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Country lawyer in a maverick boom town: The legal career of Harry Claiborne

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COUNTRY LAWYER IN A MAVERICK BOOM TOWN:
THE LEGAL CAREER OF HARRY CLAIBORNE

by

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A dissertation submitted in partial fulfillment
of the requirements for the

**Doctor of Philosophy Degree in History
Department of History
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**Graduate College
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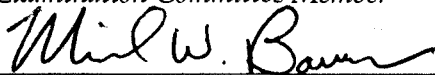
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ABSTRACT

Country Lawyer in a Maverick Boom Town: The Legal Career of Harry Claiborne

by

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The anticipated title of my doctoral dissertation in history is “Country Lawyer in a Maverick Boom Town: The Legal Career of Harry Claiborne.” Spanning nearly sixty years, Claiborne’s legal career reflected both the spirit of a young Las Vegas as well as the no-holds-barred attitude of frontier lawyers. Moving to Las Vegas initially in 1943 while in the military, he began practicing law in 1947. Claiborne participated in the evolution of the legal community during the mid-century growth period of southern Nevada. Possibly the most active trial lawyer in the state, his first jury trial was in 1947 and his last in 1993, a span of 46 years. Yet, more than longevity, his colorful and engaging style made him one of the most high-profile attorneys in Nevada history.

More than a biography of Claiborne, this will be a study of the legal, and to some extent the social community, of mid-century Las Vegas as seen through Claiborne’s eyes. His ascent to the federal bench in 1978 climaxed his career as a trial lawyer. Although Claiborne returned to private practice in 1988, he was 71 years old and his best trial years were certainly behind him. But the practice of law had changed since 1978 and, due to his age and circumstances, he was no longer at the forefront of his profession.

Consequently, the Claiborne “era”, as I define it, runs from the post war years until his elevation to the bench.

The experiences of Claiborne and his contemporaries provide a useful lens for viewing Las Vegas and its legal community at this time. These experiences, along with the backgrounds of judges, lawyers and local businessmen, contribute to our overall understanding of why Las Vegas developed as it did during that time. For example, today’s judges and lawyers all graduated from four-year universities and American Bar Association accredited law schools. Most had no meaningful employment until after law school graduation. This contrasts sharply with judges and lawyers practicing in Las Vegas in the 1940s when Claiborne first arrived. Many did not attend law school, or even college. Instead, they worked and studied in an office of a practicing attorney and learned the law while on the job. When ready, they took a Bar examination, which was not uniform across the country, but was prepared by local attorneys who were not trained, or even knowledgeable, about how to prepare comprehensive examinations. For many, their character was hardened by the times; the depression and military service in one of the two world wars, or both, as well as Korea.

Colorful, forceful, and hardworking, he quickly established a reputation as the lawyer of choice for the most prominent companies and individuals in Las Vegas. Through Claiborne’s career and observations, we can look “behind the scenes” of landmark legal decisions such as the Thunderbird Hotel case in which the resort challenged the state’s authority to regulate holders of gaming licences, the licensing of the Sands Hotel and Frank Sinatra by the Nevada gaming authorities, along with the subsequent revocation proceedings against Sinatra, as well as the criminal prosecution of many high profile individuals in Nevada’s courts. Viewing legal history through Claiborne’s political

career will shed light on the backroom deals, and other episodes which anecdotally help describe mid-century Nevada politics. So, this work is far more than a biography of Claiborne. It will be the story of a dynamic legal community that developed in a rogue town dominated by casino operators, often with mob connections – a legal community that came of age during Claiborne’s career. What better way to see that unfold, than through the eyes and ears of its most forceful and outspoken participant, Harry Claiborne.

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PREFACE

Harry Eugene Claiborne died as he lived--on his own terms. On January 20, 2004, at age 86, he killed himself rather than succumb to debilitating, cancer-related health problems. This closed a colorful chapter in Nevada legal history. Spanning nearly sixty years, Claiborne's legal career reflected both the spirit of a young Las Vegas as well as the no-holds-barred attitude of frontier lawyers. Moving to Las Vegas initially in 1943 while in the military, he began practicing law in 1947. Claiborne participated in, and many said led, the development of the legal community during the mid-century growth period of southern Nevada. Possibly the most active trial lawyer in the state, his first jury trial was in 1947 and his last in 1993, a span of 46 years. Yet, more than longevity, his colorful and engaging style made him one of the most high-profile attorneys in Nevada history.

