh Burgess; there's just not enough money usually to get Hugh Burgess interested in a criminal case. They got Young Frasier. They call him 'Bull' Frasier; I don't know if that's because he's as big as a bull or because he bellows like one. He's got John Wesley Weeks; John Wesley's a labor lawyer—he don't fool with little criminal cases. And they've got old Murphey Candler; man, that's the old rat in the barn. He's got more brains than all the rest of them put together. I just want to tell you this: Fred Phelps came into the trial of this case a comparatively wealthy man, and now, now he couldn't make a down payment on a ham sandwich" [laughter]. They did clear Fred Phelps of that case. One of the problems was that there was a good bit of lesbian activity involved, and they could not show that Vickie [spelling?] Price was not killed by Bertha, whom she was living with at the time. At that time they were both staying down there in Avondale at Fred Phelps's house. Fred's wife had been out of town at the time of the killing. But Bertha and Vickie [spelling?] had rented a room in the Phelps home and were living there.

I'm not so sure where we go from here, except that I do know that Roy was retiring. He'd had a heart attack, and for two years—a little better than two years—we never allowed him to go into the courtroom. In every case that was presented to the grand jury, investigated, or argued on appeal or had a brief for the appeal written on it in the four counties of Clayton, Rockdale, Newton, and DeKalb, I did it. Now, one of the things that did happen during that time was I got a hold of Roy one day, and I said, "Roy, I desperately need a secretary," because among my other duties I wrote all the letters to the witnesses and all the indictments that were drawn. And I said, "You reckon Scott [Candler]'ll give us a secretary?" He said, "Scott ain't going to give you no secretary." And I said, "We got this new law that came out—Uniform Support of Dependents. I can't possibly handle all the paperwork on that and do what I've been doing." He says, "Well—." I says, "If we had a secretary, we could implement that." Roy says, "I'm not going to touch that new law. You can't fool with it, I'm not going to fool with it." I said, "Well, do you mind if I go down and see Mr. Candler?" He said, "No, go ahead. I ain't going to give you the pleasure of telling you no" [laughter].

And I went down there, and Scott and I had always gotten along really well. And he got a break—any of you who knew Scott knew that he had people buzzing in and

out of his office like bees out of a hive. He called me in and said, "What can I do for you, Clarence?" And I said, "Mr. Candler, I need a secretary, and I need one bad." He says, "Can't do it. Borrowing money right now to run the county till the first of the year." I said, "All right, sir, but you know that I've always been—" At that time, when someone abandoned a child, the only thing you could do, if they left the state, was to indict them, get a warrant issued, get them arrested, and send a police officer up there to bring them back and try them on a bill of indictment for abandonment. And at that time the law was that nobody could commit the county's money for anything outside the state of Georgia without a prior approval from the county commissioner. So every time that we had someone who had abandoned a child, I'd have to go down there—if we could catch him—I'd have to go down there and talk to Scott about approving money for a police officer to go up there and bring him back here for trial. I said, "You remember I'm always down here trying to get money from you to send a police officer out of the state to pick someone up and bring them back down here on an abandonment case?" He says, "Yeah, I always give it to you." Well, except once—that was another time. I said, "Well, in this new law that we've got, I can file the papers here and send a copy of them up to the state where the man is, and they'll bring him in and make him pay the money and send the money back down here." He said, "Wait a minute. You want to run that by me again?" I did. He said, "Now, let me get this straight. You mean that you can just file the papers here, you can send it up there, and they send money back down here?" I said, "Yes sir, that's right." He said, "I'll have you a secretary the first of the month" [laughter].

One thing about Scott, there were a lot of people who didn't like him; I always was very fond of him. One of the things he did, he regarded the heart of the county as though it were his own. He never wanted to spend a dime unless he was going to make sure he got a dollar and ten cents' worth of good back for the county. I know one time there was a man selling some machinery around here, and he said the hardest easiest sale he ever made was to Scott Candler. It had something to do with the roads; I'm not quite sure what. But he convinced Scott that he needed it and told Scott what the machine would do. Scott said he didn't believe it but said he would take one; and the guy told him that if he'd take one and keep it for thirty days and it didn't work, he could give it back to him. So Scott said, "I'll take it." As you know, Scott was still hard to see. Scott was going down the hall, surrounded by about three different

people [inaudible], and saw this man out there. The man was waiting for him to see if he pronounced that the machine was all right. He [Scott Candler] said, "Hey! That machine did everything you said it would do. I'll take another one"[laughter].

