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R. Wilson Smith

University of Georgia School of Law

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ORAL HISTORY PROJECT

Erwin C. Surrency Interviews
R. Wilson Smith
May 18, 1983

SPEAKER: ECS

Will you tell us why you decided to study law?

SPEAKER: Smith

My father was clerk of the Superior Court here in Hall County for 40 years. I was raised somewhat in the courthouse. I knew some of the greater lawyers of the State of Georgia. Those lawyers helped me out considerably as I grew up. At that time the Northeastern Circuit composed not only the present counties which are Hall, and Dawson, Lumpkin and White but also it went all the way to the Tennessee line going up by Union County and Fanning County - Union County and Talmadge County, Blairsville and Hiwassee and Toccoa and Stephens County are the South Carolina line and Habersham County - all of those counties were involved. Gainesville lawyers at that time would ride the circuit. Gainesville lawyers were the main lawyers in all those counties. They had very few lawyers from the other counties. I think they had none in Dawson county. We had maybe one in each of the other mountain counties. I'll get back to that later. We did have a fine bar here because Gainesville furnished the legal talent for all of the mountain sections. We were known as the Queen City of the mountains. The reason I studied the law was because of my association with the lawyers and the courts. I went one year to Georgia Tech thinking I was going to be an electrical engineer. I had a very fine year there. I saw that I wasn't suited for that and my father and friends continued to want me to study law which I decided to do. I went over to Georgia and enrolled and prepared myself for the law school and was admitted.

I had a wonderful experience there. We had a very fine faculty there and I want to discuss Dr. Morris. But before I discuss him let me discuss some of the others that were teaching at that time and lecturing at the law school. Judge George Gober was next Superior Court judge and he was in the Blueridge Circuit. He was a friend of my father's and when I got over there he remembered me from being in the courts from time to time. Judge Gober was practical. He was almost blind at the time I was in the Law School. He taught evidence and some of the other subjects. He had written a book on automobile law and published it. I think you probably have a copy in your library. If not I have one I'll let you have. He had some extra good practical stories that assisted all of the students under him in their profession. He had an old expression that the lawyer should know everything. He wanted to illustrate that. Meaning that when he had a case he wanted to be so prepared that he could examine and co-examine witnesses with the same expertise that that witness was able to answer. We had in Copperhill, Tennessee a sulfuric acid plant. The residue and fumes from that plant would be brought by the west winds into Georgia. They killed thousands and thousands of acres of timber land. Even to this day you'll see that a lot of that has never produced any vegetation since. When I was younger we would go up there and go miles and see that all the timber was dead and the land was eroding. The State of Georgia decided to try to stop that. Judge Gober was a young lawyer then and Assistant Attorney General. They gave him the case and he prepared to try it. He went to the University of Georgia for one summer school immediately preceding that trial. He took four courses in chemistry, particularly the courses associated with the manufacturer of sulfuric acid and the residues. When he went into the trial of that case he was really prepared. They brought the experts in to testify but they did

not anticipate that they would have a lawyer to examine them that had any knowledge of the manufacturer of sulfuric acid and the effect that the fumes would have on vegetation. Judge Gober asked questions and he was really prepared. He won his case hands down. Judge Gober said this in laughing each time and I heard him tell this story time and time again. He would forget that he had told the story before. He said that when he walked out of the court room that the judge that tried the case said, "George, you are a genius." And he said I reckon not. But his story was that he tried to illustrate that to the lawyers that they must go ahead and prepare their case and know as much as the person they were examining. He had his own experts but his cross-examination is what won his case. He was a very extraordinary man. One time he got me in his office and said, "Wilson, you are going to graduate in a few days." He said, "I want you to think about it, you can go back home, you are going to have all kind of people who will want you to represent them and all kind of people who will want to be your friend. I want to tell you this, it is not always your friends that take care of you. You go home and pick out some people who you should have as enemies and that will do you as much good as that many friends." That is a little philosophy that never occurred to me. We had Judge Cornett. He was a very fine contract lawyer. He represented many insurance companies in Athens and he was a part-time professor and he sent me quite a few cases, insurance cases. Judge Cornett was a very fine man. He was very well respected over there. Tom McWhorter was the half-back, he was as popular at that time as Hershel Walker was last year at Georgia. He would run over his opposition with the same ease. He was well known and I think he made all-American. I have a lot of pictures of him at home. We had

Judge Stephen Upson. He taught suretyship and some other insurance subjects. We had Tom Green, and Tom Green's father would come over and lecture. Tom was also very fine. Abit Nix would come over occasionally and lecture. He was very fine, one of the greatest that I can think of at this time.

