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Gwinn H. Nixon

University of Georgia School of Law

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ORAL HISTORY PROJECT

Tape 9
Erwin C. Surrency interviewing
Gwinn H. Nixon
February 3, 1983

SPEAKER: ECS

Will you please tell us about when you entered Law School?

SPEAKER: Nixon

I entered Law School in the summer of 1927. It was about mid-way of the summer school and the reason that I was able to enter at that time was that my mother had sold the Daniel Field airport to the City of Augusta and got some money which she very generously shared with her four children. I was given a portion of the receipts with the view that I could do anything I chose with the money. I decided that I wanted to be a lawyer and I wanted to go to law school in Athens. I went to Athens. I saw Judge George F. Gober who was then the President of the Law School. At that time the other professors were Walter G. Cornett, Sylvanus Morris, Bob McWhorter and Stephen C. Upson. Later on the following year, not that school year, but the next year, 1928-29, Dean J. Alton Hosch became a member of the faculty and so did Harry N. Edmunds, who, up until that time, had been Dean of the Law School at the University of South Carolina. He came over and joined the faculty. Judge Gober was a very old man at the time or so he seemed to me. He may not have been half so old as he looked. He suffered from very severe cataracts and wore thick glasses for the lenses of which must have been a good

quarter of an inch or more thick. He could only see by holding something up to within a few inches of his face. He also was in varying stages of senility. At times he was in excellent condition and at other times he was quite senile. He was very active. He was working all the time. When I first knew him he was working on a textbook about evidence, The Georgia Law of Evidence. He subsequently published the book. I proofread portions of the book while I was in law school and served as librarian of the law library. I'll tell you more about that later. When I first applied at the Law School Judge Gober said, "it's not too late, you can come in now." I can give you books to read and you can read them and then I'll give you an exam. If you do alright, I'll give you credit in the course. First of all he handed me a book on partnership or sales. It was one of the hornbooks that was commonly used in Law School about that time. The case method was not used in Georgia when I first entered. The effect of giving me these books was that I was able, through the courses that I took and through reading a hornbook, to complete the requirements for my freshman year. I entered the sophomore class in September. This was the first time that I came under the glare of Sylvanus Morris. It was something to stand in awe of. This year under Sylvanus Morris I was scared to death. I remember one of the first classes that I had under him. I asked the meaning of the word distraint. It was a word that I had read in connection with the lessons of that day. I did not have a law dictionary in my room so I was unable to look it up then. He looked at me and then he looked away. He always had a way of turning his head upwards when he was thinking. He remained silent for I thought an interminable length of time. Then without

looking at me he said, "DISTRRAINT. A man in second year law school doesn't know what distraint means." He then spit on the floor. This was something he frequently did to show he was distained. But otherwise I did very well with him. Frankly, I made it a point to do well with him because if you didn't he would ridicule you to such an extent in class that you wished you had stayed up half the night working. In fact I sat on the front row and I did my best to be perfect in everything I did for him. He did not use the case system. He used a book that he had written himself called Principia. It was the whole body of the law. I think it was something he had distilled from Blackstone. Blackstone was really his god in the legal world. He had distilled this from Blackstone into this relatively small book. He really was a first class professor and I will say this for him that he finished every job that I ever saw him undertake. My senior class the following year - he had just finished the course and all the classwork and then he up and died. Which I thought was characteristic of him. He finished the job before he fell dead. Cornett was rather peculiar. He was sort of a commercial type. He didn't have the usual breadth of most lawyers at that time. He wasn't like any of the other professors, although he very definitely taught there and is listed in the Pandora as a full professor of law. Upson was referred to as Judge Upson and he came from a very old Athens family and had two daughters and a son --- all of whom went to the University Law School and became lawyers. His son, Steve Jr., became head of the Burlington Mills legal department. He was general counsel or house counsel for them at their headquarters in North Carolina. The two daughters both went to the law school

and became lawyers. I don't know whether or not either one of them ever practiced. Judge Upson himself, I believe, was a referee in bankruptcy. I think that was one of the courses that I recall that he taught at that time. He was a rather urbane gentleman that I think was widely read outside of the field of law. I don't think he was a legal scholar by any means but he was a delightful man. Judge Gober had been judge of the Blue Ridge Circuit of the Superior Courts prior to coming to Athens. He was made President of the Law School, I think as a sinecure. He suffered from very severe cataracts and the only way that he could see or read was to hold something to within a few inches of his face. Regardless of this impediment to his reading he was constantly looking things up. He had a great number of legal books such as the Georgia Codes and reports and things like that in his office. At the time that I first knew him he was writing a textbook on the Georgia Law of Evidence which he finally produced while I was in law school. In fact, as law librarian I used to while away some of the hours I spent sitting in the library by proofreading the galley proofs on this book. Nevertheless he was senile at times and he would delight telling stories of his experiences. One story I remember in particular was a story that he told in class on ethics. It seems that he was defeated for the office of judge by a man by the name of Morris. After his defeat he practiced law in the same circuit under Morris. He would delight in telling the ethics class that when he had a case before Judge Morris that he would make a motion on a legal point. Judge Morris would ask, "Judge Gober do you have any authority for your position?" The judge would reply, "None to offer at this time, your honor." Then he would sit down. He said,

