

LIVING TRADITIONS:  
CONVERSATIONS WITH LEADERS OF THE  
GEORGIA BENCH AND BAR

A Conversation with Frank C. Jones

March 23, 2009

Interview Conducted by Patrick Emery Longan

*PROFESSOR LONGAN:* Good afternoon. As you all know, this is one in a series of oral histories that here at Mercer we are conducting of prominent Georgia lawyers and judges. This series is being sponsored by the Foundation of the American College of Trial Lawyers. And, obviously, I want to express my thanks to the Foundation for the funding to do this. I would also like to express my thanks to Dean Floyd for supporting this program.

We have with us today Mr. Frank C. Jones, who is the subject of our interview this afternoon. I want to say just a couple of words of introduction. I think most of you here know Frank or know of him. If you didn't know who he was, you can see his portrait hanging just outside this room.

Mr. Jones has been a member of the Georgia Bar since 1950. He has tried more than 150 cases to jury verdict, handled more than 50 appeals, and has argued three cases personally before the Supreme Court of the United States.

He is a 1950 graduate of the Walter F. George School of Law, Mercer University and practiced law in Macon with the law firm now known as Jones, Cork & Miller from 1950 to 1977. He then moved to Atlanta and became a partner with King & Spalding, where he remained until his retirement in 2001. Now he is back in Macon and is of counsel to his original law firm.

Mr. Jones has had an illustrious career and has served in many different leadership capacities: president of the Macon Bar, president of the Young Lawyers Division of the Georgia Bar Association, president of the State Bar of Georgia, a member of the ABA House of Delegates, president of the American College of Trial Lawyers, and on and on and on. We're going to have a chance this afternoon to talk about some of those activities. But without any further ado, please join me in welcoming Mr. Frank C. Jones.

Frank, thank you for taking the time to come and spend some time with us at Mercer today and for giving us a chance to talk about your life as a lawyer to help the students to see what the life of a lawyer can be.

*MR. JONES:* Well, it's a pleasure for me. I particularly enjoy being in this wonderful building. When I went to Mercer Law School, it was in the Ryals Law Building, which was a small fraction of the size of this grand building. I am happy to be here.

*PROFESSOR LONGAN:* It is hard to know with a career like yours where to begin to ask you questions about your life as a lawyer, but I guess the only place to begin is at the beginning. You grew up in Macon?

*MR. JONES:* Right.

*PROFESSOR LONGAN:* Your father was a prominent lawyer here in Macon. Why don't you tell us a little bit about your early life growing up in Macon and some of the memories you have of what that was like, and maybe some of the early influences on your life.

*MR. JONES:* I grew up in Macon on Buford Place and later moved to the Ingleside area. My father, as you said, was a lawyer. I had an older brother and an older sister, and it was always contemplated that my older brother would be a lawyer, as later was the case. His name was C. Baxter Jones, Jr. He practiced in Atlanta with the firm of Sutherland Asbill & Brennan and unfortunately was one of the victims of a plane crash at Orly

Field in Paris, France in 1962.

I don't think anybody knew whether I would be a lawyer or not, including me, until I graduated from college at Emory University and went to a couple of quarters of law school there because I was having such a good time. I did not want to go to work. I became convinced then that the law was the career I should pursue, and I transferred to Mercer Law School in the Fall of 1948 and graduated in June of 1950.

*PROFESSOR LONGAN:* Tell us a little bit about the realization you had that law was for you. I mean you had been interested, as I recall, in a business career.

*MR. JONES:* I planned to get a master's degree in business administration and go to Wall Street and become a wealthy individual. I am glad for many reasons that that didn't happen.

I think I was fascinated intellectually by law during the first quarter at Emory, sufficiently so that I realized it was a match for me. I will say this with all due respect to Emory, which is a fine University – I am a trustee at Emory – but I think Mercer Law School was clearly superior to Emory Law School at the time, in the quality of the faculty and the relationship between students and faculty. I am awfully glad that I made that transfer.

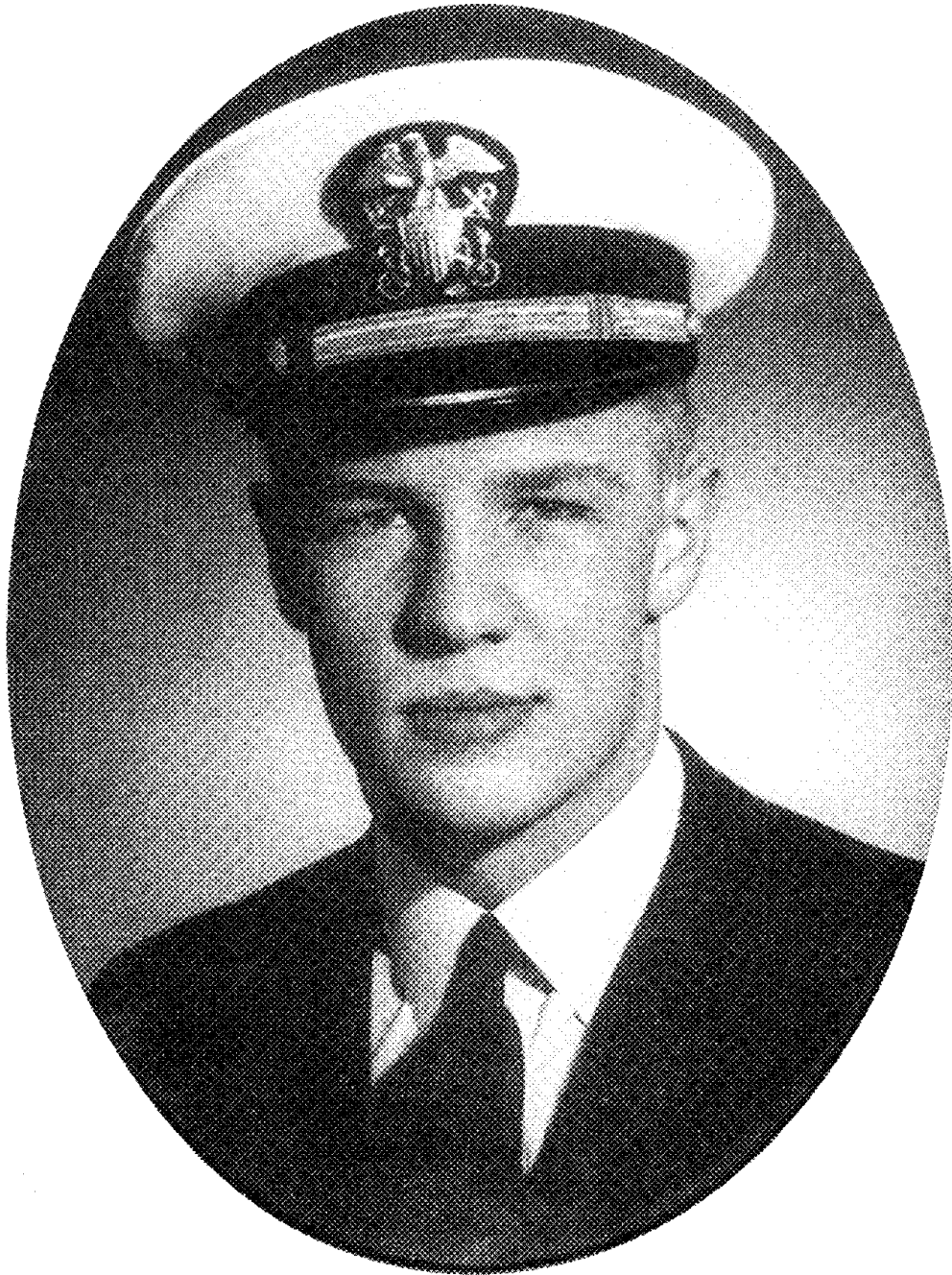
*PROFESSOR LONGAN:* How did it come about that you transferred from Emory to Mercer?

*MR. JONES:* Well, I had by that time realized I would go to work as a lawyer in the firm my father was a partner of, and it just made sense economically to move down to Macon and live here during the couple of years that I was in law school.

*PROFESSOR LONGAN:* Okay. Now, you graduated in 1950, but before that you had served some time in the military?

*MR. JONES:* Yes.

*PROFESSOR LONGAN:* Tell us about that.



Frank C. Jones, Ensign in the United States Naval Reserve, 1945.  
*Photograph courtesy of Frank C. Jones.*

*MR. JONES:* I was in the Navy for three years in World War II. The first sixteen months I was in what was known as the V-12

Program at Emory, and that was a program whereby you were in the Service, you dressed in military uniform, and you had drills and all of that, but you also carried a full college load. I was able to get in the equivalent of two years of college in about sixteen months. Then I went to Midshipman School and was commissioned and served on an aircraft carrier for about a year.

*PROFESSOR LONGAN:* You mentioned earlier that when you were at Mercer Law School, it was in the Ryals Building on Mercer's main campus. It's probably hard for these students to imagine what life was like as a law student at Mercer in the late 1940s. What are your memories of life as a law student at Mercer, the people you were studying with, the professors you had, and so on?

*MR. JONES:* Well, I really have very warm memories of some students in particular. Hank O'Neal, Bob Hicks, Jule B. Greene, Jim O'Connor, just to name four who were really close friends. There was a good feeling among the student body and, happily, the teacher/student ratio was very favorable. We were able to recite with a great deal of frequency in classes, although I wasn't always sure that was a blessing. I liked the faculty, and several in particular I think made a lasting impression on me.

*PROFESSOR LONGAN:* Tell me about that. Who, in particular, and why?

*MR. JONES:* The Dean of the law school was F. Hodge O'Neal, and Hodge taught business associations, corporations, partnerships, and one or two other courses. He and I hit it off quite well and became friends. I saw him fairly often later in life after he left Mercer. I think he went to Duke for a while and then later to the Washington Law School in St. Louis. He became a very prominent author of a book on close corporations. It is probably still being published today; I'm not sure.

I also was quite close to James C. Quarles, who later became Dean, and Jim, I remember, taught me equity. And I must say I was fascinated by that course and I had quite a bit of litigation later that involved the application of rules of equity. Those two faculty members, in particular, stand out in my mind as outstand-

ing professors.

*PROFESSOR LONGAN:* Describe a typical law school class back then. Of course, it was mostly, or exclusively, men?

*MR. JONES:* There were two women in the entire law school: Kathryn Lanelle Rimes and Mary Patricia Beauchamp. Hank O'Neal would always call Lanelle, "Miss Rimes." And Pat later married Hank. But other than that, it was all men. The student body was probably eighty or ninety percent veterans, and that led to one of the brouhahas when I was in law school.

Mercer had a practice, at that time, of having compulsory chapel three days a week, and it was applicable to law students. But it was resented by the law students. Many of them had been in the Service, as I said, and were married, had children, and had jobs on the side. They felt that they were grown men and women and simply did not want to be compelled to go to chapel, although some went voluntarily.

I was drafted to prepare a letter to the Mercer administration pointing out why compulsory chapel was not really a good thing. I worked very hard on that petition, but my plea was ignored. However, two or three years later compulsory chapel was eliminated.