SPEAKER: ECS

Do you recall any other stories about Morris?

SPEAKER: Smith

Yes, I think I can. I had a roommate named Ike Hayes. After he went to the army, as I did, he was Dick Russell's executive secretary when he was Governor. Ike was in class one day and answered a question although he rambled a good bit. Sylvanus said, "Mr. Hayes, you should be in the Georgia legislature. You have so many damn fool ideas." I think I told you the one about Sylvanus that when Herdis McCrary was a very fine full-back at Georgia, Dr. Morris called on him on a subject. He got up and made an answer. Dr. Morris shook his head and he would always take his pencil up and make a big circle. Herdis knew what he was doing and then Dr. Morris told him what the answer was. Then Herdis told Dr. Morris that that was what he meant to say. He said, "On my word, Mr. McCrary, I can't take a lantern and go down into your throat and see what you intended to say." He had all kind of stories. The first week or ten days I could not understand Dr. Morris and most of the young students were the same way. I could not figure him out. We really feared him. I came back home and talked to my father and Judge Wheeler and they said why don't you go in and talk to him and tell him you don't understand him. Just tell him you don't want to play hockey and don't want to quit. I did that. I remember it was a cool day and he went back to his room, he took his robe off, put another jacket on, and he had an open fire place

in the old law school building. That law school building is where the parking lot sits immediately behind the Holman Hotel. I think the C & S Bank owns it now. They had an open fire place for each of the rooms, the professor's rooms. We went in there and he sat in his chair and told me to sit down there. He didn't know what I wanted. Neither did I. He got some chewing tobacco and he chewed a little bit and he lit his pipe. We sat down and I told him exactly what I had intended to say, that I wanted to study law and I had had some experience in the court house recording some instruments and I loved the law but I just could not understand it and I wanted him to help me. If I had to I wanted to try and arrange to come and see him every afternoon. I wanted to see him after class to try and learn how to study. From that time on he was one of the best friends I had. In the classroom you would not know it because he gave me fits like the rest of them, but he talked a good bit about his past. I did a little bit of studying in the past few years about him and learned a little bit about his background. His Grandfather was a very fine lawyer in Virginia. His father was Dr. Charles Morris. He also was a very fine lawyer in Virginia and then he went over to Washington and Lee and taught English there and law also. Then he moved to Athens, Georgia and became an English professor at Georgia. He had two sons, one of them was John Morris and the other was Sylvanus Morris. When Dr. Charles Morris died, John Morris took his place as professor of English. His father was head of the department but he succeeded him. Later when I was in school Dr. John Morris taught German and Sylvanus was in law school. They were not on speaking terms when I was at the University of Georgia. I think Ham Lokey mentioned the fact that at a ball game - this may be just a legend - Sylvanus was pitching and John was catching and he signaled for a straight

ball and Sylvanus threw a curve and it caught him in the groin and he was in bad shape for a while. They never spoke after that. This story may or may not be true, that was still on the tongues of people when I was there. Dr. Morris discussed the fact that he was born in Virginia in his early days of the law school in the University. He was born in 1855 and came on and studied law and I have it in some notes when he graduated which I will furnish you if you don't have it. He went in with a man named Spear into partnership studying law. He became a counsel. He told me these things too. He became local counsel for the railroad, Richmond Railroad. That was later named the Southern Railroad. They built a branch for Lula, Georgia which is twelve miles north of Gainesville down to Athens, Georgia. He became Solicitor of the State Court, City Court they called it then, for a while, and he practiced law mostly alone.