"I took him up to the Supreme Court twenty-one times and stood him on his ear." Mind you that was in legal ethics. Another story that he delighted in was the story about the Ducktown Copper Company. That was a company that mined copper up on the boundary between Georgia and Tennessee, near the town of Ducktown. I think it is actually in Tennessee. The whole region up there, according to Judge Gober's story, was devoid of any education. This was because the sulfur fumes were released in the smelting of the copper. They became dissipated into the atmosphere and they killed all the vegetation. There was a big law suit as a result of this and Judge Gober represented the plaintiffs. He eventually succeeded in winning the law suit. He would tell about all the effort that he made. In fact I think he went there to the University of Georgia and studied chemistry so that he would be prepared to try this case. Anyway he would tell that story time and again. One of the things he liked about his handling of the case was the way that the defendants used a very famous English scientist. Judge Gober cross-examined him and felt that he had thoroughly discredited his testimony. He said, "I taught that young fellow how to suck eggs." Gober was really an interesting man and I think although he was something of a scamp during the period that I knew him he must have been a good man and a highly intelligent man at one time. He was definitely in his dotage almost at times. I know the way he would call roll and people would answer for other people. He would then assign seats in the classroom and he would go down the rows to look at the seats. People in the seats who had already been noted by him as being present would go ahead of him on the other side of the room and they would slide into the seats. One

man may have handled the presence of four or five people. The same was true when he gave an examination. If you would look around you would find that practically everybody in the room had his book opened and was avidly copying out of his book the answers to the questions on the exam. That was just common place. My first knowledge of Hosch was when he was being initiated into the Sphinx during my freshman year. He went to Harvard Law School and did extremely well there. He came back and practiced law in Gainesville. That was his home. He practiced for two or three years. Then he decided that he wanted to teach and so in the school year of 1928-29 he came to Athens. He used his notes that he had taken at Harvard Law School. I don't recall having taken but one course under him. That was a course on trusts. As I recall, Dr. Scott had given this course and he had a very thick casebook which was the first casebook that I had ever seen. It must have been some three or four inches thick. A lot different from the hornbooks which we used in other classes. I found the course exceedingly interesting and Alton was not very innovative himself. He merely read his notes that he had taken down. I think he must have taken it down in shorthand. He just read from those notes as though they were verbatim from Dr. Scott. It was an interesting course and was my initiation into the case method. Another man that was there that year for the first time was Mr. Harry N. Edmunds. He had been dean of the Law School at the University of South Carolina at Columbia. I don't think he stayed in Athens very long. He was there prior to Harmon Caldwell. I think he left when Harmon came. I did not have any courses under Edmunds and don't know much about him. I think both he and Hosch were there as a result of the movement that was

implemented largely by Judge William H. Barrett who was the judge of the United States District Court in the Southern District of Georgia at that time. He was in conjunction with Harold Hirsh and Marian Smith, two very prominent Atlanta Lawyers. They became very concerned about the law school because of the fact that on campus it was considered a joke and the public at large did not think very highly of it because it was not accredited. The only two other full time law schools in the state were Emory and Mercer and they were accredited. These lawyers raised enough money to build the original law school on the main campus which is now a part of the present law school complex there. They also started bringing in new teachers. Hosch and Edmunds were the two new teachers that they brought in that year.

SPEAKER: ECS

Will you react to the case method versus the lecture method. Which one did you think was more effective?

SPEAKER: Nixon

I thought the case method was more effective. However I think this is true although the law school was a joke when I was there, and was certainly rightly to be considered a joke, at the same time it wasn't as bad if you applied yourself. If you did not depend on your textbooks to answer your questions on exams, if you knew it yourself, and did the work that was laid out for you, I think you got an education there. I never felt any failing on account of the education I got at the Law School. I did not get enough of the casebook method. I had had

actually, some casebook work in connection with a course that I had at the University in Greek literature. Looking back on it, Greek literature was the case method. Mr. Boccock, who was the professor of germanic languages and classics, taught this Greek lit. He would give us things to read in the library. The year that I took that course I spent an awful lot of time in the library reading these sources. That was the way the course was taught. He commented on what we were working on in class everyday. We dug it up ourselves out of the authors that he referred us to in the library. Basically that's the same method as the casebook. They give you cases to study and you derive the legal principles from those cases. It puts more burden on the student. I think you can learn the other way too. I feel that I learned the other way.

SPEAKER: ECS

Tell us about the contents of the library.

