

Unnamed Director of the DeKalb Historical Society's introduces Judge Peeler and Mr. Stone; recording begins just after the Director has begun speaking.

DHS DIRECTOR: . . . real privilege to step into Jim Mackay's shoes. I don't know if I could do what he's done, but I was really fortunate in my first effort to come up with Mr. Stone, Noah Stone, the oldest lawyer, I believe, that's practicing in the state of Georgia, I'm sure, and Judge Clarence Peeler, who is a senior judge of the DeKalb Superior Court and a practicing [inaudible] been here for a long time.

I'll tell you a little something about both of them, and I'll tell you a little bit about the program, too. You can see we've got one picture up here on the table now of Judge Hutchison, and we've got four others. And we're going to let them tell us a few stories about them, and I think you'll find it very interesting and something that's probably not written down anywhere. This will probably be the only recording that we'll have with this information.

Mr. Stone was born in 1894 in Berrien County. He attended school in Nashville, Georgia, and he taught grade school for two years. In 1918 he got his law degree from Atlanta Law School, and he went to Officers' Training School, Camp Lee, Virginia, in 1918, and he was admitted to the practice of law on April 1, 1919. He was admitted to the Georgia Appellate Courts in 1924, the Supreme Court of Georgia in 1925, the Fifth Circuit Court of Appeals of the United States in 1943. He joined the Atlanta Lawyers Club in 1923, and he served four years as chairman of the local board of trustees of the Avondale school district. He was appointed to the draft board in 1948, and he served there for at least ten years and received a certificate from them for his service [rest of sentence inaudible]. He was commander of the Harold Byrd Post No. 66 of the American Legion in 1949 and '50. He was the city attorney for the city of Avondale from 1942 to '53 and '57 to '74. Says here he retired at eighty, but I understand--when I called him today, he was at the office. And, let's see, he was eighty--how many years ago was that? 1894 to--

NOAH STONE: Fourteen years

DHS DIRECTOR: Fourteen years ago, so I guess sort of like those prizefighters, I suppose. It's hard to really quit, isn't it? His father was William Riley Stone, and his mother was Vianna Faircloth. They were born in Berrien County, Georgia.

Judge Peeler, he was born in Athens, Georgia, on October 30, 1918, and moved to Atlanta about a year later. He came to DeKalb County in 1930, somewhere around '30 or '31, and attended Chamblee High School. That must really have been country back then. I

lived out in Chamblee and Dunwoody in 1950 and thought it was country then. He graduated from there in 1935 and then graduated from the Citadel in 1939. He couldn't get a commission in the Army because of his weight, and he wasn't old enough. At any rate he went to Atlanta Law School and then joined the Army, I guess, when they permitted him to. And after that he went back to Emory for a while, law school there, and then he joined the assistant solicitor, which is now the district attorney, and worked there from '48 to '56. After working as assistant solicitor for a while, he decided to go back and finish his law degree. He'd already passed the bar, so he went back to Atlanta Law School and finished up there. He became a member of the bar in 1946, even before he went to Emory. He practiced law from 1956 to 1965 in private practice in Decatur, and then in 1965 he was appointed and subsequently elected as a judge in the Superior Court of DeKalb County. He retired in November of 1984 and since then has been serving as a senior judge who is called on as often as possible. He served [inaudible phrase] in active service. He has four children by his first wife, who died; and he has one child by his second wife. His second child--the last child--is fifteen, and his others, of course, are grown and on their own.

So, I'd like to welcome them and thank you very much for being here today and just turn it over to y'all if you would tell us stories that you think might be of historical value as well as interest, we'd certainly appreciate it.

CLARENCE PEELER: Let me say something first about Mr. Stone. When I was a right young lawyer, I knew him. And if you got in trouble on a civil case in the Federal Court, you hired Mr. Stone to get it straightened out for you. He was what they call a lawyer's lawyer. He not only knew the law, but he was very inventive in how to apply it. [To Mr. Stone] Mr. Stone, you can start off [inaudible] Judge Hutchison.

NOAH STONE, *rising*: I would rather talk about Judge Hutchison than about me. The only thing I can say about myself is that I occupy the same position the man did who fell out the window of an eighteen-story building. And on his way down I heard him at the tenth floor say, "Good Lord, I'm still in good shape going down." I'll be ninety-five my next birthday, and I'm falling fast [*laughter*].