Claiborne's long and illustrious career included memberships in many prestigious legal organizations. As a member of the National Association of Criminal Defense Lawyers, he was one of 110 criminal defense lawyers, nationwide, who contributed to the enactment of the Criminal Justice Act of 1978 which standardized and codified many of the criminal law procedures. They, in effect, authored the law that Congress passed with very few changes. Two lawyers represented each state and every attendee considered it a "tremendous honor," Claiborne believed. He was a Fellow in the American College of Trial Lawyers, which he described as "probably the most prestigious trial lawyer organization in the United States." Claiborne was also a member of the American Board

of Trial Advocates, another “invitation only” trial lawyer organization, which is restricted to lawyers active in civil, as opposed to criminal, jury trials. Memberships in these diverse trial organizations speak volumes about the breadth of Claiborne’s trial practice and experience.¹

Claiborne recalled, “My greatest joy in my whole life was walking into the courtroom. I felt so good when I walked into that courtroom. That was my home. I loved every bit of it.”² I had more fun practicing law than any man living. It was really wonderful.³ Even if I lost, it was a tremendously good feeling.”⁴ But, for him, the law was a jealous mistress as he once admitted, “I had a love affair with the courtroom. I couldn’t wait to get into the courtroom to try a case. I was happier in that courtroom than I was any other place in the whole world. Bar none. I love the atmosphere. I love the system. It was my whole life. Cost me four marriages. I couldn’t help it. So, I really can’t say that it was worth it. But, I think it was.”⁵ He enjoyed re-living it, as well, and observed, “I read somewhere that the most enjoyable part of life is your old age. You can engage in reminiscing about the events of your life. I think that’s about true.”⁶

This is not a biography of Claiborne. This is a study of the legal, and to some extent the social community, of mid-century Las Vegas as seen through Claiborne’s eyes. His ascent to the federal bench in 1978 climaxed his career as a trial lawyer. Although

¹ Harry E. Claiborne, interview by J. Bruce Alverson, 2002-2003, 308-309.

² Ibid., 136.

³ Ibid., 233.

⁴ Ibid., 136.

⁵ Ibid., 325.

⁶ Ibid., 42.

Claiborne returned to private practice in 1988, he was 71 years old and his best trial years were certainly behind him. Yet, he practiced at his own pace for the next 16 years until his death. But, the practice of law had changed since 1978 and, due to his age and circumstances, he was no longer at the forefront of the profession. Consequently, the Claiborne “era”, as I define it, runs from the post war years until his elevation to the bench.

Dramatic changes occurred during those 30-plus years. By 1980, Las Vegas was no longer the sleepy frontier town Claiborne encountered in 1943 on his first army visit, or even the postwar city of 1947 when he was admitted to the Bar. Clark County’s population increased nearly ten fold from the 1940s to the late 1970s, and was approximately 460,000 in 1978. By then, the dominant economic force was the resort industry. The county boasted more than 30 resort casinos, employing 43,700 workers in 1975, compared to 2 resorts and 719 employees when Claiborne moved to Las Vegas. In 1978, it claimed the largest hotel in the world, The International, built in 1969 by Kirk Kerkorian. In the 1960s, and with Howard Hughes serving as a role model, Kerkorian, William Harrah and Conrad Hilton led the industry in Nevada toward corporate ownership and away from individual ownership and partnerships, a change which greatly increased the resorts’ access to large pools of capital that could finance construction of large new facilities. By 1977, annual gaming revenue topped \$1 billion, as the Strip and city continued to boom. Government expanded also. Indeed, the county budget increased from less than \$2.3 million in 1945 to over \$91.6 million in 1970. Few

American metropolitan cities grew as quickly as Las Vegas in such a relatively short period of time.⁷

By the 1970s, Clark County was unquestionably the state's political center. The sheer increase in population was a major factor, and with the United States Supreme Court's Baker v. Carr decision mandating the "one man, one vote" principle, political influence based on geographical location was turned on its ear.⁸ This court ruling forced the shift of political power from a land-based ideology to one predicated on population centers. Reapportionment of each state's legislature was mandatory to comply with the court's ruling. Nevada Governor Grant Sawyer called a special legislative session in October 1965 for the sole purpose of reapportioning the state's legislative districts. Clark County gained an immediate majority in both legislative houses, awarding it a dominant position in state politics – at least from a statistical standpoint. For example, when Claiborne was a member of the 1949 Nevada legislature, Clark County had only one of 17 state Senators and 6 of 43 Assemblymen. Under this system, Clark County had only 6% and 14% of the state's representation in the Senate and Assembly, respectively, even though it contained over 30% of the state's population. At the end of the Claiborne "era" in 1978, Clark County claimed 11 (55%) of the state's 20 Senators and 22 (55%) of the 40 Assemblymen, which closely resembled its 58% share of the state's population. The population explosion in Southern Nevada also qualified the state for a second U.S. congressional district by 1982, which lay mostly in Clark County.⁹

⁷ Eugene P. Moehring, Resort City in the Southwest: Las Vegas, 1930-1970 (Reno and Las Vegas: University of Nevada Press, 1989), 111, 269.