SPEAKER: Nixon

The library at the law school was truly a joke. When I got there that summer there was a student who had completed his junior year and was serving as secretary to Judge Gober. Part of his duties was that he was also librarian. The library was largely contained on the top floor of the old Elks building and in some of the other classrooms. I think a lot of the books in Judge Gober's room were books from the library. There was no catalog whatsoever. The books were just scattered helter-skelter and no one ever used them. For most of the work, I guess by reason of the fact that we were using the hornbook, we did

not have to look up the cases. They were not used except in cases where we had to prepare a brief. When the librarian graduated in 1927-28 he freed that job and Judge Gober gave it to me. It paid the large sum of \$50.00 a month, which, in those days, was considerable money. I was very happy to get it. The money that mother had given me only went so far. The library was largely made up of broken-down volumes of Georgia Appeals and Georgia Reports. The janitor for the building was the one who repaired the books. He had a glue pot. If a back came off of a book, he just had this rough brush and he would heat up the glue and put some on it or some binding tape on the book. It was a very, very crude job. Shortly before I became librarian, Judge Alexander King, who is the King in King & Spalding of the famous Atlanta firm, had left by will his library to the Law School in Athens. These books were scattered all over the place. They were very old books. They were all original editions of various things that had to do with Georgia history and Georgia laws. I am certain that he must have had all of the famous digests including Cobb, Prince and all the early ones. Frankly, I don't know where they were. They must have been there somewhere, but everything was just scattered everywhere. My duties consisted primarily of being there every afternoon except Saturday and Sunday. Of course we went to school on Saturday morning and I wasn't supposed to be there during school hours. It was after school so consequently that is where I did all my studying. That's the reason I got through law school as well as I did: because of the fact that I had to be somewhere with books and I was in the library. No one ever came in. The only time they did was in connection with some assigned paper or we were supposed to write a brief or prepare

something about moot court or something of that sort. My recollection is that classes were held in both the morning and early afternoons. They did not go long in the afternoons. The library was not in a specific room, it was scattered over most of the building. The building was a horrible building. Upstairs it had this big room which had a tall ceiling and had been used for ceremonies of the Elks and for entertainment. So much of the building was just wasted space.

SPEAKER: ECS

Were there books in the classrooms?

SPEAKER: Nixon

Yes. Books were on shelves in the classrooms. My headquarters were located on the second floor. There was ^a little room off to the right and that was supposed to be the library. They had some Georgia Reports and Appeals Reports and a few other things. We did not have any of the periodicals there at all. The Georgia Bar Association put out a bar journal while I was in Law School and the various law schools had committees that served on the Georgia Bar Journal and I think they were rotated among the three law schools. I was on the Board of Editors of the Georgia - the Athens part of it.

SPEAKER: ECS

Did you write anything?

SPEAKER: Nixon

I don't recall whether I did or I didn't. I think for the most part they were casenotes and things of that sort.

SPEAKER: ECS

You said something about writing briefs.

SPEAKER: Nixon

We had a moot court but they didn't make a big thing out of it. Of course they had the usual things which is the person that runs into the classroom, brandishes the pistol and shoots someone, then leaves and all the students are asked to record their testimony and what they saw. No two stories agree that they saw the same thing or that the person had the same color hair. I think that is a classic example that has been used time and again.

SPEAKER: ECS

Were you required to write briefs?

SPEAKER: Nixon

I know that it was a requirement but I don't recall what course it was in. I was teased by a member of the class for some legal expression that I had used. Evidently it had been read out in class because the other students saw it. ^{Something} /about the student body. The law school had a tremendous reputation among the student body as being largely composed of football players and athletes. When I was first asked to record these remarks I thought or tried to think of the football players that I knew who were lawyers, particularly the ones who were in school with me. Although there were roughly 150 students in law school the year I graduated, I find that the only football players that I could identify were Gene Haley, a boy from Greenville, South

Carolina; Herdis W. McCrary who was from Indiana and I think brought to Athens by Mier or Crawley, the famous Notre Dame football stars that came to Athens during the 20's. There was another boy, Roy Jacobson who came to Augusta and worked for Clawsen's bakery. Then there was Hollis Morris from Columbus and Herbert Ringel. He has become quite a big lawyer in Atlanta. Finally Roy Estes. That is 6 out of 150 people. That isn't many. I don't think the reputation is justified. However, in looking through the Pandoras of those years there were any number of quips about the law school because of the fact that they were football players. I understand that Herdis McCrary and some of those boys, Roy Jacobson possibly, were among the early players for the Green Bay Packers. I can't believe that it was football oriented, although there were football players in school.

SPEAKER: ECS

Did any of your classmates become governor?

