

**GREENSBORO VOICES/GREENSBORO PUBLIC LIBRARY ORAL HISTORY  
PROJECT**

INTERVIEWEE: Clarence Malone

INTERVIEWER: Eugene E. Pfaff

DATE: N.D.

[Part I]

[The beginning of the interview is not on the tape.]

EUGENE PFAFF: I wonder if we could continue. Were you ever admonished from the bench for, for--during any of this? The only thing that comes to mind from the paper is that [tape malfunction] apprised of the fact that [tape malfunction] had been dismissed or was about to be dismissed [tape malfunction] yes you had [tape malfunction] delaying tactics?

CLARENCE MALONE: No, no, never. [tape malfunction] we knew very well--and everybody could see through the fact--that they were just that. They were, at least on the face of them, legitimate. You know, they, they were not frivolously made. At least we had some basis for it. The only admonition that I recall at all during the entire course of events was done at the bench. I doubt that anyone, including the clerks or anyone else involved, knew anything about it other than Judge [Herman] Enochs and myself.

I had gone to a local rally the night before, as I recall it. And I must have gone to a million. There was something going on every night and every evening after court and that kind of thing. And I had, as I recall it, a button of some kind on my lapel. I don't even know what it was. "Freedom Now"--something of that sort.

Judge Enochs, as I recall it, asked me to come to the bench and very courteously asked me if I simply would not wear it. I don't even know what the button was. I don't think it was anything grossly offensive. I mean--and no hassle arose over it. He asked me and I agreed. Other than that, there were no exchanges, as I recall, from the bench about conduct or anything else.

EP: I see here in my notes that--the name Herman Winfree. I'm a little confused as to who was the solicitor, whether it was Hubert Seymour or Herman Winfree during this third week in May, talking about May twentieth, May twenty-first [1963, following mass arrests and incarceration at the polio hospital], that kind of thing.

CM: Winfree was employed as an assistant, or maybe he was a recorder's court district attorney. But except for the very early days, the first day or so, I personally had little contact with him. Because I think, and again I'm thinking back maybe ten years, that Hubert Seymour was employed, and he simply handled these cases, whereas the regular solicitor was involved in another courtroom with, you know, just the regular court docket.

I, when I say my contact with him was limited, I think that he perhaps sat in on, you know, all--well, you wouldn't call it strategy sessions, but serious procedural positions. But for the most part, Hubert Seymour kind of, you know, gave the arguments and carried the ball, so to speak. Now I'm pretty sure that he was in and out of the courtroom and they developed strategies to combat our strategies, and that kind of thing.

EP: One point I was thinking, thinking of specifically, was that on the afternoon of May twentieth, Enochs recessed court. And you and Mr. Winfrey met with him to arrive at a decision as to whether to begin trials or call the entire twenty-page docket. Now what was the issue here?

CM: This was the beginning, as best I can recall, this was the beginning of the arraignment sessions as to whether--the idea being whether or not we would simply call the cases and try them one by one, or--and I think that they were urging--when I say "they," I mean the prosecution, including Judge Enochs--were pressing for the arraignment proceeding as opposed to trial. Because with that many persons, my present impression is that they were thinking that with that many persons, somebody was going to come up and say that they had not employed me to represent them, or they had not authorized me to represent them, in which event it could really balloon into a real ethical kind of question that could, you know, reflect on CORE [Congress of Racial Equality], reflect on me, could really open the thing up. Now that is my--

EP: And you didn't want that any more than they did.

CM: Oh, certainly not. Certainly not. It appears that--I was pressing for trial. And of course, they had the last word. When I say "they," the prosecution had the last word. They were pressing for the arraignments to proceed, because my idea was to keep the jails full. And they adopted this as a strategy for emptying the jails, which sort of backfired, because we could get them arrested faster than they could process them out.

EP: So I assume that the result of this meeting was that--

CM: We proceeded with the arraignment.

EP: Which is what they wanted.

CM: Yes. That's my present recollection.

EP: There was some controversy over whether or not to allow one defendant in the court at a time or groups of defendants.

CM: Well, now that arose--that I recall rather vividly. That arose by virtue of the fact that, I think I raised the objection to bringing defendants in in groups, because the police or somebody for the police--I don't know who had done it--at many of the establishments, photographs had been taken of the persons who were in the crowd. You know, crowd photographs had been taken. And with the restaurateurs or the managers of the theatre or whatever were the prosecution's witnesses, by bringing the students in in batches, so to speak, they could sit with their photographs, you know, and look and determine, you know, Was this guy there? Let's see. Yeah, here he is.

And of course, by this time, I think we had adopted a procedure which I really think was Hubert Seymour's brain child. Really, then, by then it had become a question of, you know, how the hell do we facilitate--just how do we do this thing? And both sides really were working to facilitate the proceeding. And as I--

EP: Oh, you mean by this time you had given up the strategy of delay?

CM: Not given it up. But the delaying tactics were really legally--you know, we were concerned, or I was concerned, that I have a legal basis for everything we did, so that within the framework of legality, we worked on strategies for facilitating it. Obviously I couldn't delay it forever. So that it wasn't a question of abandoning the concept of keeping them in. But for the proceedings to proceed orderly, then we sort of interchanged ideas.

And as I said before, I think that Hubert Seymour adopted the attitude, "Well, look, let's bring them in here, bring them up to the rail. If the owners of the businesses cannot identify them, we'll dismiss. If they say that they can, we go to trial."

EP: And this was the arraignment proceeding, still?

CM: No. This came about later. After, at some point, it turned out that this arraignment proceeding simply wasn't working as the prosecution had expected, by virtue of the re-arrests. And you know, we're sort of spinning our wheels.

Then--and I simply don't know who arrived at it or how it evolved. But then we--I recall a conference at which Seymour and I agreed that--and it appears to me it was being pushed more by him, certainly not by me. I condoned it, because by this time we'd

become concerned about bond and defending all of these. And the more cases I could get rid of, the better off we were in the future.

And it seems to me that we entered into a, sort of a tacit agreement that we would bring the students before the bar. The state's prosecution witness would determine if he could identify the person before him as being one of the persons that was at his place and the alleged did whatever they were charged with.

EP: Well, did he--

CM: We just sort of set them aside for trial. But for those that he certainly, he just unequivocally could not identify, then the state would dismiss the prosecution, and of course, they were free to go.

EP: Now [Bennett College faculty member] Elizabeth Laizner characterizes this as brilliant strategy on your part, because Enochs was insisting that it be definite identification of each individual, and that this was impossible, except for a few people that stood out, like an extremely tall student, or herself, as one of the few white persons involved. Was that at this time, or was that later in trial in superior court?

CM: I think when, when, after this agreement--when I say "agreement," I don't mean in the true sense of the term agreement. But after we adopted that strategy, that of, you know, bringing them in and standing them up every day, if the guy can identify, fine; if he can't, then you're dismissed, it occurred to me that--and I don't know at this point--I tried hundreds of these cases after Greensboro. I know it was a problem in Fayetteville. It was a problem in Elizabeth City. And I don't, just simply don't remember if there was a problem of the police department showing to the witness their photographs and the witness looking at the photograph and pointing out. I don't know if that's what happened in Greensboro.

But I do recall that I objected to bringing the students in as a group. You know, bring them in one by one. If you can identify him, fine. If you can't, you know--but to bring them in together, it was a question of their looking at these photographs and identifying from the photograph as opposed to from their memory. So to that extent, yes, it was a strategy.

EP: Did, did you prevail on that point, or were they brought in in groups?

CM: I simply don't remember. Wait a minute. It seems to me that they--because I recall them coming from the back of the judge's bench. I must have prevailed. I have no independent recollection of it.

EP: Well, to characterize this whole thing, were many trials actually conducted in municipal court or just enough to be able to appeal them to superior court?

CM: Many were, actually. Well, let's see how best to answer that. A number were actually tried in the municipal court. But after adopting the strategy of this identification, we stacked up many, many for trial and sort of laid them aside to reach later.

You know, they'd bring the guy up. If they could identify him, rather than try him then, we laid it aside to be tried at some future time. And between the time that we adopted that strategy and before we got into a wholesale trial of them, I think we simply requested a jury trial to get them over into superior court, which pretty much terminated--and that was time-consuming, tremendously time-consuming, must have taken a week or more to even get that done. But eventually we terminated the prosecutions in the recorder's court by requesting a jury trial, which had the effect of sending them straight over to superior court.

EP: Now on May twenty-eighth, you requested a continuance based on the argument--well, the first case was dismissed for insufficient evidence. And then you asked for a continuance because you had said you hadn't had time to study the testimony of the, of the first case. And I think the [news]paper records Enochs as saying to you, "Well, you did pretty good on the first case--"

CM: Yeah. Well, that was clearly a delaying tactic. I think he realized that I knew that that was not a--that was a strategy more than a real legal argument. But obviously, based upon--and I don't even know what the convenience was at that time.

EP: You had also requested a motion, or you made a motion that the court waive appearance of each of the other defendants as their, as their case was called, and this was denied by the bench. What was your purpose in, in doing this? I realize these are very specific questions, but--

CM: Yeah. And I have no idea.

EP: Okay. Well, I, I don't want to, to mull you down in the specific details.

CM: Yeah, you know. At this point, I simply have no idea why.

EP: [pause] Did you also defend Jesse Jackson when he was arrested for incitement to riot?

CM: You know, I have serious question in my mind. What was it that I ran across fairly recently? [pause] When I say "recently," in the last two or three years. Because at that

time, Jesse was, as I recall it, president of student body [of North Carolina A&T State University] and a relatively unknown as far as the CORE strategy was concerned. The full answer to your question is, I don't know.