⁸ Baker v. Carr, 369 U. S. 189 (1962).

⁹ Political History of Nevada, 1996 (10th Edition), issued by Dean Heller, Nevada Secretary of State (1996), 191, 200, 207.

The change in the judiciary during that time period was just as dramatic. By 1978, the Nevada Supreme Court had expanded from 3 to 5 justices. The federal District Court judges increased from one to three (after the addition of Judge Reed in 1979), plus one senior judge for a total of four. State court judges in Clark County jumped to 12, a startling increase over the lone judge in 1943.¹⁰

The Nevada State Bar Association membership also reflected this growth during the course of Claiborne's era. The postwar population shift was well underway by 1950, as lawyers abandoned the ranching and mining communities for the major growth areas of Las Vegas and Reno. The shift from 1950 to 1977 was even more pronounced. While 65 lawyers practiced in Las Vegas in 1950, representing 23% of the total Bar, the membership increased to 544 in 1977, accounting for 48% of the total. Although Washoe County added 241 lawyers during that same period, its percentage dropped from 57% to 36%.¹¹

The nature of the practice of law also changed. No longer was the Bar dominated by sole practitioners with a general law practice.¹² Rather, law firms consisting of numerous attorneys specializing in various areas of the law were common. A survey of lawyers in Clark County in October 1976 reveals that three firms had five, four firms had six, and four other firms each had seven, nine, eleven and sixteen lawyers, respectively. So, 82 lawyers worked for only eleven firms. That was a significant departure from the 1940s pattern, and drastically changed the manner in which law was practiced. Today, of

¹⁰ Political History, 238, 221-222.

¹¹ Nevada State Bar Journal (Reno and Las Vegas: State Bar of Nevada), April 1950, Vol 15, No 2; January 1977, Vol 42, No. 1.

¹² Claiborne interview, 37.

course, Nevada has several firms with over 40 lawyers each and out-of-state firms with Nevada offices employ hundreds of lawyers.¹³

A whole new sector of criminal law was created by the requirement of paid representation for indigent persons charged with a crime. County and state governments created Public Defender's offices in both the federal and state court systems, and panels of paid outside lawyers were created for persons who could not be represented by these offices due to conflicts of interest issues. Rather than Bar members donating time to represent indigents, as Claiborne did, a whole new area of specialization was emerged for attorneys who focused on criminal law, who were assured of getting paid for their time.

The experiences of Claiborne and his contemporaries provide a useful lens for viewing Las Vegas and its legal community at this time. These experiences, along with the backgrounds of judges, lawyers and local businessmen, contribute to our overall understanding of why Las Vegas developed as it did during that time. For example, today's judges and lawyers all graduated from four year universities and American Bar Association accredited law schools. Most had no meaningful employment until after law school graduation. This contrasts sharply with judges and lawyers practicing in Las Vegas in the 1940s when Claiborne first arrived. Many did not attend law school, or even college. Instead, they worked and studied in an office of a practicing attorney and learned the law while on the job. When ready, they took a Bar examination, which was not uniform across the country, but was prepared by local attorneys who were not trained, or even knowledgeable, about how to prepare comprehensive examinations. These tests often included oral examination as well as written. For many, their character was

¹³ Legal Directory for Southern Nevada: Revised to October 1, 1976 (Las Vegas: Nevada Legal News), 1976.

hardened by the times; the depression and military service in one of the two world wars, or both. Yet, in many ways theirs was a more simple and less hectic community than the local legal profession today.¹⁴