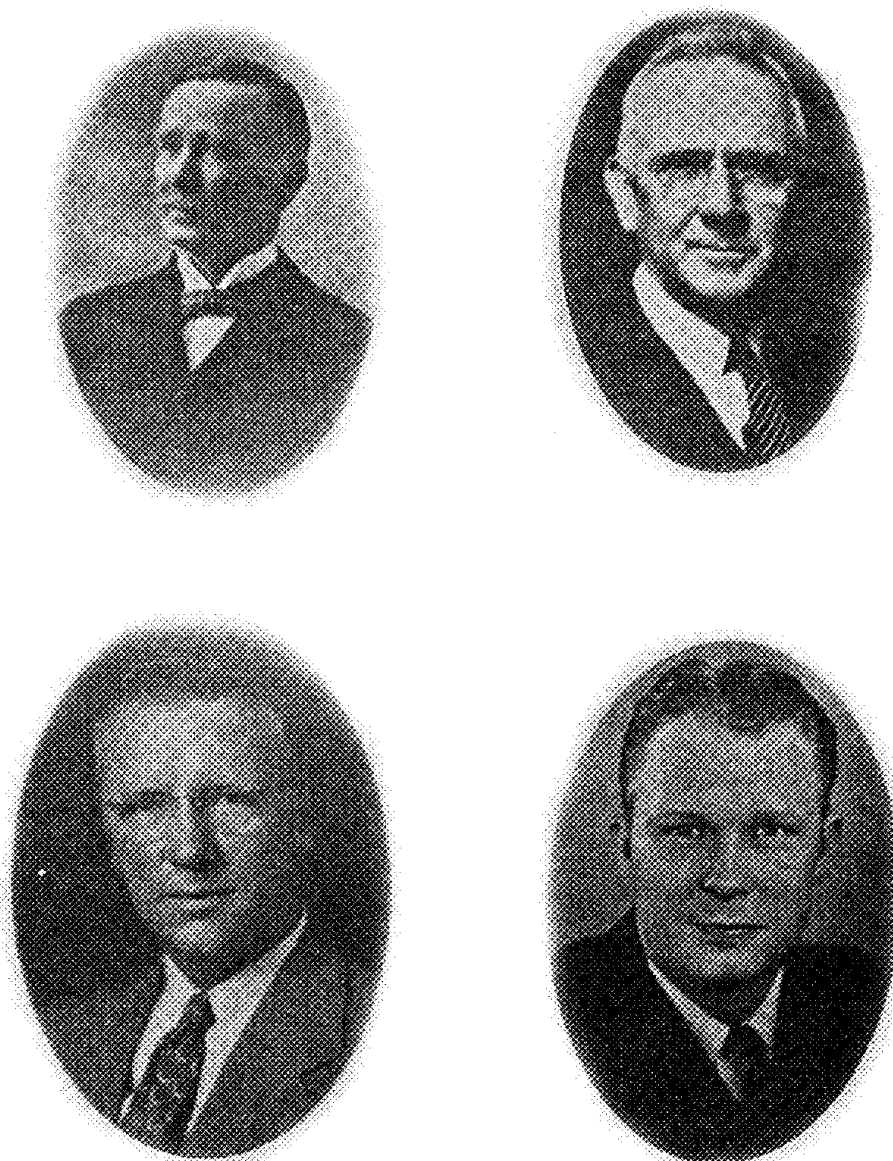
*PROFESSOR LONGAN:* You got a chance to practice your advocacy.

*MR. JONES:* Exactly.

*PROFESSOR LONGAN:* And that goes with the possibility of losing.

*MR. JONES:* You always learn from losing, and I lost on the chapel issue.

*PROFESSOR LONGAN:* Well, you became a lawyer in 1950. You went to work for a law firm that, as I understand, had been founded by two lawyers, one of whom was your great grandfather?



Frank Jones's family members who were attorneys. *Top left:* Great-grandfather, Isaac Hardeman (1834-1914); *Top right:* Grandfather, George S. Jones (1871-1938). These two men and Frank's father, C. Baxter Jones (1895-1968), *bottom left*, spent their professional careers at the firm now known as Jones, Cork & Miller, LLP, Macon, Georgia. *Bottom right:* Frank's brother, C. Baxter Jones, Jr. (1919-1962) was a partner in the Sutherland firm, Atlanta, Georgia. He and his wife were killed in a plane crash in France in 1962. *Photographs courtesy of Frank C. Jones.*

*MR. JONES:* Right, in 1872.

*PROFESSOR LONGAN:* So, in 1950, you are a brand new lawyer working in Macon. What was it like to be a young lawyer in Macon in 1950?

*MR. JONES:* The first thing is, you didn't make a great deal of money. I think I went to work at a salary of \$250 a month, and I was happy to have it. When I married the following year, I got an increase to \$300 a month, which was just enough for us to live on.

Young lawyers in Macon were not as busy then as they are now, and you could take off time if you wanted to. I recall, for example, when I was a young lawyer, that the Masters golf tournament resulted in a tie after 72 holes between Sam Snead and Ben Hogan, who were regarded as the two outstanding professional golfers in the world. They were scheduled to have an 18-hole playoff on Monday morning. I bumped into Buck Melton, a good friend of mine, early Monday morning and one of us said, "Well, let's go to Augusta." So, we piled in the car and one or two others joined us. We were not so busy as young lawyers that we couldn't, on the spur of the moment, go to the Masters golf tournament for the playoff between the two great golfers.

*PROFESSOR LONGAN:* You didn't have the billable hours pressure.

*MR. JONES:* I never heard the expression "billable hours" until sometime ten to fifteen years after I began to practice. We didn't keep time records except in the most crude sort of way. Some lawyers would, on the inside of a file, make notes that they had done so-and-so and put down a date and one hour or thirty minutes or whatever, but nothing like the formalized keeping of time records and billable hours today.

*PROFESSOR LONGAN:* How would you decide how much to charge the client?



*MR. JONES:* You would, this is literally true, and I think true of most lawyers, try to charge a reasonable fee. It was the *Johnson* case in the Fifth Circuit that lists twelve factors that should be taken into consideration when determining a reasonable fee. And I can recall that, if it was a really substantial matter, in a firm meeting there would be a discussion of it, and people expressed themselves as to what a reasonable fee was and that was the way we arrived at a fee. And I'm not sure, but that is a better way than today. The problem with billable hours is it encourages lawyers to do unnecessary things in order to maximize billable hours, and it tends to almost cheapen, in a way, the practice of law, but I suppose it is necessary.

*PROFESSOR LONGAN:* You mentioned sitting around talking about this one topic in particular, the fee, but there was a practice at the firm of meeting regularly as a firm. Could you tell us about that?

*MR. JONES:* We would meet every day. There were eight or nine lawyers in the firm, partners and associates. We would meet every day at one o'clock for a maximum of thirty minutes. We would go around the room, and I told people later that each of us, in a way, was trying to justify his existence as a lawyer by explaining what he had done. One of the beauties of that is you became aware of any new client or any new significant matter. It wasn't really necessary to have a formal check to determine if there was a conflict of interest because every lawyer in the firm knew essentially every matter and every client the firm represented. Those meetings developed a closeness and a collegiality that tends to be missing in large law firms today because you simply don't have frequent contact with each other.

*PROFESSOR LONGAN:* You mean King & Spalding didn't have the law firm sit down every day at one o'clock?

*MR. JONES:* King & Spalding now has 900 lawyers and they are scattered in about a dozen offices. We had collegiality and closeness at King & Spalding, but it is impossible to have the degree of intimacy that you can have with a small law firm where you know every other lawyer's spouse and you know a little bit

about every other lawyer's children and what their interests are and so forth.

*PROFESSOR LONGAN:* What kinds of matters did you work on as a young lawyer in Macon?

*MR. JONES:* My wife embarrassed me once at the Georgia Bar Association meeting when there were about 500 other lawyers there. There was a demonstration of the selection of a jury. She was questioned as a potential juror. A veteran trial lawyer asked her about her husband, and she said he was a lawyer. And the questioner said, "Well, what kind of matters does he handle?" She smiled and said, "Anything that walks in the front door." That, to some extent, was true. I mean, I had a very diverse and eclectic practice that included quite a bit of trial work but also included other matters: real estate, corporations, wills and trusts – the whole schmear of law practice.

*PROFESSOR LONGAN:* So, you didn't, at least initially, specialize the way young lawyers these days tend to have to?

*MR. JONES:* I probably spent at least fifty percent of my time on trial work, and it happened that our firm had a heavy concentration of insurance defense practice at the time. I sort of grew up on that, although I did handle some plaintiffs' cases.

*PROFESSOR LONGAN:* Do you think that ability to do things other than one kind of litigation or even just litigation affected how you practiced later in your career, the fact that you had a broader view than most lawyers?

*MR. JONES:* I think it was beneficial to me. I remember when I went with King & Spalding there was a great deal of specialization as a matter of necessity. I knew how to do things that the average lawyer there had never been exposed to. For example, I knew how to go over to the courthouse and check a title, and I'm not sure there was a lawyer at King & Spalding who has ever had to check a title. I had prepared deeds of all kinds, and I had prepared a large number of wills and so forth. The typical litigator at a large firm just doesn't do that. So, I felt like

that gave me an insight into legal issues that would arise in those fields that probably I would not have had without that experience.

*PROFESSOR LONGAN:* Well, one of the things we talk to our students about is all the learning that has to happen after they graduate, that no matter how hard they study in law school there's an awful lot to learn in those first few years. And we stress to them the desirability of having a mentor. Tell me about the people who helped guide you through those first few years.

*MR. JONES:* Well, my father, of course. I had the rare privilege of practicing for eighteen years with him before his death. And he went out of his way to cause me to work with other lawyers in the firm and not just with him. I worked with my father on many matters, and that was, as I said, a real privilege. My brother was in Atlanta, but he and I were close, and he was a person I could always talk to about problems of one kind or another. There were other lawyers in the law firm of Jones, Cork & Miller who were also mentors.

In later years, I had some other mentors around the state. A couple that stand out in particular are Holcombe Perry in Albany and Griffin Bell. Holcombe was more responsible for the incorporation of the State Bar in 1963 than any other single individual, and I had great admiration for him. And then Griffin Bell and I became friends probably sixty years ago, and our friendship became warmer over the years. I saw him often, including the time he was on the Fifth Circuit. And then we later practiced as partners together for more than twenty years. Griffin continued to be a mentor to me along with the others that I mentioned.

*PROFESSOR LONGAN:* So when we talk about mentorship, it's not just those first few years. I mean you're talking about all the way through your career?

*MR. JONES:* Exactly.

*PROFESSOR LONGAN:* Well, we may have a chance to talk some more about Judge Bell and about Mr. Perry as we go along

this afternoon.

As you are thinking about this first ten years or so you were in Macon, is there anything about the practice of law that you found particularly surprising, challenging, or difficult that you can recall?

*MR. JONES:* I remember that as a young lawyer, I very quickly had an opportunity to go into court alone, as lead counsel if you will. And there is nothing quite like that experience. It's good to be second chair or third chair, but when you have the responsibility of being the lawyer who has to stand up in the courtroom and present your side of the case, it's a maturing experience. And I thoroughly enjoyed that. I began to actively try cases as the lead counsel on one side or the other not long after I began to practice.

*PROFESSOR LONGAN:* When I asked you about things that were scary or challenging you turned it into something positive. But was it scary to be first chair when you were that young?