EP: Well, his case, and the cases of these that you took to superior court, were settled by "null process." What exactly is "null process"?

CM: It's a Latin term, nolle prosequi, n-o-l-l-e p-r-o-s-e-q-u-i, which is, in effect, the state chooses not to prosecute at this time. It's simply a means by which you get cases off the docket.

EP: I gather that this--

CM: Without dismissing it.

EP: I see. I gather that this was a way of making the city, the court look good. They had carried it to the limit--they'd--through the court. They could claim victory for that. But the students could also claim that--

CM: Were they null prossed in the superior court, the cases to which you're referring, including the Jesse Jackson case?

EP: This is my impression--that those--

CM: That they were null prossed in the superior court?

EP: Yes. This is the point at which I put aside my notes. I know that there was a, you made a motion for continuance on the twenty-eighth [of May] of some two hundred cas[es]--two hundred and forty cases. And the trial date was reset for June tenth. And the court, I mean the paper tended to characterize this as some kind of prearrangement made by you and the solicitor and Judge Enochs.

CM: I'm sure that there was. The basis for it I, I don't have any real recollection on.

EP: It was at this point that he admonished you--had you told your clients they would have to reappear for court?

CM: Even though--yeah.

EP: Was this a serious point with you? Because as you said, a lot of these students had gone home, a lot of them out of state. Was it practical that, that you could indeed guarantee their reappearance in court?

CM: Except for their commitment, except for their commitment, you know, to the cause to return. And the dedication was pretty strong.

EP: What, what is your legal position as their attorney if they don't? Does this--

CM: Oh, I don't have any.

EP: It's just that a, a--

CM: It's just the capias issues and they're rearrested. Obviously a court could not hold me to do anything other than advise them. You know, so if they don't show up, they're the ones who are in trouble. There's nothing that could bother me.

EP: Now six cases were heard on the twenty-eighth, of which four were convicted, one was-- a capias was issued because one did not appear, and one was acquitted because positive identification couldn't be made. And then there was a continuance of the others. Now Boyd Morris [owner of the Mayfair Cafeteria] testified against them.

I guess the two questions I have, you know, to move this along, is, was the continuance granted because--I got the impression from Judge Enochs, who's now an attorney, and, and the paper, that he knew you were going to take these cases on--

CM: As a jury trial.

EP: --so that just a few of them would actually be tried. The appellate procedure would take its course. And the continuance was so that the others wouldn't be tried and court time taken up, and their cases--the disposition would depend upon what happened in the appeal. Was that the sequence of events, or--

CM: I think this--and I have no clear recollection of the motivation--but I think that by this time, school is out. And for fear of any number of students having been called and failed, you know, in having gone home and not returning--now, I can't be certain that that was my motivation. And again, I'm sure that a part of the motivation was that everybody was sick to death of the whole damn thing. I think the added impetus, though, was that some of the students had gone home, and by asking for jury trial, at least we would have the opportunity to try and get them back, rather than having them call and fail and a lot of writs issued.

I say that because the strategy was not adopted for a disposition of the cases, you know, en masse, until we were in superior court, as I recall it. I don't think that we had hit on that at the time that they were in recorder's court. I recall reasonably vividly--and it was adopted back in Judge Enochs' chambers. Of course, by this time we'd been dealing with each other every day for two, three months. And you know, it's, you know, it's still very adversary, but behind the scenes we, you know, we know each other and we can talk and that kind of thing.

It appears that Lonnie Herbin[?], Hubert Seymour, me, Kenneth Lee--possibly, but I have no definite recollection of Major High being there--met with Judge Chrismon[?] either on the day that the trials were to start in superior court, maybe the day before, but when they are immediately pending, and decided--and it seems to me it was Judge Chrismon's idea, because we're talking about the fact that, look, we could be here for years, you know, trying them out one by one. How can we try these damn cases and get them out of the way? And I'm reasonably sure that the suggestion, pardon me, as I recall it, came from Judge Chrismon. I can't be certain.

But it seems to me, he said, "Well, Mr. Solicitor, you select two of your best cases. Mr. Malone, you select two of your best cases, and we'll pull--" he said, "I'll--" he himself, "I'll pull one out of the hat." I'm pretty sure that's what happened, because we came up with five, I see here. One, two, three, four--yeah. And--now, wait a minute. Did that come up from Judge Chrismon or from Lonnie? Anyway, it evolved out of this conference. And the state and I--as far as my authority went--and at that time I felt comfortable that the defendants would do whatever I advised.

And it was for the convenience of everybody involved that the prosecution would select two cases, I would select two, and Judge Chrismon would pull one out of the hat. We would try them out, because it was obvious that they were going all the way. They were going on to the Supreme Court. And if--and we agreed what the punishment would be. Do you recall what the punishment was?

EP: I'm a little confused as to which cases were [unclear--both talking at once]--

CM: This is--we're in the superior court at this point. Wait a minute. It should be. And I don't have that statement of case on appeal.

EP: Was it dollar fine and court costs? Seemed to me a pretty light punishment.

CM: It would have, it would be in the statement of case on appeal, and that I can't find. It may be--no, it wouldn't be in the brief at all.

EP: Was there ever any danger that some of these people would go to jail for several years?



CM: No. Danger, no. Possibility--no, really. They were all charged with city ordinance offenses. And your city ordinances, for the most part, can't get more than thirty days or fifty dollars fine.

EP: It seems, now--

CM: Something like that.

EP: Getting back to this "null process." It seems to me, from reading the paper that, that I think--it seemed that the solicitor's office realized most of these cases they weren't going to win, and that it was something on the order of a dollar fine and \$16.50 court costs or whatever.

CM: Yeah. Yeah.

EP: So that null process was their way of looking good, in effect.

CM: Now, that--well, the reason for my asking was this: in superior court--and I'm 99 percent sure that it was--pursuant to the agreement that I've just spoken about, entered into in Judge Chrismon's office, the basis for the agreement was--which obviously couldn't be on the record--was that, you know, we would select our best case. They would select theirs, try it out before a jury. If the state prevailed, then we would come in and tender pleas for the rest of them. If we prevailed, of course, the other cases would be null prossed.

EP: Apparently, you prevailed.

CM: Well, that's an interesting sidelight, too. We went on to trial. And we tried out the five--we consolidated five cases for trial and tried them out, you know, fully, 100 percent. The jury went out and returned verdicts of guilty, from which we appealed to the Supreme Court.

EP: Was this the State Supreme Court?

CM: Yes, the State Supreme Court. And the State Supreme Court threw out the prosecutions, which meant that eventually we prevailed. And it was after the Supreme Court opinion that the ordinance under which they were charged was improperly applied to their conduct and therefore dismissed the prosecutions in the five cases. The remaining cases, while they were not 100 percent all embodied within that opinion, pursuant to our agreement were simply null prossed.

EP: Does that mean that the ordinance was declared unconstitutional?

CM: No, no.

EP: Just improperly applied.

CM: Improperly applied. Now the majority of those prosecutions were based upon an ordinance involving the blocking of the streets. And the dates--

EP: Is this when they sat down?

CM: Yeah. This is when they sat down.

EP: That would have been June fifth, or June sixth.

CM: Right. This is when they just gathered up a couple thousand people, I guess, and arrested. And many, many of these were adults. When I say "adults," as opposed to students and that kind of thing. Many of these were business people, teachers, you know, the whole community. And what the prosecution did was that they--there was simply nothing on the books embodying this kind of conduct.

EP: I remember you made an argument that the ordinance, that the--when the city--

CM: Was meant to apply to inanimate objects.

EP: Such as--

CM: Really a tinker's damn. Construction materials, what--as I recall it, and again, I'm talking from--well, the brief will tell us.

EP: I remember you said that the--it was implied when the police closed off the streets to traffic, that was implied consent for them to be in the street.

CM: Yes. That was one of the arguments. But the Supreme Court--

EP: Was that argument rejected?

CM: Yes. Well, when I say “rejected,” the Supreme Court bottomed its opinion on the inapplicability of the ordinance under which they were charged to their conduct. I think it was argued--

EP: They agreed with you.

CM: Yes. They argued--

EP: Inanimate object?

CM: We argued all of it, but their opinion, which is recorded--I can get it for you in just a minute. Appears that--here's a sentence: “--from a verdict of guilty, as charged by the jury, and judgment of court that each of the defendants pay a fine of twenty-five dollars in court costs.” Now that was substantially larger than the recorder's court, because in the district court at that time, court cost was around fifty dollars. So what we're talking about is roughly seventy-five dollars per defendant. And there must have been fifteen hundred of them. So that the amount would have been astronomical, had, you know, the state ultimately prevailed.

Okay. As I alleged in my brief, and they're very short--[reading] “On June 6, '63, the five appellant, appellants, along with hundreds of other persons, participated in a protest demonstration in the form of a march along the sidewalk in the city of Greensboro to a point in the center of the city, commonly known as the square, which is the hub of the business area of the city, at which point some of the demonstrators or marchers moved into the center of the intersection of Elm and Market Streets and proceeded to sing and clap their hands--and clap their hands. When this occurred, a police detective, Captain W.[William] H. Jackson, who was not in uniform, stepped to the center of the crowd, raised his hands for silence and stated to the persons in the street that they were violating an ordinance of the city of Greensboro. If they did not move out of the streets, they would be arrested. Approximately three minutes later, some fifty or sixty police officers in the area formed a ring around those persons in the street and arrested all persons within the circle and charged them with violating Chapter 18, Section 58 of the code of the city of Greensboro. There was no vehicular traffic in the area at the time the marchers moved into the street, except for two cars, which were--as stated by Captain Jackson, were attempting to get out of the area, for the reason that the police department of the city, having had advance knowledge of the demonstration, had placed barricades and police officers at all points of entry into the area, who turned away all vehicular traffic attempting to drive into the area.”

