

Oral History

An Oral Interview of
Manley F. Brown

April 11, 2016, April 12, 2016 & June 23, 2016

Conducted By
Patrick Emery Longan

April 11, 2016:

PROFESSOR LONGAN: Good morning, Manley.

MR. BROWN: Good morning to you, Pat.

PROFESSOR LONGAN: I appreciate you taking the time to sit with us and tell us the stories of your life.

MR. BROWN: I'm delighted to, and I appreciate you and Mercer taking the time and putting forth the energy to do this Oral History.

PROFESSOR LONGAN: I want to start at the beginning. You have described yourself in speeches as a "Hillbilly from North Carolina," so I want to start there and ask you about Sols Creek. I've got a picture here, and I understand this is a house that has some significance in your life. Tell us about that.

MR. BROWN: Referring to the Hillbilly of Appalachia, Bob Hicks, who is a great Mercerian, introduced me at Professor Jim Rehberg's roast as, "A Hillbilly from Western North Carolina" and "the most challenging law student Mercer University Law School had ever

been presented with.” I took that as a compliment, so I’m happy to talk about Sols Creek, Western North Carolina, and the Canada Township. Sols Creek is a community in what is known as the Canada Township, and the people in Jackson County, North Carolina refer to it as “Little Canada,” and some with trepidation. There are people even today who still have a skeptical or a mystical understanding of Little Canada and think there is something mysterious or dangerous about it. There is some difference of opinion about how Sols Creek is spelled. It’s usually spelled S-o-l-s, sometimes S-a-u-l-s. I don’t know that it matters, but there is that difference. To trace my history and the Brown family, we would begin with a man named Johnnie Brown. He was known in the community as “Shooting Johnnie Brown.” His grave is in the upper cemetery at the old Sol’s Creek Church Cemetery. On his tombstone it says, “Johnnie Brown, a pioneer settler and expert marksman,” and he’s buried alongside his wife, Violet Fortner.

PROFESSOR LONGAN: This would have been your great-great-grandfather?

MR. BROWN: Yes, my great-great-grandfather. He came to Jackson County, North Carolina, in 1830 when the county was still part of Haywood County. I have a copy of the deed to the land he settled on. He bought 5,000 acres of land in the Canada Township for 25 cents an acre. It was bought by using a document called a patent because it was from the State, as the property was detached from Haywood County where Waynesville, North Carolina, is currently located.

The Canada Township would cover various communities. If you were going in a southerly direction up Highway 281, you would eventually reach the Oak Ridge Community. Then, you go over a fairly sizeable mountain called Dodgen Ridge. Shooting Johnnie owned the top of that mountain at one time. If you stood on top of that mountain and looked, he basically owned everything you could see. You then go through Sols Creek and when the road forks, you go to a place called Charley’s Creek. If you stayed on Highway 281, you would go to Neddy Mountain and then to the Wolf Creek Community, where my grandmother and my Shelton relatives eventually settled. If you go further, you go to the Wolf Mountain and Rockbridge Communities, and if you continued on that road, you would come to a name that’s

more familiar to people, Lake Toxaway. There's a resort there now, and for people who love to play golf, there's probably two or three golf courses and a fairly sizeable area that people go to for resort-type activities. You continue on to Brevard, North Carolina, which a lot of people know about because of Brevard College and the Music School.

PROFESSOR LONGAN: Well, 25 cents an acre sounds like a pretty good deal now.

MR. BROWN: That was a pretty good deal. Unfortunately, being able to keep that land was a difficult thing because, around the turn of the century, the timber companies—I'll refer to them as the "Yankee timber companies"—came and cut the virgin timber. I have seen a lot of pictures of my relatives working on those logging jobs. They cut huge trees by hand with crosscut saws and logged with horses. My daddy's brothers, one of them in particular, worked constantly in the woods and drove a D-16 bulldozer. He used to take me to work with him. To sit up on a D-16 bulldozer and see those men engage in the logging process of cutting those trees down, particularly at times using horses to drag the logs out of those deep hollows where they could be loaded onto trucks and moved, and seeing that type of very dangerous and exciting activity was an interesting experience for a small boy to watch.

PROFESSOR LONGAN: Tell me about this picture of a house.

MR. BROWN: This house was my Grandfather Manley Brown's house. Obviously, I was named for him. He came there with my grandmother in about 1890. Shooting Johnnie was his grandfather. He and his family were the first non-Indian residents of that area. To get there, you go through Sylva, North Carolina, and Cullowhee, where Western Carolina University is located. You continue up Highway 107, and when you get to Tuckaseegee—the Tuckaseegee River divides into an east fork—Highway 281 turns to the left as you go south. You travel 281 into the Canada Township, which roughly parallels to the east fork of the Tuckaseegee River and rises almost in Transylvania County where Lake Toxaway and Brevard are located.

My grandfather came to Sols Creek, and of course, that land was part of the original 5,000 acres of land that Johnnie Brown bought and

handed down to his children, and this had been given to my grandfather. It was a small typical English/Scotch-Irish type farm that he developed and built this house. He and my grandmother lived there and had eleven children. My grandmother had those children in this house and never saw a doctor. We finally took her to the doctor when she was about seventy years old, and the only problem was she had a little high blood pressure. I was actually born in this house in the back bedroom where my father and his eight brothers and two sisters were born. The house is still there, and I lived in it for many years.



I actually own my grandfather's small farm and the house. The farm doesn't look like it did when I was a child because it's been used to grow Christmas trees over the years. That has resulted in the land being more grown up. It was an open space and kind of a bowl shape. It is extremely isolated even today because it's surrounded by several hundred acres of Forest Service land, a lot of which my Great-Great-Grandfather Johnnie

actually owned. They were not able to protect their title to that land unless they fenced it and lived on it just because of the way things worked. The timber company and U.S. Forest Service ended up owning most of that by virtue of something I learned about way too late in law school. It's referred to as a Torrens Land Registration Act, where if it's not clear who owns a piece of land, you mark it, fly over it, and take an aerial photo. Then you file an *In Rem* action in court and publish a notice. If anybody claims title, they must come in and make their claim, and if not, the movant in the land registration proceeding winds up with the property. That's how this large acreage of property eventually moved directly or indirectly into ownership of corporate entities. A lot of it was sold to the forest service as the timber companies finished their logging operations. They actually built railroads and logged by building spur lines. If you're out in the woods, you would walk across a railroad bed and wonder, "Why is there a railroad bed running along Charley's Creek?" It's there because the lumber company built spur lines and removed the logs by using narrow-gauge railroads. They drove the trains in and logged the areas.

PROFESSOR LONGAN: Tell me about this handsome fellow.

MR. BROWN: That is Jackson Brown, one of the four sons of Johnnie Brown. He was my grandfather's father, my great-grandfather; He's an interesting person. I had four great-grandfathers who fought in the Civil War. My wife has a lot of the documents relating to them. My brother-in-law Larry, my wife's brother, taught in the public schools, and one thing he taught was genealogy. He taught the mountain students how to find out about their ancestors and things about them. A student of his brought a document to school one day, and it was written about the Johnnie Brown family. It was not written in very good English. It was full of grammatical mistakes and that type thing, but an old gentleman named Queen, who turned out to be a distant relative of mine, had written this thing, and one of his descendants had a copy. He brought it to my brother-in-law's class. Larry said, "This looks suspiciously like

Manley's family." It turned out it was. I have a copy of it. They talk about Grampa Jack.



The thing that Larry and Jean, my wife, probably most enjoyed about this was finally pointing out to me that Grandfather Jack, who was in the Civil War, was in the Union Army. Jean has some of the records. It appears he may have even entered as a Confederate but ended up in the Union Army. That's understandable because living where he lived, if he had tried to enter some other way, somebody probably would have shot him. There was a lot of internecine violence at that time. East Tennessee kind of seceded from the secession all around Greenville, Tennessee. Actually, Jackson had lived with his family in east Tennessee, and the Fortner lady, who was my great-great-grandmother, was from east Tennessee, so he really had a Unionist background. East Tennessee, that's where Andrew Johnson, the vice president and president who caused a lot of difficulties, was from. So grandpa Jack

probably had that political background or that leaning. At any rate, the clincher was that after he came home from the War, he named one of his sons William Sherman Brown after General Sherman. The only thing he left out was Tecumseh. My brother-in-law said, "No Confederate would have done that." Some of my relatives would not subscribe to that and might be a little unhappy to hear it, but that seems to be the deal.

PROFESSOR LONGAN: The war ended a long time ago, Manley.

MR. BROWN: It ended a long time ago but it still hasn't been forgotten. A lot of people continue researching their genealogy and their ancestors, and they have a certain impression about them. That is a little hard for them to let go.



PROFESSOR LONGAN: Manley, can you talk about this picture and where it was taken?

MR. BROWN: This is a picture taken by my mother. It was in her photographs. My father's people came from the area I've just talked about, and it was extremely isolated. My grandmother, for instance, never went to the County Seat in her lifetime. If you tried to have a conversation with her, you would have had a hard time talking with her. She spoke almost another language. She spoke a kind of middle English or probably common Elizabethan English with words like "hit," "clem," "yonder," "fit," things like that, and she used that vernacular. I grew up listening to her and speaking that way. My mother, who was a schoolteacher—and I'll explain how that came about later—had three degrees from Western Carolina College. She grew up in the mountains just like my Brown relatives. It was over in Webster near the County Seat in a little place that was more accessible to the rest of the world.

I lived a lot with my grandparents growing up, just out of necessity, and when I would come home after staying with them a long time, my mother would say, "Manley, you have to stop talking that way. You can't talk like that as your regular way of communicating just because you talk to your grandmother that way." Even today, some of my relatives still use many of those expressions and I hear it in their speech. I do too when conversing with them. We talk differently.

PROFESSOR LONGAN: That's a real symptom of the isolation.

MR. BROWN: It is. When my wife, Jean, was working on her master's degree at Mercer after we were married, she had a course under Doctor John Byron, an English professor. She took a course in the history of the English language. She had to write a paper and I don't know whether I came up with this idea or she did. I said, "I'll tell you what, I want you to take some of the words that my grandmother used, and probably some of your people used, and research the history of those words and determine why they talked that way and where they came from." It turned out to be enjoyable for her and for me, and what she determined was that it could be ascribed to the isolation. In other words, she was able to take those expressions and, through research, determine when they had been used by the average person who was living in England, where I think my Brown relatives came from.

My mother's family came from Scotland or Ulster, but my Brown family obviously came from England. They were in North Carolina at

the time of the Revolutionary War. A man named George Brown—my wife Jean actually found his will—was living in what's now North Wilksboro, North Carolina. That's above Hickory and almost on the Virginia line. The interesting thing about his will was George Brown owned a lot of property, and he was leaving different items of property to his family. One of his sons he mentions in the will that he left property to was Manley Brown. It was interesting to find that will and find my name, which has a long history in the family. George would, I guess, have been my 4th great-great grandfather. He had lists of things he had sold to the Continental Army during the Revolutionary War.

PROFESSOR LONGAN: Tell us about the picture you have.

MR. BROWN: This is a picture my mother took. She came to the Canada Township to teach school. She didn't grow up there. At that time it was a one-teacher school situation. She taught the first through the sixth grade in what was used as a church on Sunday and a school during the week. She had a camera, obviously, and she took this picture. It looks like it was taken at the far end of the Sols Creek Cemetery. It has probably 30 or 40 people and the graves have flowers and white sand. That was typical. Once a year they still have Decoration Day at all those cemeteries and they always had it at Sols Creek. That's where they took this white sand and put it on the graves and then decorated the graves. The people would usually have some sort of a church service in the graveyard and people sang old hymns without any musical accompaniment. They called it tuning up. They would tune up and sing. I see the faces of people I knew like Reverend John Harris standing in that group of people. The interesting thing about the picture is looking at their faces, which reveals the difficult lives they lived. Just about everybody had to work to survive, and it was a hard life. When women were in their thirties, they looked twenty-five years older. You see a lot of these fairly younger women holding babies in their arms. It was a tough existence and it took a really tough, hardy-type of person to survive and raise a family in that environment.

PROFESSOR LONGAN: Manley, this is a picture of your parents.



MR. BROWN: Yes. This is a picture of my mother and father. In this picture, they are dressed very well. My father has on a suit with a vest and a tie. I expect this was not his usual attire, and they are actually seated on a chestnut log. This may have been right after they were married. It's possible that is their wedding picture, based on some other photographs I've seen. That's probably taken while she was living and teaching at another nearby community—Charley's Creek School—which I had mentioned earlier. My mother was always neatly dressed, except when she worked around the home and that type thing. She taught school during the week and taught Sunday School to the kids at the church on Sunday. The school teacher did everything for the community. For instance, I found not long ago in her papers, as a school teacher during

the Second World War, she looked after the documents and the dispensations of the rationing system. In other words, you had to fill out a form if you needed a tire for your automobile or truck, and logging being the primary industry that would have been important to that community. If you wanted extra sugar or you wanted coffee or the things that were rationed during the War, you had to have stamps. She was in charge of interpreting the regulations, filling out the forms, and getting the information from the people in the community so they could get the ration stamps.

PROFESSOR LONGAN: At that time and place, the school teacher would have been just about the most highly-educated person in the community.

MR. BROWN: Yes. My mother was the only formally educated person. My grandfather could not read and write. He was a wonderful person and a very bright man with a great personality. He was a great storyteller, but he never had a chance to go to school. My grandmother could read and write very well. She had gone through four or five grades. The best educated people in the community had gone to maybe the fifth or sixth grade. By the time the men were in the fifth or sixth grade, they were old enough to work. They really had to be out working because your children had to help. You had to raise what you ate. You couldn't go to the Publix to pick up the groceries. So, they wound up not staying in school. My father could read and write very well. I know that just from seeing things he had written, and I would judge he probably went to maybe the fifth or sixth grade.

PROFESSOR LONGAN: Your family has done some work, obviously, to learn about its genealogy, about these people, and the communities. One of the things you were able to find was something that your son Philip put together about your mother. There's a document that I would like you to talk about. It is a fascinating document, first handwritten and then a typewritten version. It's the ordination of your father. Could you talk more about your mother and her time as a schoolteacher back in those isolated communities and then tell us about your father?

MR. BROWN: My mother's family came from Scotland, maybe by way of Ulster, Northern Ireland. If you look up Monteith, you can actually isolate that location, and I think it was near the Teith River. It was a farming area north of that. The people who lived there were Monteiths, and there were a lot of them. It's strictly a Scottish name, and based on what my wife and my brother-in-law determined doing their genealogical inquiries, they were cobblers. They made shoes, which rings true because my Grandfather Lucius and my mother's brothers ran a shoe shop in Cullowhee where we lived a good bit of our lives. So that has a ring of authenticity to it.

My mother's mother had one parent who had German ancestors. My mother's background would be English, probably Scots-Irish, and German. They came from Scotland but they probably were in Northern Ireland and came with the great migration from Ulster. There's a little book called *From Ulster to Western North Carolina* that tells how the Scots-Irish managed to end up in Western North Carolina when migrating from Scotland. Her mother died when she was seven and it uprooted her. She lived sometimes with her father and her brothers, but a lot of times she lived with other people. She lived with a lady named Mrs. Lula Buchanan. I used to take her there. I didn't understand that, but as a teenager, I would take my mother back to Webster to visit with this old lady. They had a great affection for each other, and Ms. Lula was getting quite old. My mother lived with Ms. Lula some. In Cullowhee, she lived with a family of Fulbrights, and they became more like her family. My mother was like a fish out of water living with her father and the brothers and being a young girl without a mother. The Fulbrights supplied a sort of nurturing to her. I grew up really having a good relationship with that family. They were our blood kin.

My mother was a good student. She had hundreds of books. She read to me constantly when I was growing up, and she encouraged me to read. There's actually a picture somewhere that shows her as a student sitting on the back of a wagon that was taken when she was in high school at the old Webster School. When she finished high school, she wanted to go to college with her best friend and distant cousin Kathleen Jones, who was a daughter of the Fulbrights. It would have been Kathleen Fulbright then; Jones was her married name. My mother's father, typical I suppose of the thinking at that time after World War I, was you don't send girls to college. He told my mother, "You can't go to college. That's a waste of time," or something to that effect.

My mother went and told Mrs. Fulbright, who we called Mama Bertha. Mama Bertha was a very stern woman, and as kids we were leery of her. As I grew older I understood how important she was in my life. When she heard what my grandfather—whose shoe shop was right at the foot of the hill below her house—had told his daughter, she apparently summoned him to have an audience with her. She said, “You can’t do that. Lucy is going to college, and furthermore, you are going to help pay for it.” That’s exactly what happened, and Grandfather Lucius had to help out. She actually lived with the Fulbright family and was able to go to Western Carolina. At that time, it was Western Carolina Teachers College. Professor Madison came to Cullowhee in 1889 and started the Cullowhee Normal School, which became Western Carolina Teacher’s College and is now Western Carolina University with ten or twelve thousand students and a great economic and educational force in that part of Western North Carolina. That’s how my mother came to have an opportunity to get a college education. She went to Western Carolina and got a teacher’s degree, and her first school was in Bullpen, North Carolina.

PROFESSOR LONGAN: Tell us about Bullpen.

MR. BROWN: She was assigned to Bullpen. Everybody, probably, in Georgia knows about Cashiers, North Carolina; there’s Cashiers and Highlands. If you went to Cashiers, North Carolina, and you continued on Highway 107 towards South Carolina, and then turn on a road in a southwesterly direction, you wind down almost to the South Carolina line. It’s going down along the Chattooga River, and that’s where Bullpen is. It is famous for the smallest Post Office in the United States. It was about the size of a typical outdoor privy. Her friend, Kathleen Jones, who also finished school at the same time, had a teaching job, maybe in Qualla, near the Cherokee Indian Reservation.

North Carolina counties are large. They are three times the size of Georgia counties, and Jackson County is like seventy miles from one end to the other. She was in the other end of the County, but they took my mother to Bullpen. My mother told me that experience was the most terrifying experience in her life.

“I am nineteen years old, and I’m going to teach school in Bullpen, North Carolina, which had this reputation of being totally isolated from

everything. It made Sols Creek look like a metropolis. We drove in a car, but we had to park the car and walk the last two miles through the woods to get to Bullpen. The Bullpen community did not have a road to it. If you were a school teacher, the people whose children went to school were required to furnish you a place to live. They passed me around during the year, so I would live with one family at a time for a month. They would furnish me a place to live and food. That was part of the deal.”

My mother taught for one year. She was happy to have served that one year and be sent somewhere else. She didn't realize she was going to Canada Township, which was not much different from where she had been, but she had good survival training in Bullpen.

As a matter of fact, years later when I was in college—and after my mother had passed away—there was a night watchman, Lehman McCall, who worked at High Hampton Inn and Country Club where I worked for seven or eight years going through school until I finished law school. I was working late, and he was talking with me before he started his rounds, and he said, “Manley, I remember your mother.” I said, “Where did you grow up?” He said, “Bullpen.” I said, “You probably do.” He said, “As a matter of fact, I may have a picture of her.” I said, “I would really like to see it.” He said, “I remember exactly how she was dressed. She had on a yellow dress and a little hat. We had never seen anybody quite dressed up like that.” It was really fascinating to hear him describe my mother, Lucy Monteith, and sure enough, it was her. She had actually lived in their house while she was teaching school in Bullpen. He said, “I don't have that picture anymore because we had a fire and it was in part of the things that burned.” But it was interesting to meet somebody who had known my mother when she lived in Bullpen at nineteen years old.

The teacher's degree was my mother's first college degree. As time went on, she earned two other degrees at Western Carolina. I was a little surprised when I found out about her other business administration degree because I knew she went to school all the time at night, and in the summer time when she could, but she had a degree in business administration. I'm sure she took that business degree in the hopes of helping her with a promotion, because she did serve from time to time as a principal at some of the schools she worked at. Then, she had a Master's Degree in Education, and she earned those degrees by going to school at night.

PROFESSOR LONGAN: Tell me about her coming to teach at Sols Creek.

MR. BROWN: She came to Sols Creek after she left Bullpen. She taught in Bullpen in 1930, and then she was sent to the Canada Township and to Sols Creek. She would have come there in the early 1930s. She and my father were married in 1936. She would have lived in different local homes. I'm not sure whether she taught at Sols Creek first, but she taught at these different schools: Sols Creek School, Charley's Creek School, Tanasee Creek School, or Rockbridge School.

PROFESSOR LONGAN: But she taught everybody?

MR. BROWN: She taught everybody. I was taking a walk about a year ago at a home I have at Neddy Mountain, which was also my grandfather's property. I was taking a walk and this truck stopped. An elderly guy, Charlie Owens, stopped and we started talking. He said, "Manley, your mother taught me in the third grade in 1933." There's still a number of people alive who live back in those mountains who remember my mother. Everybody loved my mother. There was just something about her. One thing is she really loved the children she taught. That disconcerted me as a child growing up because she had a habit of giving away my clothes to her school children. I wore a lot of hand-me-downs from my older brother to begin with, but one time I had a black and white coat that I really liked because there was some cowboy star I liked who had a coat just like it but I happened to have two coats. So one day she's taking my coat to school, and I raised some question about it. She says, "I'm taking it to"—and she named this child. She said, "He lives on Brass Town." She was teaching the second grade at John's Creek Elementary School. She said, "He comes to school in his short sleeves, and he doesn't have a coat." I really put my best argument against it. Finally she said, "Manley, you have two coats, and he's freezing to death." In other words, "Shut up." My black and white coat went away although we really didn't have a whole lot of extra things to give away. What she told me about my father, and what other people have told me about him, he tended to be overly generous with people that he knew and who needed a helping hand. She said my father had a tendency to

give too much away and she had to watch him. I will say that the general personality of the school teachers was that they tended to have an affinity for looking after the children they taught, their welfare, and their needs.

PROFESSOR LONGAN: Describe for us the environment in which she taught, because she had all these different grades in one room, right?

MR. BROWN: In most of those communities there was a church. The county built those facilities that looked like a church-school. It had a bell, which you could use for calling the students and you could use on Sunday. They used it for a church when they had revivals, or particularly on Sunday, and then you used it as a school during the week. She would teach the first through the sixth grade. Sometimes she would not have students in some grades, there just wouldn't be anybody available, but you organized the room around a big pot-belly stove in the middle of the floor with benches, little chairs, and maybe a few small tables. You would have the first grade in one corner and then the other grades. You might be teaching the first graders to read out of a "See Mack Run" instructional book, and you would be trying to teach long division or something to the sixth graders, so it was a challenge. You had to be flexible. You had to get there every morning, and sometimes you would have a student old enough who would come and build a fire before you got there. When I went to school with my mother occasionally, you would have to build a fire after you got there.

PROFESSOR LONGAN: That was the only heat?

MR. BROWN: That was it; a pot-belly stove. You could fire that thing up and it warmed the place very well. Those were the circumstances under which she taught students to read and write. She also taught them some mathematics. My own teachers read to us a lot. Reading was the important thing, and that was something I liked, and most of the people I went to school with liked it. At the end of the day, if everything had gone well, usually our teacher would take the last 30 or 45 minutes of the school day to read a book to us. I remember my fourth-grade teacher reading *Daniel Boone*, and we all loved hearing about Daniel Boone. Ms. Walker, this tiny, short, stern woman, made

you use every minute. You didn't waste a minute on anything except something to do with school, but at the end of the day, she would read to us, and it was such a treat. It cultivated the idea, I suppose, my desire to read and learn to read. A lot of the people in the mountains, strangely enough, could read the *Bible* but couldn't read anything else. You would encounter people who could read and had acquired that ability to read the King James version of the *Bible*, which is not an easy read.

PROFESSOR LONGAN: Manley, tell us about your father and about his ordination.

MR. BROWN: The way to do this is to read this document that my son and his mother generated about my father's situation. It was tragic. He was gone when I was born. It was a terrible set of circumstances and no fault of his own, and this explains it about as best as it can be explained without going into too much detail about it. This document was written for a genealogical publication. It says,

I am Lucy Monteith Brown, and this is my story as told by my grandson, Philip Manley Brown. I was born July 7, 1910 to Lucius Pickney Monteith and Nancy Frizzell Monteith, who were already the parents of my brothers Roy and Harry. Mother's German ancestor was a Dietz on her mother's side. My mother died when I was seven years old, and I lived most of the time thereafter with Sam, my father's 1st cousin, and Bertha Fulbright [that's Mama Bertha that I mentioned earlier] in Cullowhee. The Fulbright daughters—Geneva, Edith and Kathleen, for whom my daughter Kathleen is named—became my sisters. I went to the public schools in Cullowhee and Webster and attended college at what is now known as Western Carolina University to study to become a teacher. My Master's Degree was also earned at Western. [I discovered later she had this third degree that the Western Carolina people produced for me that I really didn't know about.]

My first teaching job was at the school in Bullpen Community, a one-teacher school where the teacher boarded a week at a time in the homes of the pupils. After I moved to Little Canada to teach at one-teacher schools there, I met and married Wilburn Fannie Brown, born November 11, 1907, one of the sons of Manley and Sophia Brown. We lived near his parents in the Sols Creek area until our sons were nine

and five years old. David Andrew was born February 18, 1937, and Manley Fannie Brown was born January 11, 1941.

Teaching was an adventure in the 1930s and '40s in the smaller communities of Jackson County. We heated the classrooms with fires made in large pot-bellied stoves, carried water from the closest spring and did many of the simple maintenance jobs ourselves. In one-room schools, there might be two or three pupils for each different level. It could be more of a challenge to get some of the older ones to behave and work on lessons.

After we moved to Cullowhee, the Cullowhee Baptist Church became a focal point of our lives. My husband was an Ordained Baptist Minister, but a lifelong illness kept him hospitalized most of the time. My sons were brought up a stone's throw from the church and they sometimes complained that we're there every time the door opens. I don't think it harmed them personally.

I lived to see my oldest grandson, John Derek Brown, born to David Andrew and his wife. I was not to live to see the other children, who have been born to my sons. David Andrew and his second wife, Maureen Britton, daughter of Walter and Essie Britton of Fall River, Massachusetts, are the parents of Laureen, David Kenneth, Jeffrey Andrew, and Krystal. My son, Manley, married Jean Crawford, a daughter of Glenn and Hazel Crawford of Sylva, North Carolina, on September 29, 1962. They are the parents of Philip Manley, Hazel Kathleen, and Matthew Glenn. My earthly remains lie in the shadow of the Cullowhee Baptist Church where they were placed after my going home on May 23, 1960. Alongside me is my husband, Fannie, who joined me August 11th, 1986.

My Aunt Nan, who was one of my father's two sisters, actually helped midwife me into the world, and they carved my birth date on a tree outside my granddaddy's house. My cousin Dorothy told me about it. She was fifteen years older than me and was involved in that. I went to see my Aunt Nan a few years ago. She was a very old lady, and she looked a lot like my grandmother. As I was leaving, she said, "Manley, I want to give you something. I have your daddy's *Bible*. You should have this book." Written in the front of it was something that older people would write in a book they owned. It said, "Fannie Brown his book." A lot of people would write that about their *Bible*. Thumbing through his

Bible, I found my father's ordination papers when he was ordained as a Baptist minister.

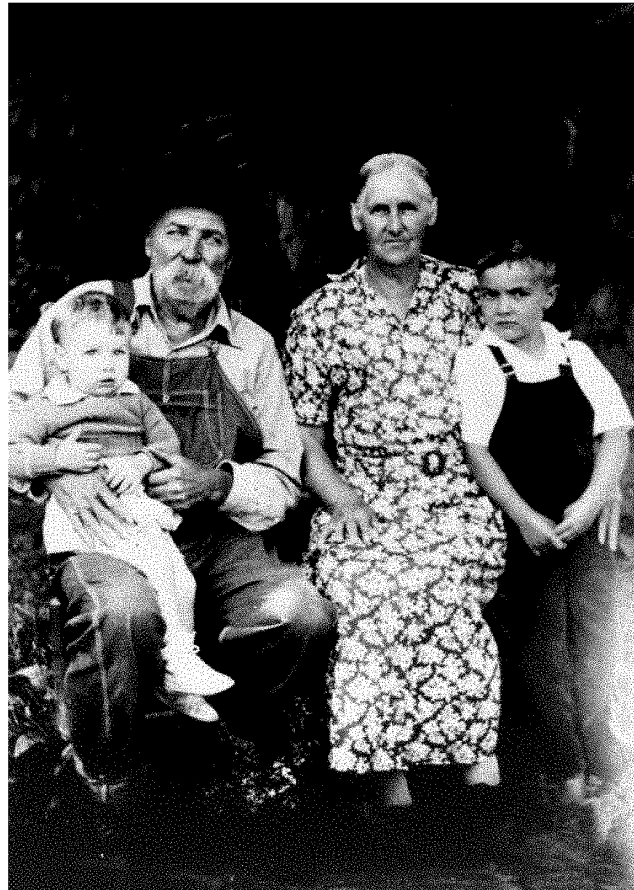
It's particularly interesting because it's written in a legible handwriting and by somebody who was fairly well-educated. At the bottom it has, "Reverend D. Burl, Pastor." He is the preacher who married my father and mother, but under it, it says, "J.R. Brown, Clerk." He was my daddy's next-to-oldest brother who fought in World War I, and of all the children in the family would have had the best education. It's interesting to read as a historical document because it is the traditional language that you would see in an ordination that was done as a result of studying under somebody, Preacher Sterling Melton. He actually preached my daddy's funeral, his 200th funeral, and he was such a wonderful man. He was a 32nd Degree Mason, self-taught, and a very intelligent, well-read man. He told me about instructing my father in the scripture to be qualified as a Baptist minister and how they would go way up on this one place way back in the mountains on the top of a mountain and study. It was a very interesting thing to have been educated for this in that particular setting. It says Argura. That was the Canada Township and the post office address. I think it was probably a militia district. It says "Argura, North Carolina, April 22, 1934," and I expect this is about the year my mother and father were married. It says:

This is to certify that Brother Fannie Brown is a member of the Sols Creek Baptist Church in good standing and full fellowship, trusting that God has called him to preach the Gospel, we hereby license him to engage in the great work, and we offer to God our earnest progress, our earnest prayers that he may become a workman that needeth not to be ashamed, rightly dividing the word of truth, [2 Timothy 2:15] by order of the Church, this 22nd day of April, 1934, Reverend D.E. Burl, Pastor, J.R. Brown, Clerk.

That appointment was probably certified by the Tucaseegee Baptist Association. There's actually a typed version Reverend John Harris signed. He's one of the men who is in this picture that my mother took in the cemetery. The *Bible* also had my father's driver's license because he had one of the few cars at that time in the community.

PROFESSOR LONGAN: Manley, I want to talk about growing up, first in Sols Creek and then some in Cullowhee. You lived with your

grandparents the first five years of your life with your mother, your brother, and your uncles. Tell us about the people in this picture.



MR. BROWN: This is a picture of my Grandfather Manley in his overalls and his big white mustache. As older people would do, you would sit in their lap and they would tickle you with their mustache. He had a white beard. I've told you about him and his ancestry, and obviously his ancestors were here at the beginning of the Revolutionary War and had been in this country a long time. My grandmother, Sophia, is also seated with him. She was a Shelton, and I know a good bit about

her for two or three generations back. I know her father fought in the Civil War and was in the Confederate Army. As a matter of fact, one of my distant cousins who went to the archives in Raleigh said there is a picture where he was carrying the flag, so I can understand why people have strong feelings about the Confederate battle flag. It has nothing to do with any inherent prejudice or hatred or anything. It is simply who your ancestors were. My grandmother, for instance, who I spent more time with than anyone, other than my mother, had a very retentive memory, and she talked a lot to me about her father and the War.