SPEAKER: ECS

Do you know why he left Virginia and came down here?

SPEAKER: Smith

Because his father had moved to Athens. He left William and Mary to accept a professorship at the University of Georgia. Sylvanus and John came on down too. In 1893 he was made a professor at the University of Georgia Law School. He had been associated with the law school until he died in 1929. Dean Edmunds was elected in 1927 as Dean but Dr. Morris remained on as a lecturing professor.

SPEAKER: ECS

Did you say Sylvanus Morris did not become a judge?

SPEAKER: Smith

No, He did not become a judge.

SPEAKER: ECS

How long was Sylvanus Morris at the University?

SPEAKER: Smith

From 1893 until he died.

SPEAKER: ECS

Did he practice law some?

SPEAKER: Smith

He practiced law for some time. He didn't practice too much law after he became a professor. Lawyers could do that at that time and some still do. Doesn't Tom Green come over and lecture occasionally? Doesn't Eugene Epting or some of his group come over sometime? So he did that too. I have a book written by Dr. Hull back in 1894. It is so very interesting. This book has a tremendous value. Have you ever heard of Dr. LeConte at the University of Georgia? He and his brother almost broke up the University of Georgia at one time. They are the founders of the University of California. The interesting part is that De. LeConte - there are some clippings about those two brothers that went to Georgia and this book is extra interesting because he made notes in it and the LeConte's wrote in their own handwriting. They made notes in it to correct certain things that Mr. Hull had. Dr. Morris is in there. Dr. Morris in my estimation was one of the greatest professors - as has been stated in some of the notes I have on him - about how he was able to impress by his mannerism and the way he did so it was critical sometimes. It really woke the boys up and made them think. I would like to give you some clippings before you leave as to some of the references made to him in some of the articles that I have clipped from time to time concerning his work. One was that a statement by him was the he loved the law.

He loved to teach the law. He knew the law and he knew how to put it before his pupils so that they must absorb some of its beauty and grandeur. I'm talking about his power of illustration. I wish I could think of some more of the remarks he made and I am going to get them to you. I was in school with a boy named Horace Shattuck who graduated in 1927. He went back to LaFayette, Georgia and opened his law office but his father-in-law was in the Chevrolet business. He was quite profitable and when he died Horace took over that business and left the law. He wrote me many letters and wanted me to send him some of the sayings of Dr. Morris. He was accumulating a list of those and writing a book. I wrote a letter just last week but I have not heard from it. I just found out where his wife is to see if she has the makings of that book. I can and will give you some various items. He had a lecture on the trial of Christ from a legal standpoint. He gave that lecture almost every year around the Easter season. Not only in Athens but in Atlanta and other places. He gave it here in Gainesville when I was in school over there. That was one of the finest lectures I have ever heard.

SPEAKER: ECS

Did Dr. Morris get married and did he have a family?

SPEAKER: Smith

Oh yes. He married and had a daughter. I do not know her. He was one of the greatest of all the professors. I mentioned _____ when I was over there with Ham Lokey and Buster Bird and Eugene Epting and others the book of Principia of Law. Here is the book that I used when I was at the University. I bought it second-handed. It was copyrighted in 1923 but it was used long before it was copyrighted. It has been said and I am sure that it is true that this book was used

in various schools including one particular school in England. That was common knowledge when I was in school. I have a volume here that I bought the year I graduated and I got the last one. It was at McGregor's bookstore. We bought most of our books there at that time. I am going to inscribe it and give it to you. I think if you look at it you will see how simple it is and how he makes some of the most difficult subjects simple. It really took the place of the old Blackstone. But this has got the simple language where Blackstone was quite difficult for people to understand. You could read it but you could not understand it.

SPEAKER: ECS

When you graduated from Georgia were you admitted to the Bar here in Athens?