Now the ordinance, as I recall it, was one providing for blocking of streets. And it was simply a section taken out of a construction ordinance which prevented, you know,

stacking building materials, that kind of thing, to obstruct traffic. And it was really on that basis that the court's opinion went along.

EP: Now you submitted these briefs--forgive me, I'm not aware of, that aware of legal proceedings. At--in the superior court trials, were witnesses called to identify these people, or how, how did that procedure go?

CM: Yes. Okay. Particularly, all of these involved that one ordinance. Now in the superior court trial, all of the witnesses were police officers. Because what, in effect, they did, these people are marching around in the middle of the street, you know, sort of a square, but circle. And at their refusal to disperse, the police officers locked arms, forming a cordon around those people. And all within that area were immediately arrested, so that the officers within the group who formed around them--it was not so much a question of identification there, because if they were within the circle, there was no question about their having been there. And only those persons who were within the circle were arrested. So the question of identification was practically nil there.

EP: So what was the basis of your defense? Inapplicability?

CM: The inapplicability of the, of the ordinance.

EP: In the Supreme Court--now in this process, is it that not so much actual argument by the attorneys is heard, as their submission of briefs and then their judgments on the briefs? Is that it?

CM: Well, no. What is done--and the best way to explain it is to give you the appellate procedure. And I think I can capsule it.

Judgment is entered, from which we give notice of appeal. Upon the giving of notice of appeal, a transcript, which is taken by the court reporter, is then transcribed and provided to the appellant and the state. The transcript is taken out of question and answers--everything that was done or said in the trial--and under our appellate procedures, taken out of the question and answer form and sort of put in a narrative form. That is to inform the reviewing court of all of the facts and circumstances surrounding it.

The appellant then sets forth what we call assignments of error. Having scoured the whole transcript, you go back and you try and find mistakes of the law. And you set them out in your assignments of error. You assign that the court committed error in permitting thus-and-so to occur.

In this case, the major assignment of error--and we had two assignments of error. There were probably more assignments of error, but they were embodied in just these two questions. [reads] "Is the ordinance, as applied in the instant case, an unconstitutional

interference with the defendants' rights to freedom of speech and peaceable assembly, protected against state infringement under the due process clause of the Fourteenth Amendment of the United States Constitution, Article I, Section 17 of the North Carolina State Constitution?" That is your freedom of speech and assembly, First Amendment argument, First and Fourteenth and all of that.

In other words, our position was that these people were petitioning the government and the world generally for redress of their grievances involving segregation, and et cetera. Can the state, under its police power, prevent them from peaceably marching in protest without infringing their First Amendment rights? That was one of the questions involved.

Now the appellate court simply ducked that issue and went off on another. They simply didn't argue it. That is, didn't address it in the opinion, as I recall.

The second question, "Is the ordinance, as applied in the instant case, unconstitutionally vague, in that it does not apprise these defendants nor the public generally of the offense prohibited by it?" And that is the error that the Supreme Court went off on and formed its opinion on, or wrote its opinion on, that the ordinance itself only put on notice to construction persons that they were not to obstruct with building materials and that kind of thing. But it simply did not fairly apprise the public generally that you're subject to arrest under this ordinance by marching around the block.

EP: So the question was not whether or not they understood from Captain Jackson at that point that they were committing a violation of the ordinance, but that this was the ordinance and this was the specific act that they were committing that was violated?

CM: Right. Right. And as I recall it--and I can get you the opinion, make a copy of it in a minute--as I recall it, Hunt Parker, who was then Chief Justice of the Supreme Court, gave Lonnie Herbin hell in that opinion for something that I thought was reasonably picayune and is not usually done in an appellate opinion. I simply don't remember what it was, but we can find it in a second.

EP: This took care of the people who were arrested on the fifth and sixth of June. I was wondering, what about--

CM: Well, this, in effect, took care of the whole bit.

EP: --the others at the S&W [Cafeteria] and the Center and the Carolina [Theaters].

CM: Yeah. By that time nobody really wanted to open up Pandora's box.

EP: Just wanted to get rid of it by the null process.

CM: Yeah. And there was, there were efforts by, which by this time--you see, it takes six to nine months for an appeal to process itself and run its full course. And in this case, it probably took more like twelve or fourteen months. Because as I recall it, the Supreme Court, after the oral arguments, sat on it for about five months before they came down with an opinion.

EP: So by this time, we're well into 1964.

CM: Yeah. And we are--you know, it looks like it's going to be resolved. It's--nobody wants to open a Pandora's box again.

EP: By that time the Civil Rights Act had passed. Do you think this had an influence on the decision of the court?

CM: I'm not a hundred percent certain. But I don't think that the Civil Rights Act had passed when that opinion came down.

EP: But it was generally assumed that it probably would.

CM: Yes. Yes.

EP: So you think this might have been a factor?

CM: Yes. I'm sure, I'm certain that it was. You know, the subsequent events led to a conclusion that, look, it's inevitable. It's going to happen. Why just open old wounds?

EP: Were, were you in Greensboro continuously all this time, or--

CM: For the most part, yes. For the most part.

EP: Now, Elizabeth Laizner--we mentioned this in our previous--and this is my final question. You've been very generous with your time. She--the civil rights direct action had pretty much died down, except for activity around Chapel Hill. And she said she took part in that blocking the road to the airport and they were arrested. And she said--and this--I've forgotten the judge's name.

CM: Raymond B. Mallard.

EP: Exactly. Her implication was that he was appointed to hear these cases--and she can't base this on anything except what CORE believed--was to really give them hard sentences, take a hard line position on this. That they weren't so much concerned whether they actually did time as the fact they knew these cases would be appealed, and that the process was to financially break the back of CORE.

CM: That's exactly what it was. Let me see if I can posture that for you, somewhat at least. Mind you, the Chapel Hill cases--and, let's see, I--in going looking for this, I came across some of the proceedings arising from Chapel Hill. This is one of a long series of cases. I probably have the record in Dr. Laizner's cases around here some place.

EP: You say you, you defended people all over the state.

CM: All over the state, yes.

EP: Was it because of your reputation in the Greensboro case? Was it because you were associated with Floyd McKissick's firm or--

CM: Well, I was--how best to answer that? Well--

[End Tape 1, Side A--Begin Tape 1, Side B]

CM: Firstly, in a nutshell, sort of an aside that perhaps would not be available any place else, as to how I first of all happened to go to Greensboro, period. That's a story within itself.

I had been practicing for, my guess is, roughly twelve to fourteen months when the matter arose. It was a loosely-kept secret that the, these particular demonstrations were scheduled to, as a matter of strategy, break on election day--unfortunately for Greensboro, fortunately for the planners. And I certainly wasn't in on the planning as such. Greensboro, if you recall in that year--I think it was '63--

EP: Yes.

CM: --had a clean sweep, for the most part, of your local Democratic officials. And they were replaced by surprise at the polls, by Republicans. The, this was not, I don't think--I don't see how it conceivably could have been a part of the strategy of the planners for a statewide break. Certainly that didn't include the situation in Greensboro. It just seemed like a good thing with the, you know, the all-American way and that kind of thing--everything having happened on election day, and let's start our push.

But Greensboro was complicated by the fact that you had a brand new sheriff. You know, it was just a clean sweep. And the people who were elected, more or less, ran

for the sake of filling up the Republican ballot, so that they woke up the most surprised people, particularly the sheriff, whose name at the moment simply escapes me.

EP: Clayton Jones.

CM: Right. And obviously, at the time, surely he would not have admitted it, and I don't know if he'll admit it now as such, but he just didn't know whether to shit or go blind. You know, this is a totally unprecedented kind of occurrence.

The demonstrations broke here roughly one, two o'clock in the afternoon--that is, in Durham--and gained momentum through Sunday night. By Sunday night, there must have been five hundred or a thousand arrests here in the city of Durham. And as a beginning lawyer, it was really just an exciting time. I just went down there to see what the hell was going to happen. And by about ten thirty or eleven o'clock Sunday evening, the tensions were building. They had built to the point that just any untoward activity and the whole damn town would have gone up.

EP: Now you're talking about Durham or Greensboro?

CM: Durham. Durham for the moment. And what it amounts to is I stayed down the courthouse here until roughly two o'clock in the morning. The kids were drafting their own warrants and that kind of thing. And I went on home about, well, it must have been about two o'clock in the morning when I got there.

Well, earlier that evening, my wife went with me. But when I saw it getting rough, I told her, "Look, I can only duck for me. You're going home." So I took her home and I came back.

EP: So it was getting rough out on the streets.

CM: Well, at the time, the location of the courthouse was on Main Street. And the blacks obviously were in and around the courthouse, because it was, you know, parents, relatives, just interested parties to see that the kids were not manhandled and that kind of thing. Then you had, coming from the hoodlums, the rednecks from out of the woodwork began to gather across the street. And of course they yelled taunts and that kind of thing back and forth. And it didn't take a genius to figure out that, you know, this thing can really explode. Fortunately it didn't. But about two o'clock in the morning, as I said, it sort of cooled down enough, and I was tired, too, and I went on home.

And of course, when I got home, my wife wanted to know what had happened after she left. So we made a pot of coffee, and we were sitting there and I was telling her what went on for an hour or so. And just as I started to crook my knee to get in the bed,



the phone rang, and it was Floyd McKissick. He said, "Buddy, you've got to go over to Greensboro."

"What the hell for?"