Once again, this is not a dissertation about Claiborne, per se. Nor is this a re-examination of his troubles with the FBI, his 1984 conviction for federal income tax evasion, or his 1986 impeachment by Congress and removal from the federal bench. Although interesting and historic, this work will not attempt to re-try Claiborne's criminal case, nor even question the veracity of the evidence against him. The jury has spoken. Much was written about his case at the time, including extensive articles in the state's leading newspapers. Investigative reporters combed the files, examined the evidence, interviewed witnesses, and argued endlessly about the propriety of the government's role in prosecuting his case. The Las Vegas Sun documented the various allegations in a seven-part series in 1982, while the Review Journal countered with information reportedly leaked by the FBI and Justice Department. It was the subject of law review articles published by law schools and studies presented in historical journals. Finally, the Nevada Supreme Court issued a 131-page opinion in 1988 which analyzed every aspect of the investigation, trial, and impeachment proceedings.¹⁵ It is unlikely that any new material exists which would have significantly affected the ultimate result had it been previously uncovered. So, re-hashing the matter is not the purpose of this endeavor. This work instead seeks to survey Claiborne's career during what I refer to as the

¹⁴ For a national perspective, see Lawrence M. Friedman, A History of American Law (New York: Simon and Schuster, 1973) 592-593.

¹⁵ State Bar of Nevada v. Claiborne, 104 Nev. 115 (1988); for more on the impeachment, see Elenore Bushnell, "Judge Harry E. Claiborne and the Federal Impeachment Process," Nevada Historical Society Quarterly, XXXII, No. 4 (1989), 235-260.

Claiborne “era”, that 30-plus year span when the legal, and social, environment changed Las Vegas from a small railroad town to a modern metropolis.

Claiborne observed the legal community for nearly 60 years, and was in the forefront for much of the time. Colorful, forceful, and hardworking, he quickly established a reputation as the lawyer of choice for the most prominent companies and individuals in Las Vegas. Through Claiborne’s career and observations, we can look “behind the scenes” of landmark legal decisions such as the Thunderbird Hotel case in which the resort challenged the state’s authority to regulate holders of gaming licences, the licensing of the Sands Hotel and Frank Sinatra by Nevada gaming authorities, along with the subsequent revocation proceedings against Sinatra, as well as the criminal prosecution of many high profile individuals in Nevada’s courts. Viewing legal history through the prism of Claiborne’s political career will shed light on the backroom deals, and other episodes that anecdotally help describe mid-century Nevada politics. So, this work is far more than a biography of Claiborne. It is the story of a dynamic legal community that developed in a rogue town dominated by casino operators, often with mob connections--a legal community that came of age during Claiborne’s career. What better way to see that unfold, than through the eyes and ears of its most forceful and outspoken participant, Harry Claiborne.

CHAPTER ONE

YOUTH AND WAR

Born in McRae, Arkansas on July 2, 1917 and reared on his father's farm, young Claiborne developed not only a down-home personal and courtroom style, but also a strong work ethic often found in farm communities. An ancestor obtained a French land grant of 3,000 acres which established the Claiborne family in present-day Arkansas. His great grandfather, a colonel in the 7th cavalry in Robert E. Lee's army during the Civil War, died during the battle of Chancellorsville.¹ When his grandfather's children began to marry, he gave them 40 to 60 acres in an attempt to keep his family around him.²

Claiborne's father, Arthur, raised cotton on his 120 acre farm and was one of the first farmers in the county to rotate crops. Although a big strawberry producer, the county's principal crop was still cotton. In those days, farmer's children usually worked on the farm, and Claiborne and his siblings were no exception. Harry confessed that he had no pleasant memories about farm life.³

Arthur Claiborne instilled a sense of independence and fairness in his son at an early age. At 13 years of age, Harry watched his father stand up to the grand wizard of the Klu Klux Klan who criticized him for being the only white farmer in the valley who was not a

¹ Claiborne interview, 177.

² Ibid., 1-2.

³ Ibid., 5.

Klan member. Arthur responded, “I won’t join any organization whose members need to wear hoods over their faces.” Only days later, his father saved an immigrant farmer from a lynching when he sheltered the man and his family in the Claiborne home. Armed with a shotgun, Arthur went to the man’s farm and waited. When the Klansmen rode in that night, Claiborne stopped them at gunpoint. When one of the intruders rode toward the barn with a flaming torch in his hand, Arthur knocked him off his horse with a round of buckshot. Never again was a man lynched by the Klan in his community, because the night riders knew they would have to answer to Arthur Claiborne, his proud son later boasted. To young Harry, this clearly was a life altering event. Not to be outdone, his mother Minnie, a school teacher, was a proponent of racial integration in the 1920s when such activism was dangerous in the Deep South. Clearly, his parents taught him to stand up for his beliefs, and he did.⁴