PROFESSOR LONGAN: Let me interrupt you. You talked about the memories of the Civil War and the flag. One of the interesting things about where you grew up was that you really didn't grow up in an atmosphere of racial tension.

MR. BROWN: Racial issues were not a factor at all. My grandmother talked to me about what her father told her about the War. There's a little book called *Murder at the Forks* that somebody wrote about when the War started. Slavery was sort of an unknown quantity. It didn't exist in that area, but nonetheless, the area was at war where the people lived, and it divided people quite a bit. It probably divided them heavily on the side of the Confederacy simply because it happens to be where you live that is at war, and there was a serious personal danger if you chose the wrong side. I am speculating about this, but I'm sure that's why my great-grandfather Jack—who seems to have been a Union sympathizer—went into the military by the Confederate route but soon found himself in the Union Army. There weren't plantations there and the economic factor of having free labor and that type thing, which, in my personal opinion, is what drove a lot of that. I mean, just the moral issue of somebody who wanted to make a lot of money and using other human beings improperly to do so.

PROFESSOR LONGAN: But the history of that era is different.

MR. BROWN: It just didn't exist in the people I grew up around. I hardly knew that issue amounted to anything until I came to Middle Georgia, frankly, to go to law school. I began to see this is a real serious issue that is going to have to be dealt with. It was off my radar. Professor

Madison brought quite a few African-Americans with him to Cullowhee when he brought the school there, so we had a sizeable Black community, including Mr. Rogers, who came to our church. Every Wednesday night, my mother took me to church with her, and the pastor at that church taught Sunday School teachers how to teach the Sunday School lesson on Sunday morning. That's when Mr. Jim Rogers—a very tall, pleasant, and dignified elderly Black man—came in his blue serge suit, and we all sat together. My mother had nobody to leave me with, so everywhere she went, I went, which turned out to be a pretty good education. She would take me to church, and I would sit there while the pastor taught the teachers. Mr. Rogers was a deacon, and I think he sometimes pastored the Black church in our community. They had church on Sunday afternoon. It's traditional around the South that they had church on Sunday afternoon. I suppose that's the way it was. That was the time they had available to go to church.

PROFESSOR LONGAN: Tell us about the two handsome boys in this picture.

MR. BROWN: I'm sitting with a dress on. Mothers put the little boys in dresses. I have a lot of pictures where my mother had me in one. It looks like a dress and a sweater. She ordered our clothes out of a catalog. I had a lot of hand-me-downs, but she was able to order things from like Montgomery Ward and Sears Roebuck, so I would have some pretty nice looking clothes from time to time. My brother, who was four years older than me, is standing by my grandfather. He looked totally different from me. I looked more like one of my twin uncles, and he looked more like the other one. He had real dark black eyes and was scowling.

PROFESSOR LONGAN: This is the picture that has your uncles in it?

MR. BROWN: It is. This is my grandfather and grandmother and my mother, who is at the far right holding me. It was taken the same time this other picture was taken because I see I have on the same outfit, and it has a lot of my extended family in it. I see my cousins, Carol, Gennie Sue, and Clydeth, who now actually lives with his wife Bea across the

road from me at Neddy Mountain. He keeps an eye on my house and has a Christmas tree farm on our granddaddy's old place. Next to him is his brother, James, and little Lucy, who was named for my mother Lucy. We now have a grandchild named Lucy. I see Isolene. I see my twin uncles, Clyde and Clarence.



The house we lived in—I lived there for five years—had two rooms. The kitchen was separate because of the fire hazard, and after my father was gone, which was by the time I was born, we moved into the house with my grandparents because it was more convenient for them to look after me while my brother and my mother went to school. There was an upstairs to the house that was closed off, and we put the things that we canned out of the garden up there. When no one lived up there, we shut that off so the front of the house could be heated by a fireplace that my grandfather built. It had really a huge stone at the top and then they had two on the side. It had a hearth that was one stone he took out of Sols Creek, and it's still there. It's covered up now, and the one thing I want to do is uncover it if I can ever get around to it. The fireplace and the chimney to the house that was put there in the 1890s is still standing.

PROFESSOR LONGAN: Who lived in that house?

MR. BROWN: My grandparents, my mother, my brother, me, and my twin uncles. We lived in those two rooms. We had no electricity and no indoor plumbing. My grandparents slept in the front room where the fireplace was. In the back bedroom, we had two double beds, and my mother, my brother, and me slept in one, and my daddy's twin brothers, Clyde and Clarence, who are shown in this picture, slept in the other bed. That's pretty snug. Seven of us lived in those two rooms, but it was a happy house. My grandparents ran a well-ordered home, and they were in charge of what went on there, and it was a very peaceful place. I'm sure it was a strain on my mother to live under those circumstances, but they all loved her so much. She worked hard and helped support the family and was somebody they were very pleased to have in the family. She was the only educated person in the whole territory, so-to-speak.

PROFESSOR LONGAN: What memories do you have of those years?

MR. BROWN: It was the War years. One thing I remember is, of course, I was by myself a lot. My brother started school so I would be there with my grandparents and sometimes my cousin Dorothy, who is still alive. I see her a lot. I love her very much, and I have a very close relationship with her. She would stay and help them look after me because my grandfather was seventy-one years old when I was born, so they were elderly when I came into the world. I stayed with them during the day. I had this dog, Don, that I loved, and I spent a lot of my time with him. You're living on a farm and it's surrounded by forest. There's not a whole lot going on. I remember walking around and hearing cow bells. We had cattle, pigs, a horse, and chickens, and we lived off that farm. We had hay fields and a couple of pretty good-sized pastures we kept the cattle in. I spent a lot of time outside walking around with that dog who went everywhere I went. Unfortunately, he loved me too much and he bit several people who came on the premises. One of them was a relative and one of them was the preacher, Mance Queen. At the front of the house, you stepped up on a rock and then you stepped up on the porch. There was a crack, and Don would get in that space. Then he bit our cousin, Ted. I was playing, Ted came by and patted me on the head and there was just this blur. The dog came up and bit him. I have a lot of memories about that dog.

I would hear airplanes, and every day there were dozens of airplanes in groups flying over. I could hear them coming, and I remember standing there with my dog and watching these huge airplanes from one horizon to another. We were very close to Oak Ridge, Tennessee, where all the massive projects went on to separate the uranium and enrich the uranium to make the atom bomb. That probably was part of the traffic, but part of it was just ferrying military planes.

During the War, people saved everything, even grease on the stove during the War effort. I remember somebody coming there in a truck looking for anything metal that had to do with iron or that type thing. I remember my Uncle Clyde and my grandfather getting things on the farm we didn't need, and they all loaded it in this big truck.

Another thing I remember is they were still logging part of the Charley's Creek timber, and to reach it you had to come through our farm. We had a road built, which is still there, all the way to the top of the farm, up near the upper Sols Creek falls. You can hear the falls from the farm.



I remember seeing the trucks coming out with the logs loaded. You could hear them coming, and I would come out and watch them. I usually knew the people who were driving the trucks. They would be

driving on old rutty roads, and those trucks would lean with all those logs on them. It looked like they were going to turn completely over. That's interesting if you're four or five years old. I remember a man named Lon Harris, who was a son of Preacher Harris I saw in the graveyard photograph, driving a truck. He was coming around the spring and had his huge truck loaded down with logs, and all at once just in slow motion, the truck turned completely upside down and all the logs were falling off close to that spring. They had to bring a bulldozer to get them out and reload it.

It was really snakey there, and I remember a lot of snakes. One thing I liked about my dog is that he would get rid of snakes. He hated anything that looked like a snake. If he saw one anywhere, he went for it. I remember my mother was sitting in the front room of those two rooms we lived in, and I heard her scream. She had brought the clothes in and put them on the back bed. You had to wash your clothes in a big pot. There was no laundry to send them to. You boiled them, took them out, put them in a big wash tub, and scrubbed them on a scrub board. Doing the laundry was a real chore. You hung them on the line to dry. She had put the laundry on the back bed, and when she went back, there was a huge black snake laying on the clothes. My grandfather and I were just sitting on the front porch when we heard her scream. I ran in to see what was wrong, and she hollers for my Grandfather Manley. He goes out to the spring and gets a long branch off a Beech tree. He took the leaves off while my mother was wishing he would hurry up. He took his time, but I remember he walked in there, whacked the snake with that limb and killed it, and came out carrying the snake on that limb. He never got the least bit excited carrying it out and getting rid of it; it was just a snake.

One more snake story. Aunt Lessie kept a coat hanging in the barn when she would go to milk the cows. I was not there then, but she had two small children. It started raining, and she took this coat off the hook, put it around her shoulders, and wore it on to the kitchen. She took it off, shook it out, and this huge snake fell out of the sleeve. When my Uncle Clyde came home, she and the children had been up on the table in the kitchen for probably an hour and a half, waiting for him to come home from work and kill the snake. The snake was behind the stove and probably more frightened than they were.

The other thing I remember having to do with the War is my Cousin Luther, who was close to twenty years older than me. He was in

the Army and was in the Pacific, someplace like Tarawa, and he was hit by shrapnel. He was hurt pretty bad, and my Cousin Dorothy, his sister, was babysitting me when her parents had found out about it. They had actually written a letter, which the mail delivered to where we were. Somebody brought that letter, and she opened it and saw that Luther had been wounded out in the Pacific. I remember she and my grandmother starting to cry, and I remember thinking, "I probably should cry, too," so I did. It seemed to be the thing to do at the time, but I remember that very traumatic situation. He survived his wounds and came home. He lived in Washington state and died about five or six years ago.

I remember we had a battery powered radio. The Tennessee Valley Authority was operating, but we weren't getting any of that. We had no electricity and no indoor plumbing. We had an outdoor toilet, privy, whatever you want to call it. We didn't have any running water. You carried the water that you used to the house. We didn't have a refrigerator, obviously. You put things in the spring, which kept it cold.

I remember the bomb being dropped, and I remember at the end of every day listening to the news on the battery-powered radio. You had a big, long battery, maybe two and a half feet long, but you rationed the use of it because you couldn't replace it. My mother was in charge of the rationing allowances. They used it mainly to listen to the news and to the Grand Ole Opry from Nashville, Tennessee, on Saturday nights. I remember the excitement over the bomb being dropped on the Japanese and the celebration when the War ended. I realize now what a horrible thing that was, but at the end of a four-year war with people who had relatives there, the War was taken a lot more seriously.

I remember just general things, like my brother and I going places with my uncles. I remember specific things, like day-to-day living. I went everywhere with my grandfather. I learned all about how to feed the hogs, kill a hog, and how to kill a chicken. There's a certain art to it. Chicken was a staple food, and women in the mountains tended to the chickens and killed chickens by wringing their necks. Men never seemed to be very good at that. They would just put them down and the chicken would run off. You got an axe for beheading, and my grandfather taught me how to behead a chicken properly. If you pick a chicken up by its legs, the first thing it does is retracts its head. It's some sort of a defensive measure. It eliminates its neck as an attack area. But you put his head on the chop block and then you whistle. Hawks tend to make a whistling

sound. The chicken hears the whistle, sticks its head way out looking for the hawk, and then you strike the deadly blow at that time and then pitch him under a tub.

We killed a hog every year. That was a big adventure. Mr. Hog didn't appreciate it too much, but for everybody else, it was a big deal because it was wonderful food. You had no refrigeration, so you had to wait to kill a hog around Thanksgiving, when it came a good hard frost to be sure it would be cold the rest of the winter. Then, when you dressed out the hog, you put him in the meat box. You salted it down, and you could eat on it all winter. I learned how to broadcast and sow a hay field and watched the men put up hay. I used to do that. As I got older, I still lived there a lot, and I helped with all those kinds of chores.

I was never good at milking cows. They wouldn't let me milk very much. When I was small, we would go to Cullowhee to see the Fulbrights. I never particularly liked that. My brother loved going down there. I was never that happy about it.

PROFESSOR LONGAN: But you moved there when you were about five.

MR. BROWN: We moved there when I was about five.

PROFESSOR LONGAN: Tell me about that and what your life was like in Cullowhee after living with your grandparents.

MR. BROWN: If you've ever read John Steinbeck's *Grapes of Wrath*, or if you saw the movie, our move looked like that. I'm sure my mother felt that she needed to get her boys out of the Canada Township. Not that there was anything wrong with the people there, but she felt a need for them to have a proper education. She didn't want us to stay there and end up working in the woods. We moved to Cullowhee, and it's almost like a scene of the Joad family loading up to go to Bakersfield. That's the only way I know to describe it. A man named Oliver Mathis drove his big old log truck and backed it right up to this old house across the little branch. You had to back through the water to get up to the house. They had standards on the side, and we loaded what few pieces of furniture we had. When I took Judge Bootle's Oral History, he had the same type of move. We had that in common. Every time I watch the

Grapes of Wrath, it reminds me that this looks like the day we loaded up to go to Cullowhee. My grandmother was weeping like it was a funeral. It's burned into my memory, and I was weeping with her. I was so unhappy about moving, but my brother was delighted. He had a big smile and couldn't wait.

PROFESSOR LONGAN: Cullowhee is not that far away.

MR. BROWN: It was about an hour's drive then to get there because it was just so hard to get out of that area. As the crow flies, it's not that far away, but culturally, it was many years away. Western Carolina University was there, so there was a town where there would be a lot of people in a college community. There were some people just like the people I knew in the Canada Township. I was sad and my grandfather was not happy, but he was not overly emotional. Anyway, we loaded up and moved to Cullowhee, and my mother bought the lumber necessary for us to build a house. The Fulbright family, their two son-in-laws, Paul Hamilton and Payne Jones, built our house. It was the classic shotgun house. You've heard the expression of "shotgun houses?" You open the front door, shoot a shotgun, and it would go right out the back window. There were three rooms. First you walked up on a little porch, and when you opened the door, you walked into a kitchen. Then you had a room that was a kind of living room with a warm morning stove in it, and then you had a bedroom, and we had enough land available to us. The house had a wonderful thing we had never had. The college had a water system, and we had college water. In the kitchen, we actually had a sink with water, and we had electricity, so we could have a refrigerator. No bathroom; still had an outdoor bathroom. We never had a bathroom until I was in the sixth grade, when we rented another house. The deal was that my mother would buy the lumber, they would build the house, we could live in it as long as we wanted, and when we left, it was their house.

Regrettably, women teachers were not paid what men teachers were paid. The rationale then was that women were not the head of the household. That didn't quite fit our situation, but that was the rule, and that's how it worked. She didn't make that much money teaching school, although you had to have all that education. It was tough because your checks stopped in May, and you had no money for three months in the

summertime. My mother worked in a grocery store and did other things. She was really good at making a garden. My brother didn't like working in the garden but I enjoyed doing it and helped her a lot. We raised a lot of food. If you tend a decent garden, you can raise a lot of food and have a lot of things to eat that you don't have to buy at a store. That's how we lived. The Fulbrights lived close by; Mama Bertha, Paul, Edith, and Eucella. Edith was Kathleen's sister, who was a wonderful person, and Edith's daughter, Eucella, which was an Indian name. If you ever go rafting down the Nantahala River in North Carolina, there's a Eucella mountain, and she got that name from Dr. Painter, who delivered her and had read a book about somebody named Eucella. Somehow, he wound up naming her Eucella. We lived about thirty yards behind their house.

PROFESSOR LONGAN: The theory behind the move to Cullowhee was to make sure you got a better education.

MR. BROWN: I am sure of that, and my mother needed a change. She couldn't continue to live the way we were living. My Uncle Clyde would like to get married. He put that off; he didn't say get out. He treated me like his own child, but my mother was a very intuitive person. I am sure she knew it was time to take us and give them a chance to live without us. My Uncle Clyde was able to marry and have a family, but there wasn't enough room. Uncle Clarence, his twin, had moved to Lake Toxaway and married.

That's just being practical. I didn't understand it because I didn't like moving away from my grandparents, but you make adjustments. Once I got to Cullowhee and started school, we had access to some of the college facilities. I went from being way back in the mountains, to being in a college town and going to the Cullowhee Baptist Church. I went to the Sols Creek Baptist Church, but to show you a distinction, people in those country churches were not unlike the Catholics. They got on their knees when they prayed. I can remember being a kid and everybody is on their knees really praying. I don't mean platitudinal praying, I mean real praying. I have some friends who said, "That used to really frighten me." To me it was an uplifting thing to watch all the men and women on their knees. In that society, there weren't any drugstores and there weren't any doctors. If you got sick, you either got

better or you went to the graveyard. You see all these rows of little kids' graves in those cemeteries who died with the fever; maybe four or five children in a family lined up in a row. Some of my friends tell me that their grandparents would get up in the middle of the night, and they would hear them praying for hours at a time. It's wintertime and a child is sick, and that was it. That was your remedy. It was basically that or nothing. That's another example of the culture I knew. When we moved to Cullowhee, you had more access to a variety of things. It was easy to go to the County Seat where there were a couple of doctors, and we had C.J. Harris Hospital, which it was not exactly a modern Emory University Clinic or anything, but it was a hospital where you could get treated. If people had appendicitis, they could have surgery. It was really a good thing to make that move.

PROFESSOR LONGAN: While you lived in Cullowhee and grew up in Cullowhee, you became an athlete. I want to ask you first what kind of student were you?

MR. BROWN: My mother—having really nobody to leave me with when we came to Cullowhee when I was five—took me with her. She was teaching at John's Creek School, which was about a thirty-minute drive from Cullowhee. You had to drive up to East Laporte, turn at the Caney Fork Branch of the Tuckaseegee River, and up Caney Fork to a place called John's Creek, where there was an elementary school where she taught. She just took me to school and put me in the first grade. My mother had already taught me to read. Everybody else was just learning to read, and I could read better than anybody in the class. To make a long story short, I wound up starting the first grade as a five year old when, I really was not supposed to start until the next year.

The next year, my mother was principal of the Barker's Creek School, which was in the other direction toward the Cherokee Indian reservation, and I was in the second grade. I was able to do my work, even though I was a year ahead, and I was a reasonably good student. I always could read very well. The one thing I hated was long division. I think because it was so boring. It took so long to do it. I could actually do it, but it just wore me out. That was my big struggle going through elementary school, and I was a reasonably good student in high school. I was more interested, truthfully, in the latter part of high school because

of my girlfriend and in playing baseball and basketball. I probably was graded, to some extent, more on the rebounds I got than on how well I did in algebra. I know for certain that's true with Mr. Flake, my wonderful friend who taught us algebra. I regretted that because I had to take a remedial math course when I went to college.

PROFESSOR LONGAN: They say that smart kids who can't do math go to law school, so it seemed to work out.

MR. BROWN: I was verbally oriented, and then I wound up in my law practice spending the biggest part of my law practice working with engineers and people who were mathematicians in the kind of litigation I did. I did better when I had somebody to teach me at that level. I learned a lot of things I didn't learn earlier.



PROFESSOR LONGAN: You mentioned basketball. Let me show you this picture.

MR. BROWN: That's a picture of my basketball team. As you pointed out, I have the ball.

PROFESSOR LONGAN: That doesn't surprise me.

MR. BROWN: That had more to do with the fact that I was the center on the basketball team than anything to do with my expertise. This was, at the time—and I think record-wise—our best basketball team from Cullowhee High School. It just worked out that way to play on that team. Our record that year was 27 and 2. We won our division of the Smoky Mountain Conference without losing a game, and that had never happened. Whether it's happened since then, I'm not sure. I really wanted to be a baseball player. I decided when I was in the sixth grade that I wanted to be a catcher. I think it was because they wore all this unusual equipment. Somehow, I got my mother to order me a face mask, chest protector, and shin guards, and I tried to learn to be a catcher. I was short and sort of chubby at that time—an unlikely looking athlete of any kind—but I started learning to be a catcher. I worked at it pretty hard until I was the catcher on my high school varsity baseball team. The problem was, I couldn't hit anything. I realized I was not going to excel in that, and I began trying to play basketball in the eighth grade. My mother, who knew nothing about athletics, would come out and stand and catch the ball to keep it from going over a bank in the backyard. It took about ten minutes to retrieve it. She would throw me the basketball. I worked at it until I learned how to play, and finally, I was able to make the varsity team when I was in the eleventh grade and made the starting lineup before the year was out. I Look at the five guys who started on that team and won all those games, and I think about the five games where we scored over 100 points. We were an amazing team.

PROFESSOR LONGAN: That's a lot of points.

MR. BROWN: In high school, it's eight-minute quarters, and we scored a hundred several times. I know we scored 119 in one game. I was an undersized center, but I did two things very well. I rebounded and shot free throws very well because I was fouled a lot. I usually played against people who were much bigger and taller than I was. I hesitate to say this because every time I mention it everybody says, "Brown, you are

not telling the truth about that,” but I actually have a newspaper article where I actually got 40 rebounds in a game. I told Mercer Coach Bob Hoffman that one time—he’s my good friend—and even he looked at me a little askance, but I did it. I could do that because of a coach, Joe Hicks, who came there. I played on the first team he coached. He was an ex-Marine drill instructor and a graduate of the University of North Carolina. He brought the zone press to Western North Carolina, which nobody had ever seen. They had seen a man-to-man press, but we played a zone press. We had two really quick guards. Without getting into too much detail, the object was to force the ball to the wings, force the other team to make a pass, and then, hopefully, trap and make them pass and pitch the ball up in the air. If they did, then our guards would intercept. It worked very well. We played this one school, they had a fairly small gymnasium, and to take the ball out you had to kind of turn sideways. There wasn’t a lot of room behind the goal. The zone press was the perfect trap. We would score and they would take the ball out, and when we put the zone press, they couldn’t get the ball up. I was getting the ball, and it worked just like a machine. I got all those rebounds and didn’t play over half of the ball game.

PROFESSOR LONGAN: You all were very good, and you were very successful.

MR. BROWN: We were a very good team.

PROFESSOR LONGAN: I’m going to show you one other picture, and I want you to tell the story behind this one.

MR. BROWN: About six months ago, I had a letter in the mail from Franklin, North Carolina, and it was from a girlfriend of a friend of mine. We used to go to Franklin to see some girls we knew when we were growing up, and somehow, she saw this picture and knew where I was because of her continued relationship with this friend of mine. She said, “I think this is a picture of you.” It is a picture of our very small school beating their very large team from a large high school. We scored a hundred and something and actually wore them out. There’s Billy Pressley, Blaine Pressley, and Arnold Ashe in this picture.



PROFESSOR LONGAN: You are number 12?

MR. BROWN: I'm number 12 in that photograph. Blaine Pressley, who was our best player—he was a remarkable basketball player offensively—died about three months ago. Billy Pressley is in this big picture with me on the right side at the front. Billy Pressley's wife, Mary Lou, who was my childhood friend, died about three weeks ago. My friend, Tommy Norton, was one of our point guards. I had a long telephone conversation with him the other day, and he was on dialysis. He did not live long after that. He lived in Florida. Tommy, Billy Pressley, and I were the last of the five starters. I'm probably the

healthiest of the ones left out of our group of basketball players. Maybe it's because practicing law is so easy, as we all know!

PROFESSOR LONGAN: A lot of people talk about athletics for young people being a way to learn lessons not just about the game but about life. What did you learn about life or about being a lawyer from being an athlete?

MR. BROWN: I mentioned this to your class the other day, which they seemed to like. One of your students sent me an email saying, "I never had thought about trial lawyering as a competitive sport, but that really made me think about what I want to do in the future." Playing sports teaches you to be competitive. I enjoyed anything competitive, even shooting marbles. I was a real good table tennis player. I beat my grandchildren at the beach two years ago. They about passed out. They invited me to play table tennis, and I can still play, even at my age. I beat their fathers, which they all had a good laugh about.

PROFESSOR LONGAN: So, you're still competitive?

MR. BROWN: I have always loved to play anything that was competitive. Usually, I was not very good at it, but I have an obsessive-compulsive personality, so I would work and work until I got better. Some things I could never get good at, like gymnastic-type things. I barely got out of that in college. We had to take a course in gymnastics, and I was not cut out for it. When we played basketball, it might have changed my attitude toward it if we were losing. But winning, we were ranked the number one basketball team in Western North Carolina, made me competitive. In those newspaper articles, for the first time, we were the number one basketball team in Western North Carolina, and that included all the Asheville schools, Hendersonville, and Brevard. We were this little high school with 200 students, and according to the coaches, we had the best basketball team in Western North Carolina. If you're seventeen years old, like I was, that can go to your head. We made it to the run up to the State championship but were beaten in a game we should have won.

As a matter of fact, I was on a committee with some friends of mine to plan a reunion, and they suggested we have a meeting. The place they

selected was the location where we lost our first basketball game. I said, "I am not going over there," and they said, "Why not?" I said, "That's where we were playing when we lost that game; the first game we ever lost." They said, "Manley, that was forty-something years ago." I said, "I really don't care. It could be a hundred years ago, and I'm not going back to that venue." You don't forget those kinds of things. I was Chairman of the Committee, so that helped me get my way!

PROFESSOR LONGAN: I know you've said, "You can't learn to play basketball by sitting on the bench."

MR. BROWN: You cannot.

PROFESSOR LONGAN: You have applied that in your teaching of law students, young lawyers, and in your own career. Manley, the one part of your growing up we haven't talked about was the one year you went back to Sols Creek. You were in the eighth grade. Tell us how that came about and what that was like for you.

MR. BROWN: I loved that place, and I loved my grandparents. My grandfather did not live very long after I left and moved to Cullowhee, but I had a lot of contact with them. In the summertime, I would go up to the Cullowhee Post Office and catch a ride with the mail truck to go to Little Canada. Garland Owens, who ran the mail route, would set me out at the road, and I would put the mail out for him as we went. He lived on Wolf Mountain and he came out every morning and came back at the end of the day. I would sometimes stay two months or longer in the summertime, so I stayed connected with the community.

It was a combination of several things when I was in the eighth grade. My Uncle Clyde—my twin uncle who really took charge of me as the primary male in my life in the absence of my father—had married and they had their first baby, Mary Lou. Part of it was they needed me to help if I wanted to come stay with them. I needed a break from my brother, who was a senior in high school. My mother felt like I needed a break from him just because of his age. He was difficult before he left, but he went on and had a very fine career in the Navy. So, I made the decision, which I was very happy with, to go live with my grandmother, who was still alive. My grandfather had passed away. I went and they

enrolled me in the eighth grade at the Canada School. They had built a very nice elementary school for the first through the eighth grade. I knew all the teachers because they commuted. Mrs. Moss, the principal I had known forever, and she and my mother were friends and Ms. Coggins. There were a number of teachers, but I knew them all because my mother—not having anybody to leave me with—would take me to all the teachers’ meetings. She went to the county-wide meetings for the school teachers. I was always there, and consequently, was around all these adults and knew a lot of people. I knew the superintendent of schools. Unfortunately, I knew him too well. Me and a friend of mine, Kay Broome, who was one of my great childhood friends, and I laid out of school one day and were thumbing a ride back from the county seat, and he picked us up.

PROFESSOR LONGAN: Oops.

MR. BROWN: “Well Manley,” he said, “How are you doing?” Here we are at two o’clock in the afternoon and supposed to be in school. He asked us how everybody was doing and then let us out in Cullowhee. We were very nervous about that whole thing, but he never told on us. My mother never knew about it. But at any rate, I went back to stay with my grandmother; my uncle; my Aunt Lessie, who was a wonderful person; and their baby daughter, Mary Lou. Aunt Lessie looked after me when I was there. I was like her own child as long as she lived. I had an extremely close relationship with all of them. I actually have a picture of them, which I would like to put in this record.

So, one of my jobs was babysitting Mary Lou while my Aunt Lessie did some things she needed to do, like working in the garden and milking the cows. There’s an art to milking a cow properly, and I could do it, but not very well. I cut and chopped wood. We had to have kindling and wood that you had to cut to certain measurements to use in the kitchen, and then other wood you had to use in the fireplace. We still heated the house with a fireplace, and even though I was the eighth grade, we still did not have any electricity. I had to sit by the fireplace at this little table where the battery powered radio sat with an oil lamp and work long division. That was a painful transaction. I would do my homework when I got home from school and listen to the radio. I loved to listen to programs on the radio. I have a Sirius radio channel in my

truck, and I have all those old classic radio programs like *Inner Sanctum*, *Suspense*, *Mr. & Mrs. North*, and *The FBI in Peace and War*. It was helpful to listen to those because you had to use your imagination, listen to sound effects, and draw conclusions.

I won a 4-H Club blue ribbon—again, my competitive spirit got the best of me. In rural places, everyone was in the 4-H Club. If you were a female, you had projects like making a quilt or doing things like that, and if you were a male, usually you had to have a live project. It could be anything from chickens to livestock. My Uncle Clyde gave me the most beautiful Roan calf you've ever seen. It looked like Alabama's football colors, almost a deep purple looking color. She had a white face, a white streak down her back, and some white on her tail. She was little when he gave her to me. He said, "I'm going to give you this calf and you take care of her." I really got into that project, and I don't guess this was cheating, but my mother would send me Purina Chow on the mail truck from Robert Brown's grocery store. The calf needed something other than her mother's milk to thrive. Once she was weaned, she had to pick and graze like the cattle did, so I fed her Purina Chow.

PROFESSOR LONGAN: Calf enhancing.

MR. BROWN: Of course. She lived in the barn and got messy. It's not the most sanitary place in the world. My grandmother had a spinning wheel she had used, and it had carding boards just like a cotton mill has big carding machines. It's used to get all the gook and junk out of whatever you're spinning. It had a handle on it, and it had a rectangular construction with these steel tines in it. My grandmother gave me one of those cards from the spinning wheel, and I used it to brush the calf. I would spend hours brushing that calf and keeping her clean. When you finished, because of the oils, she would just shine. She really looked like something out of a magazine. I petted her so much and could call her to me. She would be way up on the hill, and I could call her, and she would come right down to me. To make a long story short, the 4-H people came out to judge the projects. Some of the male students had a hog or something they were raising, and it wasn't real easy to get to their projects. I was the only student who could actually even get to his live project. The projects were so wild, they couldn't run them down. We had put her in a pasture at Oliver Mathis's farm, and I went with these 4-H people. So

far, we had not been able to get within fifty yards of any project that was on four legs. We went in the pasture, and I called her in the usual fashion, and here came this beautiful calf. I promptly got the blue ribbon.

My kids have given me no end of ribbing about winning a blue ribbon for raising a calf. That was foreign to their way of thinking, but that was my accomplishment for the year. I enjoyed going to school with those people, and I formed good friendships with people who still live near my house at Neddy Mountain. There are only five families that live on Neddy mountain itself, and three of the people I went to school with, and I have been friends with all these many years. It certainly helped my high school intramural football team because I used my Canada friends on my intramural touch football team and assigned them just to knock somebody down, which they were happy to do. They had never seen a football, but they had a good time, and we won the intramural football season.

PROFESSOR LONGAN: That's a competitive thing again.