Scott also was—they called him a dictator, but Scott was a lawyer; and he knew how far he could go and how far he couldn't go. When I was with Julius McCurdy, and Julius McCurdy was the county attorney at the time, he was paid the magnificent sum of \$125 a month; and Scott was always sending these queries to Julius to give him a written opinion as to whether or not he could do something. And I gave valuable advice to him, too. I stopped Mr. McCurdy one day, and I said, "Look, Scott's a lawyer; he's a good lawyer. He knows whether he can do this or not." He [Mr. McCurdy] says, "Yeah, but there's one difference." I said, "What's that?" He says, "If Scott does it without asking the advice of the county attorney, and it turns out that it's wrong, they could hold him personally liable. But if he gets the advice of the county attorney and acts on that advice, whether it's wrong or not, they cannot hold him personally liable." I knew then why Scott wanted this raft of opinions every month.

One time he called me up, and he was talking to me on the phone, and he was just going; and I listened to him a good little while, and I said, "Mr. Candler, I can't help you. You'll have to talk to Judge Guess." And he went on just as though he hadn't heard me. A little while later I stopped him again, and I said, "Mr. Candler, I'm so--I can't help you with that." Again he just rolled over me. I said, "Mr. Candler, look, I can't help you one bit with this thing. You're going to have to talk to Judge Guess." He said, "[inaudible], that little son of a bitch put me in jail" [laughter]. Judge Guess was kind of a small man; but when he lost his temper, why, big fellows got out of the way.

Back about 1950 they put on a—'52, I guess it was—they put on a second judge; and that second judge was Judge Clarence Vaughn of Rockdale County, which, of course, was part of our circuit. And we started running two divisions of criminal court instead of one whenever we could; and Roy would take one, and I would take the other. Quite often I would wind up in front of Judge Vaughn. I was very fond of both of our judges. Judge Vaughn looked the part of a judge and was every inch a gentleman. Judge Guess was probably too small to really look the part of a judge. He bought him a big Lincoln one time. You could see him coming up from where he lived out there in

the Great Lakes subdivision; and you could see the top of his hat and you could see him peering out from under the steering wheel and over the dashboard [laughter]. He'd come up here and park—they had a parking place right down here on the west side of the court square, and they parked there. For a long time they had an argument there because in order to widen the streets, they took down—took part of the courthouse square, and there was a question of whether or not the city had ever gotten that property; and I think that came up again when they built this building over here.

One of the things that was awfully entertaining in a way and a nuisance in another was that at that time the streetcar ran from Atlanta; and they used to put their worst streetcars on the Atlanta-Decatur run for one simple reason, and that is because when--they tried for many years to get the franchise to run a streetcar from Atlanta to Decatur, and Decatur finally gave them one, with the stipulation that they would hold the cost of the fare to five cents. And for a long period of time the streetcar to Decatur was the only one that when you got on, you didn't pay the fare. If you got off before you got to the Decatur city limits, you paid a dime. If you went on through Decatur, toward Stone Mountain, you paid a dime. But if you got off in Decatur, you paid a nickel [laughter]. And they—because of the age of the cars that they put on this run, the streetcar would come up South McDonough here; and when it made that turn, it would really screech. And the windows would be open [in the courthouse] in the summertime; there was no air-conditioning. Then it would make that next turn going into East Court Square, and you'd hear that terrible screeching again. It would make that final turn going onto East Ponce de Leon. So whenever you would hear a streetcar coming up the hill there, you would simply suspend court till they got all the way around the courthouse [laughter]. You'd start all over again.

We had a problem here when Roy was ill there, and he couldn't run; and I ran for [inaudible]. John Jernigan from Newton County decided he wanted to be solicitor general and came to me; and he said that he didn't want it but one term, and then he was going to run for governor, and he would be glad to have me as the assistant. I said, "Well, I've been assistant now for [inaudible--possibly "eight"] and a half years, and I don't want to be an assistant anymore. I'm going to run for the job myself." We got into it, and I got—Richard Bell came over to see me, and he said, "Clarence," he says—you know, Hugh [Burgess?] at that time was the solicitor of the misdemeanor