Even at an early age, the court system fascinated Claiborne. At that time, jurors in Arkansas were not selected at random. The judge selected the jury panel himself. He selected the grand jury and the petit jury from prominent people in the community. Usually it was the same people every year. Because Claiborne’s grandfather was a local patriarch, he was always a member of the grand or petit jury. He took his grandson with him. The courthouse, set on a classic court square, was a magnificent old building, Claiborne recalled. He loved to watch the old lawyers. Some were great orators, at least in the eyes of a young observer. They all dressed the same--blue serge-sayer suits with watch chains coming out of their vests. He wondered if some of them even had watches

⁴ Ibid., 1; Las Vegas Sun, January 21, 2004; Las Vegas Review Journal, January 21, 2004.

attached because he never saw them pull out a watch. Nonetheless, a chain was anchored to each side of the vest.⁵

Claiborne never lost his interest in the law. After he graduated from high school in 1932, the woman who ran the only general store in McRae called to discuss his future. When he told her that he wanted to be a lawyer but had no money for college, she arranged for him to attend Ouachita Baptist College. Once there, Claiborne worked in the kitchen and dining room in the dormitory to finance his education. Because a college degree was not yet required for admission to law school, he left after three years for law school.⁶

Claiborne's selection of a law school was unusual. He initially applied to Louisiana State University. During the interview, the assistant dean informed him admissions for out of state students were closed for several years. While hitchhiking home to Arkansas, a drunken tobacco salesman named Schneider gave him a ride. The back seat of the car was filled with hand fans which had a big red rooster on the back, and underneath it said "Rooster Snuff." Schneider drove around small towns, located churches, grabbed a bunch of fans, and put them in the pews. Because no air conditioning existed in the churches, the fans were put to good use. This Depression era marketing gimmick apparently worked. During the trip home, Schneider proceeded to get so drunk that young Claiborne had to take over the wheel. They "marketed" all the way to Memphis. After learning of Claiborne's problem with law school admission, Schneider wrote a letter, addressed and sealed it, and told Claiborne to take it to Judge A. B. Neil of the

⁵ Claiborne interview, 8.

⁶ Ibid., 12.

Supreme Court of Tennessee in Nashville. Claiborne went home and showed the letter to his father, who encouraged him to go to Nashville and deliver it.⁷

Following his father's advice and motivated by his own desire to attend law school, Claiborne traveled to Tennessee, handed Schneider's letter to the judge's secretary and waited. Neil soon came out and introduced himself. As it turned out, the snuff salesman was a boyhood friend of the judge. Claiborne believed the two had had a lot of fun together because the judge "sat and chuckled, and chuckled, and chuckled." Judge Neil wrote a letter which secured Claiborne's admission to Cumberland School of Law in Lebanon, Tennessee, as well as a job. He graduated in June 1941. In a later reminiscence, Claiborne recalled that "To this day, whenever a case looks bleak, I recall that story. I wouldn't even be a lawyer if I hadn't been hitchhiking and was picked up by a drunken snuff salesman."⁸

Following graduation, Claiborne moved to Little Rock, and started working for a small law firm. Within two months, however, he received his military draft notice. Earlier that year, Congress had authorized a peacetime draft as war raged in Europe. After telling his senior partner that he had to report for a physical exam, Claiborne's boss offered some sound advice, "You're very articulate. You, I'm sure, would make a helluva trial lawyer, but you'd make a better politician. Don't get drafted. Go down to Camp Robinson and volunteer. Come back after the war. You volunteered to serve your nation in this time of great trouble. Run for public office. You'll get elected. You'll be governor of this state some day." Claiborne recalled going home that night, thinking

⁷ Ibid., 14; Review Journal, January 21, 2004.

⁸ Review Journal, January 21, 2004; Claiborne interview, 14.

about it, and came to the conclusion, “By God, I’ll make a good governor.” He volunteered three days later.⁹

Claiborne reported to the Santa Ana Army Air Base in 1942. His primary duty was to locate Japanese families and remove them to a holding area at the Santa Anita Race Track. Implementing President Franklin D. Roosevelt’s Special Order 9066 was a somewhat disagreeable task for someone reared to oppose racial repression, but he followed orders. Claiborne recalled the Japanese were “stoic, unexpressive, like they understood, but disapproved,” didn’t argue, and they never had one altercation. The MPs were constantly reminded that they were to be understanding and gentle. None of the officers he knew approved of what they were ordered to do.¹⁰

Still, this experience illustrates Claiborne’s early championing of the underdog. The general “round up” missed one Japanese farmer and Claiborne’s squad was ordered to get him. They found him hiding in a thicket. He was crippled. He worked less than one acre of land where he grew melons and raised pigs. Although he probably slept in his house at night, the farmer left before daylight and camped in the thicket. Claiborne’s squad found him and loaded him in the truck. He was crying. He asked what would happen to his animals, but Claiborne did not know. In an act of compassion, Claiborne decided to free the man but told the interpreter to explain to the farmer that he would be arrested if he ever came out of the thicket during daylight. Although the squad nodded their approval, the interpreter said he would have to report Claiborne. “You do and you

⁹ Claiborne interview, 15-17.