MR. BROWN: It was the competitive thing again. That was the last time I was able to spend a lot of time with my grandmother and talk to her about her father and what she remembered from him about the War. My grandmother was a serious person as you can imagine. She had a tough life raising eleven children, and it wasn't easy for her. She was telling me about her father, John Shelton, when he was in Virginia when Lee surrendered. She twirled around on one foot and showed me with her walking stick how he threw his gun away. She said as soon as they said the War's over, he didn't wait around for whatever was going to take place. He threw his gun away, and he walked home from Virginia to Wolf Creek in the Canada Township. I can remember my grandmother twirling around. I couldn't believe she did something like that. She talked to me about him and what kind of man he was. A lot of my Brown relatives were just wonderful people but some of them were pretty rough. My Grandfather Shelton was obviously a special man, like my Grandfather Manley Brown was. He came back to Wolf Creek and peacefully lived his life out with his family. It was interesting to talk with her, and I wouldn't take anything for the last year I spent with my grandmother. When you talk with a grandparent who has actually known somebody who was in that War and you learn about it, you have a

personal feeling about it. I go out there where he's buried in the Rockbridge Cemetery. It's an old cemetery way up in the woods, and you have to drive down a little back road, ford a creek, and then drive up a hill to get into the cemetery. I've taken all my kids there. My Great-Grandfather Shelton has the only Confederate tombstone in the cemetery. I can walk through the cemetery, just like I can at Sols Creek or up on Wolf Mountain.

I see the graves of people I knew as a little kid. As you get older, that means a little more to you. I look at the graves of people like Ransom Shelton. We kept cattle out there on a farm, and my uncle and I would go feed those cattle and put up a salt lick for them and sit around with that old man and talk. It's special to remember him. Margaret Brown and Estelle were sisters, and we used to buy milk from them when we didn't have a fresh cow. As a kid I remember how nice those two ladies were to me. They lived together, one of their husbands was dead and the other lady never married. We had to drive through a creek to get up to their house. We would go to their house to get milk and visit with them. You see all these people you knew, resting in peace.

I go to Cullowhee and that's where my mother, my daddy, and my brother are buried. My brother was in the military and wanted his ashes scattered in the ocean. I had a difficult time explaining that to my Baptist aunts and other people. I had to fudge on that because it would have been somewhat horrifying to them, but that's what he wanted. I put a cenotaph, which is a marker that shows the dates someone died, but their body is not present there. Where my parents lie is under a huge oak tree. It is an emotional thing, but it's where I played as a child in that graveyard and went to that church. There are my parents and my brother, Kathleen Jones, Payne Jones, and Mama Bertha, who was responsible for handling my Grandfather Lucius—who didn't want my mother to go to college—lying a stone's throw away. Jean and I have cemetery plots there. Kathleen's son, Danny, who is not in very good health but had a great career as a banker, just retired and he's going to be buried there. There is something peaceful about the idea that you're going to be buried where your ancestors are and seeing them all together. It's an emotionally uplifting thing.

In the eighth grade, I had to walk about a mile and a half to school every day, and it was cold in the wintertime. But, it was only uphill one way! There were lots of kids, and we all walked. The road split right down from the schoolhouse, and there was a group of kids who were

always getting into fights. One day, I made a serious mistake. I owned a pair of boxing gloves, and nobody had ever seen a boxing glove in the Canada Township. I took them to school, and at recess we started boxing. The next day when we came to school, there were several parents at school. Gertie Moss, the principal, said, "Manley, take these boxing gloves back to Cullowhee and don't ever bring them back." It was a bad idea. Canada Township was not ready for boxing gloves. I took my bicycle and it ended in a huge bicycle wreck. I had to take the bicycle back to Cullowhee. These were my first attempts to introduce some modern ideas into little Canada.

PROFESSOR LONGAN: It didn't go so well.

MR. BROWN: It didn't go over very well at all. I had all kinds of cousins, Geridind, Dwight, Cleydeth, and Warner, who I went to school with, and it was just a wonderful bonding situation with all of them. Now that I actually have a house and stay out there by myself a couple of weeks at a time, I still see a lot of people I knew and it's like I've never been away.

PROFESSOR LONGAN: You mentioned the names of some of your teachers. Were there other teachers in high school, either in Cullowhee or Sols Creek, who meant a lot to you?

MR. BROWN: After I stayed in the eighth grade, I came back to Cullowhee to start the ninth grade. I was still short and hefty. I grew about six and a half inches in about fourteen months. All at once, the guys who used to pick on me became my friends. It was an amazing transformation. As I got taller, everybody got friendlier, which suited me fine. I was not interested in having a whole lot of physical combat.

When I came back to Cullowhee and started in the ninth grade, I had several teachers, like Mrs. Killian, who I really liked. Mrs. Killian introduced me to the art of understanding poetry. My mother read me a lot of poems, and I showed you a clipping this morning that was Hans Christian Andersen's Christmas story about the little match girl. I don't know if people know what that is anymore. It's a wonderful heart-rending Christian-oriented Christmas story called "The Little Match Girl," and Hans Christian Andersen wrote many, many childhood-type stories.

Mrs. Killian insisted that we study poetry. Now, you start with a bunch of little hillbillies and try to teach them about poetry, that's not easy, but I had an affinity for it because of my mother and my love for the language. I've always loved things that were verbal and that type thing. Mrs. Killian insisted that we do that, and at one point she insisted that we write a poem. I didn't have any trouble doing it. As a matter of fact, I have got a book of poetry that I actually wrote over the years. Part of it I wrote in connection with teaching my Sunday School classes. I would teach a class, and then I would write a poem relative to what I was teaching about. I also wrote a lot of poems about the office; funny things about little Charles Adams and things like that to just have fun. We all wrote a poem except one of my very good friends who died three or four years ago, Paul Bunyan Hooper. He was the quintessential hillbilly. He came from Presley Creek way up toward Cullowhee Mountain. He just couldn't write a poem, and Mrs. Killian said, "Paul, you have got to write it. Everybody has got to write a poem. Can't you write just one or two lines or something to finish this assignment?" He said, "I can't do that." She kept on and on until Paul finally said, "Mrs. Killian, I ain't no poet." She said, "Paul, you are right. Forget it." That was the end of the poetry writing. I saw her son not long ago. She later taught at the college. Her husband was a psychology professor, and her son was a really brilliant student. He works in Manhattan, and he was about three or four blocks from 9/11.

PROFESSOR LONGAN: 9/11?

MR. BROWN: Yes, 9/11. He came out on the street and saw it. I talked to him and he said something to me that I thought was one of the best compliments I ever had. She and my mother were very good friends, and he told me that after I went to law school, his mother said, "I want you to do something like Manley Brown did, Dan."

PROFESSOR LONGAN: What a compliment.

MR. BROWN: I thought that was a tremendous compliment because Mrs. Killian came from a totally different background from me. She was educated at some prominent university and came to Cullowhee to teach, but they became part of the community. She was in my

mother's Sunday school class. My mother taught Sunday school for twenty-something years, and when my mother died, I was in my sophomore year in college. She never seemed to be able to get a break, and she got breast cancer and died at age 49. I was, I guess, 19 at the time. Mrs. Killian and the professors knew that she was sick for three months. I had to really take care of her and try to go to college. It was a horrible death because the treatment back then was almost worse than having the disease. But I was preoccupied with taking care of her. My mother couldn't work, and we were really without an income. After she died, the church people and those professors actually paid my tuition for the third quarter of my sophomore year.

PROFESSOR LONGAN: I want to ask you a number of things about college and your experiences there, but before we do that and before we leave your childhood years, I want to ask you one last thing. You had an unusual childhood in many ways in that you lived in two different kinds of worlds and certainly the world of Sols Creek is a world that would be unfamiliar to most young people today. It's hard to imagine. What affect do you think that upbringing had on you as a man and as a lawyer?

MR. BROWN: It was sort of a culturally schizophrenic existence. I went from one extreme almost to another extreme, from living in that very rural setting to living in a college town and going to school on the campus of the college. When I conversed with my grandmother, I really had to converse with her in a different way of talking altogether. My mother spent time reminding me when I would come home, "You can't go to school now and say 'the cat clem a tree,' 'the cat ran atter the mouse.'" My grandmother talked the way the common English people spoke when her parents learned to speak English. It just made me more flexible in dealing with people because I worked in the law practice with good friends and lawyers, who really didn't want to go to South Georgia and work. .

PROFESSOR LONGAN: Too rural for them?

MR. BROWN: It's a different world. It is a hundred miles away, but it's also sometimes a hundred years away, and it's not a bad way of

life. They just have a way of living. One thing people don't realize about rural South Georgia is there's a lot more racial harmony than there is in, say, Macon, Georgia, or Atlanta. The races seem to get along better. They get along and seem to have greater respect for each other and have a more cordial relationship. That's not always true and things can get out of hand at times.

PROFESSOR LONGAN: It has been helpful to you as a lawyer to be able to be part of both worlds?

MR. BROWN: Yes. It helps you immensely. I was in a meeting one time with some lawyers trying to get somebody to help us with a witness, and everybody made their pitch, and I finally made mine. The lady said, "Well, I agree with the guy who has those boots on." This was in Atlanta; not in South Georgia. I always enjoyed wearing boots, but I wore them in my personal life. After law school, I tried the different kinds of footwear.

PROFESSOR LONGAN: Wingtips?

MR. BROWN: I tried the wingtip stuff and that was fine. I got along with that, but I occasionally would wear my boots, and then it began to dawn on me that was the best icebreaker. Not only did I enjoy doing it, I felt comfortable in them. My back started hurting, and when I wore the boots, it made my back feel better because it did something for my back. That's why I wore them. I remember when my first child got married and we had a great wedding down at Sea Island, complete with the Cloister and the whole shooting match. It was really a Jim Dandy wedding. The question came up about my boots. It was presented to me in a very diplomatic fashion, and I said, "Let's just put it this way. Do you all want me to come to this wedding or not?" They said, "All right; we understand." I said, "I'll get a nice-looking pair of boots; I promise." They said, "Boots with a tuxedo?" I said, "They'll look just fine with a tuxedo, and if you want me to come, I've got to do this." I got a brand new pair of boots, and they were nice looking expensive boots. At the reception after the wedding, one of my youngest son's friends came up to me and said, "Mr. Brown, I looked up there and saw those boots. If

you hadn't worn those boots, I would have lost all respect for you." That's an example of that.

I hear people all the time suggesting that because they lived in a house and didn't have running water or something it just wrecked their lives. I have a hard time understanding that. From my own personal experience, creature comforts are not necessary to be a normal, reasonable person. I think I am a reasonably well-adjusted person. That's more of an excuse or something than it is a cause. I could go to people's homes, clients and witnesses and things like that, and I was happy to go there. It wasn't something I was afraid to do or dreaded to do. I frankly liked doing that. I have worked with lawyers who are very uncomfortable having to go places like that. So it helped me. If somebody wants to hire you in a case, one of the crucial aspects of a case is getting hired. Will they actually sign? You have to take a contract. The State Bar requires you to do that. If you want that to happen, they need to be comfortable with you.

PROFESSOR LONGAN: That's right.

MR. BROWN: Occasionally, I would have lawyers hire me to go help them get somebody signed up. It just helped me to deal with people across a broad front. I argued one case in the United States Supreme Court. I was comfortable doing that. After I argued the case, the people in the Court, the marshals and the staff said, "Mr. Brown, we were so glad to have somebody up here with a Southern accent that talks like you. We get so tired of listening to all those other accents."

PROFESSOR LONGAN: Let's switch gears and take you into your college years at Western Carolina. It almost sounds inevitable. Your mother is a triple graduate of the school, and you're living there. Tell us how it came about you went to college there.

MR. BROWN: My high school was on the college campus, and my mother talked to me constantly, "You've got to go to college." My brother wouldn't go to college. He wanted to go in the Navy, and that's what he did. I really wanted to go to college. When I was fifteen, I worked at the Pisgah Inn on Mount Pisgah. An older friend of mine took me there and said, "You can have this job and we'll have us a good time

this summer if you come over here and work.” I was the dishwasher at the Pisgah Inn. The Pisgah Inn is still there at Mount Pisgah. Parts of the old Pisgah Inn are still there, but it’s a new place now. If you go up on the Blue Ridge Parkway, you’ll drive by the Pisgah Inn. I stayed there for three months; your food and \$50 a month was the salary, and washed dishes for 75 guests and the staff 3 times a day.

PROFESSOR LONGAN: That’s a lot of dishes.

MR. BROWN: That is a lot of dishes. Do I work in the kitchen a lot these days? No. I washed about all the dishes I ever wanted to. I also did other jobs, like cutting wood and all of that.

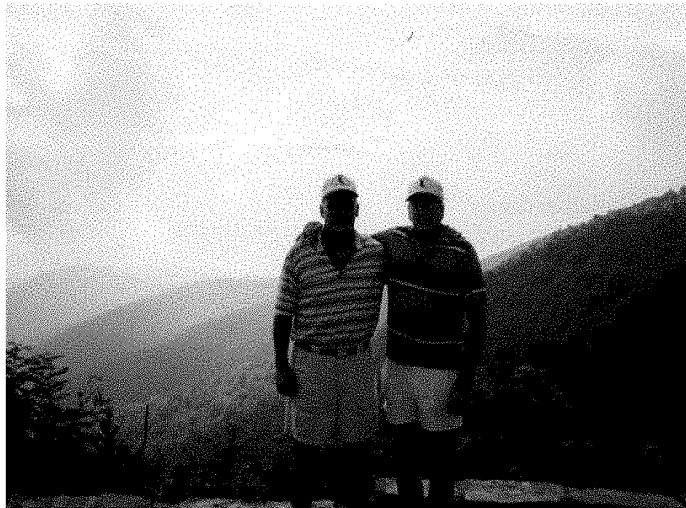
PROFESSOR LONGAN: That’s enough to make college look pretty good.

MR. BROWN: The lady I worked for just about starved us to death. She didn’t feed us very well, and she worked us real hard. I worked there, and then I had a chance to get a job at the High Hampton Inn and Country Club, which if you’ve ever been there or know where it is, it’s in Cashier’s, North Carolina. It’s a wonderful resort. It has been there since the 1930s in a beautiful setting. It’s on the Wrangler’s television ad. That lake and that mountain in the back is Rock Mountain at the High Hampton Inn. That’s where that ad came from. But it didn’t take too much thinking to see right away who prospered; people with educations: doctors and lawyers.

PROFESSOR LONGAN: Those were the guests at the High Hampton?

MR. BROWN: Those were the guests at the High Hampton and at the Pisgah Inn. I could see that it was all based on education, and that fit in with what my mother told me. One of the last things she told me before she passed away was, “You don’t quit college.” I had become a good student. When I got into college, I had to take remedial math, and it took me a quarter or two to get my sea legs, but I learned. I had been busy at something else in high school, like playing basketball, and I was

pretty much through with that. I wanted to be a good student, and I could see that I was doing very well in things like my English courses, biology, and things that a lot of students and people I knew could not deal with at a college level. If I studied, I could deal with these courses and make pretty good grades. I really wanted to get a good education. I have a picture of one of my college professors. We are still very close friends, Max Williams. I was in the first class he ever taught as a college professor. He was a graduate of Duke and the University of North Carolina, and he later finished his Ph.D. at UNC. He was a brilliant guy and a good looking guy. All the girls were in love with him, which aggravated the boys to some extent. I looked at him and I thought, "That's the best educated man I have ever seen. Boy, what would it be like to have an education like his."



PROFESSOR LONGAN: That's inspiring.

MR. BROWN: He told the little hillbillies a joke. He was brand new out of college and out of the Navy, and he tells us this joke, and the punch line was "gesundheit." He tells the joke and gives the punch line and everybody just sat there. Nobody laughed. We didn't know what the

devil he was talking about. Max said, "I can see I've got my work cut out for me." I know when I left, he was one of the few people who really encouraged me to go to law school. My mother, of course, was gone. She would have encouraged me. I was really on my own to tell you the truth. I had to make my own decisions about what I was going to do, and it just worked out that way.

PROFESSOR LONGAN: Manley, you want to be a good student, you're ambitious, you've got this chance to be at Western Carolina, and your mother dies very young. I know that was a real watershed event in your life. How did you manage to go on, both emotionally and financially?

MR. BROWN: The last quarter I was in school while she was so sick was actually odd. There were my professors paying my tuition. Mercer President Underwood gets a little aggravated with me because I am so loyal to Western Carolina. There are a lot of reasons for that. A number of my family have degrees from there. President Underwood scolded me because I had on a Western Carolina hat. I said, "You don't understand. You have to accept this. I love Mercer, believe me. There are reasons that I have a great endearing love for Mercer University, but I have certain feelings about Western Carolina that are associated with my mother, and I am trying to do a scholarship for her. I have it about a third or a fourth funded, and I'm going to finish that before I fund anything else. I'm going to finish this scholarship that has her name." If you're nineteen years old, you just have more confidence that you can do something. I could see that I could deal with academic things like my mother could. She was a very good student, and I saw that I could deal with it, so I just didn't really worry about that too much. I was worried about what I was going to do in the future. I had this job as a result of working for the lady at Pisgah Inn. She wrote me a letter of recommendation, and I remember she wrote, "Manley Brown worked here for three months. He was a hard worker." That was all she had to say. I took that letter with me to an interview with a whole flock of people to High Hampton, and it helped me get my first job, which was a busboy in the dining room.

PROFESSOR LONGAN: Summers you're working at High Hampton Inn?

MR. BROWN: I would work in the summers, and then I would work on the weekends in the Fall until they closed in October. I would go to school during the week, and then I would drive out there and work on the weekends because I could make some more money. My mother had passed away, and we had a rented house, so I had to move out of the house we lived in, which didn't bother me too much. I was going to High Hampton anyway, so a friend of mine, Jerry Crawford, came and picked me up. We went to South Carolina and visited with his family, and then we went to High Hampton for the summer right after my mother's funeral. I was trying to decide what to do with myself because by the time my mother passed away and I was a junior, I was making really good grades. I took some courses in business law, insurance, and commercial-type courses, and I found that I would make the best grade in courses like that. Business law seemed to be something everybody struggled with. I did not have that problem.

PROFESSOR LONGAN: You were feeling torn about whether to go back to school or stay at High Hampton.

MR. BROWN: I thought about it but I wanted to go back to school. My mother said, "Don't you stop going to school." I went back and worked at High Hampton that summer and came back for my junior year. My mother had \$1200 in her State retirement. That was for a lifetime of her work. My brother said, "I don't want any of that. I'm in the Navy. You take that and go back to school. Our mother wanted you to go to school." I took it but I didn't spend it. I put it in the bank and kept it. I thought, "I'm going to keep this and see what I need." I had to use some of it to pay my tuition at Western Carolina. My tuition was \$95 a quarter, and that was a lot of money in 1960 and 1961. I could save upwards of \$1000 from summer work, and \$1000 bought a lot if you compare it with college tuition. I also had to have a place to live, so it cost me more than \$95. I stayed in the dormitory one quarter, but I didn't like it because it was too noisy. I later moved out and stayed at Professor Dean's, who was an English professor. He rented to some students and another student who was married, and I shared a room at

Professor Dean's, and that's what led, strangely enough, to my finding out about Mercer University. I had enough money to get through that year, and with working the next summer, I thought I would have \$1500 if I didn't waste my money. I had taken a pretty heavy load, so I was close to being through. I maybe needed 20 or 25 hours to graduate. The dilemma was to spend that money living in Cullowhee and going on to get my degree, which I really wanted to do, but I also thought about trying to get an MBA.

There was a man who came to High Hampton. His name was Mr. McGee, and he was an older man from Jackson, Mississippi. I looked after him and his people really well, as I did all the guests. I had found that if you look after these people, they will give you money, but it was enjoyable to get along with them. They are on vacation. They all have a lot of money, and they like to be waited on. I would look and see who was coming and get clear in my mind who they were, so when they walked in the front door, I knew their name when they got there. Mrs. Harrigan used to send me money at Christmas. Her husband was the CEO of Woolworth Ten Cent Stores. She lived in downtown New York, and I remembered the name of the apartment. She stayed three months, and most of it secluded in her room, but she liked to put on parties and things like that for a couple hundred people at a time. I would organize those and see that they were done right and see that she got her meals sent in exactly how and when she wanted them. We had no phones in the rooms, so I made sure she got her telephone messages. No guest could get a phone in their room. At any rate, Mr. McGee talked to me all the time about what I was going to do and about what I was doing. At that time, I was trying to figure out what I was going to do.

PROFESSOR LONGAN: You've worked your way up from busboy?

MR. BROWN: Yes. I was busboy, and then I was a bellhop. Then I became the switchboard operator and part time desk clerk. The last year I was there, I was the assistant manager, and Mr. McKee, who owned the place, told me, "Manley, if you want to stay here now and work, you know everything about this hotel." I knew everything, even where to find the golf balls. Nobody knew where the golf balls were. They were stored in an attic space. I'm sure they don't do that anymore,

but I guess it was so nobody would steal them. You had to have an extra two or three keys. You went up in the attic and way in the back to get the golf balls. I really knew a lot about the place and was there the Fall when Jean and I married. We stayed there, and if I had wanted to stay, I could have ended up managing the High Hampton Inn. That happened during my law school time. But Mr. McGee said, "Manley, you should get an MBA. You're in business administration, and you're making good grades. When you finish college, come out to Jackson, Mississippi, and I'll give you a very good job." The other people told me, "Boy, Mr. McGee likes you, and that old man is rich. He's got more money than you can count, and he's a decent person." I thought, "How am I going to get an MBA?" I looked at the Wharton School of Business and tuition was a lot more than I could ever afford. I went to law school with somebody who went to the Wharton School of Business but there was no way I could do that. I just thought, "Nobody in my family has ever been a lawyer. I don't even know a lawyer, but I wonder if I could do that," and that led me to finding out about Mercer. Mercer is the only place I applied.

PROFESSOR LONGAN: How did you know about Mercer Law School?

MR. BROWN: Usually there's a girl in every story. I had a friend, it wasn't a real girlfriend, but she came there for the summer. Her name was Gay Heist. She was as tall as I am, and she could swim like a dolphin. She was from Florida, and her father owned a bunch of orange groves. They were very well-to-do, and they had a huge home on the premises. Gay and I became pretty good friends more than anything else. Her Uncle Spiro was the Academic Dean at Mercer University in Macon, and he later became President of Jacksonville University, and after that the Assistant Secretary of the Air Force. He was a very prominent, well-to-do, smart person. That is how I first knew a little something about Mercer when he stayed at High Hampton. The guy I roomed with at Dr. Dean's liked to listen to the radio during the week, and it was very difficult to study, although we got along real well. He was an Italian, and he would turn the opera on, and I couldn't study accounting and listen to that. I would go over to the Stillwell classroom building at night and study. I realized that I could go over with nobody there but the custodial

staff and have a whole classroom to myself. I would shut the door, and I had a blackboard where I could do my accounting. I could stay up and work until I understood how to do the various accounting algorithms and things I needed to learn just by myself. I studied really late one night, and I was still thinking about what I was going to do next year. I went to the bathroom, and when I came back, I stopped at the bulletin board and here was a flyer about the Walter F. George School of Law, Mercer University. I looked at it, read what it said, and thought, "That's interesting." I tore this thing off, and it said, "Send this and we'll send you a catalog of the law school." It was just as simple as that. I tore it off, took it with me, and it probably laid around in my room a little while, and then I filled it out and I sent it to Mercer. They sent me an envelope full of all kinds of things about Mercer, and I learned something about the law school. I liked the fact of the age of it, and I liked it was Baptist. I guess we had a Baptist school at Wake Forest, but the law schools in North Carolina were way beyond me. They were too expensive, and you had to go four years before you could get in.

PROFESSOR LONGAN: That was different at Mercer?

MR. BROWN: It was different at Mercer. They took a certain number of people after three years if you had good grades. I finally decided, "I'm going to try this." Nobody ever said I shouldn't do it, but I could see a reluctance that maybe I was making a mistake.

PROFESSOR LONGAN: That you weren't prepared for it or you weren't up to it?

MR. BROWN: Yes. It just seemed that's something I can't imagine. "Brown, you're a basketball player, not a lawyer." They didn't know I had become a really good student. My pastor, who was a very close friend of my mother's, was fairly encouraging. He was from Kentucky and a big basketball fan. He loved our basketball team. But he cautioned me, "It's going to be a whole different world now, something different for you altogether."

PROFESSOR LONGAN: Was it hard to make the decision to leave Western Carolina without your degree?

MR. BROWN: Yes, it was difficult, but it was harder not to do it. I thought, "Maybe I can do this. I'm doing well as a student. I know how to study now, and I don't have any trouble studying all day every day. Maybe I can go." They admitted me on the 3/3 program, which meant I had enough money. It cost \$1200 to go to Mercer Law School, and that included a meal ticket at the cafeteria.

PROFESSOR LONGAN: So you had enough money to get through one year?

MR. BROWN: I thought I could, depending on other expenses. I had to operate a car and those kind of things. I thought, "I did finally have a shortfall." I had to write my brother—he was in the Mediterranean on a med cruise, and he sent me something like \$100, and I was able to make it. After my first year in law school, I filled my car up with gas at McGarrity's service station and went down to Chichester's and got two hot dogs and a drink. I had 15 cents left. I got in my car and went straight to High Hampton because I had a bed. Mr. Shermerhorn, who really liked me and we got along very well, was so glad to see me and he wanted me to really get to work. "Please help me with all these people coming in here." He gave me some money and a key to a room in the Tate House, which was a very nice old hotel that the office staff stayed in. I was eating in the dining room the same things the guests had.

PROFESSOR LONGAN: So you made it by 15 cents?

MR. BROWN: I made it by 15 cents, and I was eating steak and all this stuff. I went from hot dogs to steak in 24 hours.

PROFESSOR LONGAN: All right, Manley, so we've got you to the beginning of your time at the Mercer Law School in the Fall of 1961. Tell us what the Mercer Law School was like in the Fall of 1961.

MR. BROWN: Coming to Mercer was like studying law at a monastery. That's the only way I know to describe it.

PROFESSOR LONGAN: What do you mean by that?

MR. BROWN: It was just almost total silence compared to what I had been accustomed to. They had fraternities and that type thing at Mercer, and of course we were on the campus in the Ryals Law Building. We were right next to the main library and across from the Chapel. It was just a quiet, peaceful place. Nobody bothered you. You had a full opportunity to study. I lived in Roberts Hall, which was about 25 steps away from the front door to the law school, which suited me fine. I lived about 50 yards from the cafeteria, which was at the foot of the hill. All of this gave me the opportunity to do what I wanted to do, which was study. If you go to law school, you're wondering, "Can I do this? What kind of student will I be? Can I transition?" I knew I had gotten to the point where I was a good student in college at Western Carolina, but could I translate that into being a good student, because I'm going to school with people who went to schools like Davidson. Uniformly, the best students I've taught were Davidson students. A lot of people went to the University of Georgia and Emory. I had several classmates who went to Emory, Tulane, Wharton School of Business, Florida, Auburn, and all these other universities. You wonder, "How am I going to compete with these people." I found the best way to compete is to compete with yourself. You have to do it yourself. It's how much can I make myself do?

PROFESSOR LONGAN: There's no way to play defense.

MR. BROWN: And the law is so voluminous. It's not unfathomable. Some things in college, some of the accounting courses, and some of the things I took were probably more difficult to some extent than studying the law, but the law is so voluminous. You had to read about a hundred pages a day sometimes. Mullock was still on the faculty. He's the brightest guy I have ever had anything to do with. You had to read about a hundred pages in his Tax courses. We had to take Tax courses and Conflicts of Law. How many people at Mercer now take Conflicts of Law?

PROFESSOR LONGAN: A handful.

MR. BROWN: Not many. That was the toughest required course. L. Ray Patterson, who was a well-known and an excellent law professor and later was the Dean of the Emory Law School and taught at the University of Georgia Law School, wrote the book on copyright that everybody uses. We had to take that course and three tax courses. We took income tax, gift, and corporate tax, and they were all taught by Mullock. He was a no-beat-around-the-bush, spare-your-feelings-type guy. He was from South Wales and had graduated from the University of Chicago and the University of Virginia. He was smart, very bright, and wore a bow tie. He was all business. He wanted you to learn, and he was just absolutely brilliant. I grew to really admire him, and we got along very well. We thought alike and became really good friends. You could study and get by and make C's, but I knew I didn't know a single lawyer. I didn't know anybody who would sponsor me with any lawyer or anything like that, so I thought my chance to get into the legal profession was going to depend on whatever academic achievement I could make at this law school. I had to do well.

PROFESSOR LONGAN: That's a lot of pressure, Manley.

MR. BROWN: It was a lot of pressure. I didn't have very much money, and I only had money for one year. What I reasoned in my mind—and it turned out to be sort of a self-fulfilling prophecy—was, “Maybe if I do really well this year there will be some loan program or something that will help me. If I don't do well, I'll give it up and go back and get my college degree and do something else.” I just took it on faith; the evidence of things not seen. I've always thought the Biblical definition of faith is like a contingent fee. The evidence of things not seen and the substance of things hoped for.

PROFESSOR LONGAN: Right.

MR. BROWN: It's like a contingent fee. You can't see it, but it's there, and maybe you'll get it or not. I really just took it on the basis of that and went to work. One of my best friends at Mercer in the first year was a graduate of Wake Forest, which was a great school, and I thought, “He's going to be good at this.” He flunked out flat. He didn't even last one year

PROFESSOR LONGAN: How many people flunked out?

MR. BROWN: There were 125 in law school. Because of the layout of the Ryals Building, you would have a class with about 60, and then a class with about 40. Our class had 36, and about 25 or 26 of us were still there at the end of the three years. After a quarter or so, everybody who really wanted to be there, wanted to be lawyers. We talked about the law and talked about lawyers, and I think that helps if you're a law student, if you're really interested in the law, because some of the people who go to law school don't really like what they're doing. When they get out—if you believe the information you read—most people practicing law don't like practicing law. I don't know exactly why that is. I suspect it's just the competitive stress and the demands it has. You have to work on Saturday, sometimes on Sunday, and very long hours.

PROFESSOR LONGAN: Let me ask you specifically about being in that law school classroom. One of your professors was James C. Rehberg. What was Mr. Rehberg like?

MR. BROWN: I spoke at his second retirement roast. A lot of people spoke. That's when Bob Hicks introduced me as a hillbilly and the most challenging law school student that Mercer Law School had ever confronted. I told the crowd that Mr. Rehberg was our first encounter with a weapon of mass destruction. One student tried to brief his cases on note cards, but he dropped them, and that was a mistake. Mr. Rehberg had him crawling around on the floor trying to get his cards. Nobody helped him pick them up. Nowadays, you would probably have to pick the note cards up and dust them off, but Mr. Rehberg just let him go. He's trying to get his note cards back, and Rehberg is still just pounding him with all these questions. Rehberg was in his 40s. He became benign, comparatively speaking, by the time you came to Mercer, Pat. A lot of the professors were older, and they really wouldn't hardly speak to us until we had been there a couple of quarters. People would speak with Mr. Rehberg on the sidewalk. "Good morning, Mr. Rehberg," and he would go, "Errr," or something like that. You really paid attention when you went in Mr. Rehberg's classroom.

PROFESSOR LONGAN: Very demanding?

MR. BROWN: Very demanding. If he came in there to cover twenty pages, he covered twenty pages. His exams were a total mystery. It didn't matter. The first couple exams I took under him, it didn't matter how hard I studied and how much I learned about real property or whatever, I would make a mediocre grade. I ended up taking five courses under him, and of course, no anonymity. Your name was right on the paper, and the professors knew who you were. It took me taking him two times to begin making better grades. Alex Davis, who was my best friend in law school and was a very good law student from Butler, Georgia—he passed away, unfortunately, with lymphoma a few years ago—and I would sit in the library, and we would watch Mr. Rehberg when he came in the library. We would watch to see what book he got off the shelf, and when he put it back, we would get it and look through it and see if he had underlined anything.