SPEAKER: Smith

I made a bad mistake, I did. I could have gone home and my father could have given me the oath before the court here. But our whole class went before Judge Fortson, who was a very fine judge down there, and took our oath. Then I came back home and graduated on June 20 and in a weeks time I had my office furnished and opened. Let me tell you about my first case. The first fee I'm talking about. I was in the courthouse and a colored man came in from New York and said, "I want to get a divorce." He spoke out loud. There was another lawyer standing over there and said, "Here is a young lawyer. He'll get it for you." I said, "If you would like to I'll go back to my office and we will talk about it." At that time, of course, he wanted to get back to New York so I filed a suit the next day and took his deposition. He paid me \$35.00 which was the going fee at that time. Judge Wheeler and the big lawyers charged the same thing. I went on the public square and there was a state banking

company. I put that money in the bank to leave and let it draw interest which was 3% compounded quarterly. I was going to leave it in that bank until I retired to see how much it would accumulate. In about 2 weeks after that, the bank closed so I got nothing from it whatsoever. Now I have represented the Gainesville National Bank since 1933. The day when the banks were all closed and they opened one by one as the government examined them, I became a lawyer for Gainesville National. Now that they have a computer they are now working up to see what that \$35.00 would have been if I had left it in the bank until now. That's what my first case was about.

SPEAKER: ECS

Were you successful in getting the divorce for the man?

SPEAKER: Smith

No trouble with that. We have had some interesting cases since that time.

SPEAKER: ECS

I would like to hear another one of them.

SPEAKER: Smith

We had one particular case. Judge Cornett associated me with the Metropolitan Life Insurance Company. This woman's husband had died and the company paid her \$10,000.00 on the policy. She had a double indemnity clause which stated that if it was accidental death she would get twice that amount. She sued them. They were up in the mountains near Cleveland and Blairsville a ways back from the main road. She and her two brothers lived there. She claimed that he had climbed over a rail fence and slipped and fell or the post struck him in the head and killed him. We had all kind of tests made up and so forth. The fact is we got busy and Judge Cornett told me to get all the facts I could.

I went and got my camera and was going to take a picture of that fence and she was not at home. At that time one of the brothers came up and asked me who I was. I told him and he said that I had better get away from there before she got home or she would shoot me. I took another picture and left. We tried that case and the brothers were her witnesses and told exactly what happened. We won that case and she threatened me at that time and even wrote letters if she saw me again she was going to shoot me. Anyway the man had been married twice. His first wife who lived in Macon, Georgia got evidence that this woman killed her husband. She made friends with the brothers. She got them on her side and they were prepared to say that the man was asleep in bed and she took one of her high heels and hit him. They said it was murder. If it was murder then the double indemnity shouldn't be paid. We went down to try the case. I wrote her and told her on various occasions that we needed her testimony to deny that because if we lost that case she would be prosecuted for murder under the same facts. Her brothers turned against her at that time very strongly because she would not divide the money she had already gotten with them. They had been her witnesses before. We went down to Macon, Georgia and checked into the hotel the day before the hearing. I was in the bed in my sleeping clothes and so forth and she said, "I want to come in and talk to you." I would not let her come in. I told her to go to the lobby and I would get dressed and come down. I called Judge Cornett to meet me down there. We went down together. She denied everything. We were able to go ahead and win the case. For some time after that I would get notices that she was gunning for me and so forth.

SPEAKER: ECS

Was she ever tried for murder?

SPEAKER: Smith

She was never indicted. It went before the Grand Jury and they sought to indict her but the brothers would not testify they had changed their minds again. They did not have enough evidence then, but I think that was true because we found out and used it in the trial of our first case. She would steal his clothes and he would wrap a sheet around him and walk a quarter of a mile to the main highway and be sitting there and people would go up and down the road and see a man there with just a sheet around him. They said that they believed she killed him. That is just one of the many interesting cases which we had. We had a lot of cases arising out of our storm here in 1936. Gainesville was destroyed by a tornado, including the Episcopal Church. We had a pants factory down here which was owned by some people from Brooklyn, New York. They had come down here just a short time before that and lowered the wages. It was hard times. They also lengthened the hours. These women came to me and wanted me to represent them in trying to get a raise and better working conditions. I told them I did not know what I could do but I would try. We had all kinds of the alphabet agencies in Washington at that time so I got all of those lined up and I threatened these people and told them that under this act and that act I was going to prosecute. None of them would have stood up and I could not have prevailed but they thought that I could. They came down immediately and raised their wages and made better working conditions. The women came to me - they became organized at that time - and wanted to pay me. I told them that they did not owe me anything. I have done something that I probably couldn't