To talk about Judge Hutchison, he is a man that I admire. As a matter of fact, I admire anybody who came from south Georgia or ever went back down there and come back here. Judge Hutchison was from Jonesboro, where he was admitted to the bar. He was employed by the timber people, who were cutting the timber in my section of the

country. He established a law office down in Ashland--Ashland, Georgia. That's where Dad represented the timber company. If you go out to the Westview Cemetery, you'll see that big, large shaft sticking way up in the air. That's one of Judge Hutchison's clients buried there. [Inaudible comment]

I always got along with Judge Hutchison. I never had no trouble with him; and, in fact, I haven't had any trouble but with one judge in my whole life, and he did more for me than all the other judges. After he got [inaudible] election on what I should do, I soon learned how to do it the way he was talking about it. [Inaudible comment] I don't know of anything else I can add to it, except knowing him during all his practicing in life. After he ceased being a judge of the Stone Mountain Circuit, he was appointed to the Appellate Court and served on the appellate bench there. [To Judge Peeler] Judge, can you add to that?

CP, *rising*: Yes, I hope that I don't [rest of comment inaudible]. Judge Hutchison was not universally revered. But he had some people who were, I would say, detractors. [Inaudible phrase] but I never did know the judge personally. One of the problems was that he wanted--in those days we had one week of civil court and one week of criminal court in DeKalb County every three months. We also had one week each in Clayton and in Rockdale-Newton, all part of Stone Mountain Circuit at the time. When Judge Hutchison was not in court, he wouldn't come out to the courthouse and stay in his office. He went up to some lawyer's office in Atlanta. A lawyer in DeKalb County or any other county that had an order to sign, they had to track him down there to get it signed. The story goes that he had a very wealthy brother, and he was appointed to the bench after his brother had made a nice contribution to the man who won the governorship. And he had some problems making up his mind. The story was that he was really not quite suited to be a trial judge where you have to shoot from the hip, as they call it. Not the best [inaudible] when you've got to rule and get going. He would do his best to avoid any kind of ruling at all like he was supposed to [rest of sentence inaudible].

The story goes that every time he ran for election, his brother would send some emissaries out. And at that time, we had poll tax, and very few people would vote--you had to pay your poll tax in order to vote. They would go to a fellow who had a rather large family all registered to vote and [inaudible] the first time to see whether or not he would vote for Judge Hutchison or if he would not. The fellow, the emissary, would say, "Well, you know, Judge Hutchison needs a precinct captain in this precinct. And here's ten

dollars for expenses, and we'd like for you to help him out." [Inaudible clause] he had a right good turnout and pretty well carried the precinct.

He did a few things there, and then one of the brother's friends went to him one day and said, "I just don't understand why you do it."

He said, "What do you mean?"

He said, "All that money to get your brother elected every time he runs for judge."

He said, "Well, it's cheaper than supporting him" [*laughter*].

He went on various things; and one time, as Judge Stone says, he got on the appellate bench. As you can see from these portraits--we have a number of them--and usually when a judge retires or dies [inaudible due to background noise] portrait of him, and [rest inaudible]. And when Judge Hutchison was right at, I think, [inaudible], found that they hadn't had the outswelling of support [inaudible], the family went to Murphey Candler, who at the time was president of the bar, and said that it was time to have a picture painted of Judge Hutchison. He said he'd bring it up at the next Bar Association, and he did. The motion was defeated. Times were not real good back then, and [inaudible] back to Murphey and said, "Murphey, we know that money's hard to come by. And if the bar association will sponsor the hanging of the portrait in the courtroom, we will pay for the portrait." So, he brought it up at the next bar association meeting, and it was again narrowly defeated. Murphey couldn't let that go in that way, so he waited till everybody got back and [inaudible] every one of them and told them that they couldn't do that [inaudible]. They had a called meeting, and it was passed that they would sponsor the hanging of the portrait if the family would pay for it. They had the ceremony, and Judge H. O. Hubert [*gestures*] right over there and John Wesley Weeks [inaudible]. And John Wesley [inaudible], "My, don't he look natural." "Yeah, he's just about to [inaudible]" [*laughter*].