¹⁰ Ibid., 20-22.

are going to live about one hour after you tell somebody,” Claiborne threatened. The interpreter never reported him.¹¹

Claiborne first visited Las Vegas in May 1943 with other soldiers to respond to a security problem at the Cotton Club. General George Patton’s armored division trained at the Desert Warfare Center near Needles, California. Some of his troops came to Las Vegas on weekend leave. According to Claiborne, a few of the soldiers got rowdy one night and barricaded themselves inside the club. They stabbed Woody Pierce, Las Vegas captain of detectives, in the stomach and held him captive. When Claiborne’s unit arrived, Major Donald L. Barnell met them and, armed with six hand grenades, they drove to the Cotton Club. Barnell got a bullhorn and announced to the occupants that he was unarmed and was going into the Club. He told Claiborne, “Give me 20 minutes. If I’m not out of there in 20 minutes, blow the goddamn building down.” Claiborne responded, “You’ve got to be kidding. You’ll be in there.” “No. Every building has a back door. I’ll be out of there, don’t you worry.” He was a very “gutsy bastard,” Claiborne thought. Barnell brought the 8 or 9 men out in about 10 minutes. Claiborne and his group then “did the town for three days. Wasn’t much either. It was all downtown.” Later that year he was transferred to Las Vegas. Little did he know how Las Vegas would eventually shape his life and the influence he would exert on the town’s and state’s legal community over the next 60 years.¹²

¹¹ Ibid., 21-22.

¹² Ibid., 29-30; Louis Wiener, Harry Claiborne, and George Foley, interview by Cliff Young, 1995-1997, 1.

CHAPTER TWO

WARTIME NEVADA AND LAS VEGAS

Wartime Nevada and Las Vegas were very different from today. In 1940, the state's population was roughly 110,000. The largest city was Reno, and political power was concentrated in the northern part of the state. Clark County was still relatively new, having been formed from the southern portion of Lincoln County in July 1909. In 1941, Las Vegas exerted little political influence beyond Clark County.

Southern Nevada was a constellation of diverse communities, ranging from the semi-ghost mining town of Searchlight in the far south to small, mostly Mormon, farming hamlets in the north. Large government construction projects created two cities in Clark County. The Boulder Canyon Project spawned Boulder City in 1931, and the defense industry's need for magnesium resulted in the creation of Henderson in 1941. Wartime Las Vegas was still relatively small. Claiborne recalled that Rancho Road and Charleston Boulevard formed the western and southern boundaries of Las Vegas, while 10th Street and the City of North Las Vegas defined the eastern and northern limits.¹

Despite its small population, Clark County enjoyed a relatively broad-based economy during the war. The Army Gunnery School (located at today's Nellis Air Force Base) provided an economic stimulant as did the construction and operation of the massive Basic Magnesium plant in Henderson. Maintenance and safeguarding Hoover Dam

¹ Claiborne interview, 31.

provided a steady economy for Boulder City, while the railroad connected these operations with the rest of the country. Las Vegas' resort industry was still in its infancy during the war. But change was evident. Indeed, the gaming corridor along Fremont Street demonstrated its growth potential with several casinos, led by the El Cortez. At the same time, cabins and motels sprouted along Fifth Street and, across the city line, two resorts, the El Rancho Vegas and the Hotel Last Frontier, opened in 1941 and 1942, respectively.

Block 16 in Las Vegas provided an economy of a different type, prostitution. Although closed down in 1942 at the army's request, next to gambling, prostitution was the town's main attraction, according to City Attorney Paul Ralli. By day, the Block was an inconspicuous row of eight or nine clubs fronted by a common porch just above street level. But at night, the Block assumed a more forbidding guise, where mystery, sin, and taboo all mingled. Considered legal by many, prostitution was a local industry and the Block was a must-see for visitors. Many residents acted as guides to visiting friends, and a trip to Las Vegas was not complete without a tour of the bars in the Block, or at least a ride down the middle of the street. On one occasion, Ralli was entertaining a well-known Hollywood director and his wife. He arranged for one of the girls to come out and greet the director by his first name as they drove slowly by in an open car. The director blushed, and to his wife's amazement, quickly offered this explanation, "She must have worked for me in the past as an extra in the movies." This practical prank was used time and again without any unpleasant consequences, Ralli observed.²

² Paul Ralli, Nevada Lawyer: A Story of Life and Love in Las Vegas, 1930-1970 (Culver City: Murray and Gee, Inc., 1949), 38-39.