*MR. JONES:* You made mistakes. You learn from your mistakes. One of the things I learned is how not to ask a question. I remember we were defending a case once, and the plaintiff was pregnant at the time of the accident. I got up to cross-examine her, and I asked, "Mrs. so-and-so, how pregnant were you?" She said, "Mr. Jones, you're going to learn either you're pregnant or you're not." And she and the jurors got a great laugh at my expense.

Another time I recall that I cross-examined a witness in a case, and I thought the cross went really well. And we lawyers have a tendency to always want to sum up, to say in conclusion, or something like that. So I asked the witness a question like that, and the witness gave an answer that was devastating. It just about demolished my case. And the only thing I could think of to say was, "I wish I hadn't asked that question."

That is the kind of thing you learn from experience. And I think every lawyer stumbles and makes mistakes along the way, and hopefully you learn to profit from those mistakes. I think we probably learn more from mistakes than we do from successes.

*PROFESSOR LONGAN:* Another way we learn is from watching other lawyers.

*MR. JONES:* Certainly.

*PROFESSOR LONGAN:* And you know, if you have a chance to watch a truly exceptional lawyer, you can learn lots of things. Who were the lions of the Bar, the ones you would watch if you got a chance?

*MR. JONES:* Well, there were some lions on the civil side and on the criminal side. I never tried more than a couple of criminal cases so I really don't have much to offer in that area. For some reason, criminal law just didn't appeal to me. On the civil side, for example, in the Martin Snow firm, there was Baldwin Martin, Sr., George C. Grant, and Cubbedge Snow, Sr. I was in court a number of times against them. And then later, Cubbedge, Jr., who is my first cousin. I used to tell the story about Cubbedge that his father would sit with him in the courtroom, and whenever his father thought that Cubbedge ought to ask a question or make an objection or something, he would pull on his coat tail. And I told Cubbedge, "That's the reason why all of your coats are misshapen."

There were a lot of very able plaintiff's lawyers. I was mostly on the defendant's side. One of the interesting characters was S. Gus Jones. Gus was very successful. He would make a closing argument sometimes that would sort of baffle everybody in the courtroom. And the reasoning of some lawyers was that Gus deliberately did that because he wanted the jury to keep pulling for him when they went out — to try to figure out what the answers to some of the questions were that he raised. Gus would have a pile of papers, maybe ten or twenty papers, and in his closing argument, he would go over and pick up a piece of paper and look at it. Maybe there would be one word on it or a sentence or something. And the jury would become fascinated by that exercise.

Carlton Mobley, who later became a Justice and Chief Justice of the Supreme Court of Georgia, was a superb plaintiff's trial lawyer.

There was a man named Ed Taylor of about the same vintage. I tried some cases with him and we struck up a long friendship. And he associated me on some cases. We would meet and he would say to me, "Now, you do so-and-so and I'll do so-and-so." He would call me early the next morning and ask me if I had done what I was supposed to do. It turned out that Mr. Taylor went to work at 6 a.m. every morning. He was a fellow that I really developed a great affection for.

Reese Watkins of the Harris firm was, to my way of thinking, one of the outstanding trial lawyers in Macon. He had been an Assistant United States Attorney. When I-75 came through Macon, Reese represented the Department of Transportation. He had a habit when he would talk, and when he would ask questions, and argue to the jury, of holding up his hand with sort of a finger crooked out like that (demonstrating), and several of our friends would refer to him as "crooked finger." He was one of a number of really fine trial lawyers in Macon. There are others that I could mention, but those are a few that come to mind.

The lawyers I have named thus far were mostly many years older than me. Among my contemporaries, there were a good many outstanding trial lawyers as well, including Hank O'Neal, whom I would like to mention further in just a moment; Denmark Groover, Jr., who could try any type of case, civil or criminal, with only a short advance notice; Wallace Miller, Jr., a truly outstanding trial lawyer who later became my partner in Macon; John D. Comer, who was Annie's brother-in-law and with whom I had many epic battles; Neal McKenney; Albert Reichert; Charlie Adams; and others.

Every one of these trial lawyers was a little different. You learned fairly quickly which ones would not hesitate to go to trial and which ones would almost invariably settle at the last moment. Wallace Miller, Jr. is a good example of a lawyer who would make a decision as to what the reasonable value of a case was for settlement, and he would then make an offer to the other side and if it was not accepted, he would go to trial. His wife, Betsy, was my cousin, and we were really pleased when Wallace agreed to come with our firm.

*PROFESSOR LONGAN:* Tell me about Hank O'Neal.

*MR. JONES:* Well, I think Hank O'Neal is as good a trial lawyer as I have ever seen in my career. Hank was a dear friend of mine. Hank was at Mercer Law School back in the middle of winter, and he would come to class in a T-shirt and nothing else. The cold didn't seem to bother him at all. He was just a natural lawyer. He took to lawyering like a duck would to water. Hank was effective both in civil and criminal cases, but his heart was on the criminal side, I think, both as a defense lawyer and then later as solicitor of the State Court. As I said, I think Hank was as good a trial lawyer as I have ever seen. He had just the uncanny ability to relate to a jury, and they all loved him. It was a great loss when Hank died.

*PROFESSOR LONGAN:* Early in your career, you had the chance to do some pro bono work?

*MR. JONES:* Yes.

*PROFESSOR LONGAN:* Including the first case that you took to the Supreme Court of Georgia, *Bibb County vs. Hancock*.

*MR. JONES:* Right.

*PROFESSOR LONGAN:* Tell the students about *Bibb County vs. Hancock*. What was it like? What issues were at stake there? What was it like as a young lawyer to take a pro bono case to the Supreme Court of Georgia?

*MR. JONES:* I was active in the Younger Lawyers Section of the Georgia Bar, and we successfully sponsored in the General Assembly a bill that would provide for compensation of up to a maximum of \$150 for the representation of an indigent in a capital felony case, and up to \$500 reimbursement of expenses. John Hancock, who was a good friend of mine, represented an indigent, and he did a good deal of work and eventually worked out a plea that I think was a successful conclusion. He applied for \$150 plus some small amount as expenses, and the county attorney at the time looked into it and concluded that the statute was unconstitutional because it was not an "expense of court" within the meaning of the Georgia Constitution. So, John

Hancock said, "If you will represent me in this and we recover that \$150, we'll split it." I don't think John ever paid me that \$75, but he was willing to.

In any event, I filed a suit in his behalf and the County Treasurer filed a suit. They were consolidated and we won it in the trial court and then we argued it in the Supreme Court of Georgia. Happily, the supreme court upheld the trial court. And that was my first case before the Supreme Court of Georgia.

*PROFESSOR LONGAN:* So the staggering sum of \$150 for a capital offense?

*MR. JONES:* Exactly. But that was regarded as wrong. They thought the expense part was okay, but they thought you should represent an indigent without any fee charge at all.

*PROFESSOR LONGAN:* Well, that really brings me to the question I wanted to ask you, and this would be as good a time as any to ask you about how you feel about lawyers doing work pro bono and what role that played in your career. How important do you think it is? What can you tell us about that?

*MR. JONES:* Well, I think it is important. The simple answer I can give is that I think it makes you a better lawyer. I've done a good deal of pro bono work of one kind or another. I've represented the Methodist Church in some pro bono litigation on a number of different cases. I represented Governor Sonny Perdue in a case several years ago in which the question was who had the ultimate power, as between the Governor and the Attorney General, to decide whether litigation on behalf of the State should be continued or not. And in that case, by the way, there were two of the seven Justices who were right on the mark in their ruling. Unfortunately, I didn't persuade the other five. But the five did seek to greatly limit the application of the holding, and I think there will be another round on that at some time in the future. But I am convinced that to some extent it helps us be unselfish and to be concerned more about the majesty of the law and the fact that this is a service profession, and not just one in which we try to make money, to engage in pro bono work.



*PROFESSOR LONGAN:* So, in your career all the way from *Bibb County vs. Hancock* through the case involving Governor Perdue pro bono has been something —

*MR. JONES:* That was the last case, the first and last cases that I argued before the Supreme Court of Georgia were pro bono cases, right.

*PROFESSOR LONGAN:* Well, we're still talking about the early years in your career, and one of the cases I discovered in learning about you was the *Royal Crown Bottling vs. Bell*. I wanted to ask you about that in particular because as I understand it, at that time, it was the largest verdict in Bibb County. Tell us about that case.

*MR. JONES:* I think it was the largest tort verdict up until that time, which was more than fifty years ago. It was a wrongful death case. A young couple had been killed in an accident in which the fault was clearly that of the defendant's truck driver. I represented the mother of the young girl who was killed. The defense was that the young wife had died first from the collision, and at the moment of her death, the right of action vested in her husband under the Georgia Wrongful Death Statute. And then when he died shortly afterwards, it vested in his administrator. So, the insurance company for the trucking company paid a certain amount of money to the administrator of the estate of the husband purportedly to settle the death claim arising from the death of the wife.

Some of the testimony was really unpleasant, but it got down to the question of who had survived as between the husband and the wife, and the jury concluded the wife had, indeed, survived her husband and brought in an award for \$54,000. They had offered us nothing before the trial. And as a young lawyer, I felt very gratified by that result. That was affirmed by the appellate court, and it was paid.

*PROFESSOR LONGAN:* So \$54,000 was the largest tort verdict at that time in the history of Bibb County?

*MR. JONES:* I think so. That was about 1953 or 1954.

*PROFESSOR LONGAN:* Early in your career, you made a point to get involved in Bar activities. You became president of the Younger Lawyers Section of what at that time was the Georgia Bar Association. You became president of the Macon Bar. How on earth did you find the time and energy to do that while maintaining an active law practice, and why was it important for you to do that?

*MR. JONES:* I don't think it's as difficult as it sounds. I worked very hard, and always have as a lawyer, and I think if you consider something important, you can find a way to do it. And as far as Bar activities are concerned, not only did I feel like it was the right thing, and still do, but I got enormous enjoyment out of Bar activities. I made some friends among other young lawyers who became friends of a lifetime and are friends today.

I do think you can overdo it. You can become so infatuated with Bar activities, you know, that it will hurt your practice. But as long as you maintain a balance, I don't think it's all that difficult to work it out.

*PROFESSOR LONGAN:* Well, as part of your balance, you eventually became president of the State Bar, which takes us into the 1960s.

*MR. JONES:* Right.

*PROFESSOR LONGAN:* And you're practicing in Macon. The State Bar of Georgia comes into existence in 1963, and within a couple of years you are the president of the State Bar. What do you remember about your year as president, the significant events that you presided over?

*MR. JONES:* I suppose what stands out in my mind more than anything else is there were two cases that seriously challenged the validity of the State Bar. One was *Wallace v. Wallace* and the other was *Sams v. Olah*. They were both decided by the Supreme Court of Georgia in 1969. I was president in 1968-1969. There were some very good lawyers representing the challengers, and they raised every constitutional attack that was possible to raise under the laws of Georgia. I was so pleased when the

Supreme Court of Georgia rejected all of those challenges and also when the Supreme Court came out with a strong holding based on the inherent power of the judiciary to govern the practice of law. I told somebody that the highlight of my year as president was a recognition by the Supreme Court of Georgia that I was the president of a constitutional body.

*PROFESSOR LONGAN:* It may sound strange to students of this generation that there would be challenges to the existence of the State Bar. What were some of the arguments that were made?