Those are some of the things that I have heard about him. As I say, I never knew Judge Hutchison. And he did successfully complete his career as a Superior Court judge and as a judge in the Supreme Court. I'm sure he did [rest inaudible]. Thank you.

DHS DIRECTOR: Thank you. Next we will do Judge Davis. Let me step in here to [inaudible] [*Removes portrait from table and replaces Judge Hutchison's portrait with Judge Davis's portrait.*] [*Exchange of inaudible comments as portraits are moved*] OK, Mr. Stone, maybe you'll give us a couple of memories about Judge Davis.

NS: Well, Judge Davis was a country boy [inaudible]. Right after World War I he became associated with Ryan & Middlebrooks, with that firm, for several years, run for the legislature and got elected to the legislature, [rest inaudible; brief information about his family]. He was always mindful. We belonged to the same Masonic lodge. We belonged to the same American Legion post. We both voted the Democratic ticket, and we got along nice. And he was a right good lawyer, too. He did a lot of good things for you if he wanted to. I remember about that time I was employed to represent the City of Avondale Estates, and we got a belligerent city manager, and he didn't like some of the things that I did or said, so I was relieved of duty. A few days after that, they caught their new city attorney attending church with an integrated audience, and Judge Davis didn't like it. So, the next morning the other city attorney was fired, and I was rehired. So, I stayed there, and I was city attorney of Avondale Estates for thirty-two years; and that's whenever I retired, when I was eighty.

But I worked with Judge Davis, I loved him and admired him all through his life and also worked with him after he came back from Congress and then the publisher of his newspaper. [To CP] And I'll let you tell us of any weaknesses he may have had [laughter].

DHS DIRECTOR, *off-camera*: What is the term up there as Judge Curran Davis--from 1934 to 1947? And this judge, Judge Hutchison, was 1919 to 1934. Were they--just one judge, I suppose, in the circuit at that time?

CP: [Inaudible; references when a judge or judges were to the circuit]

UNKNOWN PERSON, *off-camera*: It was DeKalb, Clayton, Rockdale, and Newton.

NS: Don't leave out Fairburn.

CP: That would be Fulton County. That wasn't part of our circuit [inaudible].

UNKNOWN PERSON, *off-camera*: That would be Campbell, it was Campbell County.

UNKNOWN PERSON—NS? *off-camera*: Didn't know about Campbell County.

CP: Judge Davis [inaudible phrase], as much as Mr. Stone has already explained to you, he was considered to be a fairly strict judge. In those days, when crime was not nearly as bad as it is now, [inaudible] seemed to want to stay away from DeKalb County. Part of that was because Judge Davis believed in fairly severe sentences, and in those days they did not have any way to get them out before they served their time. I know one time [inaudible] a lady had come to him because her son had been caught stealing on more than one occasion. And she said, "Oh, he just couldn't help it. He has this problem."

And he looked at her and said, "Did you ever see him steal a hot stove?" And there wasn't any response [inaudible], and he served the rest of his time.

Judge Davis swore me in on February 4, 1946; I had gotten home on [inaudible—terminal?] leave from the Army in October of '45. And prior to that I had [inaudible] Atlanta Law School four years before, and I took a cram course and passed the bar in December. Judge Davis called up as soon as he saw my name on the roster [inaudible] that I was going to be sworn in. And I appreciated it then and appreciate it now. I'll say this, Mr. Stone said [inaudible] what kind of lawyer he was, I haven't researched the figures to [inaudible] whether or not this is correct. But I understand that in the twelve years that he was on the bench, thirteen years, he was the first one to handle a case [inaudible—sounds like "twenty times"?]. I don't know whether he would be able to get away with that with our present [inaudible]. But he knew the law, and he applied it, and he was, in my mind, a really fine judge. He became a Congressman, and I did not have much contact with him after he left bench. [Inaudible comment]

DHS DIRECTOR, *off-camera*: He became a Congressman after '47, then?

CP: Yes, he left the bench to go to Congress, and Frank Guess will be your next [inaudible], succeeding him.

Davis's portrait is removed from the table and replaced with one of Judge Guess.

DHS DIRECTOR, *off-camera*: Frank Guess was the [inaudible]. What's the date on his?