SPEAKER: Nixon

No. Of course, Martin Kilpatrick who graduated a year ahead of me became a very prominent lawyer in Atlanta. Jelly Rogers is a prominent lawyer in Atlanta. He also was a little ahead of me. Joe Oliver is another man that was about my contemporary. He is a prominent lawyer in Savannah. I am trying to think of some of the others. No, I didn't go to school with Carl Sanders. I missed that. Well, Upson became general counsel for Burlington Mills which was quite a job. Then the two boys. They became lawyers. In fact one of them worked for Steve Upson at Burlington Mills. I don't know any particular stories about them. Several things

happened while I was in college both from my bachelor of science degree and my law degree. They may be of interest. Would you like for me to mention any of these items down here? One is: in my senior year, during 1926, the president of the junior class and some of the leadership in the school had a meeting of the junior and senior classes of the entire university. It was determined that something had to be done to increase the money with which to operate the University. At that time we did not have the University system that Governor Russell finally put through the legislature in the early 1930's. Each school had its individual board of trustees. The amount of money that the University of Georgia received each year from the state was \$85,000.00. The purpose of our meetings in Athens was to lobby the legislature which was then in session in Atlanta to increase this stipend from \$85,000.00 to \$100,000.00. We had the big meeting and both classes voted unanimously to support the project and a number of the leadership group at the University went to Atlanta to present this to the legislature. We had the head of the football team, the head of the Red and Black, and the head of the Georgia Cracker, the head of the various classes, the senior class president and the junior class president, the head of the women and all that sort of business. We went over there and we buttonholed members of the legislature. They were all very polite but they didn't add one thin dime to what we had been getting. Another thing that may be of interest is the fact of how it came about that the University suddenly ceased having a honor system and student government in 1926 which was not refined until the mid-1950's. A period of nearly forty years. I was the head of the Student Council in 1925-26 and in mid-winter Dr. Sewell, who was the vice-president of the Council and I attended the conference of student

government, called the mid-west student conference, in New Orleans. That coincided with Mardi Gras. It was quite a plum to go down there and enjoy it. We spent a week in New Orleans at the expense of the University. We learned a lot though. We did go to classes. We came back all fired up about ideas that we would inaugurate at the University. Chancellor Barrow and Dean Snelling went along with the idea. They authorized us to proceed to draft a new constitution and present it to the students. They also gave us a free day with no classes so that all of the students of the entire University could vote on the proposition. The day came and the day went. Only a 125 out of probably 1200 to 1400 students took the trouble to vote. You can imagine what happened to our proposal. With that little interest in it there wasn't any need to do anything. The Student Council met and commiserated with each other about it and decided there wasn't anything in the world to do but just resign, which we did. We resigned and put a copy of the resignation on the building and some wag came by and wrote on it - "The Student Council having resigned thus abolishing student government, the University is hereby put under marshal law." But anyway, that was the end of student government for nearly forty years. Another thing that may be of interest is the Al Smith for President rally which we scheduled for October, 1928 just prior to the election the early part of November. As all of you know who lived at the time, the State of Georgia was torn wide apart by the Al Smith candidacy, because he was a Roman Catholic. Lots of people who had never voted Republican before voted for Herbert Hoover because of Smith being a Roman Catholic. I got together with John Candler who is a prominent lawyer in Atlanta (he was active with Al Smith) and the editor of the Pandora, Thomas J. Hamilton. He was the son of the owner of the

Augusta Chronicle for many, many years. A few like-minded people, all got together and were going to have a rally for Al Smith. It was determined that I would make a speech and Tom Hamilton would introduce me. We were going to speak from that little flat building which is on the corner that is directly across from the Southern Finance Building. It runs from the corner back towards the Palace Theatre. All of the student meetings, the pop rallies and all those were held from the top of this little flat building. It was a news stand. I don't know whether it is still there or not. Our small group of some 15 or 20 people met at the arch and we started up the street towards the place that we were going to do the speaking. There were a lot of people on the sidewalks and as we started up the middle of the street, these sheeted figures appeared from behind us and came out through the arch and they were all imitation Klu-Kluxes. They wove in and out of our parade and we got up on the platform and as we started to speak two football players wearing sheets would come up on either side of the speaker and just literally get them by the arm and take them down. Then my turn came to speak and I started to speak. I noticed these things dropping all around me and I thought it looked like Eskimo pies. I later discovered those were eggs that they were throwing at us. Anyway I didn't get into my speech. As soon as I opened my mouth two football players grabbed me and took me off the playform. I did make the front page of almost every newspaper in the country. It's amazing at the number of little things I got dodging eggs for Al. The other thing that I think may be of interest was a squabble that I was involved in in connection with the Sphinx Club. Tom Hamilton later became very prominent with the New York Times. He was correspondent at the United Nations for thirty or