*MR. JONES:* You know, there were so many of them, it's hard to summarize. Prior to 1963 when the Bar was incorporated by the Georgia Assembly and then the Supreme Court issued an order under its inherent power, I don't think there was ever more than about a two-thirds membership of the Georgia lawyers in the voluntary Bar Association. There was no power to discipline by the Bar Association, and there was no requirement of compulsory legal education.

Ironically, one of the few types of discipline that was administered locally was that if a person violated what was called the minimum fee schedule, that was regarded as being unethical. We had a printed schedule, and you should charge so many dollars for an adoption and so many dollars for a simple will and so on, and if you undercut your fellow practitioners by charging less than that, it became the subject of an ethical complaint. But, again, that was the voluntary Bar Association and all that anybody who violated the minimum fee schedule could be subjected to would be a loss of membership in the voluntary Bar.

I would have to refer you to the two cases. There were probably a dozen to fifteen different constitutional provisions in Georgia that were sought to be used, all unsuccessfully, against the State Bar.

*PROFESSOR LONGAN:* Over those years of the 1950s and 1960s, and we're maybe getting into the early 1970s, how did your practice change. How did it evolve as time went on?

*MR. JONES:* I was beginning to do less and less insurance defense work, and really had virtually discontinued that, and I did more and more contract litigation. I got into a good many constitutional law cases. My practice gravitated more toward federal court practice than state court practice. And, frankly, that became a whole lot more interesting to me because while insurance defense work is important and interesting, there is a certain repetitiveness to it. I found that in the other types of litigation it was more challenging to me.

*PROFESSOR LONGAN:* Well, of course, there came a time when you had the opportunity to argue your first case before the Supreme Court of the United States, and that takes us to *Evans v. Newton* and *Evans v. Abney*. Tell us what those cases were about, and how it came about that you found yourself arguing before the Supreme Court of the United States. I want to know what that's like.

*MR. JONES:* Senator A. O. Bacon died in 1914. He incidentally was a very distinguished man. He was Chairman of the Committee on Foreign Relations and President pro tem of the Senate. His funeral in Washington was held in the Senate Chamber. I read that it was attended by all nine Justices of the United States Supreme Court, the President of the United States, and his fellow senators.

Bacon left about a hundred acres of land just across the Ocmulgee River to be used for a park, with the City of Macon as trustee and with a board of managers. He provided that the park could be used only by white women and white children and with the permission of the board of managers by white men. Over time, a good amount of city money was used to improve the land. So, in the 1960s African-American citizens in Macon took the position, understandably, that they should be entitled to the use of the park because city funds were being expended. The City of Macon resigned as trustee, and private individuals were appointed to take the city's place in an effort to get around the state action problem. Eventually that went to the United States Supreme Court.

I had no involvement until the case was in the Supreme Court, and my father asked me if I would like to make the lesser

argument. He carried the ball primarily. I talked mainly about a case involving Girard College in which exactly the same procedure had been followed; that is, a governmental unit as trustee resigned and private individuals were appointed to take their place to eliminate the state action involvement. We lost that case six to three. It was held that, notwithstanding the resignation of the city, there had been such a tremendous involvement of city funds and city activities that it was unconstitutional to try to carry that bequest into effect. The case then came back to the Georgia courts and it was held first by the trial court and then by the Supreme Court of Georgia that because the trust had failed, the property went to the heirs of Senator Bacon determinable as of 1914.

I became involved again at that time, and I made the sole argument in the second case because my father had died in the meantime. We had had a little bit of a change in the composition of the Court, which was helpful from our standpoint, and the Court by a vote of five to two — there was one abstention and one vacancy — held that, in effect, this was simply the application of Georgia property law to Georgia property and that there was no federal question involved. So, we prevailed the second time.

But, to answer your question, I must say I was a little terrified when I stood up to argue in the United States Supreme Court for the first time.

*PROFESSOR LONGAN:* How much warning did your father give you that you were going to have part of this argument?

*MR. JONES:* About a week.

*PROFESSOR LONGAN:* Thanks, Dad. That may have been deliberate. Did you get a lot of questions? Was it a hot bench the first time?

*MR. JONES:* I don't think it was as hot a bench as it is today, but there were plenty of questions. And one of the things you very quickly learn about the United States Supreme Court is, you don't go up and just make an argument to the Court, you go up and answer questions. And I remember when I got ready for

the second case, I understood that, so I tried to condense my entire argument down into two minutes in the hope that, you know, in between questions I could get that two minutes out. I was reached at 2:27 p.m. one afternoon after the lawyers from the other side had completed their argument. The Chief Justice said, "Mr. Jones, we've got three minutes to go before we adjourn. You can either use those three minutes today or you can wait and start tomorrow morning."

Well, I was armed with my two-minute argument that I worked on very hard, so I said, "May it please the Court, I'd like to begin." And I think the Court was worn out by that time. So, they didn't ask any questions that afternoon. I got in two minutes and at that point we adjourned. That worked out nicely for me.

*PROFESSOR LONGAN:* Sometimes timing is everything.

In 1977, the time comes when you decide to go to King & Spalding. I'm going to ask you about that in just a minute, but I wanted to give you an opportunity here while we're still talking about your time here in Macon if there are other cases you remember, or other significant events during that time period, that you want to tell us about.

*MR. JONES:* You know, I was really involved in dozens of cases. I represented, for example, a friend in Houston County. He had been approached by the DOT representatives and asked if he would give a right-of-way across his land. He was told that it would be used as a paved road, and that it would add greatly to the value of his land. So, he agreed to do so without any charge.

Well, it turned out that the road was built but it was thirty feet higher than his land, and so, he was down in a gully. He complained about it, and the DOT said, he should have figured that out for himself. And I concluded, after looking throughout the equity code, that this was a classic example of either a mutual mistake of fact or else a mistake of fact on the part of one party induced by the conscious fraud of the other party, just basic equitable doctrine. I filed a lawsuit in Houston County and was thrown out on my ear on general demurrer. We went to the Supreme Court of Georgia, and they unanimously reversed the

trial court and applied that equitable principle that I had learned at Mercer Law School from Jim Quarles.

I was in a lot of different kinds of cases, some three-judge court cases and others of interest that I don't think I have enough time to go into.

*PROFESSOR LONGAN:* Well, there are not many lawyers in my generation or even the generation after me that can say they tried 150 cases to verdict. Are we losing something when lawyers don't get to trial anymore?

*MR. JONES:* I think so. The American College of Trial Lawyers is very concerned about this, and there have been a lot of articles about the vanishing jury trial. One of the things the College is so concerned about is there is a growing, or there seems to be a growing attitude, on the part of some federal judges in particular that they have somehow failed if they don't produce a settlement of a case, and that's just fundamentally wrong in my judgment. I think a federal judge and a state judge should certainly encourage the parties to explore settlement, but if they can't do so, a case should be set for trial.

I think the whole concept of alternative dispute resolution is good, but it can be carried to an extreme if it reaches the point where jury trials are discouraged. I think the jury system is a wonderful system, and in my experience, I have sometimes lost and been disappointed, and occasionally may have won when I shouldn't have won. But by and large, I think the jury system is just terrific, and I don't want to see jury trials vanish.

*PROFESSOR LONGAN:* This may be a good time for us to take a break because what I want to do next is ask you about the move to King & Spalding and then ask you about some of the memorable cases that you had while you were there.

*MR. JONES:* I'll mention one more case, if I can, in Macon. I represented the Bibb County Board of Education for about ten years before I went to Atlanta. And the Bibb desegregation case, the *Bivins* case, as it was called, and twelve other cases, all of which went up to the Fifth Circuit at about the same time, were lumped together by the Fifth Circuit. We got instructions that all

of the lawyers in all thirteen cases, all the school superintendents, and all of the other representatives should all come to Houston, Texas, for an en banc presentation to the Fifth Circuit. There were fifteen judges at the time. Every lawyer and every school superintendent and so forth should stay for all other cases; in other words, not just for your case but for all of the thirteen cases. I had the privilege of arguing before fifteen judges with several hundred other lawyers and school superintendents and representatives sitting behind me in Houston, Texas. I think the Bibb system by and large was regarded by the Fifth Circuit as having made the most determined good faith effort to try to comply with the Supreme Court decisions of all of those thirteen systems.

*PROFESSOR LONGAN:* I certainly didn't mean to sound like I was cutting you off. If there are other cases or anything you want to share with us, please do.

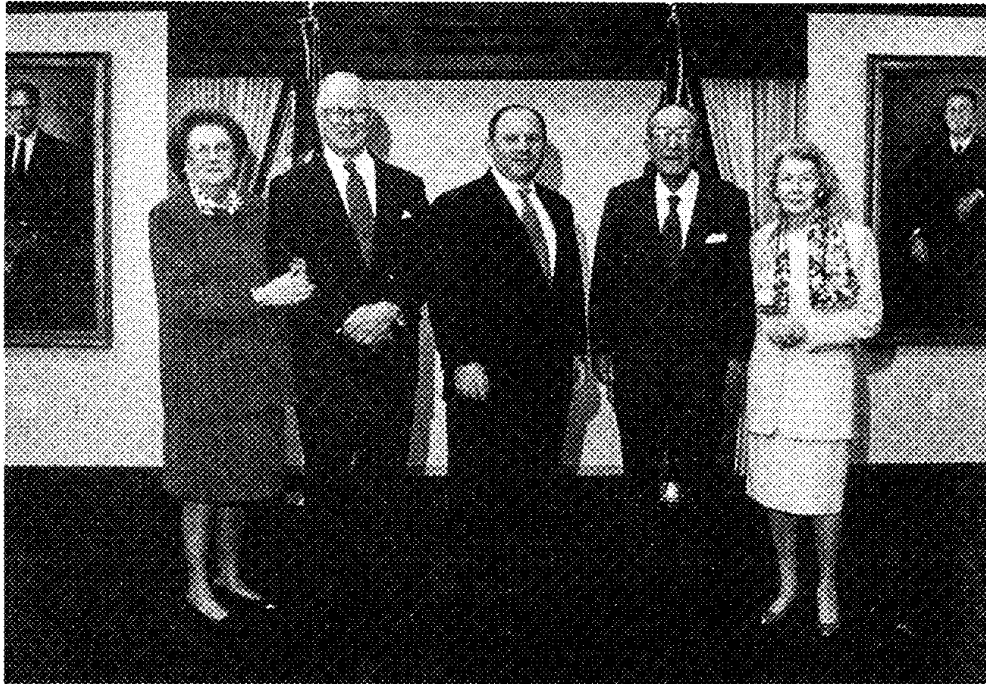
*MR. JONES:* The only other case that I would mention is because of personalities. I represented the Sumter County Board of Education in a three-judge court case that involved the validity of a local statute as it applied to that board of education. And I'll never forget it because there were about fifty plaintiffs. The lead plaintiff was a fellow named Jimmy Carter. In Sumter County, the three-judge court was chaired by Griffin Bell, and I was the lawyer for the Sumter County Board of Education. I kept thinking in later years that some enterprising reporter would pick up an account of that case, but it never happened.

*PROFESSOR LONGAN:* Now the cat's out of the bag.

*MR. JONES:* Well, there was nothing extraordinary about it. The court ruled against President Carter and his colleagues based on our proposal that the General Assembly be given an opportunity to correct a defect in the statute. The three-judge court thought this made good sense as a practical matter, so they delayed any ruling for a period of time, and the General Assembly did remedy the particular problem.



*PROFESSOR LONGAN:* Why don't we take a break and then we'll come back and talk about King & Spalding.