have won in court. What I am saying now is that you are casting your bread upon the waters. The tornado came in just a few weeks after that and we had great numbers killed. A building collapsed and people were trapped down there and killed. I was there. People were screaming and everything but nobody could help them. After that, those who were injured came to see me and the families of those who died came to see me and we tried that case. The building was a three-story building and the defense was - a workmen's compensation case - that it was an act of God in which there could be no recovery and that was the law. We went across the street in another building and stood and examined it. Then we went back to this one and got some brick and took them down to Georgia Tech and had them examined and it was lime and water to burn those bricks, a three-story building, that building collapsed. The other buildings were cement and did not collapse. We wanted to show that was the negligence of man and not an act of God to cause these injuries. We tried that case and I had about 90 of those people I represented appear. Judge Wheeler and Smythe Gambrell, who was the American Bar Association President soon after that, and I prevailed in showing that it was not an act of God that caused it. If it had been a strong building, properly bonded, then it would not have been as serious and most likely it would not have caused the deaths that were incurred. Those are two examples of some of the kind of cases we had. I have been practicing fifty-five years as of this year. We have had all kind of cases.

SPEAKER: ECS

You were talking about Judge Wheeler. Who was he?

SPEAKER: Smith

Alonzo Wheeler. He never went to college. He finished high school and was one of the most reputable lawyers I have ever seen. He became a partner with W.A. Charters who was the grandfather of Judge Sidney Smith who recently resigned as federal judge here and who is now with Alston, Miller and Gaines. They have recently merged with Buster Bird's firm in Atlanta. They had a very fine firm there. He was very reputable. A very fine lawyer. He was smart as he could be.

SPEAKER: ECS

What court was he judge of?

SPEAKER: Smith

He was judge of the State Court. At that time he could continue to practice law, which he did.

SPEAKER: ECS

In the Superior Courts?

SPEAKER: Smith

In the Superior Court and the Federal Courts. He tried cases all over Georgia. He was well respected.

SPEAKER: ECS

Who was judge of the Northeastern Circuit?

SPEAKER: Smith

We had quite a few. Judge Jones had just retired when I was admitted. Judge Sutton, who later went to the Court of Appeals of Georgia, was the judge when I was admitted to the bar. Later it was Judge Cadler who also went to the Supreme Court of Georgia and then Judge Fred Kelly. He died recently. Judge Gilliard - I want to tell you a story about him. Professor Gilliard was a professor at North Georgia College. He died

before you went to North Georgia. He had a brother who was a very unique lawyer. He was as rustic as he could be. We tell a lot of wild stories about him. Judge Gilliard went to Georgia. Ed Quillan also went to the University of Georgia. It was a great story, a great legend, how Sylvanus Morris' birthday came in the spring just when we were supposed to have final examinations. They got him up a present. Judge Gilliard was the most eloquent lawyer that the mountains ever produced. They had a ceremony and gave him a very small present. But the eloquence of Judge Gilliard is the thing that everyone remembered. They said they had tears rolling down Sylvanus Morris' cheeks as he was hearing the tribute that was given him. Judge Gilliard was also judge of our Superior Court here. Let me tell you one more story about Judge Gilliard. Judge Gilliard went over to try a case for a lady of some age and he lost his case. He came back to his office and went to his waiting room and into his office and closed the door. His client came bursting in and did not knock on the door or anything and asked if she could see the judge and walked in his office and stayed a minute or two and came out and slammed the door and left. His secretary, Mrs. Hughes, said, "Judge Gilliard, what did she say?" He said, "Mrs. Hughes, it wasn't what she said that hurt my feelings it was the way she said it." "Well what did she say?" "She looked me right in the eye and said, 'You're a fine lawyer!'" Let's go back to Sylvanus Morris. That was during my senior year there. Aviation was somewhat new at that time. During that period, Lindburgh made his trip across the ocean. We had a lawyer who studied under Sylvanus Morris named George Finch. George Finch was a practicing lawyer in Atlanta at that time but he had a reputation of being a little bit wild too. He had given Judge Morris fits. We heard his plane buzzing when we were in class. He had come