PROFESSOR LONGAN: How did that work out for you?

MR. BROWN: Strangely enough, it turned out to benefit me, but that particular strategy didn't work. He was reading all that stuff about shifting and springing uses, which you study in the law of trusts and the Statute of Uses. We never did succeed in spotting a question until I was a senior. I took a course called Conveyancing, and I was by then, the editor in chief of the Law Review. We didn't have a big Law Review staff, so I read every one of those articles closely. Mr. Rehberg wrote the real property survey article for the Law Review. The last case he wrote on was an estoppel by deed case, if you remember that doctrine in real estate.

PROFESSOR LONGAN: Yes.

MR. BROWN: It was the most deceptive set of facts. I never in a hundred years would have thought that the court could decide using the Doctrine of Estoppel by Deed. When I took Mr. Rehberg's class on conveyancing, I was living in a room on Coleman Avenue that I had

rented. The last thing I did before I went to take the exam that morning, I got out his survey article and I thumbed through it and stopped at that case on the last page. I remember looking at it really carefully and thinking, “Boy, that was a humdinger set of facts.” I went to the exam and there it was on his exam word for word. I’m sure I am the only person who got it correct. He gave me a really good grade.

PROFESSOR LONGAN: I’ll bet.

MR. BROWN: I bet he thought, “All right, Brown; that was in my Law Review article.” It finally paid off but he was difficult. You learned a lot under him, but you didn’t make very good grades without real effort. We were on the 89 grading system. I actually taught under that system and came to understand it well. It was a good system, but nobody could understand it and it was hurting our students. I understood why they wanted to change it.

PROFESSOR LONGAN: You mentioned you eventually became editor in chief of the Law Review, so you obviously were a very successful law student. You also mentioned hard work and competitiveness, but is there any other secret to success as a law student.

MR. BROWN: One thing that really helped me was my business education. I took a lot of English courses along with my business courses. Mrs. Killian taught me English and poetry interpretation in high school. She would read a verse of poetry, and I could look at it and figure out what they were talking about symbolically. Poetry is hard to read, and I’ve used a lot of it in my life in the law because it’s such a great source of argument ideas.

PROFESSOR LONGAN: That’s how lawyers read, too, isn’t it?

MR. BROWN: It is. You have to read and it’s interpreted symbolically and the metaphors that are used. Jean has helped me a lot over the years to find poems that fit cases I was trying where I could use the poem for argument ideas. I used one on my friend, Ashley Royal, before he was a judge. He objected for about ten minutes, and Judge

Phillips said, "That's all right. Go on." At the end, I had a pretty good quote about the death of a mother. A number of lawyers have borrowed that. They said, "Can I borrow that from you?" I said, "It's not copyrighted. You can use anything you want to." But that helped me a lot, just reading and interpreting, and understanding how to interpret the law. You look at it as a whole to get the sense out of it and to understand it like L. Ray Patterson taught us to do. He taught us equity and conflicts of law, two very difficult courses. Those courses were very helpful to really see how the law fits together. You take equity. I don't know if they teach equity now. They call it remedies and conflicts of law because every conflicts of law case has a different subject in it, and you begin for the first time to see the big picture. We had this guy in law school who was a professional wrestler. He never could pass conflicts. He finally just gave it up and went back to France, or wherever he came from. He would eat with us in the chow hall, and he said one day, "I really told Professor Patterson off today." I said, "You've got to remember that you have to take an exam under him."

PROFESSOR LONGAN: It's not anonymous.

MR. BROWN: He flunked conflicts and that did him in. He was gone.

PROFESSOR LONGAN: What was the hardest part about law school for you?

MR. BROWN: The volume, particularly when you had Mullock's tax courses. He gave you all these regulations to read, and reading 15 pages of IRS regulations is a lot. I did it studiously and I got the book for making the best grade in a couple of his classes. I read it all, and it wasn't easy. I was good at typing, and I had taken typing in high school and in college. They say, "That's a sissy thing for a man to be taking," but that was a great skill. I would type my exams, which meant I could spend more time analyzing them and everything. I did well in Mullock's classes. When I went to work for Judge Bootle, the Federal Court had a lot of tax cases because lawyers used the Refund Statute. I think they have maybe even repealed that now, but what you could do is, if you had a complaint, if you had a problem with the IRS, you could pay the money

in. If you didn't want to pay the money, you had to go to the Tax Court, which was non-jury. If you wanted a jury trial, you could pay the money to the IRS and file a suit for refund in district court, and that's what most people wanted to do because you had a shot to haul the IRS before a jury.

PROFESSOR LONGAN: Three quarters of tax courses comes in handy then.

MR. BROWN: I had a comprehensive tax education with all of those accounting courses in college. I had taken a full year of accounting. I knew more about that than anyone in my classes. Some of my classmates wanted me to help them because they were reading these tax cases that had accounting and they couldn't fathom it. It was second nature to me. I could read those cases and understand the accounting context, so it helped me on exams and even on the Bar Exam tax question. I found having gone to a school with a compass setting in its name, I still had a good education. We had serious professors who wanted you to learn, and by studying hard, my education was as good as anybody else who was in my class.

PROFESSOR LONGAN: Let's talk about your classmates for a minute. What memories do you have of particular classmates of yours?

MR. BROWN: We had such a small class. Bob Shipp was a graduate of the Wharton School of Business, very savvy, and is still a very good friend. John James, who just died, was one of my classmates. John had actually been to law school before he came to law school. He went to John Marshall.

PROFESSOR LONGAN: Is that right?

MR. BROWN: He did. He came to Mercer and started over. He was way down the road ahead of us. He had already had a full course before he came to law school. Jerome Strickland, who is a really fine lawyer, is sort of the head of the Jones firm now. He became an outstanding lawyer. He worked part time and still made reasonably good

grades. He studied hard and became a really outstanding trial lawyer. He's one of the best lawyers I have known. He's in the American College and has risen to the top of the Jones firm. Jerome is 76 and still practicing full-time. He went to Auburn with Joe Tuggle, who became very prominent at the Bar. Joe died young with some kind of cancer. We also had some non-traditional students. Rena Cohen had grown children. She had a couple of sons who were doctors and was on the 2/4 program. If you had gone to Mercer as an undergraduate, you could go to law school four years, two years undergraduate at Mercer before law school. That was too much law school and didn't work very well. We had a colonel from the Air Force, Colonel Cooper, who was a nice man. A guy I lived with a lot, Jim Balsiger, had gone to the University of Florida. He was very intelligent and became a Judge in Florida. Richard Gordon, another classmate of mine—"Grits" was his nickname because of a little incident he had in a local bar—had gone to school at either the University of Florida or maybe the University of Miami. His father was a doctor in Fort Lauderdale. He became an outstanding trial lawyer in Fort Lauderdale. Our class produced some really good lawyers. If you were a small class, you can't really hide. Consequently, you're almost forced to learn more because you were constantly called on. I would say that Jerome Strickland would be at the top of the list of the lawyers in our class who really conquered the law.

PROFESSOR LONGAN: Let me ask you about something different. You came to Macon at a very turbulent time in the history of the city; a time of Civil Rights tension and desegregation. In some ways you literally had a front row seat.

MR. BROWN: When I came to Macon, the idea of racial strife was the farthest thing from my mind.

PROFESSOR LONGAN: Because of where you were from?

MR. BROWN: Because of where I was from. It literally did not exist. For instance, when *Brown v. Board of Education* was decided, they soon closed the Black schools. Everything was fully integrated. The only racial issue I even had little notice about really had to do with Native Americans and the way they were viewed. Mostly, we got along very well with them. We competed with them in athletics. The greatest basketball

player I ever competed against was a full-blooded Cherokee Indian named Lawrence Johnson, nicknamed “Hawg” Johnson. I remember the coach said, “We have got to do something about Hawg. He scored 35 points against us the other night.” That was at the beginning of the year. We beat them by 20, 21 points. We were about to win the conference undefeated, and we had to go to Cherokee to the Reservation to play. We had to beat Cherokee. We thought, “We can beat them. We’ve already beaten them one time.” The coach assigned three of us to play on Lawrence Johnson. He was about two and a half inches taller than me, had huge shoulders, and was left-handed. He was a mighty man. He got a full scholarship to the University of South Carolina to play football because practically nobody could tackle him. He was a full-blooded Cherokee and really tough. We got down there and the floor was slick because they had waxed the floor. Their coach—I saw him two or three years ago—lives in Sylva and was selling brooms for the Lion’s Club, and he saw me coming and said, “We didn’t do it.” I said, Coach, “I didn’t say you did.” He still thinks I worry about that, and I still remember it. Three of us played on Lawrence Johnson and held him to 60 points, and we beat them in a double overtime, but we dadgum near just about didn’t do it.

But once I got to Mercer and to Macon, I began to see, even though I lived a cloistered life on campus, Mercer was not integrated, and at that time, it began to penetrate my brain that this was a serious problem. I could see the bus system; Blacks in the back of the bus. The schools were segregated by race and by gender as well as the eating establishments and hotels.

PROFESSOR LONGAN: Parks?

MR. BROWN: Yes, parks. Macon was a great city of parks. Macon had a really first-class zoo in Baconsfield Park. Macon was known as “the city within a park” because it had so many. You could see it was designed to be a magnificent city. Look at the sidewalks. People told me, “You’re going to love the way Macon, Georgia, looks. It’s got these wide boulevards. It’s just a wonderful city.” I arrived on the scene, and it was. Downtown Macon on Saturdays was just a wonderful place to be. Christmas time was a wonderful place to be in downtown Macon. That’s all missing now. You can’t see it. The integration of these entities in

Macon was just beginning. For instance, during my second year of law school, they began to integrate Tattnall Square Park.

PROFESSOR LONGAN: Which is right across from the University.

MR. BROWN: Ed Wilson, the Mayor, was our law professor. He taught us contracts, insurance, and municipal corporations. He had a doctorate in law from Duke. They were integrating Tattnall Square Park so every day after class we would take something to drink and rush over to the College Street side of the campus and sit along that wall and watch the battle in the afternoon. By about 3 o'clock, here came the Mayor, the Fire Department, and the Police Department. They were on one side, and then another group that was involved in this was on the other side of the park. It reminded you of two armies lining up getting ready to do battle. The law students generally were just enjoying watching that. It was fascinating to me to see history in the making.

PROFESSOR LONGAN: It was a new world to you.

MR. BROWN: That went on for about a week, and we would go over there every day and sit on the wall and watch because it eventually would devolve into a battle. It took a while for everybody to get up their nerve for somebody to do something that would set everybody off, and of course, the Police and the Fire Department came out with the fire hoses and broke it up. But they integrated Tattnall Square Park. I sat there and watched that take place, and while I was at Mercer, they integrated Mercer University.

PROFESSOR LONGAN: What was that like?

MR. BROWN: That was a real uproar. Mercer integrated, as I remember, before places like Duke, UNC, and Vanderbilt. They claimed the high road but they were on the short end of the time schedule. Rufus Harris was the president. He had been Chancellor and President of Tulane and had built Tulane into a great university. It was cinder parking lots when he went there. Judge Bootle said, "When he

was Dean of Mercer Law School, Harris took that job as President of Tulane University and built that school into a really well recognized university.” He knew that if Mercer didn’t stand up and meet the challenge with integration, it would be a mortal wound to the university, so he was determined to see that it happened.

The first thing is Mr. Oni was admitted as a student.

PROFESSOR LONGAN: This is Sam Oni?

MR. BROWN: Yes. He came from Ghana and had been converted to Christianity by a Mercer graduate. Who more deserving should be let into our school? A lot of people were in favor of that. Dean Hendricks—“Papa Joe” as he was called—was a leader in getting all that done. He just died recently. That first generation of Black students who came through Mercer has done well, like my student Louis Sands, who is a United States District Judge. He was in that group of students to make that happen.

I always came to the law school a little early just to get myself organized. I would go up to the Law Review, which was on the top floor of the building, and work. I was living on Coleman Avenue, and I walked over and up by Tattnell Square Church. As I turned the corner on the other side of the church where the Chapel is, I saw this huge banner across the front of the Law School. This is a non-published event that is unknown except for the few I’ve told. I am not going to tell you what it said, but it was not complimentary. It was a rhyming type thing, but it wasn’t anything to be proud of. I looked and there was Judge Atkinson. I really liked him and he liked me. He was my great Evidence and Procedure professor. He was a small, short person. He had the upstairs windows open up over the main doorway and trying to get that banner down. His face was flushed and he was in real anxiety to get it down before somebody saw it hanging on the law school. It was running through my mind, “I bet I can figure out who put that up there,” and I’m not saying who I thought did it.

PROFESSOR LONGAN: But you remember?

MR. BROWN: I hollered, “Judge, hold on a minute. You’re going to fall out of the law school window. Hold on and let me help. I’m long

armed enough, we'll take the banner down! Just let me get up there and I'll help you." I went upstairs and Judge Atkinson and I took the banner down. We took it down, and he put it in his car to be sure it was gone. It would have been page one of the newspaper if anybody had seen it. It was just so early nobody got out on the campus. Then the big ruckus came.

I was going to Tattnell Square Baptist Church. I liked getting up on Sunday morning for church after studying all week. I would get up and just walk over to Tattnell Square Church. It was like going to church in Cullowhee, North Carolina. If you have been to a college campus Baptist Church, it's about the same, so I enjoyed going there. They sang the same hymns and it was comfortable. But unbeknownst to me, it had a real hardcore segregationist element. Sam Oni—I'm not sure he really wanted to go to church there—but he thought, "I'm in Mercer and that's settled down now, so I'm going to see if I can go to church." That's just a feeling I had. The rumor that he was going to attend attracted a crowd. Some people stood over on the president's premises across the street and watched. But to make a long story short, the deacons actually took him out onto Adams Street—the street that runs into College Street between the president's home and the old Tattnell Square Church. They actually ousted him from the premises—which of course was from a Baptist standpoint, "let whosoever come that will"—was an unthinkable thing to do. Jean and I were going to church there at that time, and on one particular Sunday, the pastor, Dr. Holmes, who was also teaching at Mercer, preached a sermon on the previous activities for the benefit of the congregation. Tom Holmes wrote a little book about it. The name of the book is *Ashes for Breakfast*. It's an Old Testament reference that means to mourn and sit in mourning like Job did in ashes and sack cloth. He wrote about the Oni affair, including the sermon Jean and I heard him deliver. He preached this sermon saying, "There is no way to justify what you did. Baptists don't do that. Christians don't do that. We cannot have that in this church."

PROFESSOR LONGAN: It must have been a tough audience for that message.

MR. BROWN: They fired him and many people who disagreed left the church. He describes it in the *Ashes* book. As a matter of fact, it

almost came to blows. I told Jean, "We need to find another church. This is not a good place for us to be."

PROFESSOR LONGAN: By this point you're married.

MR. BROWN: Yes, we were married.

PROFESSOR LONGAN: I didn't mean to skip over that event.

MR. BROWN: I'll tell you about that, but Jean and I were going to church there. I was clerking with Judge Bootle, and one of the court reporters was Claude Joiner, who was a member of Vineville Baptist Church. I mentioned that to Claude, and he said, "Look, you need to come out to Vineville Baptist Church. We don't have any trouble with Mr. Oni. If he wants to come to church there, he can come and anybody else who wants to come to church." Dr. Moore, who was a wonderful man, was the pastor, and he said, "That isn't going to be a problem." We went to that church and Sam Oni came, but he only came twice. Everybody welcomed him and sat him on the front row in the amen corner. I sat in the balcony and watched; that satisfied him. I never saw him again after that. Even if he was just proving a point, it needed to be proven. Even if you say, "He did it to prove a point." Well, yes. Sometimes you have to do things to prove a point. That didn't mean he needed to be a lifelong member of our church and come every Sunday. He had his own life to live, but he was trying to just make a point. It was alright for me to be in the Baptist services in Ghana. You cannot justify that. Basically, the races generally don't want to go to church together. They want to have their own churches. African-Americans love their own churches and the way they do their services, but we still have some who come to Vineville to church. Then you have a lot of white Pastors. If you turn on Channel 3 on Sunday mornings and look at Charles Stanley and his great church in Atlanta, which I do on the Sundays when I don't go to church, you listen to him and look at his huge church in Atlanta. He's a great preacher. That church is filled with African-American, whites, everybody, and they all get along. That's the way it should be.

PROFESSOR LONGAN: You mentioned a minute ago that there came a time during your law school career when you were out for a quarter. How did that come about?

MR. BROWN: I had been there just one year. That was my 15-cent end to that year. In the past, I had a nest egg to build on, and I really didn't have it anymore.

PROFESSOR LONGAN: Fifteen cents worth.

MR. BROWN: I knew when I left there I had to borrow some money from my brother, or he gave it to me, so I knew when I went to High Hampton, "I'm not going to get enough money. Where am I going to get \$1200?" I figured I could usually make between \$700 and \$1,000 working at High Hampton with what I earned and the tips I got. I had a lot of old time guests I looked after and arranged things for and took care of them very well. For instance, Mrs. Harrigan—the Woolworth lady—would send me money on my birthday, and I would get a Christmas card and she would send me some money as a gift.

PROFESSOR LONGAN: You must have taken very good care of her.

MR. BROWN: I did. I would go down and sit and talk to Mrs. Harrigan. She was lonely sitting up there by herself. She stayed three full months in that hotel room. She liked to drink Scotch whiskey, and she brought two or three cases with her. She sat and wrote letters and dealt with her friends. She seemed to be a very lonesome person. Several of us helped to look after her. Her husband would come for like ten days and play golf. His name was Ed Harrigan. He was a very nice man, but he didn't like to stay there very long. They lived in the Essex House in downtown Manhattan, and that was a very expensive place to live.

PROFESSOR LONGAN: There you are at the High Hampton.

MR. BROWN: Yes, I'm at the High Hampton Inn, and it gets to be right toward the end of the summer. I was coming down Glenville

Mountain, probably to see Jean. Jean and I grew up in the same county but we never really met until I was in college because it's such a big populous county. Our romance had progressed to the point where you could see we probably were going to end up in a permanent affiliation. But I'm coming down the mountain in my old '56 Ford. It snows a lot in the mountains and they had put out salt. The salt had rusted a piece of the A-frame in my car and it broke. Fortunately, it broke on the right side, not the left side, because you couldn't steer. Instead of going off about a mile down this way, I went off in the ditch and wrecked my car. I had to get the wrecker to come get it, and it really set me back financially. I had no insurance on it, and my friend Odell Presley, who ran a garage, fixed it for me but it wasn't a charity job. He tried to charge me as little as he could, but I had to buy a lot of parts. It was getting on toward the end of the summer then, and I could see that I wasn't going to make it financially. There was not much use in me going back. I don't think I even had enough to make the first quarter, so I wrote Dean Quarles a letter.

PROFESSOR LONGAN: That's Jim Quarles?

MR. BROWN: Yes, Jim Quarles. I wrote him a letter and told him, "I don't have the money to come back right now, so I'm going to stay out at least this quarter and work at High Hampton. I'm sorry but I'm just unable to come back." I don't remember whether he wrote to me or said anything, but I stayed out and Jean and I got married. We got married on September 29, 1962. This fall we will have been married 54 years [2019 *Journal* publication date: will be 57 years].

PROFESSOR LONGAN: That's a permanent affiliation.

MR. BROWN: I told my law students that the other day. They gave me basically a standing ovation. I don't think they had ever heard of anybody who had been married that long.

PROFESSOR LONGAN: Maybe they should have given Jean the standing ovation.



MR. BROWN: I told them, "I'm going home to take my wife out to dinner," and they gave me a big round of applause. I told her about it, which made her feel good. Anyway, we got married and she finished her full degree at Western Carolina in three years. She was a very good student. She was an English major, which is not an easy major. She made excellent grades and graduated with honors. She gave up her graduate school aspirations to marry me. I still appreciate that sacrifice! We moved to High Hampton, and I helped them close down in October. She was spoiled because we lived in the Lewis Cottage. If you see the

Wrangler ad on television with the big mountain and the lake behind it, that's the view we had out of the Lewis Cottage. We and Mr. Shermahorn, the manager, stayed there. He lived upstairs, and we lived downstairs. We had a kitchen. Jean and Mr. Shermahorn cooked our breakfast, and then we had a cook, Bessie Blackburn, who cooked for us the rest of the day. Her daughter, Phyllis, was Jean's student at Glenville High School, which was about 20 minutes down the road. Bessie fixed us a nice evening meal, and we all ate together. There was one other couple, the Daleys, who stayed a while. They were an older couple who closed the kitchen and did some other work. I hated missing out on law school, but we had a wonderful fall. Jean would teach school during the day, and I worked at the hotel. It was the Fall of the Cuban Missile Crisis, and my brother, David, was down there on the *U.S.S. Davis*. I was working in the office, and Mr. Shermahorn and I had the radio on listening to the account of that blow by blow tense time in this country. It turns out it wasn't as tense as they made us believe. Actually, they had it fixed diplomatically. If you read all the current JFK stuff, they had bribed Khrushchev. They made it look like they were saving the world. Actually they had some deal between them and Turkey. It wasn't as close a shave as it was thought to be.

PROFESSOR LONGAN: So there you are in the High Hampton Inn, and you and Jean just got married. Did you think you were going to go back to law school?

MR. BROWN: I wanted to go back to law school, but I couldn't. Jean was working and making some money, but even what she made as a teacher would not enable me to return. We stayed at High Hampton. We were going to rent a house, and the well went dry right before we could move in.

Let me just say this about Jean's daddy and mother, and I have their picture. They were the most wonderful people. Her mother just adopted me. I mean I didn't have a mother. She was this tough little short woman. She treated me better than she treated her own children. They were just wonderful people. So we moved back and lived in the house with them. It was perfectly fine. I was accustomed to living in a house with a lot of people in it, and we lived there after we left High Hampton in early December. I remember it was 15 degrees with a big snow on the ground.

The lakes were frozen the day we left. We went back and moved into their house and lived there with Glenn and Hazel, her daddy and mother, and her little brother, Larry. But before that, along about Thanksgiving, I was working in the High Hampton office one day and the telephone rang. I answered it and this voice said, "Manley, this is James Quarles." I said, "Dean Quarles, how are you doing?" I thought, "What is this about?"

PROFESSOR LONGAN: That's the dean of the law school?

MR. BROWN: Yes, the dean from the law school. He called me on the telephone and said, "I want you to come back to law school in January so this is what I've decided to do for you. We have just put in place some regional scholarships to try to get students from some other states that we haven't been getting students from to come to law school, and I want you to have one of those scholarships. So you come on back in January and you can have this scholarship. You have to buy your books, but this will pay your tuition." I said, "I'll be there." I didn't have to even think about it. I forgot I was married at the time, but she wanted me to go. Jean was not a person who would say, "Well, you didn't talk to me about it." That's not the kind of human being she is. She was delighted, but she hated for me to leave. We had just got married, and here I am heading back to Macon, Georgia, without her, and she's teaching at Glenville. She had to move back home with her parents. Then she and some other teachers who lived in that area commuted every day out to Glenville and taught school. I went back to Mercer in January when law school started, and I had a scholarship the rest of that year.

The next year, I was editor in chief of the Law Review, and Frieda Kaplan, the wife of Charlie Nadler, who wrote the book on *Georgia Corporations*, founded a full scholarship for the editor in chief of the Law Review. She was Jerry Kaplan's aunt. Jerry later revised and wrote *Kaplan's Nadler Georgia Corporations*. I got that scholarship during my year as editor in chief. I had one quarter left, and Dean Quarles gave me the regional scholarship or something for that one quarter. As a result of all that, I finished law school without having any college debt. I really didn't think too much about borrowing money, because student loans were not something that was on anybody's mind. The idea of a student

loan was totally foreign. I'm sure they existed, but usually students worked in the cafeteria or did something to earn the money.

PROFESSOR LONGAN: I wonder how different your life would have been if Jim Quarles hadn't made that call?

MR. BROWN: I don't know what would have happened. I was married and had a job, we had no children, and we were making plenty of money. We had a wonderful Fall, but I constantly thought about trying to decide whether to go back to law school somewhere or get back in college and get my degree. I could have done that easily because I could have lived right there with Jean at her parents' house and gone to college. I hated to be separated from my wife and her family. I had a family again, and it was important to me. Of course, Kate and Payne and Danny Jones were my foster family, and I had always stayed with them. While I was in law school, I would come home to see Jean or whatever I was doing. I stayed with them, and they were my mother's very closest friends and treated me very well. They are in my graduation pictures. But the right thing for me to do was to go back to law school. It made sense for me, as it turned out, because it resulted in me being able to apply for Judge Bootle's clerkship.



PROFESSOR LONGAN: Manley, before we turn our attention to your time with Judge Bootle, I know there were some photographs that you wanted to make sure we had a chance to chat about.

MR. BROWN: Yes, let's do that. These pictures relate to the people I've already talked about that were critically involved in my life and my mother's life.

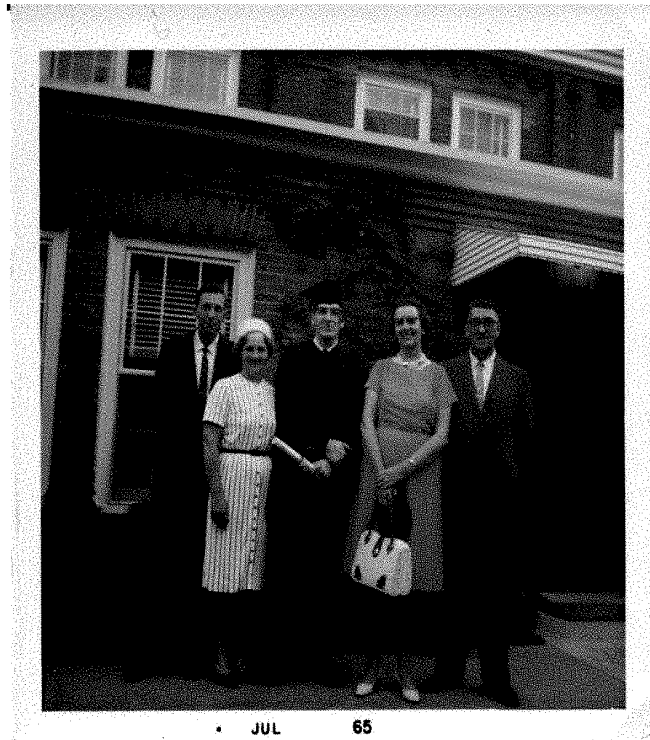
PROFESSOR LONGAN: Absolutely.

MR. BROWN: They actually changed it dramatically from what it might otherwise have been. This is a picture of the famous Mama Bertha, who told my grandfather that my mother was going to college, which was the pivotal change in my lifetime, my children's lifetime, and my grandchildren. It shows Mr. and Mrs. Payne Jones, Mama Bertha and Eucella, and Danny and Eucella's mother, Edith, all of whom were like blood kin to me and really meant more to me than just about anyone. On that picture, only one is still alive, Danny. He was just a tiny boy in that picture, but he grew to be a 6'9" man.



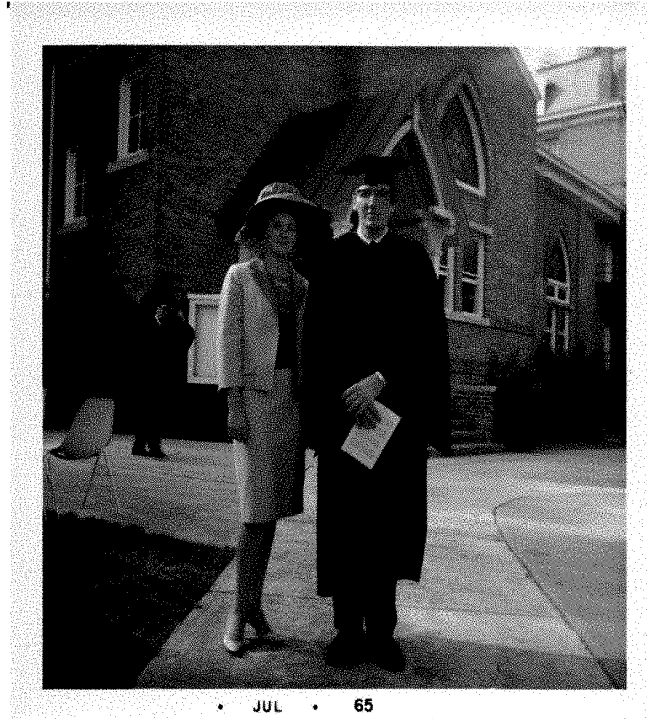
The next photograph is one of my twin uncles. That's a picture of him and my Aunt Lessie and their four children, who were like my close family.

Two other ones have to do with my graduation. One of them has Kate and Payne Jones and Glenn and Hazel Crawford. Glenn and Hazel were my wife's parents that I lived with after Jean and I were married. We lived with them until she moved to Macon, and as I say, Hazel kind of adopted me as her son. I married and got a wife, but also a wonderful family who treated me unbelievably well. I loved them as much as if they had been my own parents.



This is a picture of Jean and me with her big floppy hat on my graduation day. I don't know whether women still wear those things. I have this picture of my daughter's basketball team that I coached. We had a 17 and 1 record and dethroned the guy who had won the championship in that division for about five years, and it's got my son.

We made a mascot out of my blonde-headed son Matthew. He was about eight years old then. That was my most successful attempt at coaching. Ray Lee, a friend of mine who lost his leg in Vietnam, helped me coach the team. What a great man!



PROFESSOR LONGAN: Let's turn our attention to Judge Bootle, and let's talk first about how it came about that you were hired as his law clerk. This is in the early 1960s, or mid 1960s, so this is at a time when Federal District Judges had one law clerk at a time. How did it come about that you got to be Judge Bootle's one law clerk?

MR. BROWN: What happened was related to my automobile wreck. That was partially the reason I didn't get to come back to law school after my first year. I missed the first quarter of my second year, which meant that I had to come back an extra quarter after my class of 1964 graduated. I'm still a little bit aggravated at the administrative necessity of making me a member of the Class of 1965, because that was manifestly not my class. My class was the Class of 1964, but I understand why that had to be. But by virtue of that, the position with Judge Bootle would not have been open had I graduated with the Class of 1964.

PROFESSOR LONGAN: Is that right? I didn't know that.



MR. BROWN: It was filled by Alex Davis, who I've mentioned was my best friend in law school, although he was a year ahead of me. He was in that job and got a job in the United States Attorney's Office that Fall. He called me on the phone and said, "Manley, I'm going to leave this job with Judge Bootle. Do you want to apply for it?" I said, "Gosh,

yes, I really do. Do you think I might have a chance of getting it?" He said, "Go ahead and apply now because several people have applied for it, but you probably will have as good a chance of getting it as anybody. You have a good academic background, and the Judge likes Mercer students. He really was sold on having a Mercer student if he could get one, but there is one other Mercer student who has applied for it." I put together my resume and wrote Judge Bootle a letter. Alex told me where to send it and everything so I sent it to Judge Bootle.