Las Vegas clearly reflected the last frontier atmosphere of the state, as did the legal community. In 1943, this community was small (particularly with a number of its members in the military), geographically diverse, general law practices rather than specialization, informally educated for the most part, and struggling to maintain meaningful qualifying standards for its members. In short, the Bar exuded an “Old West” appearance and attitude, just like the state. The Nevada State Bar Association in 1943 consisted of 234 attorneys statewide. Washoe County had 122 attorneys and still represented the legal and commercial center of the state. Clark County counted 37 attorneys, while Carson City and Elko had 16 and 13, respectively. No other county had even ten attorneys.³

Political power was concentrated in the north, which also controlled the State Bar. The latter was established on September 23, 1911 with the adoption of a constitution and by-laws. The first annual meeting was held in 1929 in Reno, along with 19 more. It was not until 1943 before a Las Vegan, Artemus W. Ham, was chosen as Bar president. It was not until 1948 that a meeting took place in Las Vegas. Harvey Dickerson became president in 1953, but that is somewhat deceiving, because Dickerson’s father, Denver, was acting Governor from 1908 until 1911. Although originally from Ely, the family remained in Carson City after the Governor’s term expired. The second Las Vegan with no northern Nevada ties chosen as Bar president was V. Gray Gubler in 1958-1959, the 32nd man to hold that position. So, only two of the first thirty-two Bar presidents were

³ Nevada Bar Journal, April 1943, vol 8, No. 2, 50.

from Southern Nevada. Moreover, the Bar exam was administered only in Reno until 1971, forcing Las Vegas area applicants to endure the inconvenience of the long travel.⁴

For years admission standards were somewhat lax. During the 1940s, the Bar Association re-examined its rules for admission. The admission system contained three parts: the qualifications for taking the examination, the successful completion of a written examination, and the recommendation as to character and fitness. The admission process had always required the applicant to be a day over the age of 21 years, an American citizen, and a Nevada resident for six months. Population shifts during and after the war prompted the state to institute new rules to provide more objective and standardized examination and educational requirements. Gradually, the Bar tightened its standards. In 1943, the association abolished the reciprocity system and required all applicants, including lawyers in other states, to pass a written examination. The Bar acknowledged that in some cases the examination of lawyers from other states appeared unnecessary, but members argued that it helped maintain high standards by keeping marginally qualified lawyers out of Nevada. This reform would ultimately force Claiborne to take and pass the Bar examination.

A second important change occurred in 1945 when the Nevada Supreme Court abolished the rule permitting an applicant to take the Bar examination if he possessed the “equivalent” of a high school, college and law school formal education. The new rule not only required at least two years of college, but more importantly, a degree from a law school approved by the American Bar Association. Correspondence school and law office training no longer met the educational qualification for admission. The former

⁴ Diamond Jubilee Celebration: 75 Years of Service, 1928-2003 (Las Vegas: State Bar of Nevada, 2003), 57, 62, 20-21.

rule imposed upon the Board of Bar Examiners the duty to assess the informal education of applicants to determine its “equivalency” to the formal training of a law school. However, it provided no standards or basis to make that determination and a certain degree of arbitrariness was inevitable. The new procedure provided an objective basis for at least a minimum of formalized training for all applicants. An interim rule permitted admission of war veterans under certain conditions which provided relief for some who were caught just short of a law degree when the war began. After it provided relief for those members, the Bar repealed that provision.⁵

In 1943, the Nevada Supreme Court justices reflected the diverse backgrounds of the Bar members themselves. All westerners, their legal education ranged from a prestigious eastern law school to training in a Winnemucca law office. It consisted of three elected justices: William Edwin Orr, Errol James Livingstone Taber, and Edward Augustus Ducker. Justice Orr, the son of a blacksmith, was born in the mining town of Frisco, Utah in 1881. He served on the Nevada Supreme Court from 1939 until 1945 when he resigned upon his federal appointment to the U.S. Court of Appeals for the Ninth Circuit based in San Francisco. In a circuit dominated by California, Washington, and Oregon, Orr was the first Nevadan to serve on that court. This not only reflects favorably on Orr’s qualifications and reputation, but also upon the political influence of Nevada’s U. S. Senator Patrick McCarran who secured his nomination. Orr attended grammar school in Pioche and, because there was no high school in Lincoln County at that time, he enrolled in a prep course at the University of Nevada. That was the extent of his formal education. He never had the benefit of college or law school training. Orr served as

⁵ Nevada State Bar Journal, October 1954, vol 19, No. 4, 162-167.