NS: '47 to '68

DHS DIRECTOR, *off-camera*: And he was the last [inaudible] judge in the circuit.

NS, *off-camera*: He was the last [rest inaudible] '49 to '50 and [inaudible] Judge Vaughn. Judge Vaughn came on [inaudible].

[*Brief exchange of inaudible comments.*]

DHS DIRECTOR: All right. Mr. Stone, you want to start with Judge Guess?

NS, *rising*: I don't want to start too much with him, he's not here to reply [*laughter*]. It was my pleasure to meet first Judge Guess's father, Carl Guess. He lived in Stone Mountain. It looked like, and as you and I have seen, your father has an appointed position, and you're the only child, and you have to walk along behind him. And that's the way the two Guesses appeared for quite some time. Carl was in the legislature; and as far as I know, he was there when I came to Atlanta. He was there until Frank got to be judge. The first time he was appointed judge was in city court. This has always been an

amusement to me, [inaudible] could have a city court in DeKalb County and get away with it. They passed [inaudible] and create a city court, get a judge, hold court five or six times, and that's the way [inaudible] repeal the statute. They did that three times with city courts. So, we had the city court, and the judge at that time would try cases one weekend, he went home, the legislature was about to adjourn; and when he woke up Monday morning, his court had been abolished. Mr. Carl Guess was in the legislature. The new city court had been created, and Frank Guess had been named judge. It all happened within a period of two days, they passed a law to name him judge. I didn't think he even knew where the courthouse was. But he surprised me. When he got in here, I tried many cases before Frank Guess, and he didn't get you in a hole or make fun of you or criticize you. He knew more than I did, and I admired him and loved him as long as he was on the bench and until he retired. He's one of the first men that I know of in the Stone Mountain Circuit that voluntarily retired; I believe that's correct. And at that time, I had become acquainted with the Guess family, and there are many jokes about them. In one of them, someone asks a person who a certain fellow was, and he says, "He's another one of these damn Guesses" [*laughter*]. They had good standing in the county, and [rest inaudible].
[Sits; CP stands and continues.]

CP: Well, as I've already said, Judge Davis appointed me and shortly afterward went to Congress, and Frank Guess succeeded him. I became very close to Frank Guess. I would ride [inaudible] with him when he would go to the other counties to hold court. We'd go to Clayton County, and we'd go to Rockdale, and we'd go to Newton. Sometimes we'd be kind of late getting back. But at this time dockets were getting to be heavier than they were in the past. And also, at this time, [inaudible phrase] keeping the office open [inaudible] Saturdays. And from time to time, I know of one occasion that we didn't finish what we were doing Saturday morning, and we left to go lunch and came back and found the courthouse locked. We crawled back in the window-- Frank Guess was on the ground floor--and we crawled back into the window, and went back up to the courtroom to finish the case. Now, I had [rest inaudible] hold court until nine or ten o'clock at night. Sometimes the weather would be kind of rough.

Judge Guess was a very quiet man. He didn't try to throw his word around too much, but those who knew him recognized that once he made up his mind about something, that was it. I can remember Scott Candler, who at that time had the appellation of being a dictator in DeKalb County—he wasn't; I was always very fond of

Scott. But he called me one time, I was in the solicitor's office. He started in telling me something. I listened to him, and I said, "Mr. Candler, I'm sorry [rest inaudible]." He kept right on as though he hadn't heard me. I listened for a while longer and said, "Well, Mr. Candler, I've already told you there's not a thing I can do for you. I guess you're going to have to talk to Judge Guess." "Oh, no. I talked to that [inaudible], and he sent me to jail" [laughter].

NS: May I interrupt?

CP: Yes, sir.

NS: He was always winking at you.

CP: But we also had a lot of fun together. At that time there wasn't but one [rest inaudible]. And we had a close relationship with our judges, and there was a lot of kidding. One time Roy came up to me to talk, and Roy said, "I tell you, [inaudible; background noise]." [Most of rest inaudible; anecdote about "inferiority complex," ending with, "Maybe you don't have an inferiority complex. Maybe you are inferior," followed by laughter].

But he was a fine man, and he was a good friend of mine. He handled his court well. But he was simply swamped with work, and that [rest inaudible]. [Inaudible] Judge Clarence Vaughn expanded from that time [inaudible phrase] for DeKalb County alone.