over and dropped a scroll in a little container on Herty field. Some student picked it up and it had Dr. Morris' name on it. The student brought it over into the law school and handed it to Dr. Morris. It was a very beautiful thing, a very fine note to Dr. Morris thanking him for what he had done for him. I don't know why he did it. That was another time that Dr. Morris stood there and it was more than he could take it looked like. He was getting old at that time. He showed that to everyone of us. He had it framed and hung in his office.

SPEAKER: ECS

I would like to know more about the Superior Courts. Who was the first judge?

SPEAKER: Smith

Judge Jim Jones. A very fine judge. He was not beaten in an election, but he retired after many, many years. When he started the judgeship the people - let the superior court judges give examinations to young law students. Most of the lawyers who had practiced before him were certified this way. He retired. He was a native of Gainesville. Judge Sutton lived at Clarksville. He was a very fine man but had no judicial experience before but was elected. I think he was the first one appointed by the governor then was elected judge. He had a very fine tenure of office here. He went to the Court of Appeals. After he went to the Court of Appeals there was a man named Judge Robert McMillan, who at that time was Solicitor General here for years and years and he was appointed to take his place.

SPEAKER: ECS

What I am interested in knowing is was there any traditions of the bar at that time that the judge would observe. Like appointing young lawyers to cases the first time.

SPEAKER: Smith

Yes. When I came to the bar I was about the only one - several years before and several years after. The judges then would not make too many inquiries but they would ask the defendants if they could afford a lawyer and sometimes they would appoint a young lawyer. At that time young lawyers had no compensation for their services. Quite a few of those. That is one of the biggest things I did when I started practicing law until a year or so ago when some other young lawyers came in and shared it with me. When Judge Sutton would ask a lawyer when he decided he would appoint one - particularly in a strong case, capital case. The judge would say pick you out one. The story is that Frank Welch, who later became Congressman, was sitting there with the group and asked him if there was any particular lawyer he would like to have. He looked at them and after looking them over he turned to the judge and said just thought he would do it himself. That was one of the jokes they had.

SPEAKER: ECS

What time would these judges start court?

SPEAKER: Smith

We would usually start at 10 A.M. in the morning.

SPEAKER: ECS

Did they go through the day or take a lunch hour?

SPEAKER: Smith

I would like to tell you a story about that. We would ride the circuit. We would go to Dahlonega and Dawsonville. Most of the lawyers would be there. They would be at the old country hotels. It would have a long table and the judge would sit at the end of the table and the Solicitor General to his right, like a court martial. Then they would go on down

and sat according to your age or tenure in office. Young lawyers would sit at the other end. That is where I sat at that time. They would tell some of the wildest stories. It is a pity that it could not have been recorded. They would sit somewhere like that and they would travel together. I had a client one time who fired me because I rode over there with the opposing counselor. It was unique.

SPEAKER: ECS

When you went to Dahlonega, did you go and spend the night or just go back and forth?

SPEAKER: Smith

The roads were not good so sometimes I would spend the night. If I didn't have a case coming up the first thing next morning I would usually come home. We didn't do that when we went to Hiwassee or Blairsville or Toccoa. At that time and the year before, it wasn't convenient to come back and forth.

SPEAKER: ECS

Did the judge continue on later in the afternoon?

SPEAKER: Smith

Yes. Judge Gilliard had an expression. When he would adjourn his court he said, "Gentlemen we are going to recess now and I'll see you in the morning at 9 o'clock, the Lord willing." He always said that.

SPEAKER: ECS

I don't guess any of the judges wore any robes?

SPEAKER: Smith

No. Very informal.