court, and Pooley Hubert was the judge of that court. And Pooley was running for a Superior Court job at that time, and Hubert Morgan was likely to be the new judge. And he [Richard Bell?] said, "You know, Morgan and I don't get along." He said, "It would be impossible for me to be a solicitor of that court with Morgan a judge. I'm going to run for the solicitor general job. I figure you and John Jernigan will split each other's vote, and I will keep mine, and I ought to be able to win." I said, "Well, [inaudible—sounds like "the water's fine"]. We'll see what we can do in the end." Again, this was the time when we ran on a plurality. Well, Richard and I split votes all over this county, looked like, and Jernigan—at that time also Clayton County went out of our circuit and left us with Newton and Rockdale. Jernigan got almost all the vote in Newton County. As usual, Newton County and Rockdale County was going to vote for the small-county man. I got some votes in Rockdale County but not enough. And I went to bed about two o'clock in the morning, and I felt like I'd been beaten by twenty-one votes by Richard. And I got a call from John Jernigan telling me that—"Congratulations," and I said, "I'm afraid you've congratulated the wrong man." He said, "Well, from my count it looks like you've won." I said, "I'm afraid I'm beat"; and I thought my count was pretty accurate. And then it took them, I think, three days to finally get all the votes counted, and I lost by 105 votes. So I congratulated Richard and went on to practicing law.

I will say this, I started out without a file in my office; and for some reason, in some way, there was not a single month that I did not make at least as much money as I'd made as assistant solicitor. Pay had been raised from \$200 to some extent, but it wasn't terribly adequate at the time. I think it was \$6500 a year back then. And I hadn't been in there too long when I had a couple of cases that I've enjoyed. One of them, I was home one night, and I got a call; and this lady said that she had this friend who had been bound over by the magistrate's court for voluntary manslaughter. She was in jail without a bond; she had seven children. Would I please see if I could get her out of jail? I said, yes, I would; and I went down to the jail and stayed there until oh, maybe nine or ten o'clock, when I got her out of jail, and she went on her way. I didn't hear anything from her—of course, I hadn't seen—received—a fee at all [inaudible] telephone call. She was accused of having killed her husband. We—I was sitting in my office one Saturday morning and got a call from a lawyer in Blue Ridge, Georgia, wanting to know if I was [inaudible]—this was about a month later. I said I was. He

said, "Well, she's sitting in my office right now, and her trial's to come up Monday, and we would like—she wants the two of us to represent her. And you know that she doesn't have any money except what she can get from her husband's insurance." She couldn't get that if she was convicted of voluntary manslaughter. And he said, "And what would you charge her?" And I said, "Well, considering everything, I'll charge her five hundred dollars." He said, "Fine, I'll charge her the same thing. I'll be down there to help you try the case. You go ahead and strike the jury, and she'll be there." So Monday morning I went over—of course, I couldn't get to the files on Saturday afternoon. I went over there, picked up the indictment, looked at it, and they called the case, and I stood up and said, "If it please the Court, I expect to demur this indictment." [Inaudible sentence] I said, "Yes, sir." Got a piece of paper and drew up my demurrer in longhand and handed it to—got Richard [Bell] to read it and made a copy of it, I believe, and gave one to Richard and one to the clerk of court. Richard said, "Well, if you don't mind, we will not give this demurrer now." At that time we only had criminal court one week at a time. "So we will give the demurrer after we get through with this court. Put it off." I said, "Fine." I told my client to go home, and I called the lawyer and told him not to come. I went back to the courtroom; I had some other cases that were on the calendar then. And E. T. Hendon [spelling?], who was Richard's assistant at the time, was sort of smiling at me all the way across the big courtroom. Of course, I couldn't understand him, and I went over to see him, and he said, "You can't demur that indictment." I said, "What do you mean, I can't demur it?" He says, "Because it's *your* indictment." I said, "What do you mean, it's my indictment?" He said, "Well, we didn't know how to draw an indictment for voluntary manslaughter, so we went through the files and found where you had drawn one; and we simply copied it. And you can't demur your own indictment" [laughter]. I said, "Well, old buddy, you didn't copy it right." And he said, "What are you talking about?" And I pointed it out to him, and he said, "Oh!" [laughter] And I didn't hear anything from him, and I still didn't hear anything from him, so finally about a month later I was in the clerk's office and pulled the indictment. It had a sheet on it that said, "For want of sufficient information, the within and foregoing indictment is hereby [inaudible—sounds like "null proxy"]." Well, that satisfied my mind a great deal, and I went back to the office; and I'd barely gotten there when I got a call from this lawyer in Blue Ridge saying, "[Inaudible—sounds like "Colonel"?], what happened to our manslaughter