He said, "Well, the--they've got a gillion arrests over there. And I want you to go over there and help Kenneth and Major." That's Kenneth [Lee] and Major High. Well, I didn't know what they're about. He said, "Well, go on over there and help them." Fine. I got no problem with that, because, you know, just--it's still thrilling to me to be involved. So I got up early in the morning and jumped in the car and headed over there, under the impression that, you know, I'm just going to assist these older, experienced lawyers and, you know, carry books and deliver messages and crap like this.

So when I got up near Alamance, my--had a water hose bust on my car. I had an old, raggedy '57 Buick. And I stopped at a service station in Graham to have my water hose fixed. And just as a matter of caution--I realized I was going to be late. And I knew it didn't matter, you know, because I'm just going to be sitting there. And I called Kenneth Lee's office to tell them that I was going to be late, but I was on the way. And he says, "Man, every damn body's looking for you. We're waiting for you." You know, the judges--

"What do you mean, waiting for me?" And for the first time, I am informed that I'm to represent all these people. And because of my lack of experience, you know, comparative lack of experience, and stupidity, I guess, it really didn't shake me. So I go on over here, and he tells me on the phone that, "Look, you're the man, you know. We're going to give you all the support we can give you."

EP: Now up to that point, you did not realize that every student had been instructed to name you as their sole attorney, is that correct?

CM: Well, at that point they had not.

EP: Oh, I see.

CM: At that point, they simply had not. You know, nobody really knew what was going on. Now this is--the demonstrations broke on Saturday. This is Monday morning. And so then the guy was--about the time I decided to call, he had about finished my car. And I jumped in the car, obviously, and rushed on over. And Kenneth told me to go straight to the municipal court building. And I didn't really know its location. You know, I was fairly--just generally familiar with Greensboro, because I attended high school at Sedalia at Palmer [Memorial Institute], and on trips into Greensboro in years past. But I really didn't know the city. But I didn't have any difficulty in finding it.

And I got there. And of course, the press and everybody--how they found out I was coming, I--is a mystery yet. Everybody wanted to know what I was going to do in

this. And the only thing I could say out of sheer stupidity was I've just got no comment, you know. [laughs] What could I say?

So I went on up in the courtroom, and the courtroom was full of nothing but defendants. At this point, I have no idea of what anybody's charged with. You know, I was told at four o'clock this morning to come over here. Here I am. And I went up and I talked with Judge Enochs and told him I had not had an opportunity to talk with the defendants and that kind of thing. And I simply needed to know something before we got started.

And again, at the time unprecedented, and maybe until now unprecedented, Judge Enochs ordered all of the court officials out of the courtroom and turned it over to me and my defendants. You know, hell, there were so many, there was no place you could go to confer with them otherwise. It was the simplest, sensible thing to do, which is what we did. And I got a general gist. And by this time, I had seen a couple of copies of the warrants, enough to determine that they were all just mimeographed, you know. They were all the same.

And after maybe thirty, forty-minute conference, if you can call it that, with some hundred people that you're representing, none of whom you've ever seen before--which is where we sort of devised a strategy. Not necessarily strategy, but obviously, I got the commitment that at least everybody present wanted me to represent them.

EP: Now was Kenneth Lee and Major High there at that time?

CM: No, they were not. But Bill Thomas, who was then president of the local CORE chapter, or in other words, he was the leader of the local CORE chapter--I don't know what his official position was--

EP: He was chairman.

CM: --had apparently instructed everybody that CORE would provide counsel. And whoever showed--you know, at that point nobody knew who it was. Originally it was scheduled to be Floyd McKissick, I think. But this is pure speculation. Floyd wanted the publicity of it all happening here [in Durham]. And [laughs] much to his chagrin, I'm sure, Durham folded in the towel. They threw in the towel Monday morning. They just dismissed all the cases. So Durham just--blam! We didn't get a public accommodations ordinance at that time. But any number of local businesses agreed to desegregate.

EP: I wanted to ask you about that. At that time, given the fact there was no state or federal legislation regarding that, was that a feasible possibility that a local municipality would pass such an ordinance?

CM: Well, it was sort of like a goal. You know, remote, but under the right kinds of pressures, yes, this was the only thing that could, could do it.

EP: Well, I notice in subsequent negotiations that the Coordinating Council of Pro-integration Groups, as it was called in Greensboro--

CM: Yeah. Yeah.

EP: This became farther and farther down their list of goals, and that they were going for more, what I would call, more pragmatic ones, like--

CM: Right.

EP: Like jobs--

CM: Well, that was the idealistic goal, a public accommodations ordinance which just opened the city. It had been kicked around. It had been talked about. It was like an idealistic, like I said, an idealistic goal. Certainly that's what we wanted, but I don't think anybody very seriously expected it [snaps fingers] overnight.

So the long and short of it--back to the court proceeding--after I had this conference and, of course, ascertained that we didn't have any dissidents in the group--that is, nobody who was going to stand up in the middle of the trial and say, "Hey, this guy don't represent me," which could then have wreaked havoc with my license in that I had represented them to the court--I would have at that time represented to the court that I represent everybody involved. That became sort of an underlying issue.

EP: I remember the paper said that they pointed out that--several things about this. And this is why I characterize it as a strategy. One, they said some students had said they didn't even know who Clarence Malone was.

CM: Right.

EP: And that they attributed this to the confusion of the time.

CM: Yeah.

EP: And another thing was that Enochs himself at one point said he thought that this seemed to be a tactic of CORE to slow down the proceedings.

CM: That was “the” tactic. That was “the” tactic. My job was to--well, the overall CORE strategy was simply to glut the system, to glut it, to just choke it to death, that the overall theory of the mass jail-in is to just tie up the system in itself.

And to a large degree, I think that Greensboro was the most successful operation with that strategy, because we had the numbers, we had the, well, dedication, I guess. It sort of took on--sort of the entire black community really got behind it and got involved. It was slow taking off. But then it worked, because you were having an average of seven hundred to a thousand people arrested nightly.

EP: Now did you work closely with people like Bill Thomas, Otis Hairston [minister of the Shiloh Baptist Church] was very prominent in this coordinating council--?

CM: For the most part, yes. When I say I--let me see if I can picture it for you. My time was largely spent, obviously, strategizing in the courts. But we coordinated the two activities. The--

EP: What, with meetings with them and that kind of thing?

CM: With the leadership. We kept in constant telephone contact--if they were in a negotiation meeting and I was in court. At the time, just outside the municipal courtroom, there was a pay telephone. And that’s another aside that was really amusing to me.

EP: How so?

CM: What would happen--people were generally speculating, you know, who is this guy? Who is this lawyer? Because the strategy seemed to have been one of--while it was, in truth, just what was expedient at the moment, it appeared to be an organized strategy.

And like I said, I’d been admitted to practice about a year. I was a total unknown. Nobody really knew who I was. The rumors were running rife that I’d been sent down from New York, that I was from California, that--you know, all kinds of just weird ideas how rumors start. And a large part of the, the interesting part of it was that any time I got bogged down and just didn’t know what the hell to do, which was very frequent, then I’d simply ask for a recess, step outside the courtroom to the pay telephone.

And fortunately, Ken, Major, his office was the headquarters. It looks odd now, but at the time, the strategy for bringing in out-of-town counsel was, “Look, this is going to be a very unpopular kind of thing. The people who’ve got to stay here and make their livings--it’s going to make all sorts of enemies. You’ve got to play dirty pool in the courts.” So bring somebody from outside the community who, once this damn thing settles down I’m coming back to Durham. To hell with Greensboro.

EP: What do you mean, play dirty pool in the courts?

CM: I'll give you an example. The first--in fact, it just developed just like that. Nobody could have strategized it that way. After this conference that I had with the defendants and advised them that, you know, it's necessary that if you want me to represent you, obviously there has to be unanimity. Anybody who doesn't want me to represent them, speak now or forever hold his peace and that kind of--that's really what went on in the meeting.

And when we called the court officials in to start what turned out to be arraignments as opposed to trials--and this was a just spur-of-the-moment kind of thing. The first--the names ought to stick out, but they don't. The first two or three defendants were called. It's a bit hazy, but my general recollection is that there were two white girls and one black girl whose cases were called as the first cases.

And out of--it's almost a, or was at the time, and still is, a general strategy--no genius, anything of that sort--you simply make a motion to quash the warrant for the hell of it. There might be something wrong with it and you want to preserve it for appeal.

EP: Do you have to specify what you think's wrong with the warrant?

CM: Yes, to at least some degree. And as I recall it now--[flipping pages] this may or may not be one of them. The twenty-first of May, '63. Yeah. It sounds about right.

EP: The newspaper said you said the wording was vague.

CM: Yes. You know, but in the press of trial, obviously, this is the first time I've seen it. I look at it. Something about it didn't ring true, so I came up. And you sort of speculate, and I did.

And there again, I think that--which is really what I started out to say in the beginning--I think that Judge Enochs and the court officials were, or did, try very, very hard to bend over backwards to be as fair, you know, to apply the law fairly. Not so much, I think, to protect the movement as it was to sort of protect the image of Greensboro. The national press is here. It's attracting national attention. And it is the kind of situation that you want to avoid even the appearance of being oppressive.

EP: I assume that the specter of Birmingham, which had occurred right about the same time was on everybody's mind.

CM: Yes. All of this. This is in the atmosphere of a sort of national emergency, so to speak. And nobody wants the national press to crucify Greensboro. So that he indicated by his actions, at least to me, that he was attempting to cross every "t" and dot every "i" to avoid

criticism. And I don't think in the run-of-the-mill case that these precautions would have been quite as strenuous.

EP: He, in talking to him, he seemed, even to this day-- although he subsequently learned something of CORE strategies--seemed genuinely surprised that the legal defense for the students didn't go along with his attempt to facilitate the release of the students.