thirty-five years. He also was with them in Spain and Germany and he is now retired. Ben Hardy taught at the University right after he got out and he went with the state department. He is the man that was credited with the Truman doctrine in Greece. He was killed in an airplane accident. During the Winter of 1928 Buster Kilpatrick and his group of KA's and their allies got together and elected - I don't think I even went to the meeting of the Spinx - but anyway they elected Dan Tulley who was in the Glee Club. They elected him to the Spinx Club because he was a member of their group. He was not a KA but he was a member of their political group. So Tom Hamilton and Ben Hardy and myself all resigned in indignation about belittling the Spinx with the honor that we felt was intended upon being a member of the Spinx. That would have passed unnoticed except that Tom was the editor of the Pandora and in the Pandora that year our names were listed but beside them was an asterisk which if you followed it to the bottom of the page you saw that we had resigned so there was lots and lots of talk. The next year after Buster Kilpatrick had left and graduated and Tom Hamilton had graduated and Ben Hardy had graduated I was the only one remaining in college. It was my senior year in law school. Bill Tate who later became Dean of Men and who had always been rather active in the Spinx made a proposition to all of us - let's just forget the whole thing - Buster and his crowd have all left college - and we just can't continue to carry this thing with the Pandora showing you all resigning. So we put it aside. The Spinx Club is what it always has been and always will be. I remember Bill Tate as a tall, lanky, skinny bundle of bones. I first met him in the room at Miss Ann Wallace Brumby's house. Herry Clekly was rooming down there and Bill Tate was rooming the same house.

That is the Church-Brumby House now. That's where I first met Bill when I was a freshman back in September 1922. I knew him off and on for many, many years. I don't recall any specific stories except I was involved some ten years ago when some University students, primarily Chi Phi's. They were making counterfeit tickets to the Masters Golf Tournament and selling them. My son, Huxley, who now lives in Atlanta, was going to the University there and knew one of the men who was apparently well-to-do. He had a brand new jaguar automobile and a few things like that. Hux ran into him over at the course and the man said, "Look, you live in Augusta, and I don't have a place to stay. The only thing I want is a roof over my head. He said I can sleep on the rug." Hux just took pity on him and said come on. So he did and slept on the sofa, I think. It later developed that he was the ring-leader in making those counterfeit tickets to the Masters. The men that - the Pinkerton men they caught on to it and so they staked out where he had been parking his automobile. When he showed up they pounced on him and he was jailed. He called me from the jail and wanted me to help him. I told him I would be glad to help him all I could. I got in touch with Bill Tate and Bill was very helpful about the whole thing. This boy was very smart. He was a pre-med student at the University and frankly had ruined his pre-med education because the University suspended him for the rest of the year. That knocked his year in a cocked hat. I found that Bill's reaction at that time, was sympathetic with the student but at the same time he felt the student should be punished. He should accept his punishment, which the student did. Subsequently the cases were dismissed. So far/I know the student

went to med school. I think it affected his life. I didn't get a fee either. Not that I intended to get one.

SPEAKER: ECS

Would you say something about your being admitted to the bar? Tell us something about the courts at that time and about the judge.

SPEAKER: Nixon

I was not admitted to the bar here. At that time we were admitted on the strength of our diplomas from the University of Georgia. It was arranged for all of us to go to the Superior Court room in Athens. It's the same one I think they have now. The judge then was Judge Brantley Fortson. He admitted us as a group. There was some 50 or 60 of us. We also went to the United States District Court which was in the old post office building across from the city hall and Judge Tilson from Macon came up and admitted us there. To this day I have never been admitted in the only Federal District Court that I had practiced in. The name was the Southern District of Georgia. If you are admitted in one you are entitled to practice law in the other. The only way that it has affected me is that when the church was looking on the roster to appoint lawyers to defend criminals that needed a lawyer and could not afford one. This was before the days when they got paid doing that. I was never called on because my name wasn't there. Now the type of judge that we had in Augusta was Lonnie Franklin. He was a big, I guess an Irishman, and he told good stories. He liked people and was very much in command of his court. He had been the solicitor general which is what they used to call them in those days. Now its the district

attorney. When Judge Hammon just decided that he didn't want to be judge anymore, he just didn't run and Lonnie Franklin ran in his place. He ran a pretty good court. He was mixed up with the Cracker political machine and for that reason when he finally had some opposition just after World War II, I did not support him for re-election. Ed Fulcher, who later became a Superior Court Judge, and I were two of the lawyers that didn't support him. I told the judge, I'm not going to support you because you have been tied up with the Crackers. So I did not support him. Judge Anderson from Waynesboro beat him. People had just got tired of this Cracker political machine. He was beaten for that reason. I don't think, looking back on it, I don't think he basically was a bad man. I just think that he thought he had to belong to that group to get ahead and that was probably true.

SPEAKER: ECS

Do you have any stories you could tell about the judge?

SPEAKER: Nixon

No. The only thing I can remember in those days is that the bar was very closely knit. When I came here we had about 55 or 60 lawyers. I think that the year I came John Bell Towill had come here from Washington and Lee University and he and I were the only two young lawyers there. Anyway the bar was very closely knit. We attended all meetings of the bar, all memorials when anyone died, we not only went to the funeral but we went by the house and left our cards and all of that sort of business. Then we would have a memorial exercise at some term of court. A committee would be appointed

to draft the memorial and then various members of the bar who wanted to distinguish themselves would stand in the hopes that somebody there would hear them and remember them when they needed a lawyer. I remember that Judge Franklin would always close the meeting with the statement in a very solemn voice, "A mighty oak has fallen, so and so and so and so, what a great man he was." His place will never be filled and all that sort of business. It was always, I never heard him at a memorial service except that it was "A mighty oak has fallen."