In 1956 Clayton County left our circuit and became a circuit alone. And it was later--I'm not really sure what the date is--Newton County joined with Walton County to become [inaudible] circuit. And then '76 or something like that, Rockdale County left the circuit and became a circuit of its own. Now we have DeKalb County alone, and we have some eight judges doing the job for DeKalb County, where we used to have one do the job for all four counties. [Inaudible sentence] I tell you, the workload increase was [inaudible] to get behind and hard to get out from under, even now. You used to get a judge [inaudible] even now before the appointment of Judge Maddox, the record can show you that every day, on the average--not day by day by day, but on the average--every city or superior court judge in DeKalb County got six new civil cases and four new criminal felony cases assigned to them. Now, you take one of those cases and try it for three weeks, and you see how far you are behind right then. That's why they like to call some of the senior judges to help them—*Recording #1 ends abruptly. Recording #2 begins afterward, with slight gap between.*

DHS DIRECTOR, *to Judge Peeler*: Judge, when Judge Guess was here, was there a State Court?

CP: Yes

DHS DIRECTOR: Can you give a brief history of--

CP: I can't give you a real history of it. What they did is--Gene Talmadge was governor of Georgia, and he had a vacancy in a small court, sort of a small claims court, called it a State Court, that was headquartered up in Mason Mill Avenue. And he appointed Oscar Mitchell to the job, and Oscar had to move up there right quick, because it was necessary for him to live in the area that was covered by this court. He rented a room up there. Then they made that court a county-wide court and moved it to Decatur, and Oscar came on out here as judge of that court; and he stayed there a long time until he was beaten by Clarence Seeliger [rest inaudible due to siren outside] and remember the history of that as well as I do [inaudible; siren] some time ago.

Frank Guess was a fine judge. Let me say this: I think we've been extremely fortunate in DeKalb County, in that we have had a good bench. The only one that I have derogatory remarks made [inaudible] prior to the time that I [inaudible] that I knew were fine judges that had a dedication to their work, and they worked extremely long hours from time to time.

I know that one of my cases I had a lawyer that I knew was somewhat longwinded; and I told my court reporter not to plan anything during the week. We were going to go pretty long and pretty hard till I finished this case, because I had another [inaudible—gavel?] to begin Monday. So, we went every night till six or seven o'clock. And Friday morning I looked at Abby Brown, who was my court reporter. She looked like she'd been drug [rest inaudible; audience noise]. And I called my other court reporter in, Jeff [last name inaudible—Fuller?], and I said, "Jeff, Abby looks like she's had it. You got anything on file? Would you be able to take over this case and finish it for me?" [Inaudible comment or phrase] So I called Abby and told her, "I want you to go home and go to bed. You just look like you've had it."

So, we went in Friday, and I tried to do it somewhat late, and finally at midnight on Friday night, I called them [the jury] in to send them home, and the foreman spoke up, and he said, "Judge, we've almost got the verdict. If you'll give us just a little more time, I think we can make [inaudible; audience noise] we won't have to come back here Saturday." And I sent them back; and finally, at two o'clock in the morning, the [inaudible]

knocked on the door and came in and said, “Judge, we can’t quite make it, but we feel like if we sleep on it, we can make it work.” And I sent them home at two in the morning and had them back at nine o’clock Saturday morning and made the verdict by noon Saturday. Those are not the kind of hours I prefer. That’s about all I have.

UNKNOWN SPEAKER, *off-camera*: Any family relationship between this gentleman and Marion Guess?

CP: He’s his uncle. He’s the uncle of Marion Guess. Marion’s father was Frank Guess’s brother.

DHS DIRECTOR: All right, let’s go to Judge Vaughn. He served from 1951 to 1960. [*Removes Judge Guess’s portrait and replaces it with Judge Vaughn’s.*] Let’s see, I think this will probably sit up here OK. [*Brief spoken exchanges as portrait is repositioned.*] All right, Mr. Stone, would you like to share some memories about Judge Vaughn?

NS, *standing*: Well, I knew Judge Vaughn. He’s another one of our American Legion boys. [*Inaudible comment; background noise*] I did not know as much about east DeKalb County as I thought I did.