SPEAKER: ECS

Did they take off their coats?

SPEAKER: Smith

Often times and they always had on the corner of the bench a big bucket of water with a dipper in it. Everybody used that dipper.

SPEAKER: ECS

Did any of those judges chew tobacco?

SPEAKER: Smith

Quite a few of them did. Judge Jones did. I can't think of any of the rest of them that did. Most everybody did. They had these big cuspidors around the table and even for the jury.

SPEAKER: ECS

How long did it take you to try the average case?

SPEAKER: Smith

It would depend on the nature of the case. Everette Brandon and I were ordered by the court to represent two young people whose uncle wanted to send them off to a reformatory or some school. There was a lot of feeling in the family about it and some of the members of the family wanted them defended. Everette and I went over to try that case and we were on that case three days. We showed that the uncle wanted their inheritance. That was the reason he wanted to get rid of them. We tried that case three days, got through at dusk and had the jury go into the room. At the Dahlonega Courthouse was a porch. One would go up the stairs and go into the courtroom and there is a porch. I was sitting on the rail and one of the bailiffs came running up to me and called me by my first name. He said, "Wilson you need to get in fast. They're fixing to rock you and knock you off that porch." They meant it to. These men were a very rough group.

SPEAKER: ECS

The Superior Court back then usually had two weeks, one of criminal and one of civil. The civil usually came first. During the civil week was the grand jury set.

SPEAKER: Smith

Yes.

SPEAKER: ECS

Were they indicting people?

SPEAKER: Smith

They were getting people ready to get lawyers and get ready for court. A lot of the time in some of the smaller counties they would do it all in one week. Maybe the first two days were civil and the criminal following that. In other counties where they had a lot of business they would have two weeks court. Generally two terms a year. That still prevails in a lot of those counties.

SPEAKER: ECS

In other words you may get indicted on Monday and be tried on Wednesday or Thursday.

SPEAKER: Smith

That's correct. Some of these people had been arrested before and some of the judges were very intolerate and wanted to try them immediately. They would not listen to any issue for continuance.

SPEAKER: ECS

Was it customary to grant continuances for criminal cases?

SPEAKER: Smith

Well they did on occasion. The judges sometimes were intolerate and unreasonable. Some lawyers they would grant a continuance but for some other lawyers they would not. We haven't had too much of that.

SPEAKER: ECS

Was Judge Sutton helpful to the young lawyers?

SPEAKER: Smith

I think most of them were. Judge Boyd Sloan became judge of the United States court here. His father was the state court judge - city court judge at that time. He was an old judge with long white hair and he appointed me on a case one time, many times. On one particular occasion there was a lady who was the judges' mother. [He recently retired as Superior Court judge here.] She had some very fine chickens which were worth lots of money. She had a little colored boy who was retarded and she locked him inside the chicken pen with the chickens and wanted him to clean up everything while she went to the grocery store. When she got back he was still in the pen and so were the chickens but he had wrung their necks. They were all dead. They brought accusations against the little boy for cruelty to animals. The judge ordered me to defend him. I raised the point on a demurrer that a chicken was not an animal. I think I was wrong. The judge sustained that. He laughed about it a good bit. Lots of times he would go ahead and do that and then he would recess and call the young lawyer in his chambers and tell him some points to make and so forth.

SPEAKER: ECS

In other words, tell you what he would do.

SPEAKER: Smith

He would suggest you look into this point. We won the case and the judge laughed about that case many times. His mother was so angry about that.

SPEAKER: ECS

Do you know who was the first judge in this circuit who started wearing gowns as a regular practice?

SPEAKER: Smith

I wouldn't be surprised if it wasn't perhaps Judge Kelly. I don't believe Judge Sutton did or Judge Gilliard. I think maybe Judge Kelly.

SPEAKER: ECS

Judge Gilliard was a tall, relatively thin person, wasn't he?

SPEAKER: Smith

That's correct. He had a bass voice and he looked like an Indian.

SPEAKER: ECS

He had a very thin face. He didn't have any fat on him at all.