SPEAKER: Surrency

Was there an Augusta Bar Association?

SPEAKER: Nixon

Yes. There had been one here and it was created in the 1880's. Just about the time that the Georgia Bar Association was formed. I think also the American Bar Association was created about the same time. I read something just today by one of my former law partners who was Joseph Bryant Cumming, the president of the Georgia State Bar in the late 1930's. Something that he had written in which he mentioned that he was the fourth President of the local Augusta Bar Association. At first I could not believe that, it must be a mistake. Then I recalled the first president was Major Black who was very highly regarded, very upright, reputable man and highly thought of. He was the one that beat Tom Watson back in the 1890's. Tom was running for the U.S. House of Representatives. Judge Black beat him in the election. Then it came out that they had taken just hundreds and

hundreds of Blacks from South Carolina and herded them into stable yards here in Augusta the night before the election and kept them going on booze and then marched them to the polls and they all voted. When he heard of the fraud that was going on he refused to accept the election results.

ORAL HISTORY PROJECT

Tape 10
Erwin C. Surrency interviewing
Gwinn H. Nixon
February 3, 1983
(continued)

SPEAKER: Nixon

When he discovered that all these blacks had been herded into stable yards and kept under the influence of whiskey all night and then marched to the polls he refused to accept the nomination. So they had another election and Tom Watson won. I think that is the only time that Judge Black ever ran for public office. He was a very honorable man and was much beloved of the local bar. He remained President until he death in the early 1920's. I guess he died when I was still in Athens. Then he was succeeded by Judge Daniel J. Forberdy. He was, as you can imagine from his name, the typical Irishman. He was a big man about 6' 2" with a big belly and was a thoroughly charming and delightful person. He was the que master at our annual bar-be-que that we gave every summer at Tom Michael's pond. He was elected president to succeed Judge Black. He remained president for some time. In view of the tradition of a man keeping this office, until he dropped dead, a group of renegades came along in the early 1930's and we said that this is ridiculous. This is an honor that should befall more than one or two men. It wasn't that we didn't have affection for Judge Forberdy but it was just that we thought no man should keep it for more than two years. Since then that has been the history and that was the way it started out in the 1930's. You were re-elected for one year. Since then it

has become strictly one year. When I was president I only served for one year. I hate to talk about Roy Harris because Roy - you know the condition he is in - is not the man he once was. I am on very friendly terms with Roy but this political machine that we had in Augusta in 1930 was pretty vicious. When the war was over a lot of us came back with the idea that we were going to do away with it. We did succeed in doing that. At the time when we had three governors. We had Ellis Arnall, M.E. Thompson and Herman Talmadge. All three were trying for the governorship. Roy Harris was then Speaker of the House of Representatives in Atlanta. He was masterminding Herman Talmadge. Anyway Roy was considered to be something of a king maker in Georgia politics. But unfortunately for Roy the Supreme Court of Georgia decided in favor of M.E. Thompson. Roy did not win in that instance although Herman did become governor later. Anyway while the three way fight was going on Roy decided that he needed a little back home support. He wanted to show the public at large - I'm not just a politician, why even my own local bar association is behind me - and they are electing me president. He offered himself as president of the local bar association. Roy had been very active in machine politics. Roy was starving to death in Louisville, Georgia. When he came up here he was Speaker of the House and a member of the legislature and he made this sort of a deal. He told the local leaders. He said, "I don't have any vote getting power in Augusta and you don't have any power whatsoever in Atlanta." He said, "We have just got to come together." He said, "If you will get me elected to the legislature from Augusta, Richmond County, I'll look out for you in Atlanta." They took the bait and that's what happened. He offered over here - no one ever heard of Roy Harris - except those

people who read the newspapers. He was elected on the usual ticket which they voted all the ladies of easy virtue and what not and all the dead. Roy got elected. The independent, the ones that were trying to stop that sort of thing, nominated me to run against Roy. We got all of our people down here. The Crackers got all their people. They even got all their people who had left Augusta who had gone to Atlanta. George Blainus is one of them, Billy Barrett is another. They had taken jobs with the state. They all came down. None of them had been to a meeting. I don't think Roy had even bothered to go to a meeting until this occasion. But anyway, numbers of lawyers were in Augusta that had never attended a bar meeting or paid any dues. You were not supposed to be entitled to vote unless you paid dues. When the vote came they beat us. I guess they beat us fair and square. Some of the votes were a little irregular. Anyway then someone of their crowd nominated me for vice-president and they also nominated Cohen who was a very young lawyer at that time. It looked to me like it was just an effort to humiliate me further. Just the crassness of the whole thing is the fact that they beat us in the first race, which was the race. Why in the name of gosh they had to go and nominate me for the second race where they were in control and they were going to replace me with - it would just mean that I would be defeated twice. I said look, the rest of you may be willing to put up with this sort of shenanigane but I don't think this is any way a bar association ought to be. And I don't want to be a member of the bar association. With that I stormed out, and as I left, one of my close friends said, "Let him go, let him go". I heard that as I went through the door. A year or two later the bar

unanimously adopted a motion to invite me to come back. Roy was no longer President - the issue was padded! I went back and I hope I am a member in good standing.