CM: He was, he was. That was a rather loosely--if that's the proper term for it--guarded secret about the strategy of the mass jail-in. This was, in effect, the first mass jail-in situation that we had in Durham--I mean, had in North Carolina. Durham had it, but as I said before, Durham folded before it got off the ground.

But Greensboro, was--appeared determined to prosecute, which we reasonably anticipated. You know, we just didn't expect them to throw in the towel. And his idea was that that most people had: we don't want to stay in jail. You know, what's wrong with these people? [laughter] By the time the trials were started, you had every conceivable facility in Guilford County packed to the gills. So that everybody was looking forward to Monday to start relieving the pressure. And instead of relieving the pressure, we built more.

EP: By delaying the process.

CM: Yes. Now as I started to say earlier, I looked at the warrant. There was something wrong with it, vaguely wrong with it, in my mind. So I took it and read it--you know, you're talking about looking at a warrant and running through thought processes that requires a bunch of research if you're going to appeal the damn thing. But it looked wrong. And of course, I cited it right off the top of my head.

And as to the first two or three warrants, he allowed my motion to quash because of the invalidity, or the apparent invalidity of them. And as is usually done in the ordinary course of events, we simply lay them aside and called some more cases. But as I said before, the warrants had simply been mimeographed or printed. And if there was a mistake in one, that meant that every one that had been served was wrong.

EP: So you made a move to quash them all?

CM: Yes. But now, that was not really my idea. When I say not really my idea, I was in the position of not really knowing what, not knowing what the hell to do. I came in and I moved to quash the warrants. And after some argument from both sides, the court granted the motion as to those. I said, "What the hell do I do now?" you know. And I quietly asked for a recess, which was granted. And I simply stepped outside the courtroom and went to the telephone.

And by this time McKissick was there, Kenneth and Major and this old guy, [?] Parks. I don't remember his first name, but he was a local lawyer, black lawyer, in Greensboro, who wore high collars and swallow-tailed coats. He must have been in his eighties at this time. And believe it or not, he was the chief strategist, if there was such an animal.

I stepped out of the courtroom, picked up the phone, called Ken's office and said, "Look, I made a motion to quash, and he's allowed it. What the hell do I do now?" And you know, all of this is very feverishly being considered. And I told them that all of them are bad, you know, because of the mimeographing. And of course, up to that moment, we did not know that, until they pulled them out. He said, "Well, fine."

Parks then, who must have been on another line, and this is a bit vague--anyway, I attributed the idea to Parks--said, "Well, look, everybody has a right to be apprised of the charge that he has to defend. And if everybody is charged in warrants like that, simply require that everybody be served with the amended warrants."

Well, we had gone--we had had quite a hassle. When I say "hassle," arguments between the prosecution and myself. Once the motion to quash was allowed, then we went into an argument as to whether or not the amendment should be allowed, the state should be amended--should be permitted to amend the warrants to really charge them with a crime.

EP: This was before the recess.

CM: Yes. And which called my attention to the fact that they were all charged. And once he ruled that the warrants would be amended, I asked for my recess and asked, "What do I do now?"

And we came up with, just on the spur of the moment [snaps fingers] the strategy of, fine, require that new warrants be served on everybody. Hell, they didn't know where they were. You know, they would loading them up in buses and crap and just--and when I said this, I'll never forget it, Judge Enochs, who was very courteous, said, "Mr. Malone, you must be kidding." I said, "No, Your Honor, I'm not."

And of course, obviously I was right. You know, if these warrants are bad, we can't proceed to trial on the warrants that have been served. And each person, it would be grossly unfair to serve with a new warrant and put me to trial on them.

You know, it was academic. But, you know, I don't know what I'm going to do with these warrants until I see what the amendment is. Not to mention the--what it meant clerically. They must at that time had two, three thousand prisoners scattered around, and all of these people have to be served with the amended warrant. They've got to be printed up. They've got to be redone and all of this. So we recessed, it seems to me, for a couple of days. I don't off the top of my head remember.

EP: While all of this was being done?

CM: Yes. So that what it amounted to is that with the opening gun, it lasted maybe an hour, hour and a half, with all the arguments and all this. And then the court had to recess in order to re-serve all of these people and--which released me from the courtroom. But then we went into strategy sessions as to how best to effect these things.

And then, while I was at Ken Lee's office, someone called in or somehow the message got to us that they were not permitting anybody to visit any of the kids who were in this old hospital out there or something. And like I said, the strategy was made up as we went. Somebody came up with the idea, "Well, hell, they got to let you in, Malone. You represent them. Let's go over there and see what's going on."

This was late in the evening, say, three, four o'clock in the evening, court having begun at roughly ten that morning, maybe lasting until eleven or twelve, and--you know. So as I recall, I got in the car with Ken.

A rumor had spread around town that the students were going to march on the hospital that evening or night or some time. The sheriff had deputized what I assumed to be a bunch of people totally inexperienced in law enforcement with no idea of anything, auxiliary sheriffs. And they had sort of thrown a cordon, assuming this is a hospital, at each block one block away from the axle. The block that the hospital was in, they had this cadre of deputies and police officers, so that nobody could get within a block of the actual hospital.

As I recall, and I'm 99 percent certain I was riding with Ken. We drove up to this sheriff's--and I really didn't give a damn whether I saw him or not. What can I tell them, you know? I drove up to this checkpoint, for lack of a better term, and told the guy there that my name was Malone, I represent all of the defendants in there, and demanded that I be able to talk to them.

Seems to me that some doctor's child had been arrested. And while in truth and in fact, there was really nothing wrong with that child physically, as a ruse to get in here and see what kind of facilities, you know--because at this point, we don't know what kind of treatment they're receiving. They had refused the admission of a doctor. Whether or not it was the doctor's child, I don't know. But anyway, a doctor had tried to get in and had been denied admittance.

So then we hit on the idea, well, they got to let the lawyer go in and talk to them. So I went up there and he says, "Well, I've been instructed that," and his words were, "I've been instructed that nobody--no doctors, no preachers, no prick lawyers--nobody is to go in there."

I said, "Sir, are you refusing to admit me to talk with my clients?"

And of course, he didn't have any idea how loaded that question was. "My orders are not to," and he repeated it, not to let any doctors, lawyers, preachers and no prick lawyers, which was supposed to insult me, I suppose, which was really all that I wanted.



I went back and called the Justice Department. And then I went in hiding. [laughs] All hell broke loose. [laughs] Well, the Justice Department called. They were being denied counsel. And this was the very thing that they were trying to, trying, the city was trying to avoid. Then I simply went down in Ken's basement and we played cards. [laughs] And they were running all over the city trying to find me. Some said I'd gone back to Durham. Some said I'd gone up to CORE headquarters, you know. I just stayed down in the basement and just out of sight while they just pulled their hair out. Sherrif Jones, I guess his name was.

They didn't have blankets. They couldn't feed--you know, it was just a mess. And I bogged the courts down for three or four days or more while they--I finally let myself be found. And oh, like, two o'clock in the goddamn morning, I let myself be found. [laughs] I was having a ball. And I went over and talked to--went to him--I have really--what's there to say? But anyway, we finally got back into--

Meanwhile, during the interim, while they were redrafting warrants and trying to serve them and all that, which came as a 100 percent surprise to me, we got back to trial. And I was going to try and just string them out as long as I could. Then instead of going into trials, they came up with an arraignment proceeding whereby each defendant was brought to the bar, the court made inquiry as to whether or not, you know, as to his name, address, all of this, if he were represented by counsel, if so, who was it.

And the grapevine was pretty rife. It ran pretty rife. So the word had gotten out even out to High Point. They had some kids incarcerated out of High Point. But quickly the word spread, look, Mr. Malone represents you. And, you know, obviously, I hadn't talked to all of them, or anything like all of them. But to a man, they all said that I represented them, this being another strategy of delay. They couldn't set up other courts, you know, to try and process them, because they had a right to choose their own counsel. I could only represent one at a time.

EP: Was this before Enochs dismissed court again to ask the [city] council for the special separate court sites?

CM: As I--

EP: Or was that a result of this action?

CM: I think that was--all of this took place--and I'm hazy--so much was happening. But it appears to me that all of this took place between the motion to quash and cranking the courts back up again with this arraignment proceeding. He, I think, in the interim, he had asked for some place to hold separate courts. And to combat that, we then limited lawyer appearances by everybody saying that I represented them. Therefore, they couldn't--

because they were talking about having it in the city armory or, or some place. But obviously, I could only be in one place at one time, if I represented them all.

Even though the council gave them the permission to do it, as I recall it, in that I represented them all, it simply didn't do them any good. And it, it just kept the court facilities all tied up. There was no way to facilitate it.

EP: As I recall, Enochs at one point said--the court reconvened. It went on for forty-five minutes. He was prepared to adjourn to go out to this county home, I think, that had been designated a third site.

CM: Yeah. Yeah.

EP: And then you requested a delay, because a meeting was going on between the coordinating--at least, this is what the paper said. And, and you said this--and I think the mayor's committee, Human Relations Committee, was appointed. And you said this might prejudice or damage the--

CM: --what was going on in the meeting. Yeah, I had to beg.

EP: Was this another delay strategy, or did they really expect something to come out of this negotiation?

CM: I think more than likely--and again, hindsight--I don't recall that being a delay strategy. So that maybe we did expect something to come out of it. That's the more than likely, because I simply don't recall it as a strategy as such.

EP: Now the way the paper characterizes this creates confusion in my mind. Enochs said if the meeting was successful--and I gather by this time there was this, in the works was this attempt by Governor [Terry] Sanford to get Dr. [Lewis] Dowdy [president of A&T] to assume the custody of the A&T students.

