

Harold Paulk (Hal) Henderson, Sr. Oral History Collection

Series I: Ellis Arnall

OH ARN 20

Ellis G. Arnall Interviewed via telephone by Harold Paulk (Hal) Henderson, Sr.

Date: July 31, 198?

Cassette: OH ARN 20, 0:09:46 minutes, Side One Only

HENDERSON: [discusses recording equipment] Back in 1939, according to this issue of the *Atlanta Constitution* [Atlanta, Georgia], Governor [Eurith Dickinson] Rivers had brought this up to you to see if you would initiate the suit and you were declined and they didn't give any reason for it back then.

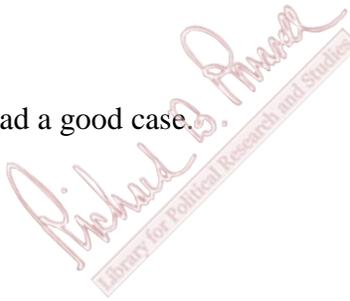
ARNALL: I didn't think we had a good case.

HENDERSON: OK.

ARNALL: That was the answer to that.

HENDERSON: All right. OK. And so in 1940, you're saying that the case would have been dismissed because the attorney general had not been brought in to it?

ARNALL: Only the attorney general can represent the state and since someone filed a case in the name of the state, they had no authority to do so. So the court would have dismissed the case.



HENDERSON: All right, now, you couldn't have still intervened even though Rivers had not consulted you if you'd wanted to?

ARNALL: Well, if I'd wanted to I could have come in and taken over the case. Yep.

HENDERSON: But you thought it was a situation where the state could not win even if you were there?

ARNALL: Right, right. That's the story.

HENDERSON: OK. All right. Now, one other thing. How--when attorney generals are evaluated--and I've never seen any evaluations of attorney generals--is it a fair assessment to look at the number of cases that you argue before the Supreme Court and see the win-loss ratio there, or is that an improper way to assess an attorney general?

ARNALL: There's no proper way to do it. It depends on many factors. The fact that you get into cases don't always mean that you're a good lawyer. You try to keep them down. Do you follow what I'm saying?

HENDERSON: Right.

ARNALL: In other words, the last thing you want to do is litigate. We--practicing law privately--we try to get our people together without running to court. But I don't think

there's any way you can evaluate the effectiveness of the attorney general except I would say those who'd been elected governor must have had the approval of the people.

HENDERSON: Now, you never did keep any record of say, win or losses before the Supreme Court?

ARNALL: Oh no. No. Never did. Although in the back of that—you've got that attorney general's opinion. In the back of it lists the cases that were handled in the Supreme Court. In the back it lists the cases we handled, in federal court, state court and all that. [telephone rings in background]

HENDERSON: But now if—

ARNALL: Hold on a minute, hold on.

HENDERSON: Right.

ARNALL: [To someone else] Hello. [To HENDERSON] OK.

HENDERSON: Say a case was started down here in Tift County [Georgia] Superior Court that you didn't know about but the prosecuting attorney was prosecuting it. And then if it were appealed to the Georgia Supreme Court, your office would have to take over that appeal wouldn't it?

ARNALL: No.

HENDERSON: No?

ARNALL: No. Only in capital offenses.

HENDERSON: Only in capital offenses.

ARNALL: Right.

HENDERSON: [pause] Well, then, is there any way to get at those capital offenses cases back then that you argued?

ARNALL: Oh...no. It could be done if you took all the Georgia Supreme Court reports for the four years and looked up every criminal case and whether we were in it or not, capital offense. But I really don't think, I hate to say this, I don't think that's very material to what we're talking about doing.

HENDERSON: Right. OK.

ARNALL: It's a detail that I don't think anybody would be interested in.

HENDERSON: OK.

ARNALL: I think the fact that all you can say is my record as attorney general must have been real good because the people elected...[HENDERSON and ARNALL laugh]. And I was the youngest attorney general the state ever had.

HENDERSON: All right.

ARNALL: Thirty-one.

HENDERSON: All right. So, the only time your office would represent the state before the Georgia Supreme Court would be in capital cases?

ARNALL: Capital offenses. Right.

HENDERSON: All right. OK. Well. OK.

ARNALL: We had to do it. In other matters, sometimes, and it's done everyday now by [Michael Joseph] Mike Bowers the attorney general, he appoints a special assistant attorney general to handle cases and he never appears in them. But if it's a capital offense, he has to.

HENDERSON: OK. All right.

ARNALL: In the Supreme Court.

HENDERSON: All right, one other thing. When Rivers appointed you assistant state attorney general, I understand he could appoint so many assistants and the attorney general could appoint so many. Is that the way it was?

ARNALL: It used to be that the attorney general could appoint so many without the approval of the governor. The governor could appoint so many without the approval of the attorney general. And then there was another group that they could agree on if they needed more lawyers.

HENDERSON: OK.

ARNALL: That's the story.

HENDERSON: OK. Well, those few questions came up, and I thought I'd just call you and find out.

ARNALL: Any time, any time, my friend.

HENDERSON: All right, sir.

ARNALL: I like that first chapter, just for your information. I'm revising it a little bit with a few suggestions, and I'm putting it on word processing.

HENDERSON: All right. That's fine.

ARNALL: So, when we get together we can check it all out.

HENDERSON: All right.

ARNALL: Let me see, in other words, I haven't added much to it [or] taken much from it but a few little things occurred to me and when we get together we can see how we want to do it.

HENDERSON: All right. And the typist said she'll be through with my last hoorah tomorrow, and I'll get you a copy I the mail as soon as I can, hear?

ARNALL: That'll be great.

HENDERSON: All right, you have a nice day, Governor.

ARNALL: Same to you.

HENDERSON: OK. Bye.

[End of interview]

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**Name Index****B**

Bowers, Michael Joseph (Mike), 5

**R**

Rivers, Eurith Dickinson (Ed), 1, 2, 6

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