indictment?” I said, “Well, I just—at the clerk’s office, and they have [inaudible].” He said, “Can you get me a certified copy?” I said, “Yes, sir.” He says, “I’m on my way.” So I went over to the clerk’s office and got a certified copy; and he came by. And the man had worked at Atlantic Steel; he [the Blue Ridge attorney] went up over there and picked up the man’s insurance, which I think totaled \$3500. And he came back; he had a power of attorney and left me a check for five hundred dollars and was gone. Two or three days later, I get a call from this woman who had called the first time. She wanted to thank me for the splendid job I had done for her friend, and I was feeling real proud of myself, and I took all the accolades, and she says, “But don’t you think five hundred dollars is an awful lot of money to charge when you didn’t even have to try the case?” [laughter] Then I sort of exploded, and I said, “Good God Almighty, woman! I think I did the lady a greater service by disposing of the case in this manner than if I’d tried the case for a week and subjected her to the trauma of that trial and gotten a not-guilty verdict.” And she says, “Well, yes, I guess if you look at it that way, that’s right.” [laughter]

I had another case one time—some of you may remember it—where there were a number of people accused of sodomy at Suburban Plaza up there. And what had happened was the police had taken a mirror out and put in a two-way mirror where they could look through, and they arrested some fourteen men. Well, I had one young man who was eighteen years old and had signed a full [inaudible] confession. We had three judges by this time: Judge Hubert, who had won the election; Judge Vaughn had died, and Judge Dean had taken his place; and we still had Judge Guess. We knew how Judge Guess felt about any kind of sex crime. He simply would not take a plea agreement; he wanted the jury to decide it, because in those days, the jury fixed the punishment. So I saw young man, and he confirmed what I already knew. I went to see Judge Dean, and he said, “Well, we used to have punishment that used to be life; now it’s only thirty years. Don’t know why they reduced it. But I would expect anybody who gets convicted of it ought to be able to serve thirty years.” I said, “Thank you. I don’t think we’ll plead guilty [inaudible].” And I went to see Pooley Hubert, and Bill Zachary was there, representing one of those people, too. Pooley says, “I’m not going to tell you what I’m going to do. But I’ll tell you this, by God, they should’ve left that [the sentence] at life.” And Bill, probably the only one who could have gotten away with talking to Pooley this way, said, “Pooley”—Bill had been in the office with Pooley;

that's the reason he could say this—he says, “By God, I wasn't born yesterday. I didn't start practicing law yesterday, either. And if you think for one goddamn minute I'm going to plead my man guilty before you, with you talking like that, you just crazy as hell” [laughter]. So they decided they would try my lawsuit. And we got up there, and we were trying before Judge Dean, and Howard Worley was court reporter. We were striking the jury, and the jury was put in the room, and they came back out, and Richard immediately started outlining his case. I looked up, and Howard Worley whirled his chair over to me, and he said, “What are you mad about?” I said, “Nothing.” He said, “You gotta be mad about something. You look like you could bite nails. What is it?” I said, “No, nothing at all.” He said, “Well, you sure do look mad.” And he went on [inaudible]. We tried the case all morning, and we adjourned for lunch. Howard came [inaudible] over to me, and he said, “Do you realize that Richard didn't swear the jury?” I said, “Yes. When you asked me what I was mad about, when I looked up, that was the reason I looked up the way I did. But,” I said, “don't tell him.” He said, “Well, I won't.” He told Bill Dean. We came back from lunch, and Bill Dean called me in, and he says, “I understand Mr. Bell didn't swear the jury.” I said, “That's right, he didn't.” He said, “Well, I'm open for a motion, if you care to make one.” I said, “I don't have any motion I want to make.” He said, “Well, Mr. Bell can't make one, because if you do, you know you can never try the case again. I can't declare a mistrial unless you ask for a mistrial.” I said, “That's right, Your Honor, you can't. I'll try my man here.” He said, “Well, do you think you're being exactly fair?” I said, “Judge, let me put it this way. I think I'm doing exactly the same thing you would do under the same or similar circumstances.” He said, “Oooooohh, but if it were me, I'd have a bigger smile on my face” [laughter].