I wrote a paper, and I talked to Judge Bootle about this and I think this helped me. Judge Griffin Bell had asked the Dean to have somebody write a paper during that quarter. That would have been the quarter that I held over after I had taken the Bar, or I had taken the Bar that summer. If you remember, the United States Supreme Court about that time decided what they call that Habeas Corpus Trilogy. They decided three Habeas Corpus cases that created a political furor. That was the Warren Court and the bottom line was no convictions were final under those decisions. The Republicans and the conservative part of the Court has now worked with legislation and otherwise, eliminating much of what those cases provided. Basically, they were saying you could almost always take another look at a situation where somebody is imprisoned who claims they were mistreated in the process that put them in prison or put them on Death Row or whatever. The Dean told me, "I want you to write a paper focusing on Georgia. Griffin Bell wants some student to write an article on this." Somebody did one in Alabama and somebody did one in Florida, but it was an analysis of the Georgia criminal law structure to see, in effect, how vulnerable or if it was vulnerable, to these three cases. It was a very interesting problem. He said, "You only need five hours, Manley, to graduate. You write this article for me, and we'll publish it in the Law Review and give you five hours credit." It's published in the *Mercer Law Review* that came out sometime that year, which would have been 1964 or 1965. It was a pretty big job because of its scope.

I probably read just about all the modern and many old Georgia criminal cases. I looked at the criminal procedure and that type thing and tried to pick out where Georgia was vulnerable, or where they were not vulnerable, and how you would deal with that in the context of those three cases. It was a pretty challenging project, but I enjoyed doing it. I remember when I went to interview with Judge Bootle, I had put on my resume that I was working on that paper. He was, to say the least, very

interested. I discussed it with him in my interview, and that's what he was looking for in a law clerk because he dealt with all those Habeas Corpus cases, and 2255 motions, which is the Federal counterpart of Habeas Corpus. The 2255 motions raise basically the same issues that you raise in a Habeas Corpus proceeding. I went for my interview with him, and he was really fascinated with Sols Creek and Cullowhee. He wouldn't stop ribbing me, saying, "Cullowhee? How do you pronounce this thing?" I said, "Judge, that's an Indian name, Cullowhee." We were told it meant Lily of the Valley. That was aspirational because a few years ago they had a professor come to Western Carolina who was fluent in Cherokee. He was a real scholar because the Cherokee language is dying out. There's only a handful of Cherokee Indians who can speak Cherokee. He came to the University, and he said, "Cullowhee doesn't quite mean Lily of the Valley. It means valley all right, but basically it means "Valley of the Big Black Birds." Of course that immediately rang a bell with me because right above my house on top of the hill now named Faculty Drive, the locals knew that place as Buzzard Roost. That was the long-term traditional name, and the Cherokee scholar had the truth that the buzzards roosted there!

PROFESSOR LONGAN: I don't know how Judge Bootle had standing to complain since he was born in Round O.

MR. BROWN: Round O is the swamp of South Carolina; the lowlands. Judge Bootle grew up working oxen and up to his knees in water.

PROFESSOR LONGAN: Tell me more about that interview.

MR. BROWN: Judge Bootle was fascinated with my background, as I think the Dean was. He was trying to help me out. I really had nobody to fall back on, and that helped me. They gave me a little boost being cognizant of that situation. Although I had made really good grades and been editor of the Law Review, which if you want to be a law clerk, it helps to be the editor in chief of the Law Review for sure. Judge Bootle said, "Well, I want to think this over. I have some other people I have to interview, and I'll let you know something." He called me on the telephone and said, "Can you come to work in January?" I said, "Yes."

He said, "There's only one other thing. You have to pass the Bar. I don't want a law clerk who hasn't passed the Bar." I said, "I've taken it and I don't want to jinx myself, but I studied eight or ten hours a day for three solid months." I didn't take a Bar review course or anything. I just went to the law school and took my outline from that course they taught in Atlanta. I bought the outline, read the cases for myself, briefed them, outlined them, and learned real property.

PROFESSOR LONGAN: So you were confident that you would be able to meet the one condition?

MR. BROWN: He said, "You let me know if you pass the Bar." That was pressure; I'm telling you. I've got this great job offer and a chance for a good entry level into the law practice. The results came out in December; 550 people took it and 95 passed. That was nineteen percent who passed the Bar. I remember Maynard Jackson, who was Mayor of Atlanta, was in that group. He passed. The way we found out whether we had passed the Bar was in the newspaper. You didn't get any letter from the Bar examiners. They mailed you something later on, but they released it to the newspaper. We knew exactly when it was coming out on the 4:15 split. They call it the 4:15 split on the teletype at the Macon Telegraph. Hugh Lawson—not Judge Hugh Lawson, but my classmate, Hugh Lawson, who was just a wonderful guy and unfortunately died with melanoma years ago—was on the Law Review with me. He said, "Look, I know somebody on the newspaper. I'll go down there and I'll watch it come out." I said, "Boy, you're a brave man." He said, "I'm going to watch it come across the teletype, and you go over to the Law Review office and sit by the telephone, and I'll call you." It was on a weekend, and I had a key to the law school because of Law Review work. I went over and sat by the telephone and about 4:30 the phone rang, and he said, "You passed, Brown." I said, "Well, praise the Lord; I passed the Bar. How many people passed?" He said, "Not many."

PROFESSOR LONGAN: Oh my.

MR. BROWN: Hugh passed, and there were only a handful of us because some people were taking it after two years and that type thing. I

was so busy, I didn't have time to go up there in the wintertime. I thought, "I'm just going to finish all except this one quarter, and then I'm going to take it. I am going to really study all summer and be darn sure I pass the Bar." That was at Christmas time. I didn't think about Judge Bootle right then but, somehow he got a telephone message to me. I called him and he said, "I looked in the paper and it says F. Brown passed the Bar. F. Brown, is that you?" I said, "Judge, that is me. My friend, Hugh Lawson, watched it come off the teletype and saw my name, and they left my first name out but I confirmed it." With my obsessive personality, I could not let it go at that. I called the newspaper and some very generous sympathetic person answered the phone and I said, "In the paper they printed F. Brown. Do you have the back up to that?" He said, "Actually, they're in the trash can, but I know right where they are. Hold on a minute."

PROFESSOR LONGAN: Oh, for goodness sake.

MR. BROWN: He knew it meant a lot to me. He dug it out of the trash, came back, and said, "I'm looking at it, and it's Manley F. Brown." Judge Bootle said, "Okay, you come to work whatever the first day is after New Year's." I went downtown and went to work in the Federal Building and worked there for five years. What a great education! I ended up going into the United States Attorney's office. I worked a year and half with Judge Bootle. Then I went to the U.S. Attorney's Office and worked for Floyd Buford, who was the United States Attorney.

PROFESSOR LONGAN: Now at this point Judge Bootle has been a federal judge for about eleven or twelve years.

MR. BROWN: Yes, it was about eleven years. He went in 1954.

PROFESSOR LONGAN: In many places around here, Judge Bootle is kind of a legend. Let's talk about him. What was he like to work for?

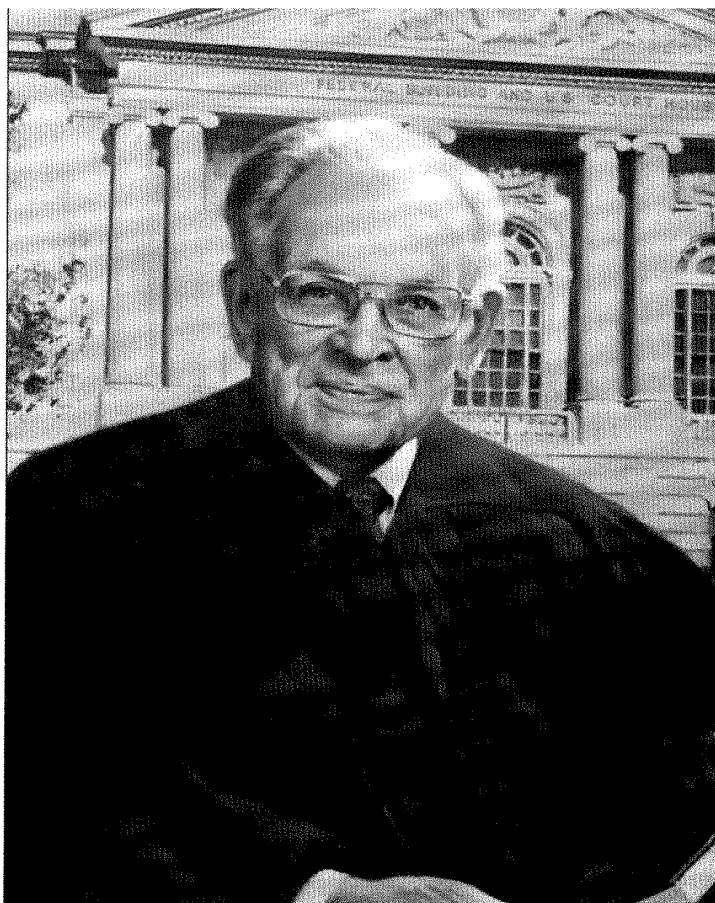
MR. BROWN: He was really easy to work for if you did your work and if you were interested in the law. Judge Bootle and I had two things

in common that helped us become really good friends. We both loved the Baptist church. His wife was a Methodist, and she went to the Methodist church and he went to the Baptist church. "Mama," he called her, "I'm not going to the Methodist church. You go on to the Vineville Methodist. I'm going to First Baptist Church." We loved the Baptist church, and we loved Mercer. That's something we talked about a lot while we were traveling. We traveled a lot, and I drove him to a lot of the places where we went to work. Sometimes we went to New Orleans, and he would sit with the Fifth Circuit. He was really a good teacher because he told me when I came there, "For you to get the most out of this job, you need to keep your work up."

We had a motion docket, and I kept up with the motions. I would go look at the motion docket and see what was there, and everything that was fully briefed, and we decided under local rule. Sometimes we had an oral hearing, but more often than not, you had to study it and come up with a tentative disposition and then have an oral hearing if somebody wanted to have one. I would go get the motion docket and see what was prepared, what was ready, and then I would get the file and go to work on those things. I would do the basic research, read all the briefs and summarize them, and do whatever independent research myself because a lot of times lawyers don't ever get to the point. They skirt around it. I would try to really find out what the law was. I had a good enough education that I could run it down to exactly what was going on. When I got one of those files ready, I would take it in Judge Bootle's office. I would take my notes, and we would walk through the file. If he thought I had it right, then he would tell me, "Okay, that's fine," and I would write up an order on it. If it was something complicated that had to have an opinion, sometimes he wrote part of it and I would write part of it. Sometimes he would have me draft something and then he'd work on it. We would sit there at his desk—him on one side and me on the other side—for days just studying something.

It was really funny because he sat with his feet up on the desk. Ms. Nita, his secretary, loved him, but he aggravated the living daylight out of her. He would need a book off the shelf, and I said to him one time, "Judge, let me get that book." "No, no; let me have Ms. Nita to get it. I want her to get it." He would buzz her, she would come in, and he would say, "Ms. Nita"—and the book would be like about right there—"Would you get me that book so-and-so." She told me, "I really love that old

man, but sometimes I could strangle him.” He did that just to have a little fun with Nita.



We would sit there and study, and sometimes I would get a little impatient. He read every word of everything and every footnote, and most of the time that wasn't necessary, but I learned a lesson. Every once in a while, in maybe ten percent of the cases, he would find something in one of them that would turn out to be a critical aspect. It taught me to

be even more thorough than my general nature. We had a good working relationship, and he came to trust me to draft things and to summarize briefs. We sat with the Fifth Circuit, and I helped him write opinions at the circuit court level in the cases that were assigned to him. I did the summaries for the court before they would meet for oral argument. It was probably easier to be an appellate law clerk than to be a district court clerk. In the district court, you had to do a lot of the original research. That helps you more to be a lawyer because you work on things that are still developing, and you had to have original thought about it.

PROFESSOR LONGAN: The Middle District still stretches a long way across the state, so you would go to Athens?

MR. BROWN: Judge Bootle and I did all of Macon, and we went to Athens and Valdosta. Sometime later, I would go to those other courts when I was in the U.S. Attorney's Office, but Judge Bootle and I normally went to those divisions.

PROFESSOR LONGAN: Keeping up with your work was his primary admonition. I assume if you were current, you could watch him in trial?

MR. BROWN: He said, "Keep your work up and then come in the courtroom and watch these lawyers. Anything you don't understand, I'll explain it to you later." That was a great opportunity, so I took him at his word, and I kept my work up. Occasionally, something would come up and he would call me up there and give me a note that would say, "See if you can find something on this or do this for me." One of the first cases I worked on was a thin capitalization case, which is not an easy proposition. It had to do with the Macon Transit System being capitalized, stock versus bonds, and that made a lot of difference how you could funnel money out and reduce the taxes, and you had to make an analysis. My accounting background helped with an analysis of whether that was a legitimate thing, from an accounting standpoint, to do that. I also worked on family trust cases, trying to have a family channel all the money into a family trust to split income. I had read all those cases in Mulloch's Tax courses, so I could take those files and get right up to

snuff on them because I had an excellent tax education. What bothers me now is that our students don't take even one tax course.

PROFESSOR LONGAN: Nothing is required.

MR. BROWN: That just does not make any sense to me. If you're a lawyer, you should understand something about the tax system.

PROFESSOR LONGAN: That's something you and Judge Bootle had in common because he had a very extensive background in tax litigation.

MR. BROWN: He actually was the father of some of those theories on family trusts. He set up some of them. They just assigned this specific attorney in the Tax Division to Judge Bootle to try some cases to break his theory about family trusts, and he won all those cases against them in U.S. District Court here in Macon, and he had a lot to do with establishing those theories. They then tried to deal with it by passing statutes. They tried to prevent tax splitting, income splitting.

PROFESSOR LONGAN: Tell me about observing trials with Judge Bootle. These were the trials for you to learn how to be a lawyer. Who did you see and what did you learn?

MR. BROWN: One thing about Judge Bootle, I will say, is that he was very patient and kind with young lawyers. Judges generally aren't very good at that because they embarrass younger lawyers sometimes. If I were a judge, I would never have done that. After watching him, if he saw a young lawyer screw something up, he didn't embarrass him and humiliate him in front of everybody. He would take him in the office and chat with him and say, "You really shouldn't do it that way. You should do this and that." Judge Bootle was just that way.

PROFESSOR LONGAN: That's the teacher in him.

MR. BROWN: Some judges like pinioning a brand new lawyer—who's trying to learn—right there in front of God and everybody. I don't

think that's very good courtroom manners, but I will have to say that my observations after 52 years of practicing law is generally that is the tendency. That is why it is important to call on law students to brief cases in class, to make them battle ready.

PROFESSOR LONGAN: But he didn't?

MR. BROWN: Judge Bootle did not do that. He said, "I don't think that's the way to do things." In other words, he wanted young lawyers to learn. He wanted to teach them. He would stop them if they were doing something wrong. He stopped them by ruling on objections or don't do that or that, but then he would talk to them about why he did that and say, "You shouldn't do that. You're going to get yourself in a jam; don't do it that way." That was generally the way he did things. He presided by his presence. He wasn't a chip on your shoulder type judge, and he wasn't sensitive if somebody objected or raised some issue. He would have a discussion with a lawyer rather than saying, "You must be an idiot to have raised that issue." He discussed the law. He liked to discuss the law with the lawyers. They would come on pre-trial, and he had studied everything. I remember one time we wrote an opinion—I actually wrote it while he was at a Conference—enjoining a branch bank. That was a serious transaction under Georgia law about how you could have a branch bank. You had to be physically connected to have a branch bank. It was some special probably C&S Bank legislation.

PROFESSOR LONGAN: Yes. That's a strange concept to us today but that was serious business back then.

MR. BROWN: Enjoining a bank was serious business, and the way they claimed that it was connected, they ran a pneumatic tube half a block into a bank on the corner and claimed it was a branch bank under the Georgia Banking Regulations. There were a bunch of cases all around the country, and Judge Bootle was going to the Judicial Conference. He was going to be gone for two weeks, and he said, "You just work on this opinion. You do whatever you want to while I'm gone, but work on this opinion. Just keep an eye on our motion docket and look at the mail and all that kind of thing. You and Ms. Nita keep up with what's going on in the office. She'll call me if you need anything, but

write this opinion. See if you can draft an opinion.” I studied that thing and worked on it for two weeks and wrote the opinion. It actually ended up in the Supreme Court, and we enjoined the branch as being a contrivance, so to speak

Theoretically, you could have run a pneumatic tube all the way from Valdosta to Macon. We had a draft of that opinion, and Judge Bootle invited the lawyers to come and argue that case. I helped him get ready to talk to the lawyers, but we had already decided it. He said, “Manley, I’ll just put that opinion right here in my desk.” He chuckled. He put the opinion in his desk, closed the drawer, and this group of lawyers came. One of them had been somebody Judge Bootle had taught at Mercer in the 1930s when the judge was Dean and when the famous Brainerd Currie was teaching for him back then. We had them come in and they argued the case. The judge said, “If they change my mind, we’ll change it. I’m going to give them a chance. I’m not going to tell them that, but I’m going to see if they can change our mind about this.” We sat in there with him, and they argued for about two hours. It was an important case. It meant a lot to the banking industry. When they got through and left, he said, “That doesn’t change my mind” so he issued the opinion. He was very conversant, had a friendly relationship with the Bar, and they respected him. He was always very well prepared. Marc Treadwell, our current Federal Judge, is that way. He’s always very well prepared when somebody comes to his office.

PROFESSOR LONGAN: We’re going to talk about specific cases you worked on, but I want to ask more generally first, what did you learn about being an effective lawyer from being Judge Bootle’s law clerk. What were the lessons?

MR. BROWN: The biggest lesson is the way lawyers briefed. They briefed things and didn’t half brief the real issue. They got off down some pig trail. They were not being comprehensive enough to really look at everything, and that’s hard as a practicing lawyer. As a law clerk, you have got all the time you want to reflect on things. Reflection is a great thing.

PROFESSOR LONGAN: Who has time to reflect anymore?

MR. BROWN: They don't. Look at a lot of the opinions that come out of the appellate courts. They're so busy. They have little time to reflect, to write something, and lay it aside to think about it. Look at the opinions in the 1930s, 1940s, and 1950s. Look at the opinions now and a lot of them were probably written by law clerks, I would think. The human brain is made with an active subconscious. Today, you can't think of an answer to something; you sleep on it. That's the old expression, "Let's sleep on it. Tomorrow, you have the answer to it." Judge Elliott told me one time, "Things you can't think what to do with during the week, put them on the corner of your desk, and then on Saturday, take a look at them, and a lot of them will have solved themselves." The answer will be clear. Judge Bootle came in one morning, and he used an ink pen. He had written a paragraph on a piece of toilet paper or something. It would make Ms. Nita mad. "Type this up for me, Ms. Nita." It would aggravate her so much. He would write on a scrap of paper, a napkin, or something like that. He was always thinking about his cases. Mrs. Bootle said that one time she and the kids were waiting for him on the corner at Georgia Avenue. She called him and said they were going to get ice cream. Judge Bootle came right by, waved at them, and went right on home. Now, that's a man focused on the law. My wife would have killed me!

PROFESSOR LONGAN: His mind was someplace else.

MR. BROWN: He left her and the three children standing on the corner. She was kidnapped one time. She put the kids in the Vineville Baptist Church nursery, and this guy kidnapped her when she came out. He made her drive him to the outskirts of Macon, and finally he let her out. She said, "I talked so much he couldn't stand it, and he let me go."

PROFESSOR LONGAN: I have never heard that story.

MR. BROWN: She calls Judge Bootle up and says, "Papa, I was kidnapped this morning." He said, "Oh, all right. I'll talk to you later." Bling; he hung up! About 30 seconds later he called her back and said, "What did you say?" He was that absorbed in his work. That's what it's like to be totally absorbed in your work trying to solve a difficult problem.

PROFESSOR LONGAN: One of the cases you worked on was the Lemuel Penn case. Could you talk about that and give us some background on what that case was about?

MR. BROWN: That case actually happened the summer before I went to work for Judge Bootle. Lemuel Penn was a colonel in the United States Army. He was an African-American colonel in the United States Army, and he was in the Reserves. He and his friend, another military man, went to Fort Benning for summer camp, and after they finished their summer camp, they left there dressed in civilian clothes. They were from Washington, D.C., and driving a car that had a Washington, D.C. tag on it. Judge Marc Treadwell wrote a long paper about it, which you probably have seen. His paper is better than the book someone wrote. Marc and I talked about it at the time he wrote the paper. At any rate, the mistake they made was looking at a map. A map always looks easy. It looks like you could probably hike over the Himalayas until you realize what is really there. It looked like the shortest way back to Washington was to go through Athens, Georgia and then go north out of Athens over to Danielsville and cross the Broad River. That seemed to be the most direct route to get up to the main route back to Washington, D.C.

Athens, where the University of Georgia is located, is the center of learning in Georgia, but as a city it was not that enlightened on some things at that time. Macon, as we'll talk about some, was heavily segregated, but it wasn't a place of a lot of personal racial violence against anybody. Athens, unknown to the public at large, had a very solid group of KKK people who lived and worked there. They had meetings at a garage not far from downtown where the Varsity is, and they met a lot of times at the Open House Café, so their presence was there. I don't know whether this was prejudice, meanness, or just sheer stupidity, or a combination of the three. They would, for instance, go stand at the foot of the hill where the road comes down Highway 441, which was the route from north to south. It came right through the middle of Athens. You came down the hill to Broad Street, turned right and come by the Varsity, and the gateway to the University. Then you go by the arches. Everybody who has ever been to a football game in Athens knows where the arches are right there in the middle of Athens; the old northern part

of the campus. The culprits would stand at the red light with pistols visibly obvious on their belts. If you qualified, you could actually carry a pistol. They had pistols and they would stand there in decent weather and watch for cars to come down. They would look to see what the tag was, and sometimes they would stop people to speak to them.

The trial we had was broader than just Lemuel Penn's death. It involved a whole conspiracy and a course of conduct, and there were several defendants. There was this very elderly couple from Ohio, who probably would have been my age, and they were going to Florida on vacation. They stopped at that red light and these armed men saw their tag, came out and told them to roll the window down, and in a very not so pleasant way said, "What are you doing in Athens, Georgia?," with a spicy sort of language mixed in with that. They said, "We're going to Florida." They didn't take their gun out. They just walked out with it on. They said, "You get your butt out of Athens. You don't have to come through downtown Athens to get to Florida." It scared the living absolute daylights out of them, and of course, they reported it, and the FBI found out about it. Anyway, somehow the government found the couple, and they testified about the scare! The group would meet for a while, and then they would get in their cars and ride around, harassing people or trying to find somebody to harass over what they saw as a racial issue that needed addressing. They shot into some houses. They actually used a shotgun and shot this little girl's eye out. I don't know who would want to do that kind of thing. I can't think of anything less honorable than to shoot into a house occupied with human beings and children, but people still sometimes do it. But they were doing it, and they did it in African-American homes. There was an incident at the Varsity where one of them had struck a Black man over the head with a pistol so hard it actually changed the angle of the barrel. I remember seeing that exhibit. It was really rough stuff going on.

PROFESSOR LONGAN: What happened specifically with Colonel Penn?

MR. BROWN: Colonel Penn and his passengers wanted to change drivers. He was riding and his friend was driving. He stopped right at the arches, they changed positions so Colonel Penn could drive, and as they pulled out, one of the shooters saw the Washington, D.C. tag. The

testimony by somebody else who was in the car who later confessed to it said, "Look there, that's some of L.B.J.'s boys. Let's get them." So, I think they surmised the way they were going was to Danielsville Highway, because that would be the route. They went to this garage, got their weapons, and followed them out to the Broad River bridge, passed the car, and shot through the car.

The guy in the back ducked and they missed him, but Colonel Penn was driving and they hit him with a load of buckshot right in the head and killed him. It made a little small hole in the left side of his head and blew the whole side of his head off on the right side where it came out. He hit the bridge, and the car stopped. The man in the back, terrified, moved Colonel Penn's body, jumped in the front, turned the car around, and started back toward Athens and was driving so fast he ran off the road and wrecked down an embankment. Fortunately, the car went so far down that when the shooters turned around, the night riders, if you want to call them that, didn't see the car. They drove on by, thinking they were on down the road. They probably would have killed him if they had gotten the chance. The man in the back, I can't remember his name, got out of the car and went up to the road. He was covered with blood because he had tried to help Colonel Penn. It was about 5 o'clock in the morning, and a University of Georgia professor was coming by. He saw this man standing in the road covered with blood. He rolled the window down and said, "Look, I'm not going to stop. I don't know what's going on here, but I'm going to run down here and get the sheriff. Stay right here. I'm going to send somebody right now." I can see why he was so careful.

PROFESSOR LONGAN: Sure.

MR. BROWN: He didn't want to get out in the middle of that. He figured he might wind up the same way. So that's what really happened. President Johnson was the President, and he sent a large number of FBI agents to Athens. There is one thing that was interesting. I was told this by a friend of mine who was in the know. I don't think that it is apocryphal. There was one of the FBI agents, a big ole tough looking guy, and they thought this one potential defendant was maybe weakening. They knew who did it. They had figured out who these guys were. But getting the evidence on them was a horse of another color.

One thing they did to break him down was he—I may not have this exactly right word for word—they found out when his birthday was and they baked him a birthday cake. This agent was from New York, or someplace up north, and he took the birthday cake over to the potential defendant. They knew that this defendant was the driver of the car. This agent said to him something like this: “I know it’s your birthday today. We know you and your friends did it, and pretty soon we’re going to really find out and you’re going to be long gone, so we really felt like just as a matter of fair play that you ought to have a decent birthday. It may be your last one at home for a long time so here’s you a birthday cake.” They gave him the birthday cake and it drove the guy nuts. He finally spilled the whole beans on them and enabled the FBI to solve the case. Ironically, he’s the one who was acquitted, even with a confession. That’s a story in and of itself. It confirms what I said earlier. People give rural Georgia people a bad rap, saying they are the ones who are the most prejudiced. Frequently that is not true in real life, as turned out from our jury. When the jury tried these cases, we had to sever the cases because of the confession and the Supreme Court had just decided a case, or was about to decide a case, that if you had a confession that had to go into evidence, you couldn’t put it into evidence if it mentioned other defendants. You had to sever that case.

PROFESSOR LONGAN: Manley, in the few minutes left today, why don’t you tee this up for us and then next time we can talk about the verdicts and how they came back. You’ve got two cases. Talk about where they are and what the charges are but leave us hanging on the results.

MR. BROWN: The case in Athens was parallel with the Mississippi case if you saw the movie “Mississippi Burning.” They happened in the same time frame. The civil rights workers were killed in Mississippi and put in the dam. This was the legal issue. They tried the Lemual Penn defendants for murder in Danielsville in state court, and they were acquitted. It was a half-hearted deal. So the question became, even though they’ve been acquitted, can they be successfully prosecuted under the Civil Rights statute. It was 18 U.S.C. § 242 or 241. It only had a ten-year sentence with it then. It’s a death penalty or a life sentence now. It was a ten-year sentence so, they were indicted for

violating the civil rights of various people, the little child who was shot and other things that they did. The only offense that could be against Colonel Penn was impeding, by using violence, his right to travel in Interstate Commerce, and the question was whether that was a federally protected right under that statute. Of all people, Justice Frankfurter had previously written a dissent or an opinion or something and raised a serious question about that. The issue then came up on a motion to dismiss the indictments in both those cases, and then through some direct appeal. They were directly appealable to the Supreme Court. They went directly to the United States Supreme Court. If you look up *United States v. Guest*, they decided the Mississippi and the Georgia case at the same time, and the Supreme Court sent those cases back for trial. Judge Bootle tried the one in Athens. The Supreme Court case held that it was a protectable right.

PROFESSOR LONGAN: Manley, when we reconvene, we will start there, and we'll start with the trials, where they were and how they came out.

MR. BROWN: Okay.

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PROFESSOR LONGAN: Manley, when we left off we were talking about the Lemuel Penn cases, and you had described what the defendants had been charged with, which was a violation of civil rights, not just to Colonel Penn but also others. As it turns out, there were two sets of defendants. Set this up for us before we start talking about the trial and the verdicts. Pick up the story where we were before.

MR. BROWN: The particular defendant who got the birthday cake ended up making a confession, and that confession implicated the other people who were involved in the general course of conduct of this group of Klansmen in Athens. It implicated the three people who were actually in the car that chased Colonel Penn and his friend down and fired the shots into his car that killed him. You had the problem of—if you tried all of them together—the confession would mention some of the defendants who had nothing to do with the Lemuel Penn transaction. It spilled over on them and implicated them, so we had to have a fix for that. The Supreme Court had recently decided a case that changed the old rule, which basically stated that you put the confession in and just tell the jury to disregard its reference to anybody other than the person making the confession. But the court said, “No, we can’t do that any longer. That’s a fiction to ask somebody to disabuse their mind of something they’ve heard.” Judge Bootle severed the defendants into two trials. One trial had two defendants in it, and the other had three defendants. The two actual shooters were in one case and the other three defendants were in a case. We tried the case with the active shooters first.

PROFESSOR LONGAN: Do I remember correctly that the juries for those two trials were actually drawn from different communities?

MR. BROWN: They were all drawn from a common jury pool. That would have been the Athens Division, and at least then the jurors would have been drawn from a jury box that was made up from whatever number of counties formed the Athens Division. One of the juries was heavy on people actually in Athens, more metropolitan oriented,

associated with the college and city people who lived in Athens. Another one was more of a country jury. That's my recollection.

PROFESSOR LONGAN: It just happened that way?

MR. BROWN: Yes, it just happened that way. You had different sets of lawyers representing each group of defendants and selecting the juries. There was a lot of discussion about that. The jury involving the two shooters was more of a country-oriented jury.

PROFESSOR LONGAN: While we're talking about the jurors, there was one particular incident where a juror had to be disqualified. I want you to tell that story.

MR. BROWN: We tried the first case and then took a sealed verdict in it so as not to announce a verdict that would get in the news and by some happenstance actually affect the other trial. This was the first trial. We qualified the jury separately in the library. The judge and I, and all the lawyers, went in the library and brought the jurors in one at a time and voir dired them. It was a pretty long procedure to give the lawyers an opportunity to question them and to prevent them from saying something in the presence of the other jurors which might affect them, so it took a long time to qualify each juror individually. There was an elderly lady from out in the country, and she used a lot of politically incorrect—nowadays what would be politically incorrect—racial language. She couldn't be disqualified as a matter of law, but it was informational. As the jury selection in that case turned out, she was selected to serve. Sometimes you have to take a juror who is preferable to taking somebody else.

PROFESSOR LONGAN: Sure. It depends on who else is in the pool.

MR. BROWN: Anyway, they took her, and you wonder, "How is she going to react to that based on what you heard her say?" We tried that case for a week or two, and the judge charged the jury. The jury went out about three or four o'clock in the afternoon, and they deliberated

and deliberated. It came midnight and we just kept on letting the jury deliberate. Finally, about 1:00 a.m. a note came out from the jury room, and basically the note said, "One of our jurors is crazy. We can't really do anything with her. Is it possible for us to have an alternate?" You can't just excuse somebody off a jury. We stood in recess, and Judge Bootle and I talked about what to do about this. He finally decided to have everybody except the judge to get in the closet in the judge's quarters. They brought the juror in, and sure enough, it was this lady.

PROFESSOR LONGAN: You were where you could listen to what was said?