I got in a right hefty little piece of legislation [*sic; litigation?*], and it was referred to Judge Vaughn for trial. And it turned up that Bond Almand was on the other side. And Clarence got us back in the room, and I think between Bond Almand and Clarence Vaughn, they’re related to two-thirds of the people in the eastern part of DeKalb County [*laughter*]. I liked to never got a jury without [*inaudible*] to it.

Those two or three more [*inaudible*] there, and I’m going to beg [*inaudible*] tell you this, because many people don’t know. Clarence Vaughn, Bond Almand, Jim Davis, and Bill Hartsfield were all in the Legislature. Those men worked together. Hartsfield become mayor of Atlanta, Vaughn became a judge, Bond was an attorney, and they controlled the only organization of the city of Atlanta together. They did it nice, quiet, and no hard feelings as far as I can find out ever happened between them all the way through it. Of course, Clarence died prematurely, didn’t live out the normal life expectancy. And I admired him greatly [*sits*].

CP, *rising*: Well, before Judge Vaughn became a judge, [*inaudible clause*], [*inaudible*] prosecuting [*inaudible*] there in Rockdale County; he was from Rockdale County. And his son was [*inaudible*] judge of the 2nd Circuit of Rockdale County [*rest inaudible*]. But Judge Vaughn was—let me say this about him personally. He was every inch a gentleman, and he presided over his court with as much dignity as anyone I’ve ever

seen [inaudible]. He was quiet and didn't try to throw his weight around. I remember one extremely [inaudible—substantive?] case. It was a rape case that happened down in Stone Mountain many years ago. He had fairly obstreperous lawyers. One of them tried to charge me one time with [inaudible; audience and outside noise]. [Several inaudible comments] And he didn't know when to quit.

And Judge Vaughn [inaudible], and he would say, "Mr. Edwards"—that was Jesse, [inaudible] Newton County—"I find that remark contentious [rest inaudible]." And that went on for two days, [inaudible].

And Jesse stopped what he was doing and said, "Your Honor says you find that remark contentious. Does that mean you're holding me in contempt of court?"

Judge Vaughn said, "Yes, sir. That's exactly what I'm doing."

He said, "Well, what do you expect to do about it?"

He said, [inaudible] [*Points upward.*]

He said, "I don't think I want to try this case," and [inaudible] out of the courtroom.

Judge Vaughn sent the bailiff for him and brought him back in there to finish the trial.

But Judge Vaughn had a great deal of wisdom. He had the demeanor and the [inaudible] of a Superior Court judge as much as any man that I think I've ever seen. I tried many cases with him when I was in the solicitor's office, and he was [inaudible] judge [rest inaudible].

UNKNOWN SPEAKER, *off-camera*: So, what did he do to the [rest inaudible]?

CP: He put him jail. And it was pretty close to Christmas, and he had two of them in jail—one of them was Bruce. You remember Bruce was the guy that got shot in the leg when he was running for commissioner of something, a statewide race. And I've forgot now what the job was he was running for. But he was pretty much a wild man. And Joe was the youngest and most sensible of the three of them, and he did plea with Judge Vaughn and said that Jesse had acquired some kind of a mental disability while he was in the armed forces, and he had been in a mental hospital. For that reason, he didn't think he would put him in jail. Anyway, Judge Vaughn sentenced both Jesse and Bruce to jail. He went down there and Judge Vaughn called me in one day and says, "Clarence"—by the way, his name was Clarence Vaughn, my name is Clarence Peeler—he said, "I want you to go down there and talk to the [inaudible] boys and tell them that if they will simply apologize to the court and say that they will not repeat this obstreperous behavior that I

will let them out. I would like to see them out in time for Christmas.” So, I went down there, and Jesse and Bruce were behind the bars, and told them what Judge Vaughn said. Bruce spoke up and said, “Hell no! I don’t want him to do any favors for me. I’ll serve my time.”

Jesse said, “Wait a minute! [*Laughs so hard that his comment is inaudible.*].” [*Audience laughter*] So I think Judge Guess did let them out—I mean, Judge Vaughn let them out in time for them to spend Christmas with their families. [*Inaudible*] prevailed.

DHS DIRECTOR, *speaking as portraits are switched out*: We have one more, and we’re getting close to the end of time, so the next one is Judge H. L. Hubert, sometimes known as “Hoolie.” Judge Peeler or Mr. Stone will have to tell you about that. I know him the judge as Hoolie, but he was here from 1957 to 1976.