Dedication of courtroom at King & Spalding, LLP, Atlanta, Georgia to Judge Griffin B. Bell and Frank C. Jones on November 11, 1998. *Left to right:* Annie and Frank Jones; Ralph Levy, managing partner; and Griffin and Mary Bell. *Photograph courtesy of Frank C. Jones.*

*PROFESSOR LONGAN:* Frank, in 1977 after twenty-seven years in practice, you decided to make a career move and go to King & Spalding in Atlanta. Tell us how that came about.

*MR. JONES:* Let me say by way of preface, King & Spalding had been kind enough to invite me some dozen years earlier than that to join the firm, and it was not something that I could do at the time. In the Spring of 1977, I got a call from Griffin Bell, who was then Attorney General and a close friend. Griffin said he was calling on a mission for King & Spalding to invite me to join the firm, and as he put it, to take his place. Well, that

was kind of a joke because there was nobody who could take Griffin Bell's place, but I then gave thought to it, I guess, for probably six weeks or so and finally decided that it was something I should do. It would give me a chance to expand my practice and realize whatever potential I had as a lawyer, maybe to a greater extent than I could in Macon. And so, we went to Atlanta. My wife said that one morning in early July, I got up, took my briefcase and my tennis racquet, got in the car, and told her to sell the house and come to Atlanta as soon as she could, none of which is true by the way.

*PROFESSOR LONGAN:* So, you get in the car and you drive to Atlanta. How many clients did you have?

*MR. JONES:* I had no clients. I didn't even have a parking place. And I must say that in 1977 I had one of the best practices, I like to think the best practice, in Macon. I told King & Spalding that I was not willing to bring any legal matter to Atlanta, that I didn't want to do anything to harm the firm with which I had the closest relationship. So there I was at age fifty-one starting off on a new career. And there were some people who thought I was crazy, and there were moments when I thought I was crazy, but it turned out to be a very happy career change for me.

*PROFESSOR LONGAN:* You once wrote an article for one of the Georgia Bar publications about the differences between practicing law in Atlanta and practicing law in Macon. How was your life different when you went to work for King & Spalding?

*MR. JONES:* Well, of course, bigness was one of the differences. I went from a firm with maybe twenty lawyers to a firm that had probably eighty-five or ninety lawyers at the time, and I had a terrible time trying to memorize the names of everybody. And I came home one day, and I told Annie, "I know the name of every lawyer, every partner, and every associate in the firm except there are about six young associates, they wear the same clothes. They all wear the same color ties. They all look alike. I can't distinguish among those six." I finally did, I think.

But the main difference between Atlanta and Macon is there are very good lawyers in Macon, and there are very good lawyers in Atlanta; there are just a lot more of them. It's impossible to know lawyers as intimately in Atlanta as you do in Macon because there is something like 15,000 lawyers in Atlanta right now and in Macon there are probably 350 to 400, something like that.

*PROFESSOR LONGAN:* You mentioned that when you made this move, it was at the urging of Judge Griffin Bell?

*MR. JONES:* Yes.

*PROFESSOR LONGAN:* And I think this is a good time for me to ask you a question I wanted to ask you earlier, and that was if you could just talk a little bit about your memories of Judge Bell and some of the things you went through together. If you could do that for us, we'd appreciate it.

*MR. JONES:* I have profound admiration for Griffin as a lawyer and as a person. We were partners for more than twenty years, and we worked together and didn't always agree, but we did agree on the objectives of the firm. Senior lawyers don't really work together very often in large firms. You tend to work more with younger lawyers.

But I remember one case in particular when we did work together. There was a plaintiff in an action that was tried in Atlanta who recovered \$105 million against General Motors Corporation. It was the *Mosley* case. Griffin and I were not involved in the trial, but we were asked to jointly argue the appeal to the Georgia Court of Appeals. And, happily, the court of appeals reversed on a number of grounds. But we were given, I think, twenty-five minutes to present the case for the appellant, and one of our mutual friends asked me later, "How in the world did you divide the time with Griffin Bell?" And I said, "It wasn't any problem at all. I went first."

I don't think there was a finer lawyer in the United States than Griffin Bell in terms of his integrity and his ability. He had a wonderfully creative mind. He could go through a great mass of documents and complicated facts and somehow come up with a solution that made good common sense. That was one of his

great strengths in addition to his personality. I spoke at Griffin's memorial service and talked about some of these characteristics that I respected so highly. He loved Mercer Law School, and Mercer University for that matter.

*PROFESSOR LONGAN:* I think you would say that the most significant and complex piece of litigation you worked on at King & Spalding would be the Coca-Cola litigation.

*MR. JONES:* Right.

*PROFESSOR LONGAN:* Is that a fair characterization?

*MR. JONES:* Definitely.

*PROFESSOR LONGAN:* This was a complicated case and I think you're going to have to explain to us what was at stake and what it was like to litigate what, I guess, were two separate cases?

*MR. JONES:* Two cases, right.

*PROFESSOR LONGAN:* Tell us about that case and your involvement.

*MR. JONES:* This was litigation in the federal court in Wilmington, Delaware. The reason it was there is because Coke is a Delaware corporation. It began in 1981. A large number of bottlers in a putative class action filed suit complaining about the fact that the company had begun to use HFCS-55 as a sweetener in place of sucrose. And the real objective of the plaintiffs was they wanted the money that the company was saving as a result of the lesser cost. It became enormously complicated.

There were thirteen published opinions that were as long as 150 pages in length. I was told later by the clerk of the court that those two cases together, and I'll mention the other one in a moment, produced more shelf space in the United States District Court Clerk's office in Wilmington than any case in the history of that court.

Two years after the 1981 case began, Coke introduced Diet Coke on a nationwide basis, and the plaintiffs, more or less the

same plaintiffs, took the position that the formulation for Diet Coke was "Coca-Cola bottle syrup" within the meaning of the bottle contract. The reason they did that was because there was an artificially low price established by the contract, and they wanted to get the benefit of the cheap price for Diet Coke rather than having the company charge whatever it believed to be reasonable.

*PROFESSOR LONGAN:* There was a long history here with the bottlers and their contracts. Can you tell us a little bit about what got us to this point?

*MR. JONES:* The company was founded in 1885, and in 1899 a couple of young lawyers from Chattanooga came down to see Asa Candler and were able to persuade him to grant them the right to bottle Coca-Cola in the entire United States except for parts of Mississippi and Texas, and six New England States, for \$1. They were obligated to buy all of the syrup for Coca-Cola bottling from the Company, and the Company was obligated to supply all of their needs at a fixed price. That was the beginning of the relationship.

There was momentous litigation between them back in 1921 because the price of sugar went out of sight, and the Coca-Cola Company was about to go broke. The parent bottlers, the companies established by these two lawyers, sued the company in Delaware and won. The case then went up to the Third Circuit, and the Third Circuit said we're not going to decide this case until you have a full opportunity to settle it because if we rule for the bottlers, it's going to destroy the Coca-Cola Company, and if we rule for the Company, it's going to destroy the bottlers. Ultimately, the parties were able to work out an agreement, and they entered into a consent decree. In handling the litigation in the 1980s, I had to go back and read every page of what took place back in 1921.

Ultimately, the district court ruled in favor of the Coca-Cola Company on every single issue in both cases with one exception. The Court ruled that the bottlers were entitled to recover about \$20 million, which was the savings the Company had realized. There was much more at stake than that, hundreds of millions more, and the Company would have been content to end the

litigation.

However, the bottlers appealed to the Third Circuit Court of Appeals, and the court upheld the rulings of the lower court in favor of the Company. On the Company's cross appeal, they reversed the \$20 million award and reduced it to \$1, because the evidence showed without contradiction that even though in the opinion of the Court there had been a breach of the contract by using the cheaper sweetener without obtaining the consent of the bottlers, there had been no harm. They had lost no revenues. They had lost no profits. They had not incurred any additional expenses. There simply had been no damage of any kind, and it's a basic principle of contract law that a party whose contract has been breached can't obtain a recovery that would make the party better off than if the contract had been fully complied with.

*PROFESSOR LONGAN:* I have seen the figure of \$800 million that they were seeking.

*MR. JONES:* Right. That's what the bottlers contended they were entitled to. That litigation went on for twelve years and finally ended when the Supreme Court of the United States denied the bottler's petition for certiorari.

*PROFESSOR LONGAN:* Then there was another case?

*MR. JONES:* The other case was the Diet Coke case in 1983. The two cases sort of went on parallel tracks. I had my most unnerving experience as a lawyer in the Diet Coke case. The counsel for the bottlers, and they were very able counsel, persuaded the judge to require us to produce the secret formula for Coca-Cola.

*PROFESSOR LONGAN:* Now, let's make sure everybody understands just how secret this formula is.

*MR. JONES:* It is so secret that at any given time there are only two people, I am told, who know the formula, and they are selected by the board of directors of the Company. The formula itself is written, and it's in a safety deposit box in the vault of the Trust Company Bank in Atlanta, now SunTrust Bank. The Coca-

Cola Company concluded that even though the court expressed an intent to have as tightly drawn a protective order as possible, that it simply could not run the risk of the secret formula falling into the wrong hands. So, with the very greatest of respect, the Company informed the court it would not comply with the court's order. We did not, for reasons I won't try to go into now, pursue any interlocutory appeal or mandamus or what have you at the time. The court, understandably, decided that sanctions had to be imposed.

*PROFESSOR LONGAN:* When you say the Company said they were going to tell the judge that they weren't going to comply, who had to tell the judge that the Company was not going to comply with the judge's order?

*MR. JONES:* We had our Delaware counsel make that announcement. In any event, there was a sanctions hearing before the judge. And I'll never forget, the general counsel of Coca-Cola, a very fine lawyer named Bob Keller, used to joke with me and say, partly not joking, "You know, I'm the boss and that means that even though you may be the lead counsel in court, I'm really the lead counsel in this case." I always said, "I understand."

Well, one of the sanctions that was suggested was that the lead counsel for the Company ought to be put in jail and kept there until there was compliance. Just before this hearing began, Bob Keller came up and whispered in my ear and said, "I want it distinctly understood that you are the lead counsel."

The court happily imposed the least onerous sanction that I think the court could, and that was a preclusion order to the effect that the formulation for Diet Coke would be treated as being identical in all respects to Coca-Cola Bottle Syrup with one difference. Under a 1921 consent decree, Coca-Cola Bottle Syrup had to contain at least 5.32 pounds of sugar per gallon whereas the Diet Coke formulation contains no sugar at all. And it was on the basis of that one difference that we were later able to prevail in the Diet Coke case.

*PROFESSOR LONGAN:* Do you think that the fact the judge picked the lightest sanction possible had anything to do with the

way you handled the case?

*MR. JONES:* Yes. I think the Coca-Cola Company had acted in a very very responsible, good faith fashion in discovery in general. We had produced five million pages of documents. We had cooperated totally in producing deponents and in all other respects, and all of that was demonstrated to the court. I think the court, while it disagreed with our declining to comply with the order, nevertheless felt that there had been complete good faith on the part of the Coca-Cola Company in the discovery process. There is Third Circuit law that backs that up. Incidentally, one of the judges on the Third Circuit, when I argued the appeal, was Samuel Alito.

*PROFESSOR LONGAN:* Well, of course, this case took twelve years and took a lot of your time, but it wasn't the only piece of litigation you worked on. You worked on many many matters in the years you were at King & Spalding. One of them took you back to the United States Supreme Court.