SPEAKER: ECS

What year was that?

SPEAKER: Nixon

This was 1946, January of 1946.

SPEAKER: ECS

Is the bar association, is that limited to Richmond County?

SPEAKER: Nixon

The Augusta Bar Association is limited to Richmond County and people who practice up here. There is an Augusta Circuit Bar Association which covers Burke, Waynesboro, Augusta, Richmond County and Appling, which is the county seat of Columbia County. There still isn't any population. The only population is out Washington road along I-20---up in that area. It's increased but that is where Augusta is growing. I don't know whether we bothered to elect officers of it last time or not.

You have asked the question as to the fact that lawyers don't seem to tell as many anecdotes as they once did. I think that is because of the fact that lawyers and people in general don't have the time to just stand around and do nothing as they once did. I know when I first started practicing law there was a news stand and pool hall

upstairs above the news stand. They had a soda fountain and also a lunch counter called "Home Folks". All of the politicians and anyone interested in politics and a lot of members of the bar would either stand around the bar talking or stand out on the sidewalk - the whole front of the store opened and you could open it up and it became just sort of like the sidewalk was a part of the place. That's where all of the members of the Cracker machine, the political party that used to rule Augusta, always spent the considerable part of the day down there. That was where you would meet people. So if you expected to be in the swim you better be right there where the pond was. That just isn't true any more. It was just up from the old Richmond Hotel, it's about two or three stores up from it. It's just across the street behind me.

SPEAKER: ECS

What would you consider your most important case?

SPEAKER: Nixon

I never specialized in trial work. One of the early cases that I was involved in was Mrs. Frederick Ball Pope. She left a rather large estate and some nieces and nephews tried to break the will. Joe Cumming and I handled the case. Joe really did, I just sat there and fed him things. He actually was the leading oar in it. We won the case. I remember we got what was then considered, this was about 1932 or 33, a tremendous fee. It was \$20,000.00. This day and time it is nothing. I was in charge of the real estate part of our office from about the time that I got out of the army until after Henry Eves

died which was 1969. I handled all of the real estate work that we did. We did as much real estate work in our office as all of the other offices in town. I happened to represent a client who would not let anyone else handle the business. I didn't do all the work myself but there were other people in the office who helped. Really the important work I did was - we had litigation that never went very far - between Georgia Railroad and Banking. It owned the Georgia railroad from Augusta to Atlanta plus about a 40 to 50% interest in the Atlanta and Westpoint Railroad and the Western Railway of Alabama which went on down through Montgomery, Alabama to Selma. Plus some very valuable land in Atlanta, around the state capitol. Marta built a rapid transit system on our right of way out beyond - anyway they built it along the line of the Georgia railroad for about 15 to 18 miles out of Atlanta to the east. This is the east line. We entered into a contract that they could commence construction. It was a very, very lengthy contract, about 100 pages. Then there was a provision as to how we would be paid and how the value would be determined and all that sort of business. We never got paid. The east line was completed and in actual operation and we had never gotten one thin dime. All we had got was talk, talk, talk. So Georgia Railroad Banking Company filed suit in Atlanta which I handled. Rock and Huie represented Marta and we negotiated around and finally we settled the thing with Marta. One of the things that really worked to our advantage was a provision that the interest that was paid on the money would float with the prime of First National Bank of Atlanta. So when it went up, naturally, our interest went up and when it went down our interest went down. They agreed to that and

and tried to mollify us and keep us from doing anything. They agreed to it finally when we settled it for about 12 million dollars, and we had about 3 million dollars worth of interest which we had gotten. It was really not a part of the agreement because of the fact that we had dilly-dallied with it so long and they were ashamed to back out. Then I recently concluded the sale of the railroad property of Georgia Railroad and Banking Company. As recent as the 20th of November we sold the physical railroad property -- that is the rails and the cars, locomotives, and the right of way. We sold it to Seaboard Coastline of Jacksonville. They have since become Seaboard Systems, Inc. Then on the 4th day of December we sold our stock which was the controlling interest in the Atlanta and Westpoint and in the Western Railway of Alabama. We got about 17 $\frac{1}{2}$ million dollars for that and I handled that transaction. Just this week we got \$700,000.00 from the sale of the First National Bank of Atlanta, the garage which was built on our right of way, it was sold to the state of Georgia. We don't have any property in Atlanta anymore and that transaction was closed Monday or Tuesday. We got the money then. You asked about the passenger car. The funny thing about that was that when we were closed and I asked Phil _____, who was executive vice-president of the L & N Seaboard Coastline System. I said, "I bet you have already filed an application to terminate the passenger service from here to Augusta. We closed out in Atlanta." He said, "Oh, no. We're doing that tomorrow." That was the joke. Actually there was no need for it. The thing was that Al S. Eaves was afraid if they discontinued passenger service that if we ever went into litigation with them about the lease, that we would use it against them and frankly we would have. They started out with a fully operating

railroad that carried passengers, people and pigs. Now they only carry goods and the pigs. They no longer carry passengers. The railroad had just took a toll. They could have gotten a decent looking passenger car to put on there. The Seaboard Coastline, I don't know if they have passenger service but they have office cars. They could put an office on there. Oh, no. They put the scrubbiest, nastiest piece of locomotive equipment you ever saw on there. In fact I made a trip once from Augusta to Atlanta in that car. I was going to an Episcopal Convention in St. Louis. It was a general convention. Carolyn and I went by rail because I got free transportation all the way. I paid for it from Augusta.