CM: Of the A&T students.

EP: He said if it was successful, they would reconvene in Courtroom Number One and the arraignment procedures would continue. If the meeting was unsuccessful, they would recess out to the county home, and the arraignment proceedings would continue. I don't understand what this either/or situation was, if it was to be the same situation.

CM: I'm trying to remember.

EP: Does that mean that they were going to go ahead and have these separate courts anyway? That this concept of one counsel was not working? Or--

CM: I simply do not remember. You know, I, like I said, strategically, whatever came up, we acted on it. We acted--

EP: So you more or less reacted to what--

CM: Right. Now I do have a recollection of the issue of the various places that they held. If I represented them all, obviously they couldn't just make them take other counsel. So that we stuck to that in order to counteract this, and the idea still being to keep everybody in jail.

EP: Did court reconvene at--two o'clock was the time that was announced by Enochs, and--

CM: I've got to assume. You know, I just don't know.

EP: Well, the way it worked out in the paper--I realize it's asking you to remember a whole lot.

CM: Yeah. I, I just don't know.

EP: That night, I think, was Tuesday night or Wednesday night. And the students were released at about twelve o'clock at night, I think. There were all, all the A&T students were loaded up in the buses and transported back to the campus, apparently Dr. Dowdy having delayed as long as he could.

CM: Now this must have been Tuesday of the following week.

EP: Oh, okay.

CM: It had to have been Tuesday of the following week.

EP: That sounds like the twenty-first or twenty-second.

CM: Yeah, or thereabouts, because I recall that when we first started the arraignment proceedings, for lack of a better term to describe it, the first half-day, when the court inquired as to whether or not, if the students were released on their own recognizance, they would return and abide the orders of the court. We instructed them, and they followed it religiously, to simply state that "I prefer to remain in custody," which just

shook everybody up something awful, you know. What the hell do we do with this? And as I recall it, we adjourned for lunch--whether or not it was for lunch, I know there was an adjournment. And when we reconvened, he simply stopped asking and ordered that they be released.

Now--which took me completely by surprise, and called for another telephone conference to see how do we keep them in here. And we found, or arrived at the conclusion hurriedly that there was no way that we could keep them in jail. But we had--and there were student messengers, so to speak, spreading whatever our strategy was to the jailed students. And how they were getting those messages through, I don't know, but they were. It was very effective. Because we were releasing like about fifteen or twenty students an hour, and there was nothing that we could do about it. You know, this is relieving the pressure.

And somebody somehow came up with the strategy, "Well, shit, just go out and get rearrested!" [laughs] So we were going, and I was grinning all behind my ears. It was like playing poker, you know. Suddenly we are going through this, and it was--talk about monotony. You know, just hundreds of the self-same questions, you know, just one right after the other. And suddenly it dawned on Judge Enochs, "Weren't you in here yesterday?"

"Yes, sir." [laughs]

"What are you doing back?"

"I was arrested last night."

You know, so they were really accomplishing nothing. They could process, as I recall it--and the statistics are pure guesstimates--maybe we could process a hundred students a day. You know, when I say "process," you'd go through this arraignment proceeding. And hell, they'd just go out and get arrested that night. So you, you know, you've still got the number of students that you had in the morning.

And by this time, though, it had gone on for a couple of weeks, you know, the whole process. I was worn out. Everybody in the court system was worn out. And everybody's trying to keep a straight face. [laughs]

EP: Was there rising anger and frustration or--you seem to sense it was almost kind of a comic mood there.

CM: Well, it developed into a comic mood. You know, there was nothing--I was a victim. Judge Enochs and the court clerks were victims. There was no animosity as between the parties that were involved as such. It was like I had to do my job. They had to do their job. And we'll be glad if we can ever find a solution to it.

EP: Did you ever talk with the solicitor, Hubert Seymour?

CM: Oh, yes, yes. Now, Hubie--again, let me search my memory. Really, I'm trying to remember if Hubie became involved at all while we were in the recorder's court. Yes, he did.

EP: Well, there were several arguments between you and he. By that I mean legal arguments.

CM: Yes, yes.

EP: Concerning, I assume, these recesses or these--one, of course, had to be the, about the, amending the warrants. And I assume he was in--

CM: I question whether or not Hubert Seymour--in fact, I'm almost certain he had not been employed at that time. That was the very first morning. He was subsequently employed, because the regular prosecutor for the recorder's court was obviously tied up trying to try the drunks and the regular cases. So Hubert was employed by the DA [district attorney]'s office, then solicitor's office, to handle these. Yeah, it must have been while we were in the recorder's court. But I'm pretty certain that it was not. He was not employed, you know, in the first proceeding.

[End Tape 1, Side B--Begin Tape 2, Side A]

CM: --gratuitously chosen to go to Greensboro. And Greensboro was the first experience for everybody concerned, so that obviously following the course of the Greensboro cases, I developed a reasonable degree of expertise--what existed of expertise in the handling of these kinds of cases. Because--

EP: Do you think--

CM: --it was setting precedent.

EP: That's what I was going to add. Did it establish a precedent?

CM: Yes, it--well, when I say it established a precedent, it obviously had to, because nothing like this had ever occurred any place else before. That was the only experience that anybody had with it. That, together with the fact that I had previously indicated, I was a beginning lawyer, which meant I had no practice. When I say, "practice"--all of the other lawyers who had had any experience at all or involvement with the civil rights movement had been practicing at least long enough so that for them to leave town and stay out of town for days on end would have just wrecked their local practice. Well, I had none.

When I say I had none, I was hanging around the courthouse and, you know, picking up what I could here and there. So that--

EP: Were you in Mr. McKissick's firm, or were you independent?

CM: No. No, I was independent. I was a single practitioner.

EP: And he just selected you because he knew you.

CM: Yes. Well, it goes back a little--well, it runs a little deeper than that. When I finished law school and was admitted to practice back in '61, late '60, October '61 when I started to practice, McKissick had attempted to solicit me to come into his firm. I had known--I grew up in Durham. And I had known Floyd ever since he had been here, he and practically everybody else. My father was in business here. I had--you know, I'm just like you. I grew up in the town. I knew damn near everybody here.

And while we didn't form a relationship, you know, whereby I would come into his firm, he would parcel out, sort of toss me a bone like you do all beginning lawyers, you know. I get a case that I don't particularly want to be bothered with for one reason or another. And if it's agreeable to the client, here's a guy over here that's struggling. He needs--and he's got the time to deal with it. So I'll just toss it over to him. And this was sort of the relationship that I had with Floyd.

You know, if a case came in that he thought was, for any reason, you know, maybe money, or it may be that it's just going to take more time than he's willing to devote to it. I ain't got nothing but time. He'd send it to my office, obviously with the acquiescence of the client. And I had also assisted Floyd in the trial of an--I was interested in developing a criminal practice. And in the twelve or fourteen months that I'd been practicing, I had assisted Floyd in a trial of several criminal cases. I had tried on my own a number of the cases in Durham and Raleigh which arose from the Freedom Highways drive with CORE.

In that instance, they had sort of staggered the trial dates for the cases, and Durham would have some and Raleigh would have some. And at that time, Floyd was trying them all. And obviously he couldn't be in two places at one time, so he had sent me--if he had to be in, say, Raleigh this morning, and there were some on the docket here today, then I'd try these here, or vice versa. So that by the time Greensboro arose, we had developed sort of a working relationship. Nothing by agreement or, you know, just that kind of thing. So that I had had at least a modicum of experience in the trial of demonstration cases--certainly not of the magnitude that Greensboro developed into.

After the Greensboro cases, I sort of became a shock trooper for both the NAACP [National Association for the Advancement of Colored People] and CORE because of, I guess, the manner in which I handled Greensboro, whatever expertise I had gained. I just

sort of had a feel for it. I was able to reasonably get along with the hostile situations that you find yourself in, obviously, in this kind of thing.

EP: Had a pretty good idea what legal ploys would work [unclear]?

CM: Yes. Yes. And that, together with just general personality--I guess I've always been thick-skinned. It's, you know--I didn't just scare easily or didn't bow to it. And as a result of--well, obviously, a part of it was Greensboro. Part of it was that Conrad Pearson, who was director counsel at that time for the NAACP, also had an office in Durham. And I'd known him all of my life. And because of what I had done with Floyd with CORE, he sort of recruited me to do the same thing with NAACP. And so in answer to your question, I guess it was a combination of all of this that created the situation that--majorly, because I, hell, I didn't have enough time to do it.

EP: You were going to tell me about the situation with the case in which Dr. Laizner was involved.

CM: Right. Now the Laizner case, along with--I'm trying to get my dates somewhere squared around here. Okay. The, these cases reached trial in May and June of '64. That is, the cases in which Dr. Laizner was involved with. And the Greensboro case, obviously, started at its incipency in May and June of '63.

Now the handwriting, so to speak, was on the wall. The Congress is headed toward a civil rights bill. A number of cases across the nation, from Mississippi, Maryland, Alabama, all over, were then before, pending before the Supreme Court. Everybody was sort of in a state of abeyance, awaiting the outcome of the cases then pending before the Supreme Court. In fact, it was a sort of tactic when cases arose--the Glen Echo, Maryland, case, I think was one, involving trespass, which is the direction that most of your demonstrations took in other cities.

The Glen Echo, Maryland, case--it was an amusement park in Glen Echo, Maryland--presented squarely all of the issues involved in trespass litigation. And it was then pending before the Supreme Court, the U.S. Supreme Court, all of this having occurred between June '63 and May '64. And for all practical purposes, the movement, while it had not quit, it was sort of an uneasy truce, awaiting what was going to happen.