*MR. JONES:* Right.

*PROFESSOR LONGAN:* Why don't you tell us about *Jones v. Wolf*.

*MR. JONES:* Well, that case involved Vineville Presbyterian Church here in Macon. The local congregation had to vote on whether to withdraw from the denomination of which the church was then a part, which was the Presbyterian Church of the United States. A majority of about two-thirds, voted to do so, and one-third voted not to do so. Then there was a church court, and the church court said that the control and use of the local church property should be exercised by the loyalists; that is, the one-third who voted not to withdraw.

I was not involved in any of the litigation that went on for a year or two involving all of that, but when the case went up to the United States Supreme Court, I was then asked to argue the case. We thought at first we had lost the case. We got word that there was a 5-4 opinion reversing the Supreme Court of Georgia. But it turned out that the five sent it back for the purpose of



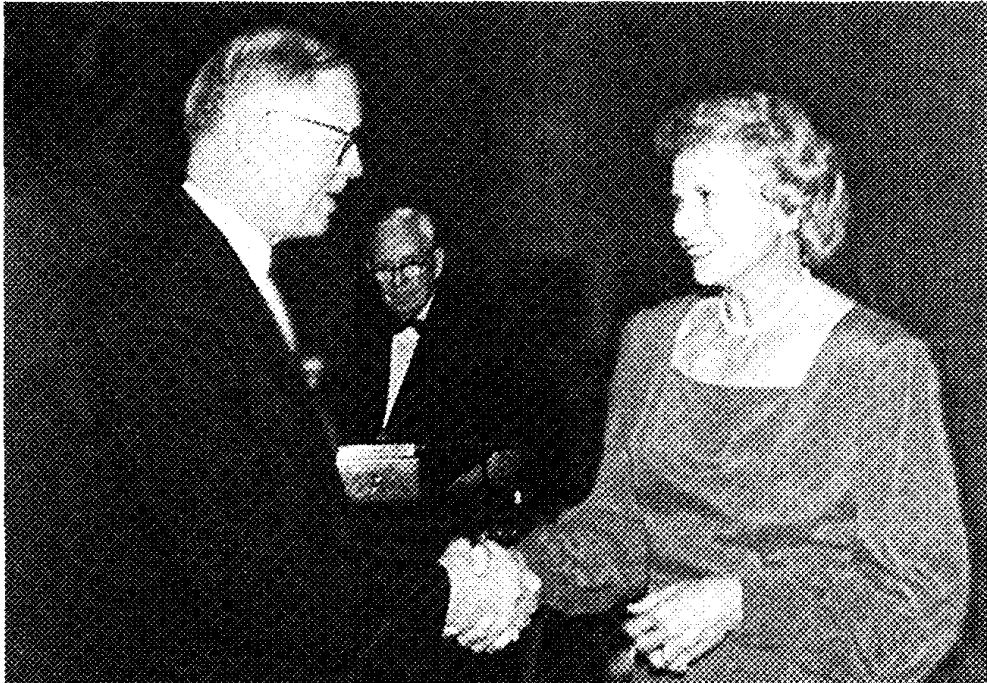
determining whether Georgia had applied what are called neutral principles of law, and said that if Georgia did, then the majority of the local church would be able to prevail because there was then nothing in the Book of Church Order of the Presbyterian Church of the United States that gave the denomination any rights with respect to local church property. That differed greatly, or then differed greatly, from the United Methodist Church, for example, which historically has had provisions to the effect that all local church property is held in trust for the ministry and members of the United Methodist Church. I think the Presbyterian Church of the United States thereafter amended the Book of Church Order, but that was that.

*PROFESSOR LONGAN:* That was your third time before the United States Supreme Court. Was it any less terrifying the third time than your experiences before?

*MR. JONES:* I think probably if I were there fifty times, I would be very nervous on each occasion.

*PROFESSOR LONGAN:* Me too. Throughout your career you have remained involved in the Georgia State Bar and various organizations devoted to improvement of the law, including the American Bar Association House of Delegates for many years. You had a role with respect to Justice Sandra Day O'Connor's appointment to the United States Supreme Court. Can you tell us how that came about and what your role was?

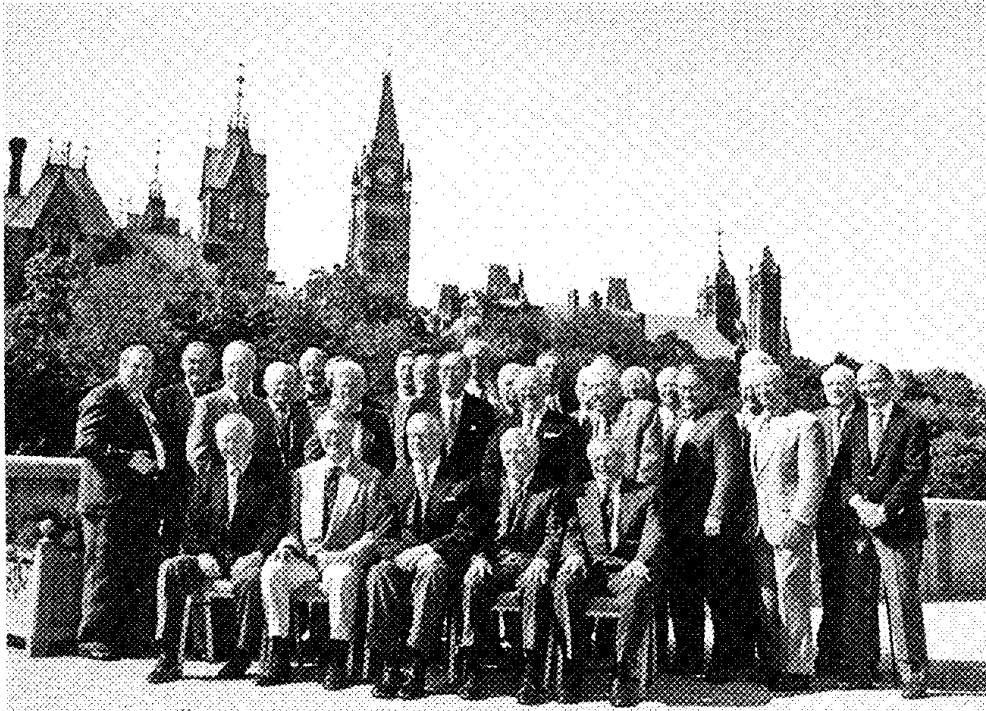
*MR. JONES:* I was one of about a dozen members of the American Bar Association's Federal Judiciary Committee when President Reagan nominated Sandra Day O'Connor. At that time the ABA Federal Judiciary Committee had a very close relationship with the Attorney General. So, we made an extensive investigation and submitted a report to President Reagan, and O'Connor was subsequently nominated, of course, and confirmed. And that's always been of interest to me because I have had the opportunity to get to know her quite well since then. We have traveled together on American College of Trial Lawyers matters, and I consider her a close friend.



Frank C. Jones speaking to United States Supreme Court Associate Justice Sandra Day O'Connor at a meeting of the Supreme Court Historical Society in Washington, D.C. Former Solicitor General Erwin Griswold, then Chairman of the Society, is shown in the background. *Photograph courtesy of Frank C. Jones.*

*PROFESSOR LONGAN:* You mentioned the American College, and I mentioned it earlier because the Foundation is kindly supporting this project. Can you tell us a little bit about the College? You've been a Fellow since 1971 and past president of the organization. What has it meant to you to be involved in that activity?

*MR. JONES:* It was formed in 1950 for the purpose of improving and maintaining the standards of trial conduct, the ethics of the profession, and the administration of justice. Membership is limited to a maximum of one percent of the active lawyers in each state in the United States or province in Canada. You have to be invited to join. There is a very rigorous procedure that's followed in considering persons for membership.



Annual meeting of the American College of Trial Lawyers, Ottawa, Canada, Fall 1994. Photograph of the Officers, Regents, and Past Presidents of the College. Frank C. Jones, as president, is seated in the middle of the front row. Judge Griffin Bell, a past president, is standing behind Jones. *Photograph courtesy of Frank C. Jones.*

The College, I think, is a magnificent organization, and it sponsors many good works, including a number that involve law schools such as the National Moot Court competition, the National Mock Trial competition, and others. I became active as the state chair of the College and then later as a regent. In 1993 and 1994, I was president.

*PROFESSOR LONGAN:* Well, I asked you earlier about when you were practicing law in Macon. I said I wanted to make sure I gave you a chance to tell us about any cases that I hadn't asked about. Are there other cases through your time at King & Spalding that you particularly remember that you would like to talk to us about?

*MR. JONES:* I guess one that I will mention is a case in which we represented the members of the Rollins family against the Department of Transportation. The members of the Rollins family had assembled about 1800 acres in Bartow County for the purpose of a real estate development. They were assured by the DOT that there was no intent on the part of the DOT to put a highway across the property. So, the Rollinses spent a substantial amount of money for roads and sewers and so forth. All of a sudden one day, they saw DOT employees staking out a roadway. We filed suit to prevent this from happening.

In the discovery process we were able to unearth the fact — and this is all public knowledge — that for a period of about two years, the DOT was planning to have a limited access four-lane highway that would go in the northern part of the county, nowhere near the Rollinses' property, until the day when a company — I won't name — decided to put a brewery in Bartow County subject to certain conditions being satisfied, one of which was that the highway to which I refer not come anywhere near their property. After there was a public announcement that the brewery would be constructed, the DOT completely abandoned the road that they had been working on for two years and changed it to come across the Rollinses' property.

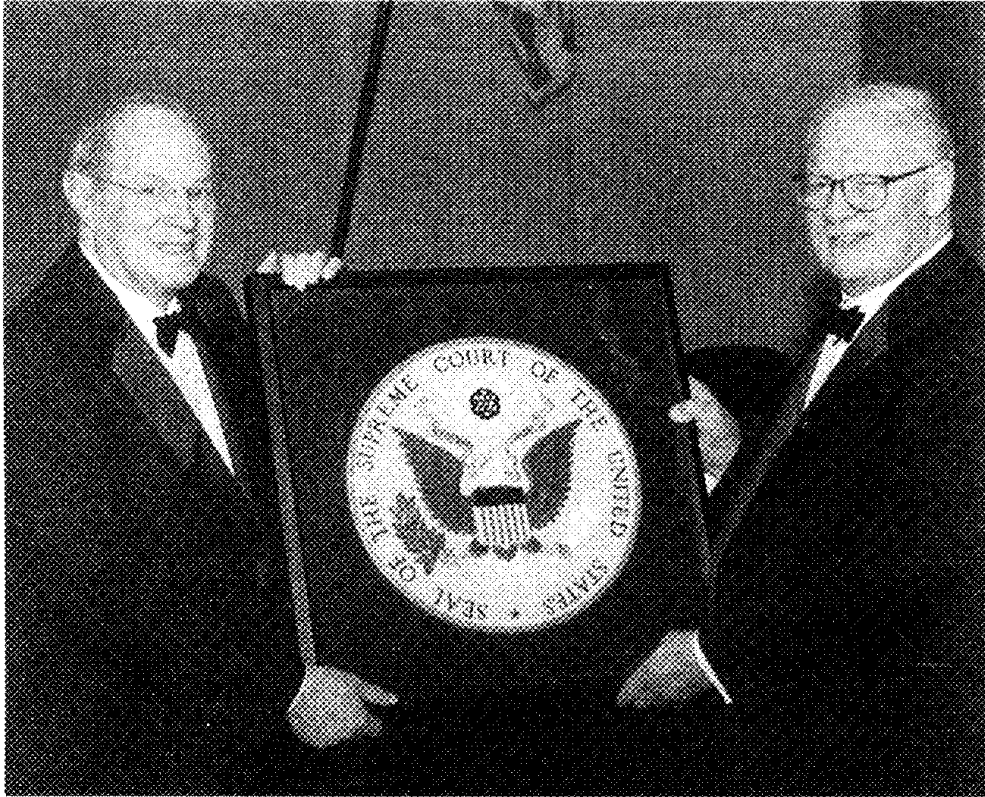
The DOT had denied that there was any relationship between the brewery decision and the highway but the federal judge rejected that and really was outraged, I think. The Atlanta papers editorialized that the DOT had been "caught in a lie." That was a very satisfying case because we were having a difficult time getting any sort of cooperation from the DOT in that matter. In that case, the DOT was just wrong.