SPEAKER: Smith

You probably saw him up there when you went to school.

SPEAKER: ECS

Yes. I knew his sister. I did some yard work for his sister.

They were all bachelors, were they not?

SPEAKER: Smith

No. Judge Gilliard married.

Judge Ward never married, he got to drinking too much. Do you remember the Dahlonega Nuggett? They wrote an article one time about a certain lawyer in this town. Thank the Lord he will never know how close he came to being buried alive. He got to drinking and wound up in the grave yard and passed out. Somebody came along and saw him and carried him down to the mortuary and put him in a coffin. When he woke up he was inside the coffin and that was written up in the paper.

SPEAKER: ECS

Did you stay at the Morehouse when you went to Dahlonega?

SPEAKER: Smith

Yes. We also stayed at the Smith House. The boy I just talked with on the telephone in Houston, Texas is one of those boys. Frankie Moore was on the staff of Jimmy Carter in Washington when he was President.

SPEAKER: ECS

Were there any other customs which you may recall such as the sheriff opening court in any particular way or any of these kind of things? What I am trying to understand is during the time of the court week. It was a big social event.

SPEAKER: Smith

It certainly was. People would come - they had large court rooms then. They have a tendency now to make them very small. That was a big occasion. People would come to town during court week particularly the criminal week to hear murder trials. The judge would always let them all in as long as there was room to accomodate them.

SPEAKER: ECS

Is it true that they would clap and carry on?

SPEAKER: Smith

They would try to but the judge would - many times had trouble keeping order.

SPEAKER: ECS

Did they bring a fair or anything like that during court week?

SPEAKER: Smith

No. They had medicine shows. You're too young to know about the medicine show. Every term of court in all these counties even in Gainesville had a medicine show. They would have music and sell these medicines

in a bottle that was good for anything in the world. They had a big business. People would crowd around during the luncheon hour. All the politicians would show up at these courts. They would have the judge announce that honorable so and so was going to speak on the side of the courthouse or something of that nature. It was a big occasion. I used to, as a kid, go to these murder trials. When they had murder trials they would usually continue into the night, late in the night. I remember it so well when there was a man who murdered his wife. He cut her throat. It was a residential section that had a big gulley next to the river. She was screaming for help but nobody dared to go down there. He killed his wife. The judge appointed Herman Johnson and Lumpkin Aderholdt to defend the man. The jury convicted him and sentenced him to death. After that they took it to the Supreme Court and they found a relationship between one of the jurors and the prosecutors so they gave him a new trial. They tried him and had the same experience. They sentenced him to death the second time. They tried it a third time and at that time they gave him a life sentence. The man served and I shall never forget it. I was in Herman Johnson's office and he showed me a letter. The governor had received a letter from this man and he sent it to Herman Johnson. The man said that he was not properly represented in those cases and felt like the governor should pardon him or give him clemency or a new trial. He said, "God knows I am innocent." They got nothing for that. They spent thousands of dollars of their own money and the county would not even help them on that. That's the kind of things we had when I was growing up.

SPEAKER: ECS

Did lawyers in this area have any sort of association, any formal

association? Did they have a bar meeting once in a while?

SPEAKER: Smith

This is a highly organized bar association even when I started practicing law. We met regularly. We often times had our whole appellate court up here with us. We had a supper resort about 5 miles from here. We had a big pavillion and the lawyers would go out and meet. We would have big steak suppers and everything. Gainesville has always been an association town. We have always well attended the Georgia Bar Association. We have had officers in the association all through the years. We recently had a president of the Bar Association from here. I was the vice-president one time and on the Board of Governors more than once. We've been very well organized. We meet regular now. We meet once a month and also have social occasions in addition to that. We have lawyers here who go to the American Bar Association meeting. The fact is until I had my heart attack a few years ago, I had only missed one since World War II. Others lawyers here go. It is a well organized town.

SPEAKER: ECS

What about these meetings? Are there any interesting facts about these meetings back in your early days especially?

SPEAKER: Smith

I can't think of anything extraordinary except we did have great speakers.