And--what's the guy's name? John. One guy--Pat Cusick, John Dunne, several UNC [University of North Carolina] students in, I would say, late April to early May of '64--Chapel Hill, mind you, had adopted a public accommodations ordinance by this time--rather ineffectual, but had at least adopted it. Chapel Hill was considered the most liberal town in the state.

And in this atmosphere of truce, so to speak, John Dunne, Pat Cusick, and a small cadre of mostly, for the most part, white UNC students, because UNC itself had not been

desegregated at the time--for whatever reasons, I had in my own mind some question as to whether or not they, how sincere they were in their social, their desire for social change, or was this a desire to personally aggrandize themselves or, you know, just, just--I, I simply don't know the answer to that.

But at any rate, they agitated for and gathered together a number of high school students in Chapel Hill in its incipency, that is the early part of it, and began demonstrations in Chapel Hill. Now this I cannot, you know, just document. But I got, get the impression, or I got the impression, because that phase of it I was not involved in--I didn't get involved in the Chapel Hill cases until they came on to trial.

So the strategy or the embryonic development of the movement, I had very little personal knowledge of. But my overall impression is that once the thing began to pick up momentum, they then screamed for CORE's help. And CORE is in a position where they can't say, "Look, you started it, you end it."

EP: So they were kind of sucked into it.

CM: Yes. Now again, this is an overall impression as opposed to knowledgeable statements. It involved children. And as opposed to the other demonstrations around them [unclear--tape malfunction] people who were capable of making decisions of their own. Chapel--the Chapel Hill demonstrations, for the most part, while you had high school students involved in all of them, they were an extreme minority. Chapel Hill was made up mostly of the black high school kids and a few white university students. And the general feeling or atmosphere or environmental feeling toward continued demonstrations [unclear--tape malfunction] say, "Well, look, we've got what we wanted."

When I say, "got what we wanted," at least, it's in the middle. We've got the precedent before the U.S. Supreme Court. You know, we don't have anything to gain by further demonstration except to create a hullabaloo. [unclear--tape malfunction] power structure, but of most of your civil rights organizations. So that when the Chapel Hill demonstrations [unclear--tape malfunction] involving children and the overall attitude that was sort of looked upon as a maverick [unclear--tape malfunction].

Judge Mallard, who was at that time the, pretty much the troubleshooting superior court judge--at all times you had certain judges who have a facility for [unclear--tape malfunction] the politically [unclear--tape malfunction] situations, for any reason--touchy trials, as opposed to a straight criminal trial. [unclear--tape malfunction] you know, sort of developed his reputation for being able to handle these controversial cases in the [unclear--tape malfunction] involving the union, and--that is, organized labor--within the cotton mills, and obviously, that was a big volatile issue some several years before this, and was generally considered a hanging judge.

It is guessed that the Supreme Court justice or the administrative offices of the courts or whoever decided to send Mallard over here to end this foolishness once and for



all. In fact, it was the first demonstration that I'd been involved in where the decision-makers were for the most part white students, as opposed to black leaders from the major civil rights organizations, which further, I would say, infuriated the powers that be.

And the whole damned atmosphere, everything, hostility like you never imagined. It turned into a complete fiasco. They had little, if any, financial backing. The dedication obviously was not there. "Jail, no bail," had been a rallying cry for CORE, you know, throughout the other demonstrations. They talked that talk over there, but there was no real dedication when the time came to go to jail.

EP: Nobody really wanted to go to jail.

CM: Yeah. You know, it was just one of those things. And my impression is the prosecution who--Mallard--was simply a mass effort on the part of the entire power structure of the state. [They said] "Look, go up there and put this mess to rest."

EP: Dispense some harsh punishments and--

CM: Yeah. Right. And all of this to break CORE. And I can't entirely disagree. You know, for the simple reason that Chapel Hill [unclear--tape malfunction]. You know, it's hell-raising for the sake of hell-raising. You know, the objectives were pretty much met.

EP: You had told me before that Mallard humiliated some defendants from the bench.

CM: Oh, my God. The defendants, lawyers. Yes, absolutely, 100 percent.

EP: There was none of this, you know, in Chicago [unclear--tape malfunction]. There was none of this in Chapel Hill, I gather.

[15 seconds is unclear--tape malfunction]

CM: --not because it was not, the atmosphere was not there. But it was perfectly obvious to myself and to Moses Burt, who assisted me in those trials, that it was the purpose of the court, law enforcement agencies, everybody, to taunt us into a contempt situation. And like in several instances when [unclear--tape malfunction] conversations that I told Judge Mallard, Look, every day you [unclear--tape malfunction]. He threatened to put me in jail every day, forty-five minutes before the lunch hour. You know, that kind of thing. There was every kind of oppression. You know, the trial, the atmosphere, the--everything was extremely oppressive.

EP: In these informal discussions or exchanges, was the same antagonism and tension evident, or was it still very [unclear--both talking at once]?

CM: You know, that is rather interesting, the answer to that. Obviously, at the outset there was a genuine animosity on both sides, which began when--[laughs] absolutely--when the cases were, got into the superior court and called for trial. We had begun--and I say "we," that is, McKissick, Conrad, the lawyers in this little cadre had come up with a strategy.

And I think the author, if there is such an animal, of the strategy was Sam Mitchell over in Raleigh, who was pretty much the dean of black lawyers in this state. He was the guiding hand in all of the appellate courts. He was a lawyer's lawyer, one of the best that ever existed, and reasonably unknown. You know, he did it out of interest, out of interest in the individual lawyers, and pretty much an unsung hero.

Sam simply made a study of the, all of the weapons that we could use and came up with what had been a part of the Civil Rights Act of 1865, which had not, which had been a dead letter in the law since the *Slaughter-House Cases*, that series of cases that gutted the 1865 Civil Rights Act, which provided for a removal of cases involving minorities, so to speak, or blacks generally. It was enacted really for the protection of blacks, that where, upon the allegation that a fair trial could not be had because of the defendant's race, then there was provision in the procedural federal statutes which permitted the filing of a petition to remove the prosecution from the state court to the federal district court. And it was designed for just such an animal as we had existing in Chapel Hill--or in Hillsborough, really, where they were being tried. But as a result of demonstrations there, where, hell, every jury that--the jury that you select is going to convict, the police department--it was just, just an impossible situation for you to get a fair trial.

We started to develop this in preparation for the trials in Chapel Hill. Meanwhile, I was involved in the trial of a series of cases down in Pasquotank County, down in Elizabeth City, where we had a real bastard who's name was Chester Morris. He was from [unclear], North Carolina, a resident judge of the First District, which included Pasquotank County, who went on a one-man missionary--with missionary zeal to put these niggers in their place. They were out of hand.

He being a resident judge, when the students at Elizabeth City State Teachers College demonstrated, they immediately arrested them and tried them in a district court. Both Pearson and me went down and tried them. And we just bamboozled, so to speak, the guy who later became a superior court judge, Walter Calhoun[?], was a recorder's court prosecutor or district attorney. And again, you've got to realize that all this is brand new. You know, nobody knows anything about what's involved. These guys have been peddling influence as opposed to practicing law down there. Coming to court down there depends on who you are, who your boss man is and that kind of crap. And to go down

there and sling cases and federal cases--nobody has the expertise really to stand up against it.

And we had tried the cases in the recorder's court like this week and just made them look bad, actually. And the, though the defendants were convicted, it was perfectly obvious that they weren't prepared to try them. And they convened a special session of the superior court to try nothing but those cases, with customized [unclear--tape malfunction]. Reasonably the same atmosphere in Chapel Hill, but Chester Morris didn't have anything like the smarts that Mallard had. And about three weeks before the Chapel Hill cases were to have been started in superior court, in desperation we had to use our motion to remove down at Elizabeth City.

But word had not really spread over the state--the time limitations between the two incidents. And so that the--Mallard had, I say Mallard had called together and convened half of the damn [N.C.] State Highway Patrol. All entrances to Hillsborough were blocked off or at least watched over by a contingent of the highway patrol. It was really the most oppressive kind of atmosphere. And we knew--we saw it developing, we knew it was going to happen. We didn't have a whole lot of defense. Money was gone. They were putting--setting oppressive bonds. Just everything that they could do to destroy the entire movement was being done.

And we had filed this motion down in the first district about two weeks, two or three weeks before. And--which has the, once you file this motion, it has the effect of dumping it over in the federal district court. And it can only be brought back after a notice of opportunity to be heard. You really get about a ninety-day delay. And so just to embarrass more than anything else, the strategy--we came up with the idea that we were going to remove these prosecutors from Hillsborough to the federal district court.

And contrary to what I thought at the time, I thought that certainly Mallard was aware we had--I felt reasonably bad about it, because I thought we'd sort of ripped the cover off of our big strategy down here. But it just took Mallard by complete surprise.

The way we did it is interesting. Moses Burt, who was a native of Hillsborough and was a classmate of mine in law school--and who was then practicing in Burlington--by this time, you know, all that publicity and that kind of thing don't hurt the development of a practice. He started practicing a year before I did. So you know, he called me one day and said, "Look, let me in on some of this. Let me help you."

"Okay. Fine. First thing happens up there, I'll, you know, let you know." So here was his opportunity. And because I've had all the good experiences, he comes in [laughs] on the bad. And Mallard had a reputation among judges for being a very unpleasant judge to try cases before, and certainly in a case with the animosity, the built-in animosities that were there.