NS: I’ll let the judge talk about it.

CP, *rising*: I have a story or two about him myself. Hoolie and I were close.

UNKNOWN SPEAKER, *off-camera, referring to portrait*: Could you put that on the windowsill?

[*Discussion ensues about placement and window-mounted air-conditioner; portrait is instead held in place on the table by one of the participants.*]

CP: Judge Hubert and I were close. We had tried cases with each other and against each other for many years. I know some of you can remember when our esteemed sheriff Clem Jolly was indicted for taking funds—money—from the bond funds. I had come before the grand jury and told them it looked like we were going to have to present the case against Mr. Jolly, and one man stood up, and he said, “I’ve known Clem Jolly, man and boy, for seventy-five years, and I can’t vote for an indictment against him.”

I said, “Well, I’m not presenting an indictment now. I’m just saying that it looks like we’re going to have to. And under the law, Mr. Jolly will have an opportunity to come into the grand jury room as an elected official and give his side of the story.”

And it seemed, the way we got it, is an audit had been conducted. Scott came to me and said that they had this evidence that Mr. Jolly had taken this money. It wasn’t a whole lot of money, [*inaudible*]. But it was about two or three thousand dollars. And said he had gone to him and told him that if he would just do so, he would let him sign a note [*inaudible*] pay the money back. Mr. Jolly told him it was none of his business what he did with that money [*rest inaudible*]; so, he presented it to us. So, he carried it to the grand jury, and [*inaudible*] they told him the same thing. And the reason I’m saying all this is

because, although [inaudible] Roy Leathers [inaudible] was going to try the case—he was solicitor general—[inaudible clause] cases, we'd had to draw it up pretty carefully to get around the *City of Warner Robins* case, where it would not be thrown out [rest inaudible].

So about 4:00 on a Monday morning—the trial was supposed to start at nine—I got a telephone call from Roy Leathers saying, “Clarence, I [inaudible] can't possibly try this case. You'll have to try it. I called Hoolie Hubert, and he's going to come help you.” So, I was sitting in my office by about 6:30, going over everything [inaudible] thinking [inaudible] help somebody [rest inaudible]; and Hoolie knocked on the door. And he says, “Clarence, Roy called me and told me to come up here and hold your hand. I don't know a thing about the case.” I started to tell him about it.

He said, “You know they're going to [inaudible].”

I said, “Yes, I know that.” He [inaudible] *City of Warner Robins* case, and I told him what I knew. [inaudible] so we would be successful, and I said, “What do you think?” So, we went up, and, of course, the first thing they did was to [rest inaudible]. I argued [rest inaudible; background noise].

We tried the case for just about a week. Their defense was that he had paid the money back. They were very careful in their selection of jury, they were [inaudible] interested in young persons be represented. And I produced nineteen checks which I put in evidence that Clem Jolly had spent to keep [inaudible] out of jail in other counties. And so, they found the verdict not guilty. And I went to one of my jurors [inaudible phrases] succeeded Frank Guess as City Court judge--it was his son-in-law--and I said, “I'd like you to tell me what I missed, what I did wrong in trying that case.”

He said, “Nothing. You proved everything you said you were going to do in the opening statement. You made one mistake.”

I said, “What was that?”

He said, “If you think for one minute we were going to put old Clem Jolly in the penitentiary after he paid the money back, you're mistaken” [audience laughter].

Hoolie sat with me on that [inaudible]. He and I were friends for a long, long time. He became a judge before I did; and after we were both judges for a while, we enjoyed our friendship even more. Hoolie was a man—I think he was probably the most brilliant [inaudible] we had on the bench. He was sometimes impatient. And they tell the story of the young lawyer from Atlanta came out here, and he had a case before Judge Hubert [rest inaudible]. And he said, “B. J., I've never been before Judge Hubert, but I understand

that he is sort of irascible, and I don't want to do anything wrong. Tell me, if you would, what you can do to sort of stay on his good side. How does he like his cases presented?"