MR. BROWN: Where everyone could listen. The judge said, "I'm not going to talk to her privately. You all have to hear her. I think it would be better if she didn't see us all but just talked to me." Everybody agreed to that and got in the office closet. Judge Bootle talked to her and her answers suggested that she was probably preventing a verdict. That would have been the conclusion; I would have put money on it. Judge Bootle sent her back to the jury room. The lawyers wanted to confer, and Judge Bootle and I sat and talked about it because there was really no sound legal reason for excusing her. The lawyers came back and we discussed it some more. Floyd Buford, who I later worked for, was the United States Attorney and a savvy experienced lawyer. He was a World War II vintage-type person, and although he at times slaughtered the King's English, he was very intelligent. He was one of the lawyers who said, "Maybe we can agree." The judge said, "Can you all agree? It looks like she is not even able to talk with the jurors." We had two alternate jurors. Unfortunately, we had sent the alternates home. That was a mistake. They should have been sequestered and kept. I remember Buford saying to one of the lawyers who was trying to make up his mind about what to do, "Let's go out here and talk about this." I'm standing there watching and I see Buford going out the door and he has his arm around the lawyer and they walk out. They came back and agreed to dismiss that juror. Then we had to send the marshal to get the alternate juror out of bed, bring the juror back to court, and put that juror on the panel.

PROFESSOR LONGAN: The marshal shows up in the middle of the night?

MR. BROWN: He shows up and comes back with this juror. We put him on the jury, and that was a big issue on appeal, but the court approved it because it was agreed on. It wasn't 45 minutes until the jury knocked on the door. That's the thing that makes lawyers' blood pressure go up and your heart race is that knock on the door. That's a scary thing if you're a lawyer.

PROFESSOR LONGAN: The decision has been made.

MR. BROWN: It's like the last shot in a double overtime of a basketball game or something. Your heart goes to your throat because it's the focus of all that tension, and everybody heads to the courtroom. Here it was a little bit anti-climactic because we took a sealed verdict, but in my mind I thought, "I know what happened here because in 45 minutes with a juror who had not even been deliberating back in the jury room, they found that they had a verdict. So I thought they had probably convicted these two.

PROFESSOR LONGAN: Before we talk about the verdicts, there was a particular legal issue you had to deal with that had to do with how to charge the jury on the civil rights violation of impeding interstate travel. Tell us how the jury charge came about.

MR. BROWN: The history behind that was a U.S. Supreme Court case that at one time everybody studied in constitutional law. It's called *Screws v. United States*, and it was a 1945 Georgia case. The incident happened in Baker County, Georgia, where the sheriff had beaten this Black man. He actually killed him on the courthouse steps. The sheriff was acquitted in state court, which was frequently what happened with those kind of cases at that time. I knew a lot about that because my friend, John Cowart, who had been the United States Attorney back then, had talked to me about the *Screws* case and what went on in that matter.

PROFESSOR LONGAN: That was the precedent you were dealing with?

MR. BROWN: That was the precedent we were dealing with because the federal crime was conspiring to deprive somebody of a civil right, and in that case, it would have been summary punishment, the right to be tried by a court, not by an officer. In other words, law enforcement did the punishing without due process. Justice Douglas wrote the opinion. He was convicted and they reversed that case and said, "You have to charge the jury that there must be a specific intent to deprive the victim of this specific civil right." That makes it easier to defend those cases.

PROFESSOR LONGAN: Sure. It's a higher standard.

MR. BROWN: It's a much higher standard. *Screws* was really the law, and when the Court reviewed the Athens case and the Mississippi case, they didn't really touch on that. It's been a long time since I have read those cases but it was not really very clear how to charge the jury on this issue of specific intent. I later defended a case under the same statute in my private practice, and the charge conference was still a nightmare.

PROFESSOR LONGAN: This is the part of the case where it went to the Supreme Court before it came back down for trial?

MR. BROWN: Exactly. Those cases went up together, and they were decided at the same time. They held that traveling in interstate commerce was, particularly in our case, a protectable civil right. So, we had to struggle with the question of how to charge the jury on this. I remember Judge Bootle and I sat up until 1 o'clock for two or three nights. After we had hearings during the day, we would sit up in the motel where we stayed, trying to figure out how to charge the jury. The answer was that probably the *Screws* decision was still the law, and it probably is the law today. I haven't kept up with it like I once did. The judge folded that into an ameliorative surrounding charge that made it more understandable. Judge Bootle was really good at that type thing. It made it easier for a jury to apply that rule and to keep it from becoming a problem. Do you think they were thinking about interstate commerce?

Maybe they were. "Washington, D.C., tag; here's one of L.B.J.'s boys!" Anyway, that was a difficult issue, but the charge was approved on appeal.

PROFESSOR LONGAN: Let's set the scene then because you have the first trial and you have a sealed verdict. You have the second trial, and then the time comes for both verdicts to be revealed. Now, this had to be a very dramatic moment. Tell us about that.

MR. BROWN: The closing arguments in those cases were very interesting because Floyd Buford, the United States Attorney, whose son practices here in Macon. I don't know if you know his son, Floyd, Jr.

PROFESSOR LONGAN: I do.

MR. BROWN: His daddy was a powerful lawyer. You could hear him all the way to the Ocmulgee River when he talked in a courtroom. He grew up in the Howard Community, and he was one of Hank O'Neal's closest friends. They went to grammar school together. They knew each other from the time they were just youngsters and, to some extent, were cut out of some of the same cloth. Hank was a little more, I hate to use the word "refined," but Buford was just rough. He was smart as he could be, but he had a rough way of trying cases. Hank was more of a finesse lawyer.

PROFESSOR LONGAN: What about Floyd Buford's closing argument?

MR. BROWN: At one point, I wish it would have been on videotape. He had a hood that the Klan used. He puts on the Ku Klux Klan hood in the courtroom, and he had one of these bats that they used; long sticks they carried with KKK cut in it, and one of them had a chain hooked to it. Buford is in the Athens courtroom completely packed, and there was a whole contingent of Klan members who came from somewhere. They were sitting in the courtroom, and they had like 30 marshals in the courtroom standing around the wall. It was real interesting.

PROFESSOR LONGAN: I bet.

MR. BROWN: It was a real interesting scene. Buford is making that argument. It was dramatic and powerfully persuasive. Once we finished the second case, the jury, strangely enough, they brought in a verdict at about the same time. It was just about 2 o'clock a.m.

PROFESSOR LONGAN: In the morning?

MR. BROWN: Yes, in the morning. My wife Jean had come to Athens and got to see verdicts. It was interesting for her to see the climax to those cases. We all went in the courtroom, and they brought in the verdict in the second case. Right now, I don't know what order the judge published those verdicts but they acquitted the three defendants who had the primarily city jury. They convicted the two defendants who actually shot and had the more country jury on their case.

PROFESSOR LONGAN: The ones convicted?

MR. BROWN: Yes, they were convicted. Things were very orderly. There wasn't any outburst. The press was there; the newspapers in London had reporters, and the New York Times and Washington papers. People were there observing that trial from all over the common law world. If you look back at the newspapers then, you will see it was on the front page of newspapers every day while that trial went on. I can't remember whether he sentenced those two men at that time. It seems to me that he went ahead and did it; but the maximum sentence was 10 years. Here's an interesting footnote to that. A marshal friend of mine, when the case was affirmed on appeal, actually took the two defendants to serve their time. They were out on bond, and he picked them up and took them to serve their sentence. He told me a really interesting story. The one who had actually shot Colonel Penn worked, I believe, in a textile mill. He was a slight man with really dark eyes who had a serious look on his face. As he was getting ready to take the defendant from his home to serve his sentence, he had a daughter who was seven or eight years old. He picked up his daughter, hugged her, and said, "I want you to remember I did this for you."

MR. BROWN: I thought that is a gut-wrenching thing to hear. You wonder, why would he do this. It's all tied up in that kind of thinking, which I don't know if anybody knows exactly how to dispel that belief. It's not love thy neighbor. Love thy neighbor as thyself would dispel that, but how do you get that? How do you accomplish that? I think, for instance, political rhetoric, seems to exacerbate that.

PROFESSOR LONGAN: It's too deep seeded.

MR. BROWN: It doesn't seem to diffuse that; it seems to make it worse.

PROFESSOR LONGAN: I know you worked with Judge Bootle on voting rights cases. Could you talk about those, and particularly one case?

MR. BROWN: That was the tail end of the voting rights cases, although voting rights issues continued on even when I worked in the United States Attorney's Office. We still monitored them through our office.

PROFESSOR LONGAN: Just for context, you went to work for Judge Bootle in January of 1965. You were there for eighteen months, until the middle of 1969, so it's during that time period.

MR. BROWN: Yes. I went with Judge Bootle in January of 1965. We dealt with a number of voting rights cases, but the one I remember best is the last one we did.

PROFESSOR LONGAN: Describe what they were doing to try to prevent Black people from voting.

MR. BROWN: It made an impression on me because I had never really thought about this, but they would have two lines at the voting place, and it was presided over by a local magistrate.

PROFESSOR LONGAN: This is to register to vote?

MR. BROWN: This was to actually vote.

PROFESSOR LONGAN: They had separate lines.

MR. BROWN: They came in separate lines. In the line with the Black voters, he had a copy of the Constitution, and I remember this one elderly Black gentleman was like my Grandfather Manley who could not read and write. The magistrate read him like the First Amendment to the Constitution and wanted an explanation of it. Well, of course, he couldn't explain that anymore than my Grandfather Manley could explain it. They disqualified him, and there were 30 people in line and they disqualified about 29 of them by making them answer questions. I thought about the differences in being White and being Black. If somebody had asked my grandfather that and tried to challenge his right to vote, there probably would have been a homicide. He wouldn't have put up with that. But in that context, you had no choice. "Get out; you can't vote." At any rate, the evidence was pretty clear of what happened, and I remember Judge Bootle, after he took the evidence saying to me, "I am ready to rule on this case, but we never seem to bring these things to an end. I really need a little more attention paid to what I say."

PROFESSOR LONGAN: It seemed no matter how he ruled, it would keep going.

MR. BROWN: Yes, it would keep coming back. We went back in the courtroom, and I'm not going to say the judge's name, but anyway Judge So-and-so, come up there on the stand.

PROFESSOR LONGAN: This is the person who would have been doing the election?

MR. BROWN: Yes. He was in charge of the election. He said, "You come up and sit on the witness stand, I want to talk to you. Now, you heard my ruling. You have to redo this election. You can't do this. This is not the law. You can't give a literacy test. That's improper. But

I want to tell you this in addition to that. I do not want to see you or anybody else from your county back up here. That's enough of this. I want you to stop this. Do you understand me?" "Yes sir," judge, "I understand." The judge said, "Good. I want you to go home now and you all don't do this anymore." That was sort of the end to it, but it died hard. It was just virtually a custom. It was a way of making elections come out like you wanted to make them come out and depriving somebody of the right to vote.

PROFESSOR LONGAN: There was another particular thing that you worked on with Judge Bootle. I wanted to make sure we talked about the implementation of the *Rabinowitz* case and how juries were made up, what it decided, and what you had to do with it once it had come back.

MR. BROWN: The *Rabinowitz* case was actually tried while I was in law school. We knew the trial was going on because there was a lot of publicity about it. The defendant was a young woman from New York City named Joanie Rabinowitz, and she came to Georgia with a group of people to boycott. They were in Albany engaging in some voter registration or civil rights activity, and Albany was in a bit of a turmoil for several years. It was a difficult time. She was there, and she was called to a grand jury to testify about a boycott. I may not be getting this exactly right, but there was a boycott of a white grocer, and the federal grand jury was looking at that. The contention was that she claimed not to be there. She had allegedly perjured herself before the grand jury, so she was charged with perjury.

What they didn't realize when they charged her was that her father was Victor Rabinowitz from New York City. He was an unusual guy. He was an activist. He had a far out political agenda for the time, but he was one of the best lawyers that ever set foot in a courtroom. He was a powerful lawyer and a determined human being. I think he did work for some of the national civil rights groups as a trial lawyer. I remember talking with Mr. Buford, and he told me that after the grand jury indicted Joanie Rabinowitz, and she was out on bond, her father made an appointment to come see him. He came down from New York and came to the U.S. Attorney's Office. Mr. Buford said, "He came in my office and said, 'Mr. Buford, I'm Victor Rabinowitz. I am Joanie

Rabinowitz's father. I'm a lawyer from New York. I want to talk to you. You all have indicted my daughter for something I think she's not guilty of, and since she is my daughter, I have to do something about it. This is what I want to say to you. I've taken a look at your jury system, and it will not pass muster."

PROFESSOR LONGAN: That's how the jurors were summoned and pooled?

MR. BROWN: He said, "The way you are selecting jurors down here is just wrong, but it's being used not just here but all across the South and other places in the country. It's not a fair cross-section of the community. It doesn't have enough women on the jury, and it doesn't have enough minorities or young people; it's a hand-picked jury. It looks like blue-ribbon, silk stocking, country club-type people who are being hand-picked to sit on these juries, and that won't pass constitutional muster. So if you decide to proceed with this, we're going to mount an attack on your jury system, and I think it will be successful. My suggestion to you is if you would like to retain your jury system, I don't really care. If you want it, that's fine, you can have it, but you have to dismiss this charge against my daughter."

PROFESSOR LONGAN: And how did Mr. Buford respond to that?

MR. BROWN: That was like pouring a bucket of water over his head or something. He said, "No, we won't be doing that. We'll see you at the courthouse or something like that."

PROFESSOR LONGAN: Bring it on.

MR. BROWN: He was courteous and everything, but "come on." So that set the stage. The Assistant U.S. Attorney who handled that was Wilbur Owens, who later became a U.S. District Court Judge. Judge Owens was a very fine trial lawyer, and he had to handle that prosecution. The case was tried and she was convicted. The attack was made on the jury system, and of course, it was rejected and that issue

involving the jury system went to the Fifth Circuit Court of Appeals and was pending when I came to work for Judge Bootle. I came in one morning, and the judges already knew about it before the public really did. The Circuit Court would send a slip opinion. It was just a little printed opinion. That opinion came down and Judge Bootle said, "Look what I have." He made me a copy of it. John Cowart was the clerk and an interesting person. He was a Roosevelt-type polio-disabled Mercer graduate who knew Roosevelt personally and had been appointed by him personally.

PROFESSOR LONGAN: So you have the slip opinion.

MR. BROWN: John Cowart came in along with his Deputy Clerk, Walter Doyle, who was a graduate of Mercer Law School, and we all started reading and discussing that long case. That went on for probably a week or ten days. Judge Elliott came over from Columbus and met with Judge Bootle. The United States Attorney was involved in looking at it. So all the people were looking at this opinion to decide what do we do, because we have to fix this.

PROFESSOR LONGAN: They had said, in fact, "What you were doing was not proper?"

MR. BROWN: It was not proper. They said, "You have to reconstitute the jury in order to have a fair cross-section of the community." It was sort of generic language like that, which is not a very good guideline.

PROFESSOR LONGAN: Lawyer Rabinowitz's threat was fulfilled?

MR. BROWN: His prophecy came true, and the reality of what had happened began to settle in. Of course, I'm mainly a bystander. I didn't really have a precise dog in that fight. I was interested in it from being a young lawyer and having a chance to work on it. That was another very interesting thing I was able to work on as a young lawyer, and that helps you mature to work on those kind of issues. We had a lengthy

discussion, and to make a long story short, finally a decision was made to just use the voter list because women were now registered to vote and you had all ages and races. If you looked at the voter list it seemed okay. Strangely, the *Rabinowitz* case resulted in some legislation in Congress that changed the jury system nationwide. The trial happened right here on Mulberry Street. If you look at the statutory provisions having to do with jury selection, they're basically the *Rabinowitz* case. Judge Marc Treadwell was very interested in the *Rabinowitz* case, and he has written an interesting paper about it and the Lemuel Penn case. Now, the follow-up on that was that after I went to work in the United States Attorney's Office, there was a lawyer named Howard Moore, who you may remember from the newspapers. He was a very active civil rights lawyer. He actually represented Angela Davis out in California in some of that litigation. He filed what he called a coram nobis. I had never heard of it. I had to look it up. It's an obscure writ; maybe a first cousin to a habeas corpus. But basically the issue that he raised in it was that the *Rabinowitz* case had to be applied retroactively.

PROFESSOR LONGAN: You had to open up the jails.

MR. BROWN: That sent a shudder through everybody because, if it was applied retroactively, everybody who was in jail who had been tried with a pre-*Rabinowitz* jury got out, which would have not been a good thing. He filed it for a defendant arrested by the Macon metro squad on a whiskey case. He had whiskey in the car and he was arrested by the metro squad, and the case was put in federal court because of the amount of whiskey that was in the car, or something like that. The guy's name was Stokey Jackson. Floyd Buford said, "Brown, look-a-here; they've got this thing filed. We have to deal with it." The department of justice said, "You deal with this." You would have thought that the department of justice would have wanted to have briefed that case. He gave me that case and said, "I want you to really work hard on this one case." I did, along with my law clerk who at that time was Lee Rampey, who was a Mercer student. We worked for about a month on that case, and it went up to the Fifth Circuit on appeal, and as a matter of fact, Lee and I went to New Orleans argue it. We took our wives, Jean and Judy, and went to New Orleans. It was about 1967 or 1968, because I remember my son, Philip, was six months old. I remember when I came back home, he was

crawling backwards—a typical left-handed person doing things backwards. But we were in New Orleans when Martin Luther King was shot. We left New Orleans just as that was becoming known.

PROFESSOR LONGAN: April of 1968.

MR. BROWN: It was a good place to leave at that time. There was about to be a lot of serious trouble.

MR. BROWN: They wrote an opinion. I haven't looked at it in years. I think Marc Treadwell looked it up one time. It would be something like *Jackson v. The United States*. It might have had a strange caption, *In Re* something, because it was a coram nobis. I forget all the arguments we made, but I tried to research every potential argument on the issue. The most forceful argument was the chaos it would cause. Theoretically, it would have applied to civil cases if the jury box was corrupt and improper. On balance and everything, they rejected that and laid the issue to rest.

PROFESSOR LONGAN: I want to ask you about one other particular case you worked on with Judge Bootle, but it raises a general issue, so let me do both of those things. The general question I want you to address is how Judge Bootle approached a case. Some judges have a result in mind and then look for ways to justify it, but Judge Bootle was different. I want you to describe that, but then I also want you to talk about the one case where his approach did not follow his usual method.

MR. BROWN: As a general proposition, Judge Bootle did what proper judicial decision making should consist of. You study the law which should lead you to a conclusion about how you should decide the case. The law should control, not your personal opinion. A lot of judges look at the situation and think, "This is how I want this to come out," and then they look for the law to support what they're doing, which is not the best way. With people being human, they are going to do that type of thing, but Judge Bootle generally did not do that. We would study and see if that would lead you. That kept you from your own prejudices becoming involved in an opinion, and it kept you tuned in to the law. That was Judge Bootle's general way of judicial decision making.

We had this one case pending in the Fifth Circuit Court of Appeals, and Judge Bootle was sitting with the Fifth Circuit Court of Appeals in New Orleans by designation as a circuit court appellate judge. I called it the Mudlump case. It had to do with the right to drill for oil in a Mudlump out in the Gulf of Mexico.

PROFESSOR LONGAN: There was a lot of money at stake.

MR. BROWN: There's a lot of money involved in those things, and you have to buy the right to drill. The government sells a patent or sells a lease on it or something, but this particular plaintiff had purchased an ownership in the oil rights broken up into component parts. He had a very valuable property. It was primarily by an oral agreement, but it had been partially performed, which under our common law system, that's one of the exceptions to the parol evidence rule or the rule that you can't enforce an oral contract. If you are able to show partial performance, you are okay. But in Louisiana, their law is based on civil law, and they have some really harsh rules. I guess it's the French influence, and they don't like to deviate from them.

PROFESSOR LONGAN: With the case in federal court, the Erie Doctrine says you have to apply state law.

MR. BROWN: They had to fly under *Erie v. Tompkins*. The state law had to apply, and there was one judge on the panel of the three judges, a Louisiana judge, Judge Wisdom I think, who said, "This is an easy case. He can't win; he's out of luck." That really offended Judge Bootle. Anyway, two of them didn't like that. We came back to Macon after we heard the oral arguments in New Orleans. Judge Bootle called me into his office and said, "Manley, I want you to go over to the county library. I want you to look at this issue. There has to be some exception to this rule under the Louisiana law." That is one place I didn't like going to. The county library was the most drab and depressing place to sit and read boring cases, but that's where the Louisiana cases were. We had no internet access or computer. Now you can do it right at your desk.

PROFESSOR LONGAN: The result otherwise is so unfair.

MR. BROWN: It's just so unfair. I said, "They won't have anything to do with equity. Our English ancestors came up with the court of equity, and that's the Fairness Doctrine, and I don't think Louisiana understands what equity is." Judge Bootle said, "You go over, and I want you to read every Louisiana case you can find." I thought, "Boy, I don't really want to do this, but he told me to do it." I went and stayed most of three or four days. I pulled all those old reporters down and isolated all those cases and read, briefed, and studied them, but I couldn't find one thing. I finally came back and I said, "Judge, I've read everything and every case that the cases cited. There is no exception under the Louisiana law. To the contrary, I've found they are even worse than we were already looking at. They're draconian, but they mean what they say. I don't see any way to piece together any sort of a theory that would justify overriding this ruling that's been entered by the trial court." Judge Bootle said, "Let me see all that stuff." He came up with a theory. It was something like some federal law theory because this was in the ocean, and it was mystical.

PROFESSOR LONGAN: Federal Common Law.

MR. BROWN: It was a mystical thing. I said, "I don't think that's going to work, Judge." He said, "I'm going to do that because this just is not right." Of course, they did it, and the case went to the United States Supreme Court. They promptly reversed it and said, "No, you can't do that."

PROFESSOR LONGAN: So the one time Judge Bootle didn't follow his normal protocol, he got reversed?

MR. BROWN: He didn't follow his usual way of doing things, and they promptly reversed that. Judge Wisdom, who was on this panel was telling them, "There's no need doing this. This is not the law and this will never fly."

PROFESSOR LONGAN: He was a Louisiana lawyer?

MR. BROWN: He was a Louisiana judge; a great man. The name Wisdom fit him.

PROFESSOR LONGAN: I want to ask you one last thing about your time with Judge Bootle, and it's a very open-ended question. Reflect for a minute on the effect of that experience on your later life and your later career. What did that time with Judge Bootle mean to you?

MR. BROWN: It's just a pragmatic thing. It helped me personally because I didn't even know a lawyer when I went to law school so it gave me credibility as a young lawyer. You're trying to get your foot in the door, and you are one of many young lawyers trying to get started. Judge Bootle introduced me to all the lawyers who came there, and he would tell them a little something about me. I got to know a lot of lawyers from all over Georgia. As you can imagine, that's very helpful to your career when you're trying to get started. It resulted in me getting a lot of opportunities and a lot of job offers. There weren't that many people passing the Bar back then. Judge Bootle talked to me about just regular lawyering, not judging, but cases he tried and how to try cases and how to talk to juries and not to waste your time on trivial matters.

One thing that aggravated him was lawyers arguing cases to the jury and just telling them mundane irrelevant things. He said, "Don't talk about that stuff. Talk about something that's important about your case. The purpose of the law is to divulge the truth; things I'm going to charge the jury about. Don't talk about platitudes. Talk about the human things that have to do with the people in this case and the things that motivate. To have some emotional appeal to a jury, spend your time talking about things that are important, not just this irrelevant stuff." I learned that about him, and I learned the value, which I appreciated already, of being thorough.

There's such a thing as studying a legal question until you really understand it. If you get a general idea about it, that is not sufficient. You can make a serious mistake if you have a general idea about a law, which is where people hear something or read something about a law and they think this is it. People get all upset, but it's a total misrepresentation of what is really happening because they haven't studied it enough to really understand it. It's like in my father's ordination that said, "rightly dividing the Word of God." What that means is you study this until you fully

understand what it is, not just a general idea that you throw out there. The law is that way. Judge Bootle had that knack of studying something until you met yourself coming back. I've studied it now and I see a reflection of what I have already studied looking at me; I have it.

PROFESSOR LONGAN: That's a great way of putting it. Meet yourself coming back. I have never heard that before.

MR. BROWN: You think, "I've studied. Because if I'm finding the same thing every time I turn around, I feel like I have really plumbed the depth of this and I understand it." The law is always a little tricky, but if you do that, then you can actually have a basis for making some accurate prediction and advising somebody that it's more likely than not that maybe this is going to happen or that is going to happen. A general idea about the law is more dangerous than it is helpful.

PROFESSOR LONGAN: Those are really good lessons. The next big thing we're going to talk about is your time in the U.S. Attorney's Office, which is what came right after your clerkship with Judge Bootle. Manley, tell me how it came about that you went from being Judge Bootle's law clerk to being an Assistant U.S. Attorney under Floyd Buford.

MR. BROWN: As I was finishing up my time with Judge Bootle after about 18 months, he told me, "Now, Manley, normally my law clerks don't stay but about a year, but if you want to stay a little longer, you can stay. But you should be thinking about what you want to do and what's your next step." At that time the Assistant United States Attorneys jobs were not civil service and you served at the pleasure of the Attorney General of the United States. If we had an election and the President changed, then that job changed. They were temporary jobs, but they were a very good place to get trial experience if you wanted to be a trial lawyer. At that time, the Assistant United States Attorneys had the opportunity to try a lot of cases if they wanted to. I had thought about that, and I knew there was an opening in Atlanta. Somebody I knew from law school worked in the United States Attorney's Office in Atlanta, and I got him word. I went to Atlanta and interviewed with the United States Attorney, Charlie Goodson, for the Northern District, and I had a very

good interview with him. He called Floyd Buford to ask about me, and the next thing I know they called and said, "Mr. Buford wants you to come up to his office. He wants to talk to you a little bit." I went up and he said, "You can't go to Atlanta and work up there. I want to hire you to work here in this office. I told Charlie Goodson he could forget about you coming up there. You are going to stay down here. So, when you get ready to leave down there, you just move upstairs." Denny Groover had a wonderful phrase, "I don't choose to disagree with that," so I basically said, "I don't choose to disagree with that," and that's how it happened. I finished up whatever work I was doing with Judge Bootle, and he interviewed to get a new law clerk. Once they had that settled and the new law clerk was ready to come to work, I went upstairs to the United States Attorney's Office.

PROFESSOR LONGAN: As it turned out, you spent a lot of your time in Columbus. How did that come about?

MR. BROWN: Actually, there was an older lawyer who had been in the United States Attorney's Office a long time who handled the Columbus work, and truthfully, Judge Elliott didn't like the way he did his work.

PROFESSOR LONGAN: Judge Elliott was the U.S. District Judge sitting in Columbus?

MR. BROWN: This was during the Vietnam War, and Fort Benning had fifty to a hundred thousand troops. There were six divisions. Macon, Athens, Valdosta, Americus, Columbus, and Thomasville, and the Columbus Division at that time was creating more cases than the rest of the entire seven counties of the Middle District. So Buford said, "Manley, I want you to go to Columbus. I'm going to let the lawyer who's doing that work come back and work on this stuff in the Macon Division, and I'm going to assign you to the Columbus Division because Judge Elliott doesn't like the way we're doing things. He's kind of on me about that. He doesn't think we're well prepared. There's a lot of work, and you have to keep your work up on a regular basis. So I'm giving you the Columbus Division." I said, "That's fine. I'll be happy to take it."

PROFESSOR LONGAN: Talk to me about Judge Elliott so we set the stage here.

MR. BROWN: Judge Elliott was different. He was a tougher judge on certain civil rights issues. He was a really bright judge and was a wonderful speaker, and had a way about him of presiding over something.

PROFESSOR LONGAN: He had a more political background, didn't he?

MR. BROWN: He was a surrogate speaker for Herman Talmadge, who was our senator then, and he had a close relationship with him. The Kennedys did not want to appoint Judge Elliott. Bobby Kennedy was the Attorney General and his brother was the President, and they just really were not going to allow him to be appointed. The way I heard the story was that Talmadge said, "We just won't have a judge. We'll just have a judge vacancy. As long as I'm in the Senate there won't be one."

PROFESSOR LONGAN: And that was that?

MR. BROWN: And that was that. Then they appointed Judge Elliott. He was a fair man, but he had more of a conservative attitude and looked at certain cases a little more stringently. Usually he made the right decision in them, but if it was something that was sort of charted in the new ground, he didn't go there. That was basically it. Actually, I had an opportunity to interview with Judge Elliott to be a law clerk, but the position opened up with Judge Bootle. Obviously, I wanted to stay here in Macon and clerk for him. So Buford said, "This is what I want you to do. I want you to keep Judge Elliott happy. That's your office over there and all of the Columbus files are in that file cabinet right there. There's your desk, your chair, and you have the Columbus Division."

PROFESSOR LONGAN: You're traveling to Columbus during the week?

MR. BROWN: Part of my work was to help in the other divisions, too, but that was my primary division. I kept up with the day-to-day work in Macon. You were always getting up in the middle of the night. That was something I had to get accustomed to because if Alcohol and Tobacco tax and most of the other Federal agencies had a case or made a case against somebody, they would file an affidavit and get the warrants. The Bureau policy under J. Edgar Hoover was, unless it was something that was an emergency or committed in their presence, they never actually took out a warrant of any kind for anybody's arrest without it being approved by an Assistant U.S. Attorney. They would call me at 3 or 4 o'clock in the morning or 11 o'clock at night, and I would have to get out of bed and go sit and talk to them about the warrants or search warrants or that type thing and approve all of that. That was one of the chores I had.

PROFESSOR LONGAN: What kinds of cases were you handling in Columbus?

MR. BROWN: Now the Assistant U.S. Attorneys have just a narrow specialty. We ran the whole district with four assistants. Now they have thirty that run the Middle District. It was busy with the Vietnam War in progress. I had all the federal criminal cases that were made in all the counties for the Columbus Division, which was probably fifteen counties, coming this way as far as Butler, Taylor, and Marion County. If you were an Assistant U.S. Attorney then, you handled all the civil cases, too. You defended all the government agencies that had litigation and had to file things or had been sued for one reason or another. We did not handle the tax work. That was handled by the Tax Division. We did not handle the civil rights work, which was handled by the Civil Rights Division in the Department of Justice, but I monitored the tax cases that came through my division. There's something called the Federal Assimilative Crimes Act that provides that certain crimes, just the run-of-the-mill criminal activity on a federal reservation like Fort Benning, where all those troops were, there was something called a memorandum of understanding between the Department of Justice and the Department of Defense, or the Department of the Army. It provided that if the person committing the crime was a military person and they

committed the crime against a non-military person, then the federal court had jurisdiction over that.

PROFESSOR LONGAN: As opposed to a military tribunal?

MR. BROWN: Yes, or if the victim was military and the alleged perpetrator was a civilian, a combination of military and civilian, then those cases came to Federal Court, and you assimilated like robbery, certain kinds of burglary, and assault. I tried a bunch of prostitution cases; military NCOs running prostitutes for the troops and cash. I had a very funny case that I tried. It wasn't funny for the people involved in it. It was about this sergeant running a prostitution deal out at Sand Hill. He had troops lined up for half a mile making a whole bunch of money. I tried that and convicted him in federal court, but tried him under the state law. I assimilated the state statutes and used them. When you indicted somebody, your indictment was in the framework of an assimilated crime posture; you incorporated that.

PROFESSOR LONGAN: That makes your docket unusual for an Assistant U.S. Attorney.