Burt took copies of the petition. The procedure is that you must first file the petition in the federal district court wherein the state prosecution lies. And after filing, after you file it in the federal district court, you perfect the removal by simply serving or

handing a copy to the clerk of the court wherein the state prosecution lies. And the statute is unequivocal. The state court must not and cannot proceed further until an order of remand from the federal district court. So what you do is, you stop the state prosecution in its tracks, just like that, without a hearing, without anything.

So Burt took off from Burlington. We prepared them and had them all printed up and that kind of crap the night before. And Burt took off early morning and drove to Greensboro. And we had a black farm agent in Hillsborough. At that time, we always had a white one and a black one, you know. And he was bold enough, which was bold at the time, to secretly let us use his telephone to communicate with each other.

And largely through his secretary--I think she influenced him, because he was scared shitless. You know, she--the strategy was that Burt was to file it, call her. Her office is directly across the street from the courthouse. She was to get word to me that it was filed the very minute that it was filed. Then I was to serve it, and all this in the utmost secrecy. The minute that I got word that it was filed, then I was to serve it on the clerk and just let Mallard sit there and hoot and holler, which is reasonably what happened. [laughs]

I got the message that it was filed. I then went in the clerk's office to serve it on the clerk, and I was just going to come head on back to Durham. But contrary to what it was in most county seats, the clerk himself--ordinarily he sends a deputy to do the little crap around the courtroom. But the clerk himself--and I can't remember offhand. Yes, I do, too. I can't think of his name, but I can see him right now. The guy who was clerk of the court there carried out these courtroom duties himself, which was unusual. Nothing wrong with it, but you know, when I went in the clerk's office to serve it on him, he was already in the courtroom.

Court convened at 9:30 [a.m.], and I got the word like 9:15, 9:10, you know. And I had to file it before court convened. By the time I got to the clerk's office after I had confirmation of the filing, he had gone in the courtroom with his books and, you know, whatever he needed to have court. So that--which made it necessary for me to go into the courtroom to serve him. And the judge was in there when I served him, of course. And all hell broke loose. When I say all hell broke loose, the district attorney, who later became a superior court judge, Thomas Cooper--we called him Dick--Dick happened to have been standing at the clerk's office, as I recall it, when I handed the clerk the petition. And I had a copy for him, and I handed him his. He said, "You haven't got one for the judge?" So I quietly handed one up to the judge. And there was nothing to do then but stand there. And he started turning red from under his collar. And you could see it just work up all the way to the tip of his head. And he was in stature a reasonably small man. And you could just see him almost stand up on the damn bench.

The further he read--it was about a five, six-page, maybe eight-page petition. And the further he read, the redder and madder he got, which is what we knew was going to happen. And by the time he got to the last page, he stood up and he said, "This is a false

and scurrilous attack upon the entire court system of the state of North Carolina, and I'm going to do all that's in my power to have whoever filed this disciplined or disbarred." That was the atmosphere that the trials started in, and it degenerated from there.

EP: You mean he didn't honor that?

CM: Oh, well, he had to. What they did was a tactic that I say harkens back to Judge Enochs' attitude in the--when I say attitude, I don't mean attitude, but activities in Greensboro. He could not try the defendants. But they were all, and obviously had to be, present. So that instead of dismissing the prosecutions--or when I say dismissing them, continuing them until he got an order from the court--he simply ordered that they all be arraigned. And--which required my presence, which required Burt's presence, and all of the defendants' presence.

EP: And that was within his jurisdiction at that time?

CM: Yes, he could do that. And he did just that. And if they called a kid's name and he was out in the hall, the bond was called. The district attorney called the trial docket at least three times during a session.

And every oppressive means that they could, they kept us in court. Took seven or eight days to get a hearing set, and Judge [Edwin M.] Stanley was chief judge in the middle district at the time. And he kept us in court--when I say "kept us," kept Burt and me in court, because we were attorneys of record.

EP: Now is this Mallard or Stanley?

CM: This is Mallard. He kept us in the state court with this arraignment bullshit, which simply was designed not to give us opportunity to prepare properly for the argument over there. But obviously we had a whole cadre of lawyers over here working. And at nights we worked all night and that kind of crap in preparation for the argument there. The argument was set for like two-thirty in the evening, and he kept us in court in Hillsborough until one o'clock, you know, daily.

And McKissick participated in the presentation of the argument in the federal district court, and we didn't have any favor with Stanley. We knew damn well he was going to send it back. But anyway, we managed to delay it for a couple of weeks. And we--that started it, the oppressive and, you know, just, just horrible relations, and it degenerated.

And after, I would say--those trials started in May and they went straight through September, every day all day, with Mallard pulling every trick in the books, with police officers harassing people. He had SBI [State Bureau of Investigation] agents running

throughout the courthouse and that kind of crap, asking questions and intimidating people and attempting to get information on which they could develop a conspiracy.

And you had--by this time, they had gotten involved a number of faculty members at UNC, a number of faculty members at Duke [University]. And he was passing out active prison sentences from twelve months to two years and just generally creating havoc. And as I started out to say, in that kind of beginning atmosphere, as time went on, the personal animosity died. And we became reasonably warm friends.

EP: Mallard and yourself?

CM: Yeah. It reached a point where, you know, he realized that I was doing my job and he had his to do. And we were just at opposite poles. And I like to think that I educated him. He was from a little town near the South Carolina line, not Elizabethtown, but down near Chadbourn, Whiteville, in Columbus County. I don't remember the name of the town. He was at the time, I would guess, 60-ish in age. Attended UNC. Segregationist from the word go.

The one thing that, that I admire him for is the sincerity. I disagreed 2000 percent with his beliefs. But I think he was absolutely sincere and consistent in his beliefs. An ardent legal scholar. And though it went 100 percent against the grain, you know, when the law was with the defendants, he gave them the benefit of it, even though you could see that it damn near killed him to do it. But he was just that kind of individual. He was intellectually honest, at least.

EP: So not everybody was convicted, is that right?

CM: No. No, not everybody was. We had one or two acquittals, as I recall it. But the number of acquittals were infinitesimal as compared to the number of convictions. We had a couple of mistrials. But everybody was convicted. He draped everything he could drape on them. And Terry Sanford finally stepped in and commuted the sentences for those who were serving sentences. He commuted them to time served and--

EP: So some people actually went to jail.

CM: Oh, yes. Yes.

EP: Now this was after the conclusion of the trials?

CM: Yes. A number of them went to jail. Maybe fifteen or twenty people actually went to prison.

EP: And this was based upon a petition to the governor's office by whom?

CM: Well, you can't really call it a petition, because it was more of a political deal. Much of the discussion went on off the record. Nobody wanted to go on the record as doing this, that, or the other. It would just happen. But as a result of all sorts of negotiation and that kind of thing--simply no records or anything of that sort.

EP: We've talked around Greensboro being a precedent. William Chafe in his book, *Civilities and Civil Rights*, has said that it was, in terms of the number of people involved and those arrested, second only to Birmingham--hence its importance in and of itself. And because of the reason for the media attention, which in turn made it outstanding.

My final question is, would you agree with this assessment? And, and secondly, how did the Greensboro situation, legal situation, compare with the other cases in which you were involved?

CM: Well, firstly, I would say that I would agree that it set a precedent in terms of numbers of prosecutions and that kind of thing, simply because of it being a first. You know, it thereby set precedent. [coughs]

The difference in Greensboro and the other cities in and around North Carolina, I would say, was principally the absence of dirty tricks, overt animosity, for lack of a better term. Overt. It was done, or my impression was that everybody, though the whole thing was distasteful, nobody welcomed it. But the newness of the situation was such that nobody had really become bitterly bitter about it. The animosities hadn't congealed.

EP: When you say the absence of overt animosity, you made quite a, it seemed to me, a distinction to saying that, well, there were covert animosities.

CM: Yes, well, by that, as best I can explain it, I mean that, obviously segregation was a way of life. And now here we're attacking the Southern way of life. It was not thought of in the same terms as it is today. You know, we were the enemy. We were Communists. We were everything that the Southern white abhorred. And you had, I would have to say, internal individual feelings against what we were doing.

Obviously very few, if any, of your mature office-holders, officials, that kind of thing--the spirit of liberality just hadn't hit. So that you're coming in, tearing down what has been our way of life all the time. But even so, we are going to accord you due process and equal protection of the law. Whereas, in other areas, in the other cities--observing what, what went on in Greensboro--by the time the demonstrations struck and reached trial in those cities, it had sort of, feelings had polarized. You know, "Put them niggers in their place. This is a damn shame. You know, they are upsetting our whole society." And it had sort of polarized, whereas, in Greensboro, it had not.

EP: Are you're saying because of the newness of it, or any supposed kind of--

CM: Liberality, no. It was definitely not a liberality. It was the newness of it that nobody really knew how to react.

EP: So you think it might have been a totally different situation had it not been the first?

CM: Yes. I'm sure it would have been. Because with the mayor that you had then--

EP: David Schenck.

CM: Yeah. Oh, talk about a bastard. You know, he would be sitting in a negotiation session and make commitments, and step right out of there and go to the press with something directly opposite.

EP: I get--you get the impression of him from talking with people who were in negotiations with him--and, of course, the press is quite a different--

CM: Oh, certainly.

EP: --situation. And being deceased, it's difficult to get a handle on what his role was, except [as] perceived by these individuals involved. You, you think he was adamantly against change and that he only was--had to be forced into whatever change there was?

CM: Well, let me see how best I can put it. Adamant is not really descriptive.

EP: He was stronger than adamant.

CM: Yeah. Schenck was--as I apprised it, or appraised it, whatever the term--Schenck was the epitome of the Southern political hack. What actually happened, or the realities of the situation, counted to him not. He really wanted to maintain his image for his constituency. Integrity in dealing--

[End of Interview]