SPEAKER: ECS

How long did it take?

SPEAKER: Nixon

It took about 5 or 6 hours. Then I had to wait in Atlanta for the train. The passenger trains were still running. I went on the L & N to Louisville. I guess it went into St. Louis over the Eves bridge.

SPEAKER: ECS

Tell me a little bit about the founding of your law firm.

SPEAKER: Nixon

This is a right old law firm. Did you see the things hanging on the wall? The announcements when you came in? The law firm started in the 1820's. Two Cumming brothers started it and it continued

on down, Henry H. Cumming, the man who built the Augusta canal, which powered the first industry in Augusta. He was one of the partners. Then it came on down through the Cumming family. We don't have anybody in the Cumming family in the firm now. Joseph B. Cumming was the last one and he quit practicing in 1974. He is now in his 90th year. He took his name out of the firm because he thought that leaving his name would mislead somebody that he was still practicing law. We would get business unfairly. Frankly I think that was cutting the bologna sorta thin. He did take his name out and we don't have any connection at all except we do have two Cumming portraits hanging in our reading room. It's been a prominent family law firm, primarily long since the Civil War Major Cumming, whom I remember as a child. He became counsel when the lease was effected with the L & N or with William Watley. Watley, Georgia was named for him. When the lease was drawn he was representing the Georgia Railroad and Banking Company. He continued to represent them over the years. His son, Brian Cumming, was really Jr. but he never used it. He came along and was very active in representing both the railroad and the bank. The bank was spun off in 1892. It was a tax situation. In order to avoid payment of horrendous taxes. The banking company became a holding company owning all of the stock except directors qualifying shares in the bank. That was the situation until the 1950's when the First Railroad and Banking Company of Georgia was founded and then the first railroad took over, Georgia Railroad and Banking Company, all of the stock and all of the stock in the bank became the holding company for both of those organizations. All of that was handled through this office. We had Sherman and Sterling, which is a very prominent New York law firm. At the time they were working with

us, it was known as Sherman, Sterling and Wright. The Wright was General Boykin Wright who was from Augusta. He was a native of Augusta. His father practiced law here. It was when I first started practicing in 1929, he was still alive and practicing. We have been going a long time. We've got about 15 lawyers here now. The unfortunate thing is that we have lots of chiefs. We've got 12 chiefs and 3 indians.

SPEAKER: ECS

Is most of the work of your law firm in real estate?

SPEAKER: Nixon

We represent things, most of our practice is ordinary corporate work and we represent several banks and we represent both the Southern Railroad and the Seaboard Coastline which is now Seaboard Systems, Inc., and we have a general practice. In fact Jack Long, here in the office, he's got to be sort of an expert on class actions against finance companies and banks, things like that. Jack has made fantastic fees handling things like that. I don't know whether I approve of class actions. I think they have been abused.

SPEAKER: ECS

Was your father a lawyer?

SPEAKER: Nixon

No. He was a cotton factor and his place of business was just about a block and a half from where we are sitting. I was born here in

Augusta almost right here in this office. My father was a cotton factor and he was a graduate of the University of Georgia --- the class of 1881. There is an interesting thing in connection with him. He was a student that received a scholarship for \$50.00 from the Richmond Academy to go off to college. He had no money and his father was a naval officer in the United States Navy and when the war came he resigned. I have both papers of his resignation and the acceptance of the resignation from the United States Navy. His commission was from the Confederate States Navy. He had no money. He lived out south of Augusta. He bought that place for \$35,000.00 in Confederate money in February before the war ended at Appomatox. Less than 2 months - he took \$35,000.00 confederate money and got about 250 acres of land. That was lucky. Alexander H. Stevens had the idea that the salvation of the South rested in the hands of the young people. I don't know how he kept from losing his shirt in the war but he had a lot of money when the war was over. He would lend it to deserving young students. My father was one of those people. His report cards had been signed on the back, "well done" by Alexander H. Stevens and sent to my father. This is his account. In October of 1878, my father got \$75.00 and various amounts on down until July of 1881 when he graduated. Apparently college in those days was a three-year term. He had gotten a total of \$445.00 and my father has written the cost on the face of it, paid in full. This is where he kept the record and he went through three years of college and was a member of the SAE fraternity. That's his picture.