MR. BROWN: It made it lengthy. We had all these. I tried kidnap, rape cases, and murder cases. I had to deal with all those things that were happening on the base. There was an interesting thing about that because they were training all these troops at Fort Benning. The troops would train and then a whole brigade would all load up at Lawson Field and go straight to Vietnam. They would leave all their equipment sitting right there. They would go down to Lawson Field, get on airplanes, and fly to Vietnam. They would fly to Japan and then fly right on into Vietnam. They left all their stuff just setting there. That created a couple of problems. One was leaving all that material setting in the field because people were stealing it. Nobody was really looking after their stuff and everybody was helping themselves to it, including a lot of military people who were taking it and selling it. You would wind up getting a lot of additional theft cases, which were really covered by federal laws. I tried a bunch of cases for stealing truckloads of typewriters. There was a tough old lawyer in Columbus named Vince McCauley, and he defended most of those cases. We had some real knock down drag out battles because

the difficult thing was identifying it as government property. The government would forget to stencil it with a government number or something. Of course, to try the theft of government property, you have to prove that they once owned it. The biggest challenge—my accounting background came in handy—was to figure out a way by circumstantial evidence. You had to come up with a way of identifying it. The other problem was that by the time I would get the case, the case had been investigated but the witnesses were in Vietnam.

PROFESSOR LONGAN: That's a problem.

MR. BROWN: That was a problem, but it has an interesting solution to it. There was a lady in the Justice Department, and she was the liaison with a particular general's office there at the Pentagon. Here I am, a young man of 27-28 years old when I was doing all this, but if I wanted somebody from Vietnam, I could call this lady and tell her who I wanted, and the details, and she would fill out a little form. I could just tell her over the phone, and she could call this one general's office, and they would get that person. I could get somebody from Vietnam back in Columbus in a week to ten days. I had this one murder case where this guy was walking in the woods with his wife at Fort Benning with a shotgun on his shoulder, and he just happened to pull the trigger and kill his wife. This MP Lieutenant had investigated and identified the weapon and worked the scene, and I really had to have him to try that murder case. That was during the Tet Offensive. I called my contact and she calls the Pentagon, and sure enough, this guy shows up. This really nice young man, MP Lieutenant, and he was the most grateful human being. He said, "Mr. Brown, I don't know how to thank you for this. I was in the streets of whatever city that was where they were fighting. I was out there and I thought 'I was going to be killed any minute.' The average life of an MP Lieutenant out in the streets like that was just about for a week or so. I thought I was going to be killed." They came up and said, "They want to see you at headquarters right now." He said, "We're in the middle of a huge battle." They said, "You have to go; you go right now." They said, "Good news for you; you're going to Fort Benning and with 30 days' leave." He got to come to Fort Benning to testify. He was an easy witness to get ready for trial. That's an example of how if something is organized, how well it works.

PROFESSOR LONGAN: That was a happy witness. We want to talk about some particular cases, but I want to talk numbers first. You tried an extraordinary number of cases while you were in Columbus. Talk to us about that docket and how many cases you tried.

MR. BROWN: You could try a lot of cases in the United States Attorney's Office if you wanted to. I started out, for instance, as a brand new lawyer, and the first cases I tried were in Macon. I was really eager to do that. I had watched a lot of trials and been to law school, and you want to see if you can get up in the courtroom and do this. I felt comfortable that I understood the surroundings and the environment, so I started out in Macon, and then in Thomasville and in other places. I had many cases in Columbus. I would have maybe 75 to 100 cases. I went to a grand jury twice a year and have all those cases indicted, so it was a lot of cases. When you have that many, you wind up with a lot of your criminal cases entering pleas, but with that many at least 25 percent of them are going to end up in trials when you have that kind of volume, and that's what happened. I know the first term of court, I stayed over—after having a calendar call—and taking the pleas. I probably stayed a couple of weeks. I would have tried ten, twelve, fourteen cases. I had one term of court where I had twenty-something cases left over, and I took one lawyer with me. He tried the first case so I could get my court organized and all my witnesses and everything.

PROFESSOR LONGAN: Who was that lawyer?

MR. BROWN: That was Walker Johnson. He was later a judge. Walker didn't much want to try the case he had. It was against Garland Byrd, who was my friend Chuck Byrd's father. Chuck was one of Mercer's graduates and is a very fine lawyer. He is in the U.S. Attorney's Office now and handles all the whistle blower cases. I saw where he settled a \$26 million case for the government the other day, recovering from a hospital.

PROFESSOR LONGAN: Walker Johnson didn't want to try that case?

MR. BROWN: Walker said, "Do I have to try that case against Mr. Byrd?" Nobody wanted to try a case against him. I enjoyed dealing with him, frankly. He was just a powerful lawyer. He didn't study the law very much but he was so conversant with jurors. I said, "No, you have to try this case. I have a hundred witnesses coming here Monday morning, and I've got to get them organized. I can't leave them sitting in the hall; there will be a riot. The ones I'm not going to use this week or the next few days, I have to let them go home or go to work."

PROFESSOR LONGAN: You couldn't not have them ready, when Judge Elliott wanted them.

MR. BROWN: I have to get them ready. My secretary has got to get all their phone numbers. We have to be sure of all these agents I had to deal with. I had to talk to them and be sure they tell them they have to be back on so-and-so day. It's a logistical nightmare to organize a court where you have all these cases. I stayed three or four weeks. I stayed most of a month in Columbus, and I had like twenty cases left. In that month, I tried seventeen or eighteen of them. The other two or three pled guilty or something. I know the last case I tried lasted a week. It was a rape, kidnap case. This soldier was charged with kidnaping the young wife of another soldier who was waiting on her husband when she was kidnaped in front of the Infantry Center and assaulted on the Base. I tried to save that case for last. A lot of times I could try two cases a day because we tried a lot of liquor cases. They were prosecuted for the manufacture of non-tax paid whiskey, which was moonshine and operating a still. You find the still, break it up, and there's a path. You walk the reverse way on the path and it leads right up to somebody's back door. In some ways they were easy to try and in some ways they were difficult to try because a lot of times they wouldn't have any evidence that they were at the still site. It didn't take a long time to try them. It helped me to learn how to be a lawyer because, and I tell my law students, "Try anything you can try." It doesn't matter how simple it is or what it is because in every case you have to do voir dire, you have to select the jury, you have to make an opening statement, you have to put up your evidence on direct, you have to cross-examine witnesses, you deal with the judge, objections and everything, you have to prepare requests to charge, and you have to argue the case to the jury. I would

try those cases. I'd start at 8:30 or 9 o'clock, and by noon we would be through. You send the jury out, go to lunch, come back after lunch and I would have the next case ready. I would start striking the jury in the next case and start trying that case. Then you'd send that jury out and whatever. Judge Elliott's rule was when one witness finished and walked out, he wanted another one coming in the courtroom.

PROFESSOR LONGAN: He was very efficient.

MR. BROWN: Yes, he was very efficient. I did my best to comply with that, and we got along very well. He didn't like knocking off for this and wasting time for that. I worked really hard to keep everything very organized. As a result, I tried a lot of cases. Sometimes you would try thirty cases in a year.

PROFESSOR LONGAN: Manley, these days most lawyers, even trial lawyers, don't try thirty cases in a career.

MR. BROWN: In a lifetime, they don't. The one place you can get that kind of experience now is if you go to work in a state district attorney's office if you're not lazy. There's plenty of work. You can try all the cases you want. They are behind all the time. They have plenty of cases. But in those jobs, as you could be the Assistant United States Attorney, you can find ways to get out of doing that if you don't want to do that. My thought was, "This is my opportunity to do this. I am really here to learn." As you and I have talked about, you can't learn to play basketball sitting on the bench. You have to get in the game and sometimes you get beat, but you have that opportunity because you have all the help in the world. You have all these agents and people helping you. They can get the job done for you.

PROFESSOR LONGAN: How many did you try overall as an Assistant U.S. Attorney?

MR. BROWN: I probably I tried fifty to seventy-five cases when I was in the U.S. Attorney's Office. It could have been more than that. When I left after three and a half years, I felt comfortable. It's like

playing basketball or anything else. After you do something enough, whatever profession you're in, if you do it enough, it's like you feel comfortable doing it. The standard is when you aren't surprised by most things that come up in the courtroom. You have seen it before and you know how to deal with it, and how judges will react to it. The only way to learn that is to get in there and do it. Some people like the courtroom and some lawyers don't like it.

PROFESSOR LONGAN: It's not for everybody. Let me ask you about some particular cases that you were involved in as an Assistant U.S. Attorney. There was one you told me about where there was some Cuban exiles in Tifton.

MR. BROWN: That was a peculiar case. Buford used to give me these interesting cases. I got them because I was the junior guy in the office. One reason I wound up getting some fairly interesting cases is because I kept my work up on a daily basis. You get reports from all these agencies every day in the mail. A lot of things come from the FBI, the Alcohol, Tobacco, Tax, Food, and Drug, with investigations and everything. You can very easily just put them in the file and stack them up, then you wait for the Grand Jury, and then you frantically try to get ready. I never really liked to do things that way. I worked on a regular basis. In other words, I read whatever was in my mail, and if it was something that I thought would have to go to the Grand Jury, I would go ahead and prepare my indictments and put them in the files. When Grand Jury time came around and people were going nuts trying to get that work all done, I would have my stuff done. Buford knew I did it that way. When something like this Cuban thing came up, I remember everybody wanted it. It was some Cuban exiles, and they were like the Katzenjammer Kids, if you remember that cartoon, or the Three Stooges. They decided they were going to launch an attack on Cuba from the Tifton, Georgia Airport, if you can imagine that. Buford said, "Brown, look at this. You have to go to Miami to work on this case because that's where it originated." The defendant's name was Dr. Bosch. I saw not too many years ago in the newspaper where he had died. But everybody wanted to go work on that case. They were saying, "I'll volunteer for that," and he said, "No. I'm going to send Manley. Bring your indictments in here, if you have them done. I want to see

them.” “We ain’t got them done.” “Well, then Brown goes to Miami.” I had never been to Miami, and it was a treat. I wanted to go. It was a case primarily made by the customs authorities. It was a very interesting thing to do. I learned something about the Cuban exiles. They had a grudge against Cuba and with good reason. They still have that grudge. That’s one thing I think Obama has done I really like. Some things he’s done have created more problems, but dealing with the Cuba thing to me is good. I had a Cuban professor, Dr. Figueroa, who was a law professor. His father was Chief Justice of the Cuban Supreme Court and had taught Fidel Castro. They had a real grudge about it, but this was not a well thought out operation. The customs people had a mercenary informer. His name was Giretit and he was a mercenary pilot. He had infiltrated this group, and the head of that group was Dr. Bosch. He was a confidante of his but he was actually a government informer. He knew exactly what was going on. They showed up at the Tifton Airport with homemade bombs and all that kind of thing.

PROFESSOR LONGAN: They were going to fly from Tifton to Cuba?

MR. BROWN: There was a plane. Giretit flew the plane up there and then they brought all the munitions on a truck. They’re at the Tifton Airport loading up to bomb Cuba. They had maps and were going to bomb a sugar mill. I remember looking at all those maps and everything, and they were going to bomb this sugar mill with all these homemade bombs. It was not well-planned. It really didn’t threaten the Castro regime but it was quite against the law.

PROFESSOR LONGAN: I was going to say, it was a federal crime.

MR. BROWN: I prepared the case, and the defense—some very prominent Miami lawyers—were defending them. They were cagey prominent lawyers. You knew you would have a group of worthy adversaries. I probably could have foreseen what might be going to happen. I remember my primary witness was this mercenary. I brought him to Macon to the Grand Jury so he could testify and get them indicted. I took him to Len Berg’s. Do you remember Len Berg’s Restaurant?

PROFESSOR LONGAN: Sure.

MR. BROWN: We went to Len Berg's at lunch. He sat there and moved his coat and he had this huge .45 in his belt. He walked right in the courthouse with it. I said, "Giretit, are you carrying a pistol? Did you bring a pistol in the Grand Jury?" He said, "I take this pistol everywhere I go. Dr. Bosch sent me a message and said tell Giretit when I see him, I'm going to shoot him in the head. I don't go anywhere without my pistol." I said, "You're going to have to put that in your car or something. You can't take that back into the courthouse."

PROFESSOR LONGAN: This is before the courthouse security was tight enough to catch it.

MR. BROWN: Yes, he walked right in with a loaded .45. He said, "They're going to do away with me, so I don't go anywhere without this gun." He was an interesting guy. He was a young handsome man and well-spoken, but he was a civilian agent working for customs. The case ended in a really unsatisfactory way because what happened is Giretit—let me cut to the chase—tried to really become a double agent and make a deal back with the group for a lot of money to screw the case up and they recorded it. They sent me the recording. Of course we had to dismiss the case. I never got to try that case because it turned out he had too many sides to him. But a self-fulfilling prophecy; somebody did away with him. An agent I worked with down there called me, and Giretit ended up dead in a mysterious plane crash.

I had one other Cuban case that was in Columbus. There was a Cuban exile group called Brigade Eight Sixty-something that was in the newspaper a lot, and there was a theft of a lot of heavy munitions from Fort Benning. It raised an interesting question which had not been fully decided then, and that is who owns trash. If you take your trash out and put it in a trash can and put it on the curb, is that fair game? Do you have to have a search warrant to go through somebody's trash? The FBI suspected these guys. They had some NCOs and there were some civilians from North Carolina in it, and they were really stealing some big time equipment and munitions. The FBI seized their trash and it was full of the most incriminating evidence you have ever seen. I tried that

case in Columbus and convicted the people who were involved. You had to work with the CIA. The defense in those cases was always the CIA. As an Assistant U.S. Attorney, you couldn't talk to the CIA people. They would not let you talk to them. You had to talk to somebody who was a legal counsel. It was difficult to put that together and figure out the evidence problems. I was always a little uneasy whether I got the full story. The lawyer for the people in Columbus, after I convicted those people, just broke down and started weeping in the courtroom. I felt sorry for him. He was sobbing like he lost a member of his family. I said, "This is just a case." He said, "It's just wrong because they were put up to this by the government." He was so convinced that his clients had been put up to it by the government and that they were hiding it. I said, "I don't know what the answer to that is. I'm just doing my job."

PROFESSOR LONGAN: The government convicts them for doing what the government told them to do.

MR. BROWN: That's what he was saying. I don't know whether that was true or not.

PROFESSOR LONGAN: You couldn't find out?

MR. BROWN: No, I couldn't find out. Absolutely not, period.

PROFESSOR LONGAN: They wouldn't tell you?

MR. BROWN: No. It wasn't up for discussion. That type of thing is a murky business and left me wondering. It may have just been a fake defense they were using, but I did what I was supposed to do, and whatever it was, it was.

PROFESSOR LONGAN: There are a few other cases you and I have talked about that I would be interested to hear more about. The story that sticks in my mind is when you overheard something significant about a case in circumstances where you shouldn't have been able to overhear; somebody talking about their case in the bathroom.

MR. BROWN: Yes. It's a good lesson for young lawyers, and I tell them, "Tell your witnesses to not talk about things in the bathroom because people are always listening."

PROFESSOR LONGAN: Or the elevator.

MR. BROWN: Yes, that comedy movie Dolly Parton was in.

PROFESSOR LONGAN: Nine to Five?

MR. BROWN: Nine to Five. The lady was hiding in the bathroom listening. But people are always listening in the bathroom and hallways. I saw cases turn on something that was said in a hallway. I prosecuted a lady in Columbus who robbed a bank. She was nine months pregnant when she robbed the bank, and they said "We've been robbed by a pregnant lady." She robbed whatever the name of the big bank was in Columbus. She came through a drive-thru window and as she pulled off she actually hit the cashier's cage and she was very inept. I remember her name was Upchurch. She was a real nice looking young woman, but she was desperate for money and I guess that's the only way she knew how to get it. For some reason there was a sheriff up in Tennessee who was involved and there was a sergeant. There's usually some NCO behind everything that was army connected that I wound up prosecuting. I went to the men's room, and I heard somebody talking about it and it tipped me off to somebody being in the courtroom. One thing I learned is that anything that happens in the sight of the jury in a courtroom is fair game. For a trial lawyer, you need to remember about talking, and warning your witnesses and people in the courtroom about their conduct because anything that happens in the jury's view in that courtroom is fair game for comment. This one person who was a mystery was coming out in the evidence as kind of a defense in this case. It may have been I had to prosecute somebody for threatening that sheriff and extortion over the telephone that was connected with that case. I heard something in the bathroom that tipped me off that this person was actually in the courtroom who the jury was beginning to believe couldn't be found or something. It was maybe a paramour of the sergeant or something. At any rate, I heard that so I went and looked, and sure enough there she sat in the back. I started cross-examining him and at the proper time—I

don't know how I timed it—but I said, “Let's see. Mrs. So-and-so. . . .” She's sitting there, and I asked her to stand up. She about fainted. She stands up in the courtroom and everybody is looking at her and it was a pretty easy cross-examination, and I said, “Now, who is that?”

PROFESSOR LONGAN: That's a trial lawyer's dream, isn't it?

MR. BROWN: It was. It's the kind of thing that happens to you occasionally. You have a few things that if you can stay awake and stay observant, little things give people away. Anyway, that worked out. I tried a case against a big time whiskey dealer in Thomasville. He was a huge black man. He had been tried and acquitted in about four or five cases. Nobody could get him convicted. They said, “Brown, we're going to give you this case and see if you can convict Handsford.” He was the most charming person you ever wanted to meet. He had that big broad smile and just charmed those jurors. The jurors loved him and it was hard to convict him. He was really in the big time liquor business making a lot of money and not paying any taxes on it. It helps to pay attention in the courtroom. He was going to testify in his own behalf, and as he walked to the witness stand, I saw he had a little cap sticking in the hip pocket of his work pants. The agents had taken a picture of somebody at this still, and he had on a Caterpillar hat. It looked like him because he was a big man, he had a big head, and he had this cap on. I thought, “I wonder if that cap could be connected.” To make a long story short, when I was cross-examining him, I showed him that picture. I said, “Look at this picture of somebody working on this still that's over there close to where you live. Doesn't that look really like you?” “No, no; that don't look like me.” I said, “Stand up so we can see.” I held it up for the jurors, and I said, “Does that not look like you?” “No, that's not me” I kept talking to him and he mentioned, “That guy has got a cap on.” I said, “I noticed when you came in, you have a cap in your hip pocket, do you not?” He said, “Yes.” I said, “Let me see it. Let's see what it looks like.” Sure enough it was a Caterpillar cap. I said, “Okay, put the cap on.” He puts the cap on and it was a dead ringer. He was convicted in that case. When Judge Elliott sentenced him, and he said, “You've gotten acquitted on all these other cases so while you were acquitted, I can't sentence you for those cases, but they do have something to do with my judgment as to what to do in this case.”

Those kind of things happen, and as a lawyer, you look for those opportunities, but you also try to manage your own case so as not to let something like that happen to you. If somebody says something in the hall, in a bathroom, or acts a certain way, the jurors see things. Hank O'Neal and I tried a case. This is an example. We sued a bunch of aluminum siding salesmen. They really were cheating Black people by putting aluminum siding on their houses and getting phony deeds to secure debt. They worked out of Atlanta and came to court every day in a purple Cadillac, of all things. One of them had a real Italian, almost Mafia-sounding name, and this huge guy had a purple Cadillac. As Hank and I were coming in, the jurors were all coming to the courthouse. They could see them roll up in that purple Cadillac in front of the courthouse. It was just a huge mistake, and the lawyer—it might have been the lawyer's Cadillac—was driving them up to the courthouse. That's just a fundamental mistake that you don't want to make, and that made a difference. The jury really lowered the boom on them.

PROFESSOR LONGAN: We're going to talk about that case in some detail, but before we leave your time in the U.S. Attorney's Office, I'm going to ask you the same question. I asked you about your experience with Judge Bootle. Looking back on it and reflecting on it, what effect did that experience as an Assistant U.S. Attorney have on your future career?

MR. BROWN: Again, it helped me get my job. I actually had a case while I was there that none other than Hank O'Neal defended. It actually involved part of the Murph the Surf Gang from Miami. The most famous thing Murph the Surf did is being implicated in killing all those young women who floated up from the canal in Fort Lauderdale. He was a thief and stole the Star of India, or he stole one of these huge diamonds. He was a really rough character, and he lived in Miami a good bit of the year. His friends made a very stupid mistake. They came through Macon and said, "Boy, this is a sleepy-looking town," and they saw the Ronnie Thompson Jewelry Store. It was Sunday and nothing was happening downtown. "Why don't we just knock over Ronnie Thompson's Jewelry Store while we're here." They park and break into a building next door. They have all their equipment in the car, and they're knocking a hole in the wall and they're going to come through

into Ronnie Thompson's Jewelry. Well, Macon wasn't quite that sleepy. Anyway, somebody saw the car and it has a New York or Miami, Florida tag on it, and they got suspicious. A couple of policemen, I knew very well from working some counterfeit cases where they testified for me, were on duty. One of them was a guy named Ed Hargrove. They go in the jewelry store, and they're sitting there waiting with their guns. When Murph's crowd breaks through the wall and comes in, "Welcome to Macon; you're under arrest." That wound up in federal court. I had it, and Hank O'Neal defended it. It's interesting that this was the guy I would end up practicing law with. I had been around Hank some, but that was my first personal contact with him. It helped me having been in the U.S. Attorney's Office. You continued to meet more and more lawyers. I tried cases against a lot of really very fine lawyers in Columbus and from other places. Some of them were civil cases, some were criminal cases, and it really helped me in terms of my experience and made me a trial lawyer.

PROFESSOR LONGAN: It got you off the bench.

MR. BROWN: You can study, and be a good law student and be editor in chief of the Law Review and do things like that, but you always wonder, "Can I do it? Will I have the personality to do it?" I thought I could because I had a lot of experience with competition and being in competitive situations, and that was an extension of that. It's painful when you lose but it's also very uplifting if you win. You get a real adrenaline rush like nothing in the world, so you get addicted. While it's painful and stressful, it becomes addictive. I saw that I could get in a courtroom and try cases against really good lawyers, and I tried some very complicated cases. I defended a lot of medical malpractice cases when I was in the U.S. Attorney's Office because Fort Benning had a big military hospital and it was full of injured people. They treated the families of all of the soldiers, and there were a lot of medical negligence claims if you handled them under the Federal Tort Claims Act. I defended a lot of those, which helped me learn how to handle medical cases and medical expert witnesses and that type thing. It was a wonderful training ground because I tried to work on as many different things as I could. Mr. Buford, my mentor, and I tried the most controversial case which was a land condemnation case against some prominent people in

Columbus. It was one of the most stressful because nobody had ever won a land condemnation case over there. Buford said, "I want to win at least one of these cases." It was the last case on the Walter F. George Dam. We tried that case and actually won. Judge Elliott was on the other side. This land was owned by some very prominent people, and they had this novel theory about under-flowage. We had a really good verdict where they got basically less than they had been offered, and that was a shock. Judge Elliott was a little aggravated with Buford and me. We went down to Thomasville to court about two weeks later, and at the end of the day all the federal people went over to the Scott Hotel. Everybody would go, have a few libations at the end of the day, and kind of unwind. We were there and Judge Elliott was there. We went over where Judge Elliott was, and Buford said, "Judge, Manley and I have been talking." The Judge has his cigar and he was chewing on it. Buford said, "We've been talking about the case we tried in Columbus last week. We're really bothered. We think that verdict is a little too high. We're thinking about filing a motion for new trial."

PROFESSOR LONGAN: You weren't thinking about anything of the sort.

MR. BROWN: No, but everybody was having a few drinks. Judge Elliott said, "If you file it, I will damn sure grant it," and we were all friends again.

PROFESSOR LONGAN: That took care of that.

MR. BROWN: Life went on. Today, the Assistant U.S. Attorneys don't get a chance to try many cases. That's the real benefit of doing that many cases until you get your sea legs.

PROFESSOR LONGAN: That gets us to a good point because we're going to talk about Hank O'Neal and your transition into private practice. You've been an Assistant U.S. Attorney for some time, and you're going into private practice with Hank O'Neal and his firm. Tell us about that transition.

MR. BROWN: We knew about Hank O'Neal in law school and followed his cases. When I started law school, he had just tried and won the Chester Burge case, which was a famous and controversial case. We also knew he was the prosecutor of Anjette Lyles, who had poisoned all of her family. She was the first white woman in Georgia to get the death penalty. It was later commuted. It's interesting because people remembered Hank and they would say, "We remember Hank O'Neal. He saved Anjette Lyles's life." He said, "Remember this, Manley, it does not matter whether the public knows why they know you, it's just if they remember your name. They remember your name and they're not sure what you did. People think I was Anjette Lyles' defense attorney, and I put her under the death sentence."

PROFESSOR LONGAN: He was specially appointed to prosecute.

MR. BROWN: Yes. Hank was the special prosecutor as an Assistant Attorney General. The point is in getting a reputation in law that's important so people remember you. There is name identification. It's reminiscent of politics. If they know your name and they see it when they go in the voting booth, they vote for you. They maybe don't remember too much about you. I was working in the U.S. Attorney's Office and Hardy Gregory, who went to Mercer and who was an outstanding Mercer student and later Superior Court judge and then on the Georgia Supreme Court, was still practicing law. I'm 75, and Hardy is four years older than I am. He's the same age of my older brother, Andrew, who was also in the Navy, except he went in as a member of the Black Gang, as a firemen's apprentice. Hardy went too, but Hardy went to the Naval Academy. They went in the Navy at the same time in 1954.

Hardy and Bob Slocumb came to see me at the United States Attorney's Office. I thought, "Why do they want to see me?" They said, "We want to come over and see you." They came over and said, "We need another lawyer, and would you be interested in coming to work and taking over a good bit of the criminal work that Mr. O'Neal practices. We've talked and we're interested, if you're interested. I want you to come over and talk to Hank O'Neal."

PROFESSOR LONGAN: Is this about 1970?

MR. BROWN: It would have been late 1969. I went over and talked with Hank about it and made a decision. I had a chance for some other jobs. I could have gone to Atlanta and this one particular firm had a lot of good clients. I talked with Judge Bootle about it, and I said "I've narrowed it down. I think I should go with this law firm. They really had spent some time talking to me. They really want me to come to work. Do I go to work with them or do I go with Hank O'Neal and that law firm. I don't know exactly what I would be doing. To begin with, I would do a lot of criminal work, which I'm perfectly capable of doing. I've never done any defense work but I have prosecuted and handled hundreds of criminal cases. I have defended a lot of civil cases, and I've had a lot of trial experience." Judge Bootle said, "Manley, let me tell you what I think. You should go with O'Neal." What he was saying was, "That law firm is like a caste family—" if you get my drift—and he was *politely* saying, "You're a hillbilly and they are blue bloods." I could have held my own with them, but he was saying, "You might be better off in more of a gunner's mate type group of lawyers than you would with people who are more inclined to another way of life." Judge Bootle had me pretty well sized up in terms of culture and lifestyle and how I wanted to live. He said, "I think you might be happier there, and because of kinship and relationships and family relationships, you might be free of that if you go with O'Neal because"—he didn't say that's a bunch of mavericks—"they're a bunch of freelance type folks." Looking back at it, that was good advice. Even though I wasn't exactly sure where that was leading me I thought, "It can't hurt me to hang around with Hank O'Neal." That's how I came to take that job.

PROFESSOR LONGAN: Describe the firm for me when you got there. It was a pretty big firm by Macon's standards.

MR. BROWN: It was a big firm. I arrived as thirteen out of the fourteen lawyers. We hired Sid Williams after I came. Everybody else was there, and there were some lateral transfers—some older lawyers who had come to the firm—and Kice Stone, who I knew very well, and Tommy Talbot, who was a Mercer lawyer. I didn't know Tommy but I liked him once I met him. His father was the CEO of the Inland Paper

Company in Macon. Sid Williams, who I knew very well, was from Eatonton and was leaving the Department of Justice. He had been in the Tax Division, and I knew Sid through my Mercer connection, plus he came to the U.S. Attorney's Office to try refund cases and was a very bright guy. The firm was expanding rapidly, and as it turned out, it was probably too rapidly, but they wanted somebody to do tax work to see if they could build a tax practice. They hired Sid to come, and he was the fourteenth lawyer. We were in the Macon Lanier Building, which was the old Macon Lanier Hotel. It was directly across the street from the front door where you come into my office building, the American Federal Building. It was a historic building. At the end of the Civil War when the Union troops chased Jefferson Davis down in Irwinville, which is east of Tifton, and captured him, they brought him to Macon and he was imprisoned in the Macon Lanier Hotel. They tore that building down and built a parking garage. So much for historical preservation.

PROFESSOR LONGAN: It happens.

MR. BROWN: Charlie Adams, Bob Steele—who did property work—Bill Hemingway and John Hemingway did property work. We were representing American Federal, a brand new savings and loan. That was when savings and loans were at the top and they were closing loans right and left. They were making a lot of loans and you made a lot of money if you were the closing law firm. Mr. Adams helped start the savings and loan and was on the Board so our law firm did the closings. I never did any property work, never checked a land title, never drew a deed, and never wrote a will. I just didn't do that kind of work, but that's what they did. Jerry Kaplan was there and had a large commercial practice. He wrote the book on Georgia corporations. Neal McKinney, who was an older lawyer had a tort practice. He and Richard Thornton made a lateral transfer. They were there. Bob Slocumb, Hardy Gregory and I, and then Sid Williams came. That added up to about fourteen. We had two floors. It was an interesting place because Mark's Cellar, which was a wonderful restaurant, was below the street. If you came out our front door you would walk down some steps to that restaurant. We had a private entrance from our law firm. We could go to the back steps and come into Mark's Cellar to eat lunch. The Gandys ran it, and it was a very well-known restaurant and great food; a nice place to have lunch

or dinner or whatever. The Macon Lanier Building still had apartments. Some people had downtown apartments and lived there. We had a real estate practice, commercial practice, tort practice, and a very large criminal defense practice, and that's what I first started with. It's typical and I took it in stride as the newest guy, although I was very experienced as a lawyer and had more experience at actually trying cases than a lot of people in the firm, everybody unloaded all the criminal cases they had on me. Back then, no matter how long you had been practicing, you had to handle appointed criminal cases for free. If you handled a murder case, they paid you \$100.

PROFESSOR LONGAN: No public defenders?

MR. BROWN: No public defenders had ever been thought of. All of the people at the Bar had to take appointed cases, and the run-of-the-mill appointed cases in Superior Court and the State Court of Bibb County, which was Judge Phillips' court, was for free. I'm thinking about that file list now and it makes your stomach roll over. It was tough. I had about forty criminal cases on there and a lot of them were appointed cases. Everybody used that as an opportunity to divest themselves of the cases they didn't want. Some of them were hired cases, but they were taken incorrectly. After looking at them, they had taken them on an easy payment plan and all that kind of thing that you cannot do in a criminal practice and survive. It's not financially possible. You have to negotiate a proper fee and you have to get paid up front with rare exceptions to make that a profitable practice. That was intuitive to me and I thought, "I have these 40 cases. The first thing I have to get rid of these cases." The cases that needed to have pleas, I worked those out, and a lot of them had to be tried and I just tried them. I got them prepared.