*PROFESSOR LONGAN:* Professor Quarles's course on equity came in handy again.

*MR. JONES:* It did.

*PROFESSOR LONGAN:* There are so many things you have been involved in. I think I would be remiss if I didn't ask you about your involvement with the Supreme Court Historical Society. Can you tell us a little about what that is, how it came

about that you were involved, and what that organization has done during the time you have been involved with it?



Annual meeting of the Supreme Court Historical Society in the Supreme Court in Washington, D.C., in June 2008, when Frank C. Jones retired after six years as president of the Supreme Court Historical Society, and was presented with a replica of the Seal of the Court. A reenactment series featuring arguments in interesting cases of the past was named after him. *Photograph courtesy of Frank C. Jones.*

*MR. JONES:* The Supreme Court Historical Society is an organization founded in 1974 largely at the instance of Chief Justice Warren Burger. And the purpose is to preserve the history of the Court and the Justices. That's been somewhat expanded in recent years to provide education about the court, particularly to high school students.

I was asked to become the state membership chair of the society, and I am not sure why I did this, but I decided I was

going to try to outdo everybody else in producing new members. I leaned on a lot of folks in Georgia, and we produced a lot of new members and one thing led to another. I became the national membership chair and then became the vice-president and eventually became the president. I held that office for six years and really enjoyed it because it gave me, among other things, an opportunity to get to know each of the members of the Court pretty well. They are extremely supportive of this organization.

We have a lecture series and other programs of one kind or another. And although I have only argued in the Supreme Court three times, I have presided in the courtroom of the Supreme Court many more times, but always with my back to the Bench facing the audience.

*PROFESSOR LONGAN:* You mentioned you had a chance to get to know a number of the Justices, and in particular Chief Justice Rehnquist.

*MR. JONES:* Yes.

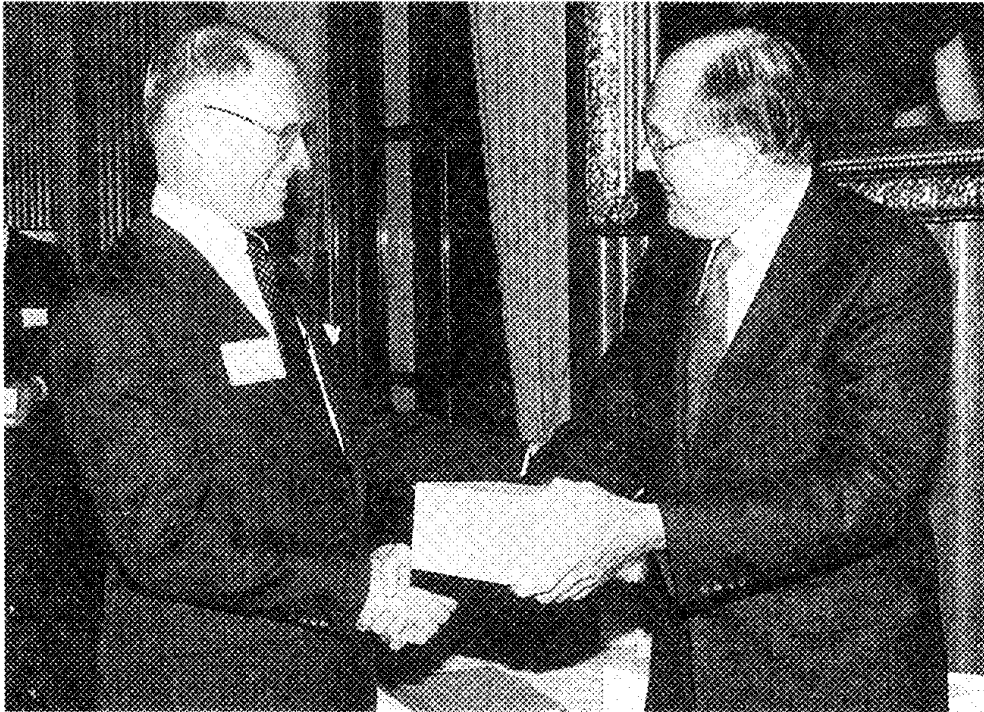
*PROFESSOR LONGAN:* Tell us a little bit about your interactions with him. What was he like?

*MR. JONES:* I liked Chief Justice Rehnquist very much. I would meet with him once or twice a year. The Chief Justice is the honorary chair of the Society. I would meet with him to bring him up to date on what we were doing and to be sure that we were not getting out too far in front of the Court, you know, on programs.

And what sticks out in my mind in particular, I don't think that the Chief liked coffee very much but he was a great lover of tea. When I would meet with him it would just be the two of us. He would brew tea and he would personally serve me with a cup of tea. I thought, you know, it can't get any greater than this —

*PROFESSOR LONGAN:* Not too many people can say that.

*MR. JONES:* — to be served tea by the Chief Justice of the United States Supreme Court.



Frank C. Jones in one of the conference rooms in the United States Supreme Court Building, Washington, D.C., with then Chief Justice William H. Rehnquist, who was honorary Chairman of the Supreme Court Historical Society. *Photograph courtesy of Frank C. Jones.*

*PROFESSOR LONGAN:* That's a great story. Frank, we're getting to the point where we're going to have a chance to hear some questions from the students. You have had a rich and varied career, you have been through a lot as a lawyer, you have a captive audience of law students, and I just wanted to invite you to say anything that you think they should know, anything you think they should hear, as they begin the journey that you're on and have been on.

*MR. JONES:* I happened to run across the other day a flyer on my desk about a program on professionalism that was put on this last fall. Abraham Lincoln was quoted on the subject of professionalism. A couple of his remarks are timeless, and I

would like to incorporate them as part of my own conviction and my own advice to the students.

He said that the leading rule for the lawyer, as for the man of every other calling, is diligence. "Leave nothing for tomorrow which can be done today." I think the first rule for a successful lawyer is hard work. I don't believe I've ever known any really good lawyer that didn't work very, very hard in being a lawyer and in doing his or her very best. So, diligence and hard work I think is certainly at the top of the list.

I love the quote by Abraham Lincoln, "Resolve to be honest at all events. If in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer." I think that says it all in terms of honesty as a professional and the obligations to comply faithfully with the rules of ethics and professionalism. We have a noble profession, and it's up to you to carry on the tradition of past generations just as I have hopefully been able to do.

I don't believe I'd add anything to that.

*PROFESSOR LONGAN:* That's good advice.

We have a wireless microphone, and if the students would like to ask any questions, I'd like to turn it over to them at this point.

*AUDIENCE QUESTION:* Mr. Jones, I just have one question and particularly with regards to litigation. What's the biggest mistake, or the most frequent mistake, you see up and coming young lawyers and young litigators make in the courtroom?

*MR. JONES:* Whether it is the biggest mistake or not may be debatable, but one mistake I have seen is that some young lawyers are too prone to try to be highly technical in the discovery process, and not want to produce documents that are harmful to their client. Nobody enjoys producing a harmful document. I mean that's obvious. But, we have to remember that we are professionals. We are officers of the court. And if a document fairly comes within the limits of the request for production, then it has to be produced unless there is some basis for claiming a privilege in good faith.



I talk with young lawyers from time to time about that, and I have suggested a test that, to my way of thinking, is a good one. And that is, suppose you don't produce a certain document and then later it comes to the attention of a fair-minded judge that you consciously did not produce this document. Would you be embarrassed? Would you be able, in good faith, to explain to the court why it was you really felt that you were not obligated to produce the document? That is just one example that comes to my mind. But sometimes young lawyers, sometimes lawyers in general, not just young lawyers, play games in discovery, and I think we need to avoid that.

*AUDIENCE QUESTION:* I want to tell you thank you first for doing this. We really appreciate it. I'm from a small town in South Carolina, and I've decided to spend my summer clerking at a big firm in Atlanta. And I'm wondering if you think there are things that you have to give up or that you have to sacrifice to have a more high profile career in Atlanta. Being from a small town I appreciate that community environment, and I'm just wondering if there are other things you have to give up to have that career.

*MR. JONES:* Well, the larger the firm, of necessity the more there has to be a program with rules and so forth. I would encourage you to do just what you're doing and have that experience with a large firm. And then, you can decide after that experience is over, whether or not you want to practice with a large firm or whether you want to go back to a small town in South Carolina, or maybe find somewhere in between. I don't think there's any right answer or wrong answer on that. Some people enjoy the big firm atmosphere; other people do not enjoy it.

When I went with King & Spalding, I was fifty-one years old; and no, I didn't have the potential problem that a young lawyer would have of going into a large firm. I was what they call a paratrooper; that is, I got dropped in from the top, which is a nice way to join a large firm. But I would say, go right ahead with what you're doing and then decide if it will be worthwhile. And then decide at the conclusion of your summer clerkship what type or what size firm you want to practice with. Good luck.

*AUDIENCE:* Thank you.

*AUDIENCE QUESTION:* This question pertains to your involvement with the United States Supreme Court and your relationships with the Justices. Just from things I've read and things I've seen on TV, it seems that the American public has taken kind of a hostile view towards the Supreme Court, and labeled Justices as activists, and labeled the Court as undemocratic. I wanted to see what your opinions are as far as the views that have existed throughout your law practice and your knowledge of the Supreme Court's history. What are some things that we can do as lawyers, or the Court could do, to educate the public as to what they're actually doing or that they're not being activist judges or legislating from the bench?

*MR. JONES:* Well, my experience with the Court since the *Jones v. Wolf* case has been primarily through the Historical Society, and I like all nine members of the Court. They are delightful human beings. They are very, very smart people, and they are hard working people.

It's funny, the liberals on the Court tend to think the conservatives are activists, and the conservatives tend to think the liberals are activists. And so it all depends, or it at least depends in part, on your point of view.

There are certain writers who do their best to make it appear that there are these dramatic differences in personalities and so forth on the Court, which I think are exaggerated to a large extent. Somebody like Paul Clement, who was here a couple of weeks ago, would be far better able to answer that question than I am.

My own experience in dealing with the Justices through the Supreme Court Historical Society is that they are all trying very conscientiously to do their best. They very simply have philosophical differences about important legal issues and that has historically been the case with the Supreme Court.

*AUDIENCE QUESTION:* I have a question about legal advertising, and TV ads especially. What do you think their impact is on the profession?