Sometime thereafter we had this young black woman who had been charged with murdering—the killing of her husband. Seems they were both living in Stone Mountain, and they had a house, they had no children, and she worked at Sears-Roebuck back when the main office was on Ponce de Leon, and she was a waitress in the executive dining room. Seems that every morning he would carry her to work, and every night he would come get her and carry her home. On this Friday night he had picked her up and carried her home and stayed around awhile and left. He came back Saturday morning about eleven o'clock, drunk, stayed a little while, and left again. He came back Sunday afternoon, sober, but he wanted her to go to bed with him; and he

wanted her to go to bed with him right now. And she was mad at him for being gone two nights and refused. He grabbed her by the arm, twisted it, carried her to the bedroom, and threw her on the bed. She bounced off the other side, and they both ran for the gun; but she had moved it while he was gone. She leveled down on him, and the point of the pistol couldn't have been any further [sic] than my finger to Jim Mackay [seated nearby, off-camera]. And she fired; and just as she fired, he fell back over on the bed, and she missed. He peeled off the bed and dashed through the door; and as he went through the door, she fired again and missed. She got to the door of that room; and going through the door of the next room, she fired again and missed. She got to that door, and he was all the way through the kitchen and halfway through the dining room; she fired again and hit him right in the back of the head. He fell forward on his face, dead. Some of the people that I knew at Sears-Roebuck came up and got me to—asked me to represent her, and I told them I would.

I came over here to tell the district attorney's office and the court that they would not have to appoint anybody, because in those days we did not have any kind of public defender. You were appointed and got nothing for a case that you were appointed to unless it was a capital case, and for a long time you didn't do that. But later they passed a law where you'd get \$150 for a capital case, but you still got nothing for any kind of appointment that you got. I went over there to tell them that they wouldn't have to appoint anyone, that I'd been hired to try the case. Dennis Jones was the assistant solicitor; he carried me in to see Judge Guess. And he told Judge Guess the circumstances I have just related. Judge Guess looks at me and said, "My God, Clarence, that's cold-blooded murder." Well, I couldn't let him talk about my client that way, so I said, "May it please the Court, I'm going to plead misfortunate accident" [laughter]. They both looked at me. I said, "Well, it follows; she missed him three times at point-blank range. She hit him when he was all the way through the kitchen and halfway through the dining room. It had to be an accident, and it was his misfortune" [laughter]. They—the courthouse got a little fun out of that, and so I tried the case. The jury gave no less than four nor more than seven years for manslaughter. And Jack Smith was holding the case for me in the misdemeanor court—at that time he was solicitor for the misdemeanor court. And I went dashing down there to see about my case, and he'd already released the jury, so I wouldn't have to try it [inaudible]. And he said, "Clarence, what happened to your murder case?" I said, "Jack, I lost it.

They found her guilty of manslaughter and gave her four to seven years.” He said, “Four to seven years. Let me see now. Oh, yeah—I see that now. I don’t know why they didn’t turn her loose—it’s obvious what happened. There he was, on his knees, praying for God to strike her dead, and she was afraid his prayers might be answered; so she shot him in self-defense” [laughter].

JAMES MACKAY: Judge, our time is up, but I want to—I find it so interesting as a brother lawyer that I want to get some more hours with Judge Peeler, because it reminds me of an entirely different climate around this courthouse, certainly with the knowledge of all of the prosecutors, judges—we have seven Superior Court judges now; they’re asking for eight. There’s a heavy turnover in the prosecuting office and that sort of thing. And I’m going to pursue this. And I’m glad you mentioned Howard Worley, because he is the chairman of our I Remember Hour, videotaped history project, and was in the office this morning and expressed his regret that he couldn’t be here because he said he had to work when he had work to do. We’re delighted to have Mrs. Peeler here, and I’d like to ask Barbara Peeler to stand up, if you would, and the other members of the family. Barbara, we’re glad to have you.

VOICE OF BARBARA PEELER: This is [inaudible—sounds like “Gregory”]. [Images on screen are unfocused; apparently Mrs. Peeler is introducing a family member, perhaps a son. Applause follows.]

JAMES MACKAY: I think, since we have run sixty-five minutes, if we will do what I suggested and y’all let me escort the judge and his family into the *Gone with the Wind* exhibit, which is free—you’re going first class this afternoon. We have some light refreshments, and I ask that you join in a round of applause for our speaker for a most interesting videotaped session. [Applause]

END OF RECORDING