You met with a little resistance when you left the Federal Courthouse at that time and go into the State practice. The judges know where you're coming from and they're not exactly enamored with Federal authority and that type thing, so you have to figure out how to go through the initiation stage and get accepted, and I did it. One thing I learned very well, and Hank taught me when I got there, was the demurrer practice, which still exists in Georgia. One of my law students asked me what a *demirror* was. I said, "You would have gotten an 'F' in Judge Atkinson's class when I was in Law School if you called that thing

a *demirror*; it's a demurrer. Demurrer means to object to, or disagree with." It's a "so what" pleading. That practice still exists in Georgia law in Title 16 of the Official Code of Georgia Annotated under Criminal Procedure. It has not been taught in law school since Hank died. He taught criminal procedure. The criminal procedure course you take in law school now is a glorified constitutional law course, but when Hank taught, he taught demurrers, pleas in abatement, and all the actual procedural things that you do to handle a criminal case.

I had studied demurrers because Judge Atkinson taught us the demurrer practice in his Georgia Practice and Procedure class, so I knew something about them and how they worked, but I learned the demurrer practice very well. The first thing you do to defend criminal cases, is file demurrers. I don't think any of the Defense Bar does much of that anymore. I'm not sure they know what a demurrer is nowadays. It's helpful because neither does the prosecution. If somebody knows the demurrer practice, they drive them nuts. For instance, my son Phillip, who practices law with me, when he came along, the younger lawyers had to do five years on the appointed cases. On the last appointed case he got, he came and talked to me about it. The defendant he was appointed to represent was charged with taking contraband into the Bibb County Jail, and she was charged under a statute that made it a felony to take contraband into a State prison. I said, "Let's put this to the demurrer test," and we ran it through the demurrer algorithm. First of all, what we concluded was that isn't a State prison; it's a County jail. We get out the statute and it doesn't apply. People were prosecuted all over Georgia under that statute. We drew some general and special demurrers and filed them. They had to finally admit that this is not what she did and was not a crime, and they had to dismiss it. A few years ago when I looked at the list of new statutes, they had passed a new statute changing that because of our demurrers.

PROFESSOR LONGAN: But you used that practice to buy some credibility for you in the superior court?

MR. BROWN: You win a lot of cases that way. You have to understand how to plead. You have the demurrer practice and you plead them in those cases. I understood the search and seizure laws very well because I had been trained as a prosecutor and working for Judge

Bootle, but Judge Bootle would grant motions to suppress. He was not timid about it. If it was an illegal search and seizure, he would grant the blooming thing. So, I knew how to handle those kinds of cases. For instance, I had a lot of cases on my file list that had to do with the Metro Squad. It was a conglomeration of State and City policemen and some Federal ATF agents. They went around town raiding houses, mainly in the black communities; shot houses where people sell a little illegal shot of whiskey. They would buy some whiskey at the package store and then they keep it in their house and sell to some people in the neighborhood. It wasn't a big deal, but it was quite against the law. People in the neighborhood would come by and want a drink, and they would give them a drink. It's really not exactly an up and up operation because the liquor dealers paid some of the expenses for the Metro Squad. It looked like a suspect operation. They always used this standard search warrant. I looked at the search warrant and it was as stale as it could be; just classic. If you had to draw up a probable cause statement with stale information —stale and anonymous — it was full of stale information. There are a lot of cases on stale probable cause. I thought, "These things are invalid." They all looked alike. They were practically all run off on a Xerox machine or a hectograph or something. A friend of mine was the Assistant Solicitor in the State Court, Tommy Mann, who everyone dealt with. Clarence Clay was the Solicitor. I took my search warrant cases and went in to see Tommy Mann, and I said, "Tommy, look at these search warrants you are using. You have got dozens and dozens." He said, "Dozens? We have hundreds of these cases."

PROFESSOR LONGAN: Oops.

MR. BROWN: I said, "Look at this search warrant a minute. Your search warrant is not up to snuff. I guess I'll have to file a motion to suppress in these cases." He said, "What's wrong with that search warrant?" I pointed and I said, "This is wrong and this is wrong. I think you should look at these cases." He said, "Let me think about this." In a day or two he called me back and said, "Manley, I am going to dismiss all of these cases you have."

PROFESSOR LONGAN: All of your cases?

MR. BROWN: All my cases. The deal is, “You don’t tell anybody about this. You don’t file any motion to suppress over here. Any case you get that has this search warrant in it, you walk over here and I’ll dismiss it.”

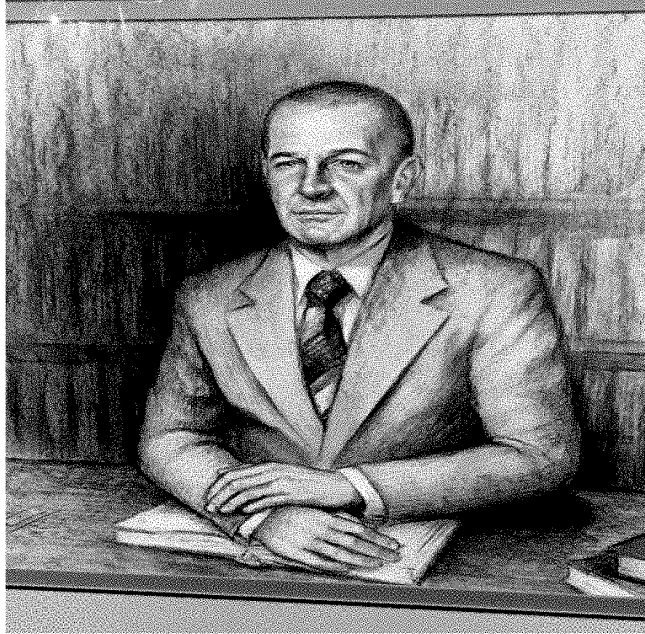
PROFESSOR LONGAN: He’s protecting all the other cases.

MR. BROWN: That’s probably the most profitable practice I had for a year or two because I would get those kind of cases. Once I got rid of those, clients told others, “Lawyer Brown got rid of these cases for me.” The fee was sometimes two or three hundred dollars, sometimes maybe four or five hundred dollars. I would walk over to the courthouse and Tommy would dismiss my case. That was part of the initiation. I handled a lot of them. There was one judge, it would make him so mad when I would file those. He said, “Brown, you’re filing these blankety blankety federal motions.” I said, “Judge, they’re not necessarily federal motions, they apply to the law generally. We don’t have the Silver Platter Doctrine anymore; that’s been overruled. You have to comply with this.” He and I later became very good friends, but it was kind of frosty with him at first. I never could get along with one of the older judges. He didn’t stay on the bench very long after I got there. I couldn’t make any progress with him. But that was part of the initiation process into handling my criminal work, and getting rid of those cases so I could get on with the new cases.

PROFESSOR LONGAN: Before we get into the cases you and Hank had, I want you to talk about Hank O’Neal and what made him a great lawyer.

MR. BROWN: Hank was born in the Howard Community. I’m not sure what is in that building now. It’s at the corner of Bass Road and Forsyth.

PROFESSOR LONGAN: That’s very close to where we’re sitting right now.



MR. BROWN: That's where Hank went to school. You go out across the Interstate onto Lamar Road. That's where Floyd Buford was born. Hank actually lived most of his life on Bass Road. He and Floyd Buford, who had been the U.S. Attorney, were childhood friends. They had gone to school together in the Howard Community.

Hank's mother's father, his grandfather, was President of Wesleyan College. He said, "My grandfather on the Bass side was President of Wesleyan College and my O'Neal family were Irishmen from Dublin." He had that split and lived in those two worlds. He said, "My O'Neal people all were a bit rough Dublin, Georgia Irish." His father had been a banker, but he said, "My father, once the Depression happened and their bank went bust, he never wanted to work at anything else. He never could get over it. He and his friends just met every day and talked about what happened."

Hank went in the Navy as soon as he was seventeen. He said, "I was somewhere like Great Lakes after I graduated from Lanier High School. I got a letter from my daddy banker who was still fretting about what happened to the banks, and he said, 'Dear Junior, I understand

you have joined the United States Navy. I hope you serve with distinction. Dad.” His dad hadn’t seen Hank for a while and wondered, “Where is Hank?” Well, he’s in the Navy, “T.” He called his dad “T.”

They sent Hank straight to the South Pacific and onto a heavy cruiser called the USS Chester. When Sam Nunn was first elected to the Senate, one of his aides was somebody who went through the Mercer Law School, and we had him get somebody in the Pentagon to find a picture of the ship Hank was on. He had never seen the ship since he got off. He spent close to three years on that ship in the South Pacific, and he was at many of the Naval battles in the Pacific.

PROFESSOR LONGAN: He saw a lot of action.

MR. BROWN: Yes, he did. Hank was stationed in Hawaii. He spent a lot of time in Hawaii, but he was in the Philippine Sea and all those battles. He was a gunner’s mate. He started out in the Black Gang which is below decks. He said that it was terrible.

Hank said, “One day I was on deck and they had me chipping paint, and I was fascinated with it.” He was a little obsessive like I am, and he said, “I had that thing chipped, and it looked really great compared to the work of the other people. All at once a shadow fell over me. I looked up and there was this Chief standing over me and he said, ‘What’s your name?’ And I said, ‘My name is O’Neal.’ He said, ‘How would you like to quit chipping that so-and-so paint and come and work with me in the gun mount on the fan tail; in the eight-inch gun mount.’ I said, ‘I would like that a lot.’ He said, ‘Well, go downstairs and get your crap together and your bucket.’ They kept everything they had in a bucket. That was your luggage, you threw all your stuff down in the bucket. I go down and get my bucket and everything, and I came up there and my life changed. I didn’t have to sleep in there with all those sailors fighting and sleeping in hammocks and 115 degrees on the Equator. So I slept in that gun mount.”

Have you ever been inside of a gun mount?

PROFESSOR LONGAN: No.

MR. BROWN: It's an interesting thing. As Hank grew older, I took him some places. We went to Mobile and went on the USS Alabama and then to Charleston and went on the Yorktown. I had been on some ships because my brother spent all that time in the Navy. I could talk to O'Neal from just having talked to my brother about it because he had started out on destroyers, and at that time he was on an aircraft carrier. That's how he spent his teenage years.

The gun mount is not something outdoors. You go down and you crawl in it from the bottom. It's completely enclosed steel, and you crawl in and you come into a room like this, and there's where you load the gun, and where the powder and the shells come in. It's a lot of automatic equipment. It's a very dangerous place. You have to be very precise.

One of the guys worked in the gun mount with Hank, and the guy made a mistake and it caught him and amputated his arm. You're putting the powder in, you're putting the shell in and then you have to close the breach, and the guy in the panic of the moment closed the breach too early. Hank said, "That was a very traumatic thing. The way the Navy handled that is they transferred the sailor who made the mistake that day. A ship came alongside and they put him in one of those little carriers and they transferred the guy who made the mistake and took him off that ship that day. He never came back in the gun mount. If that happened, you had to get rid of whoever made the mistake. You couldn't have that." That's the atmosphere Hank lived in as a very young man.

PROFESSOR LONGAN: How does he get from being in the gun mount to being a lawyer?

MR. BROWN: Hank spent almost three years inside that gun mount. I was kidding him a little bit. I said, "Didn't you ever go up and chat with the Captain?" He said, "Are you kidding, Brown? Chat with the Captain? I never went off that fantail. I was on that fantail two and a half years. You didn't have any business off the fantail and you didn't go anywhere. You didn't leave the fantail."

Hank didn't call it Kamikaze, but he was in all those Kamikaze attacks at Okinawa and Iwo Jima, and he said, "Everybody is dodging, trying to get away from those ships, and another ship hit them and cut the whole front end of the ship off. We all thought we were goners, but we were able to close the water tight doors and it floated, and they sent

us back to Hawaii.” He said it was the most happy thing. He said, “It took us about ten days to get back to Hawaii, and we hadn’t been there for probably a year and a half; living in that heat.”

I remember he said one thing. Hank had a warm place in his heart for the Catholic priests. He said, “We all landed in Honolulu and all the chaplains and everything, the Protestants and they would tell us, ‘Don’t be chasing the girls, don’t be drinking liquor, don’t be doing it.’ As if anybody was going to listen to that, a bunch of sailors who had been on a ship for a year and a half and tell them don’t chase the girls or drink liquor? We got off and we had a Catholic priest who was Father somebody who was a Chaplain, and when we got off, the Priest said, ‘Boys, you come with me.’ We went down the dock and they had these big wash tubs lined up and they were full of ice cream and beer. We hadn’t had anything cold. Boy, that was a welcome sight. I still have a warm heart when I think about that. He really knew what he needed to do for us. We hadn’t seen anybody or been anywhere in civilization for a year and a half thinking that we were going to be killed all the time. They filled all these things up and poured all the beer in there and then poured all these gallons of vanilla ice cream in it.” That was a wonderful story.

Of course, they got their ship repaired and went back to War, and Hank was there until the War was over. He was at the Battle of the Philippine Sea, which Admiral Halsey or Spruance, one was the guy who was managing that battle. By then, we were overmastering the Japanese in the air and were, of course, winning the War and finally annihilating them. But that was how Hank spent his life. That kind of life would change your personality or certainly shape your personality for life.

One thing Hank said about why Chief O’Brien liked him so much was, he said, “I took the manual on that gun and I learned everything about it. I thought I like living here in this mount and I don’t want anything to go wrong. I could take the equipment apart and put them right back together.” It got to a point where O’Brien really liked him. He said, “He wasn’t too friendly even though he liked me. I was terrified of him, but he liked me and I was assured of being able to live in that gun mount and not have to go back below decks and live in that heat and filth.”

PROFESSOR LONGAN: What did he do when he was discharged?

MR. BROWN: He came home and they all had the G.I. Bill. He first had to go to college, and actually he went to the University of Chicago for a while in the undergraduate school. He came back to Macon and ended up at Mercer and going to law school. Then he graduated from law school.

In our conference room there's a picture of Judge Maynard, who ran Judge Maynard's Law School in Macon. He trained a lot of the old time lawyers, and he was Eugene Talmadge's lawyer. He was a great lawyer. When you're reading in the law books sometimes you'll see Lige Maynard cases. He was very technical. That's where O'Neal got all that. He was very technical. He understood all these technical things you had to do with demurrers and procedure and everything and stressed that if you can win the thing that way, that's the way to win it is by studying hard and maybe the other side doesn't study the law and you can get a real leg up on them. So he learned that from Judge Maynard.

We have a pencil drawing of Judge Maynard in our conference room. He was Hank's mentor. Judge Maynard gave him a job. It was hard to get an entry level job into a law practice in the 1950s. Most of the bigger firms were family deals or were, again, this caste thing. They hired their friends and their relatives. Hank said, "I didn't have anybody to help me, so I went down to see Judge Maynard, and he said, 'Well, I'll tell you. I'll give you a job but you have to work for free.'"

PROFESSOR LONGAN: That's not much of a job, Manley.



MR. BROWN: But Hank said Judge Maynard told him, “This is the deal. You work for me during the day for free. You help me with my cases. You can use our office to practice law. You may have your own cases but you have to deal with those in the evenings, getting them ready and everything.” How many students at the Mercer Law School would take that job on today in an effort to get going?

PROFESSOR LONGAN: That’s a tough way to start.

MR. BROWN: Hank took that job. It was on the ninth floor of our building. My son owns that floor now. If you get off on the ninth floor and go through the door and turn right, back in that corner, that was where Carlton Mobley, who was later Chief Justice of the Georgia Supreme Court, he and Judge Maynard and somebody else had a law firm and Hank worked there. Hank said, “One thing he let me do is copy all of his forms, Judge Maynard’s, all of his Complaints, and we still

use them." I still use some of the forms that Hank called "bit pleading" lawsuits. The idea was if you bit plead, then you get a lot of admissions, rather than just notice pleading, because with notice pleading you never really get any admissions. But if you bit plead something, a lot of times they have to answer that and they can't deny it, and if it's answered, you don't have to put up evidence, so it saves you a lot of time later on. He said, "I was allowed to copy anything he had or use anything he had, use his books, and his library." Hank really made a reputation on appointed cases. He got these terrible appointed cases and worked hard on them and won them.

PROFESSOR LONGAN: Work harder in the day for free and taking appointed cases for free.

MR. BROWN: Hank took the appointed cases, and he made a little something for doing those. By the time I started doing it, we weren't getting anything, but Hank started winning the darn things. He had a wheelbarrow case and he won it. It was all in the newspaper. That got people to knowing who Hank O'Neal was. This guy killed a man and he hauled him in a wheelbarrow all around South Macon trying to figure out what to do with the body. A friend of mine on the Sheriff's Department, Harry L. Harris, said, "Yes, that was my case Manley. That dadgum O'Neal came and, 'I had my wheelbarrow case all made and all sewed up and he got the guy acquitted.'" The newspaper was real interested in that.

There was a newspaper reporter called George Doss, and he understood a lot about the law. He was a real character but a very bright man. Some people may remember him. Macon had a morning paper and an afternoon paper. *The Telegraph* was in the morning and they had the *Macon News* that came out at four o'clock. You could go out and get it on the street. I used to go outside the office and get a *Macon News* at four o'clock in the afternoon. I loved it. I would take a little break from practicing law and read the newspaper. Doss wrote for that newspaper, and he took a liking to Hank when he started winning these bizarre cases, like the wheelbarrow case. He had concocted some theory. The man was shot four times in the back and one time in the front and one from the side. Harry L. Harris was telling me about it, and Hank said, "Look, this is a rifle. It's made by Savage. The name on it is Savage.

Obviously he shot him in the front and it hit him and it spun him around and he couldn't stop shooting." The jury bought that and acquitted him. Harry was good friends with Hank but he was still complaining about O'Neal. He said, "A Savage .22 rifle spinning somebody around? How ridiculous is that, Brown." O'Neal convinced the jury that's what happened and they turned him loose. Hank had some of those cases and he started winning them. Mr. Adams was an Assistant D.A. in Superior Court, and Hank was doing the same thing. Charlie Adams, who was a good businessman as well as a good lawyer wasn't that interested in studying the law too hard, but he was great with talking to jurors and that type thing. He says, "O'Neal, I am tired of being an Assistant D.A. Lets you and me form a law practice."

PROFESSOR LONGAN: This is Judge Adams's father?

MR. BROWN: That's Judge Bill Adams's dad. They formed a law practice, and they handled anything and everything in Recorders Court. I practiced a lot in Recorders Court and went to Municipal Court and handled those cases before the Municipal judges. I would go there in the morning at 7 o'clock, 7:30, and go back in the afternoon at 3:30 and handle two or three cases in Municipal Court. So that's how they started their law practice. They ended up with the Chester Burge case and some other cases like that. Chester Burge is probably the most notorious case they tried and won. Pretty soon they had plenty of business.

PROFESSOR LONGAN: Hank O'Neal is a legend, and I want to know from you what made him so good.

MR. BROWN: Hank was an extremely bright guy but he was also obsessively energetic. You can be very smart and lazy, but you won't accomplish very much if you're lazy. He had tons of books that he had read. In my lifetime all of the really good trial lawyers that I have known, almost all of them were widely read, and I don't mean in the law. Not only did they know the law, but they were widely read generally.

PROFESSOR LONGAN: What about that made Hank O'Neal a good lawyer?

MR. BROWN: It broadens your whole view of the playing field. The law embraces just about everything; the witnesses you deal with, and the people you deal with. I tell my students, "You have to read. You are only in your twenties and you won't be able to argue cases to the jury and cross-examine people because you don't have enough language skills. You don't have enough metaphors. Language consists of metaphors. Feed your brain enough until you have enough metaphors. If you wait until you're old enough to have had enough experience to learn all this, you'll be too old to use it. You have to read as you're growing up and going through school and going through college and continue to read." Hank was a fairly religious person. He really had a deeply religious side to him which came as a shock to most people who knew him. He understood the Bible, just like Darrow did. Darrow was an agnostic. He believed there's a God, but he just doesn't pay us any attention. He's not a personal deity. He's there, but he doesn't have any interest in us. But Darrow, as we found out in the Scopes case, knew everything about the Bible because he killed Bryan in his cross-examination. He died two weeks after he was cross-examined by Darrow. If you ever read the transcript of that cross-examination, Darrow knew more than Bryan.

PROFESSOR LONGAN: Hank is smart, energetic, and well read. What else?

MR. BROWN: He had a tough gunner's mate disposition.

PROFESSOR LONGAN: Tell me what you mean by that.

MR. BROWN: You're living in that atmosphere every day. Somebody is trying to kill you, and it develops a tough character. One thing that helped me was washing all those dishes at the Pisgah Inn when I was fifteen. That was a hard job, I'll tell you. I was about to starve to death. That old lady didn't feed us very well, and I had to haul off all the garbage, trim trails, and chop wood. I mean I worked all the darn time. It was three months of a not too pleasant existence. It's something that changes your personality so that you're able to deal with the stress and adversity of practicing law.

PROFESSOR LONGAN: You almost feed off of it.

MR. BROWN: You feed off of it and it makes you a little stronger. You either collapse or you get stronger. A friend of mine gave me a book when I was still a young lawyer. It was written by a psychologist out in California, and it's called *The Psychology of Self Esteem*. He said, "Brown, I want you to read this book." I read it and it has helped me a lot. The basic theory was that each time you dodge responsibility, you lose something. I have a deadline to make or a job to do or I've set out to study this and I give up because it's too hard and I quit. You begin to think less of yourself and you have less ability to achieve. On the other hand, if you're a gunner's mate and you're in this with O'Brien looking over your shoulder with people trying to kill you and in a dangerous environment every day where you have to stay on your toes and it's 120 degrees inside those things on the Equator, and if you are able to survive that and do a good job, then your self esteem instead of going down, it goes up and you have more confidence. It's just like playing basketball or competing in anything, teaching school, being a law professor, or playing baseball. That was what that little book was about in explaining the human mind and how it responds to that type thing. That was part of Hank's development. That would describe Hank, using his own expression "tough as a cast iron billy goat." He was tough. We would get knocked down, and something would go wrong, but I always knew he would be there the next morning.

PROFESSOR LONGAN: If you had to describe something you learned from Hank O'Neal and hope, for example, that your students eventually learn, what would that be?

MR. BROWN: One thing is, it confirmed my feeling that you have to be well read to be a lawyer. If you want to be a lawyer you must have a tremendous fund of information, and you need to have perseverance. You can't be a baby. You can't be like the Emory students the other day who had to go see the psychiatrist because somebody wrote Donald Trump's name in chalk. They had a nervous breakdown; that's pitiful.

PROFESSOR LONGAN: You need to be a little more resilient than that.

MR. BROWN: O'Neal wouldn't have let somebody like that in his office. It's the greatest generation type thing to some extent like Brokaw wrote about. The people who went through that War and came back home and everything, they didn't have post traumatic syndrome. I don't remember seeing much of that. Some people were wounded, but they all came back from the War to our town and community, and went to work and that was it. They were darn glad to be home, and they all went to work. That's what that generation was like. Hank could figure out anything. He was real good with mechanics. He built a boat one time, and that's not an easy thing. He could get in the workshop and build about anything he wanted to build.

PROFESSOR LONGAN: A smart, energetic, well read cast iron billy goat.

MR. BROWN: He was also very studious and he studied things until he got to the bottom of it. For instance, I have nine volumes of memos he wrote at the end of the day. When he was through work, he wrote. Every time he had a case, he would write these memoranda, and there's nine volumes of them on Georgia law. I still use them. Hardy Gregory and I updated some of them and added some memoranda of our own, but I have a copy of those things.

I had a case with a lawyer in Atlanta—we were working on the same side—and I took him one of Hank's memorandums because it was such a lucid treatment of the subject. He had such a lucid clear way of writing about something and it was fun to read it. He had a lot of expressions, like "cast iron billy goat." I took it to this lawyer, and he said, "Who wrote this? I've never seen anybody write anything like that." I said, "That's Lawyer O'Neal's." It's scholarly stuff. If you read it, you go away with an understanding of the subject. I used all those memoranda in a lot of cases I tried after Hank died. I would go and sit in the conference room and read his memoranda. David Rainwater and I tried a bunch of those cases and got some really good verdicts and punitive damages using Hank's analysis. He taught me how to do those cases and we got good verdicts in them. I can go in and sit with his picture on the wall and it's almost like talking to him; it's weird. One of the lawyers who worked with me told somebody, "Brown has Hank O'Neal on the brain." I took

that as a compliment. If you want to have somebody on the brain, you might as well have Hank O'Neal on the brain.

PROFESSOR LONGAN: His name is still on the door, right?

MR. BROWN: It is. I could sit at that table and read those memoranda with his picture on the wall and this may sound mystical or something, but I felt like I was communicating with him. I spent fifteen years with him practically every day; sometimes ten, fifteen hours a day. You become mentally attached. I was able to stay the long haul and work with him. Of all the people who worked with him, I'm the one who stayed the longest period of time. We just struck a chord and got along very well. We liked each other and had a lot of fun. We traveled a lot together, and I can't tell you just how good he treated me. I wanted to learn everything he knew.

PROFESSOR LONGAN: Manley, I want to ask you about some particular cases you handled with Hank O'Neal. The first thing I want to ask you about actually is a set of cases that we have talked about as the Jim Walter cases.

MR. BROWN: Those cases really came to us by way of Judge Tommy Day Wilcox. Wilcox was behind me in law school because he was in the Navy before and worked at Mercer in the administration offices for Dr. Harris for a few years before he went to law school. Actually Wilcox was in my first class. I am happy to report he was a very good student. My law clerk at that time was a friend of Wilcox's; Jim Hudson who is a lawyer practicing down in Douglas now. He said Wilcox wanted a job, and I actually helped Wilcox get his first job with John James. While he was working with John James as a lawyer, he came to see me one day and said, "I want you to look at this case with me." His clients were Black, and they had a Jim Walter home. They had been sold this Jim Walter home, and what they didn't realize is that they had given a deed to secure debt on their property. It looked like a colossal fraud to me, and it looked like there might be a phony deed to secure debt that had been filed against the property they lived on. It even actually covered more property than the house set on.

PROFESSOR LONGAN: It was basically a scheme to acquire ownership of the property?

MR. BROWN: They were in the process of acquiring it by virtue of that, and the clients said, "We didn't sign this." I said, "I'll tell you what T.D., O'Neal hates this kind of thing. It's oppression and the Irishman in him can't stand that, so come on, let's talk to him about this." We go to Hank's office and I introduced him to Tommy Day. I said, "This is my friend, Tommy Day Wilcox, who was a student of mine and works with John James. I want you to look at these documents, Hank. This sounds like it might be something right up your alley. It looks to me like, just based on some other things you and I have done, that this is some kind of a fraud that might be subject to punitive damages." Back then punitive damages were uncapped. The capping of punitive damages was a late arrival in Georgia. We looked at it and Hank's eyes lit up like a Roman candle. The more he read, the more excited he got. He said, "This really looks good. Leave these things with me and let me look this over a little bit." We left, and I told Wilcox, "Man, he's really interested in this. Let's see what happens." To make a long story short, we wound up making a really good case. Hank, T.D. Wilcox, and I tried that case. It was defended by Denny Groover, so it was a group of real interesting lawyers. They sent a Rutgers trained lawyer to be the lead counsel, of all things, over Denny Groover who was a great lawyer. He was supposed to be his assistant. Denny couldn't be an assistant to anybody. He was in the Black Sheep Squadron in World War II. He was a tough guy and a boxer. Denny was just unbelievably smart and talented. His son, Duke, practices in Macon. We tried that case and we were wearing them out so badly that finally about halfway through the trial the lawyer from Rutgers retired from the field and substituted Denny off the bench.

PROFESSOR LONGAN: You ran him right out of the courtroom.

MR. BROWN: He stayed in the courtroom, but by that time O'Neal he had hit his pace and there was no stopping him. He was like Floyd Buford, except he had a little more finesse than Floyd. He had the train coming down the track and there wasn't any stopping him.

In most of those cases I did, the work was with expert witnesses. I had some friends in the crime lab I had worked with as a prosecutor up in Atlanta, and they could do private work. There was a document examiner and his name was Jim. He was a great witness. I would handle the document examination, the fraud, the forgery and, that kind of thing. Wilcox handled the examination of the clients. They were very affectionate people, but they had almost no education at all. They lived on Elberta Road out in Warner Robins, and they all lived in a community. They were charming people, but they had really duped them. They had taken them to the cleaners on that thing, and they had paid all this money and after doing all that, they were going to not only to lose the Jim Walter home but all the property attached to it. We brought a lawsuit to void that and for damages and for punitive damages. That's what those cases were about. It was just a great trial. The clients couldn't figure out what happened. What happened to us? That's where O'Neal coined a phrase that I used in a trial we were working on recently. We have copies of all the corporate documents, and it was about a foot thick. The first thing we did was put all that into evidence when we started the trial. This group is doing business with Willie Ward; this totally charming but illiterate Black man who they have cheated. Of all people not to be cheating, they shouldn't be cheating Willie Ward. Hank coined a phrase, he told the jury, "Let me just tell you, about a corporation because the corporation did this and the corporation did that and this is just a business deal." He took that stack of papers and laid it on the jury rail and he said, "Let me tell you what a corporation is. A corporation is just a stack of papers. It has no feelings and no heart; it's just a stack of papers. What they're saying to you is this stack of papers forged these signatures." He embellished it some but it was a wonderful argument. I've used it a whole bunch of times over the years. The jurors were infuriated about it. That was in the 1970s. There weren't many big verdicts then. I think Hank and I had gotten the biggest verdict in a personal injury action in Bibb County, and it was about \$400,000. They gave four or five hundred thousand dollars in punitive damages, plus the damages, and voided the deed. It was a home run case, all over the newspapers and the Courthouse about fell down. Then we had some follow-up cases on that. We had a similar case against an aluminum siding crowd. Do you remember the Danny Devito movie?

PROFESSOR LONGAN: Oh, yes.

MR. BROWN: That was about an aluminum siding man. We watched that movie and laughed so much because it reminded us of the defendants in our case. There's nothing more crooked than that aluminum siding selling. This poor man was a janitor at a public school out on Second Street. He was the nicest man and had the nicest wife. The aluminum man even bought a pistol with him to his house and laid the pistol down while he talked to him. It scared the poor guy half to death to get him to sign off on this deed. We finally found out who was signing everybody's name. It was one woman they had. She would get them to sign one document, and then she would put it up on the window and let the light shine through and trace it on the security deed. We finally cracked the code. She was testifying, and called it a "deal." She said, "Yeah, we did that deal. I put it up on the window and signed over here so I thought it was all right to do that." The jury did not think that it was all right to trace a signature.

PROFESSOR LONGAN: Clearly not.

MR. BROWN: We got verdicts amounting to \$1 million, and more in punitive damage awards on \$11,000 worth of actual damages. Jurors hated those cases. The courts reversed some of those cases. It was hard with the make up we had on the appellate courts then. It was hard to keep a good plaintiff's verdict, but we kept some of them and settled some of them. I thought it was a worthwhile project. We probably had more fun than making money out of that.

I remember the man we represented in that siding case. After we got a big verdict against that aluminum siding crowd, we filed another lawsuit in federal court to get the promoters who were behind it and were successful in that. They paid a good bit of money to get rid of that judgment. O'Neal had this peculiar way about him, like the cast iron billy goat expression. We collected that judgment over a period of years, and he would call our client. He lived on Charles Street off of Houston Avenue. Hank would have him come to the office. When we would collect the money, Hank would negotiate the check and he'd give him his money in cash in a paper sack. He got the greatest kick out of that because the man would come in and we would talk to him, and Hank said, "Here's another payment on your case." He was like, "Where did all that money come from." The man began to get suspicious. The last