And he said, "Well, yeah, I'm glad you asked me about his peculiarities. In the first place, he don't like to admit it, but he's hard of hearing. So, if you want to really stay on his good side, speak up real loud so he'll understand what you're saying to him. And the other thing is, if you've got some point you really depend on, repeat it. He wants you to repeat it two or three times so that he'll know that that's the bottom rung you're really depending on." And the fellow thanked him and went on to court.

Hoolie was *not* hard of hearing; he had very acute hearing. If there's anything he hated, it was to have someone repeat something [inaudible] [laughter]. Well, this fellow was going along, and Hoolie grabbed his coat, as he had a habit of doing, like this, and [inaudible], "Goddammit, I'm not deaf! I heard you the first time!" [laughter].

The fellow sort of looked at him and says, "Well, Your Honor, I didn't know how you liked your cases presented, and I asked a local attorney, and he said that that's the way you liked them presented."

He said, "Who told you that?"

He said, "B. J. Smith."

He said, "Sheriff, go get B. J. Smith!" They brought B. J. in, and he walks in, and he said, "B. J., did you tell this man I was hard of hearing?"

He said, "Yes sir, I did."

He said, "Well, what in the hell did you tell him that for? You know damn well I'm not hard of hearing!"

He said, "Well, I don't know. You never seemed to hear anything I tried to tell you" [laughter].

But Hoolie retired, and he was Chief Judge for a while. He and I had a long-lasting friendship, loved good literature, and he read omnivorously; and I didn't read quite that much, but [inaudible] we always had something in addition to the law to talk about [sits].

DHS DIRECTOR: Thank you. [To NS] Do you have anything you want to tell us about—

NS: No [inaudible comment]. We got another minute?

DHS DIRECTOR: Well, that's it.

NS, *rising*: I would like to [rest inaudible]. I don't want to let this time go by because we've had a number of brilliant judges, some of them you all may not know

about [rest inaudible]. One of them was S. L. Roan, R-O-A-N. He was judge of Stone Mountain Circuit; he was designated to try Leo Frank in a murder case in Atlanta [inaudible]. Judge Roan went through a full week of that trial before they got through with it, had all manner of trouble politically and otherwise, and I never at any time heard anyone criticize Judge Roan for anything he did. After he [inaudible] on the bench here, he was appointed to the Court of Appeals of Georgia and served in Appellate Court for several years.

And I can't let the time go by except to talk about Judge Candler. Any of you all ever remember a Candler being a judge of Superior Court? [*Inaudible response from audience.*] Well, he was one of the good men, and he was a very outspoken individual. Judge Candler I have had the pleasure of hearing make a talk one time. He had an unfortunate accident; a train run over and cut off both feet. He was a captain in the National Guard and judge of the Stone Mountain Circuit. We had a man in the county who got a little out of line, killed his wife and some people didn't think it was necessary to try him, and they were fixing to try to lynch him. Judge Candler put on his National Guard uniform and called out a squad of soldiers [inaudible clause], got on the train, and took him to Fulton County, where he went to the county jail. When time to try him, Judge said that he'd get up of a morning, put on his captain's uniform, take a squad of soldiers, catch the train, go down to Atlanta and get the prisoner, and bring him back out here. He'd go back in the room, pull off his uniform, put on his civilian clothes, try him all day, and in the afternoon he'd go back and change clothes and carry him back to Fulton County. He did that for a whole week trial. And Judge Candler delivered a wonderful speech in connection about it. It was very interesting to hear it. And he says, "You after doing that for a week, still we hung him" [*laughter*]. It was an excellent thing.

I brought one or two other things that I would like you to know that you probably don't know. The Legislature moved the county seat of DeKalb County from Decatur to Stone Mountain. They got an injunction [inaudible] against moving the courthouse when the next session of the Legislature come [inaudible] and repealed the law and retained the county seat here. We had things like that [rest inaudible]. Many things have happened that way.

It's been my pleasure since 1922 living in DeKalb County. I love that everybody's treated nice, and if I can hold out, I'm quit practicing law on January 1st [*sits*] [*general applause*].

DHS DIRECTOR: Thank you very much. That was fascinating. Those are just the kind of stories that nobody ever writes down. They're the lost part of history.

We have some refreshments now and a chance to socialize. [*Screen goes black; audio continues.*] So if our speakers would lead our way back to the Superior Courtroom—*recording stops abruptly.*

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