*MR. JONES:* I don't like it, but I recognize the Supreme Court has said that advertising is permissible if it's accurate and not misleading. When I'm at home watching television and this big ad appears on the screen saying have you had this problem or that problem and so forth, do you want cash money, call up so-and-so, I find that very repugnant. And yet, the Supreme Court has held just what I said a moment ago.

I don't know any way to get around that other than not to respond positively to the ads. I can see how somebody who is down and out and maybe has lost his or her job and is one step away from the bankruptcy court might find an ad, do you want cash and this and that and so forth, to be appealing. But personally, I don't like advertising.

To be honest, some people have pointed out that large firms who say we don't like advertising are themselves engaged in advertising in various ways and, therefore, there's a little bit of hypocrisy in that statement. I think all law firms, as a part of the marketing process, try to get clients, and you could call some things advertising that large firms might feel otherwise.

*PROFESSOR LONGAN:* Other questions?

*AUDIENCE QUESTION:* As you had the opportunity to start your practice with various areas of law, what advice would you have for a young lawyer who is entering a specialty firm to still have the opportunity to build well-rounded skills as a lawyer?

*MR. JONES:* This is for someone entering a specialty firm like labor law, for example?

*AUDIENCE:* Yes.

*MR. JONES:* Well obviously, one possible way of doing what you're talking about is to take advantage of ICLE presentations. You may be interested in litigation in general, and you could sign up for an ICLE course on that. I also think reading is a very good alternative. I try, even at my age, to read every advance sheet even though I'm semi-retired. I must say I don't read all the criminal law cases and I don't get terribly happy about the domestic relations cases, but I try to read. Other than that I try

to read every advance sheet from the supreme court and the court of appeals. I read most of the articles in the *National Law Journal*, and the office subscribes to some other publications. So I think, the combination of reading in other areas than the specialty area in which you will be practicing and going to continuing legal education courses would probably be the best way to expose yourself.

*AUDIENCE QUESTION:* You wrote in a 1980s article in the *Georgia Bar Journal*, I believe, about a comparison between Macon practice and Atlanta practice. And now that you've returned from Atlanta, practicing there for many years, would you still say that Macon and Atlanta share more similarities than differences as far as law practice goes?

*MR. JONES:* Let me say first of all, that was probably the most foolish commitment I ever made because I was bound to offend somebody. But I'm the sort of the person that will agree to do almost anything six months in advance, and I think I was asked about six months in advance. I think maybe the differences have increased a little bit since I wrote that article as the firms have gotten bigger and bigger and bigger, and Atlanta has gotten more and more populated with lawyers, but I would stick to the basics. I would still adhere to what I said, the basic principles. I think a good lawyer can do well in either Macon or Atlanta.

I used as an example in the article a couple of people. One was Hank O'Neal that I talked about. Hank would have been a highly successful trial lawyer in Atlanta just as in Macon and anywhere else for that matter.

Another person I admired very much was Kay Stanley. Kay was a probate judge. He was blind from about the age of seventeen or eighteen on, and yet he developed his other senses to such a remarkable degree that he did an excellent job as a probate court judge. I think he would have been a good probate court judge in Atlanta or anywhere else, just as he was in Macon.

I think another thing I wrote in that article — I looked at it recently — is that it hurts just as bad to lose a case in Atlanta as it does in Macon. So there are still more similarities, I would say, than there are differences.

*PROFESSOR LONGAN:* Anymore questions?

*AUDIENCE QUESTION:* I was recently in the State Bar headquarters, and I noticed on the wall there is only one female president of the State Bar of Georgia. I am wondering if you feel that it is lacking female leadership or whether there are no opportunities for women to be leaders of the State Bar?

*MR. JONES:* I think in years past there was a lack of opportunity, but I don't believe that is true today. I notice in the Younger Lawyers Division that there are a lot of female lawyers who are playing leadership roles. So it's just a question of time until you see a lot of women on that wall.

I am glad you brought that up, by the way, because I think of all of the things I've been involved in, I probably got the most satisfaction out of the State Bar Center than anything else. I was chairman of that committee from 1995 on, and we looked at thirty different sites in downtown Atlanta and weren't able to find anything that was affordable or had adequate space for parking. And the supreme court had made it very clear that they wanted us to have the headquarters in downtown Atlanta not too far from the Judicial Building.

We were about to give up and go out on the outskirts when we found out that the Federal Reserve Bank was going to sell its building on Marietta Street and move out to a new building on Tenth Street. We were able to work out an arrangement to buy the Federal Reserve Bank building for about \$9 million, and that was financed to a considerable extent by an assessment of \$200 per lawyer payable at \$50 a year for four years. And I want to bring the good news today, that each of you is going to have the opportunity to pay \$200 because that applies on a continuing basis.

And we had many, many problems in connection with the State Bar Center. There were five or six ancient trees that were full of concrete. We were actually stopped from cutting them down by an appeals board in the City of Atlanta, and we could not have built the parking garage if those trees remained. And, we could not have economically built the building without the parking garage. We had to appeal that and get an order from the superior court. Once that order was signed, you know,

setting aside the previous adverse order, we went out with a chain saw and took care of that problem.

How many of you, raise your hands, have been to the State Bar Center? Well, I think you'll agree with me that it's a magnificent facility. I think Georgia can be very proud of it. I don't believe there's a Bar center in the country that's even close to the State Bar Center in Atlanta. It will be paid off, by the way, in full, in about another five years.

*AUDIENCE QUESTION:* I think when you were talking about your entering King & Spalding, you said when you started there were ninety attorneys? And then you said today there's about 900 attorneys?

*MR. JONES:* Yes.

*AUDIENCE QUESTION:* The size of 900 in one firm is a very large number when you think about it. I'm just curious to see from either a legal ethics standpoint or from the standpoint of the law community in general, do you think law firms of that size are a good thing or a bad thing. How does it benefit the legal community?

*MR. JONES:* Well, I think you have law firms with 900 lawyers and some law firms with three or four thousand lawyers because there is an economic justification for it. In the merger and acquisitions field, for example, there's often a need in a relatively short time span for twenty or thirty, or even more, lawyers to be involved, and a small law firm is just not equipped to do that. You need the larger firms.

Similarly, in litigation, if there is a class action lawsuit that goes on for some extended period of time, a large number of lawyers economically are justified. The sad part is that you just don't know the people, while on the other hand, in a way, it's kind of like neighborhoods in the city. You can develop a closeness within the team of friends you enjoy being with, you socialize with, and so forth even though you don't know lawyers on other teams or in other cities.

I've told many people that I don't think there's a right answer or a wrong answer to what size law firm you should

practice with. It is what you enjoy. There are some people, even in this day and age, that enjoy being solo practitioners. And I say more power to them if that's what they want. It's tough, but they can associate lawyers who have specialization fields, you know, when the need arises.

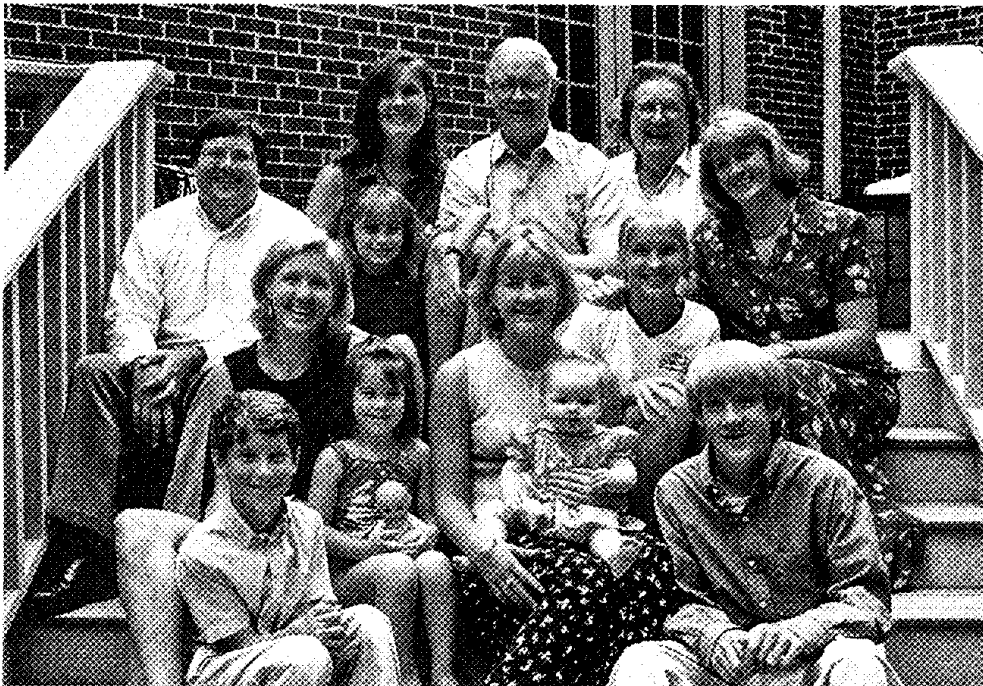
But I think you're going to continue for the foreseeable future to see law firms get bigger and bigger. I'm no longer involved in the management of King & Spalding, but I know they gave a great deal of thought to all of this before they decided to open offices in places like New York, Frankfurt, London, Dubai, California, and other places. And I think you are going to see a continuation of that.

*PROFESSOR LONGAN:* We have a few members of the faculty here. I wanted to give them a chance if they had any questions.

*AUDIENCE QUESTION:* Frank, you have had a chance to participate in the legal profession and observe the legal profession for about six decades, and we have had all sorts of changes in that time. What do you think are the biggest changes that you have observed in the legal profession and law practice?

*MR. JONES:* Well, certainly one of the biggest changes is this intense concentration on billable hours. I don't have a good alternative answer, unfortunately, but I don't like billable hours even though as a lawyer I have always worked very hard. The year that I was president of the American College of Trial Lawyers I decided I would record, just for the heck of it, every moment that I spent, and I think I put in 1800 hours on College matters. That included flying back and forth in planes and so forth. But I also billed, I believe, 1200 or more hours as a lawyer. I decided that I didn't want to completely give up the practice of law during that whole year. I must say that at the end of the year I was exhausted, and I wouldn't want to do that again.

The intense concentration on economics, on billable hours, to my way of thinking, detracts from the majesty of the law and the opportunity that lawyers have to deliver community service and serve the profession and so forth. And yet, that's easy for



Frank C. Jones's family photograph taken in 2000 on the back steps of his former residence on Wellington Drive in Macon, Georgia on the occasion of his 75th birthday. Frank and Annie Jones have four children: Eugenia (Mrs. Samuel J. Henderson); Annie Gantt (Mrs. Jeffery Blattner); Carolyn (Mrs. James W. Corley III), and Frank C. Jones, Jr., and seven grandchildren, all of whom are included in this photograph. *Photograph courtesy of Frank C. Jones.*

me to say as an old lawyer who has educated his children and doesn't have any mortgage on his house. I mean young lawyers have to worry about the economics of everyday living.

So I guess the one thing that bothers me the most about the changes I've seen over the years is the extraordinary emphasis on billable hours and economics.

*PROFESSOR LONGAN:* Other questions from the faculty? Well, Frank, all I can say is thank you very much. We have



appreciated this, it has been a wonderful afternoon. Thank you for your time.

*MR. JONES:* Thank you.