Clerk and Treasurer of Clark County before his admission to the Nevada Bar in 1912. District Attorney in Lincoln County for six years, Orr later served as a District Court judge for both Clark and Lincoln counties until appointed to the Supreme Court in 1939 to finish the unexpired term of Justice B. W. Coleman.⁶ Although Claiborne dealt only with Orr in his capacity as a judge, he knew of Orr's reputation as a "helluva trial lawyer" in Pioche, an important quality in the standing and reputation of a mining town lawyer.⁷ Florence Boyer, Clerk of the Clark County Court from 1921 until 1927, remembered Orr as one of the few "absolutely incorruptible" people she knew. Nothing could persuade Orr to do anything that he considered wrong. She further recalled that he was "very dignified."⁸

Attorney George Foley believed Orr would have liked to have been a teacher, and he would have made a good one. He remembered that each Saturday morning Judge Orr held court to set the court calendar for the following week. The attorneys frequently sent office boys, now called runners, to the calendar call to make notes of the times of scheduled hearings. Many runners were the sons of practicing lawyers. After the session, Orr regularly called the young men into his chambers and delivered a lecture on the law. Frequently, he would take a legal issue on that morning's calendar and use it as a topic for a short lecture so they would understand what had occurred and why. Nearly all the young men became lawyers, in part due to Orr's inspiration, Foley believed. When Foley attended Hastings Law School in San Francisco from 1954 to 1956, Orr was sitting

⁶ Nevada State Bar Journal, October 1966, Vol. 31, No. 4, 8; Diamond Jubilee Celebration, 35-36.

⁷ Claiborne interview, 250-251.

⁸ Florence M. Boyer, Las Vegas, Nevada: My Home for Sixty Years, interview by Mary Ellen Glass (Reno: University of Nevada Oral History Program, 1967), 154.

on the Circuit Court. Frequently Foley and Orr would meet in a nearby coffee shop and Orr would ask how he was getting along in school. They would get out Foley's case book and read the cases together, and if there was a question Orr could not answer, he would ask Foley to call him in an hour. That gave Orr time to have one of his law clerks research the issue. On one occasion, the dean of Hastings Law School and two of Foley's professors walked into the coffee shop and saw them. As Foley laughingly recalled, the professors treated him with much greater respect after seeing him studying law with a Ninth Circuit Court judge. Foley remembered that Las Vegas residents treated Orr with great respect. When they passed him on the street, everyone said hello and spoke to him, and he would always tip his hat and respond, "And how are you?" Orr was a "most gracious man" according to Foley.⁹

Justice Taber served on the Nevada Supreme Court from 1935 until his death in 1947. A native of Austin, Nevada, he received his early education in the public schools in Elko and high school in San Francisco. Taber graduated from New York's Columbia University Law School and immediately returned to Elko to practice law with his stepfather, E. S. Farrington. Farrington eventually became Nevada's federal judge in 1907. After serving as Elko County District Attorney, Taber became District Judge for Elko, Lincoln, and Clark counties in 1911. Twelve years later, he returned to private practice until 1935, when voters elected him to the Nevada Supreme Court.¹⁰ Taber was an exceptional athlete in his youth. During his high school and collegiate days, he played

⁹ Wiener interview, 89.

¹⁰ In Memoriam: Errol James Livingston Taber, 63 Nev. 497, (1946); Nevada State Bar Journal, January, 1948, Vol. 13, No. 1, 36.

baseball, tennis, basketball, ran track, and taught a generation of Elko boys how to swim in the Humboldt River.¹¹

Born in Visalia, California, 1870, Justice Ducker moved to Nevada at age 17 to become a cowboy and range rider. He studied law in a Winnemucca lawyer's office before joining the Bar in 1902. Two years later, he was District Attorney for Humboldt County where he served three consecutive two year terms before becoming District Court judge there in 1910. In 1918 the voters elected him to the Nevada Supreme Court where he remained until his death in 1946.¹²

Nevada's sole United States District Court judge when Claiborne started in Las Vegas was Frank Norcross, who served from 1928 until 1945, after replacing Judge E. S. Farrington. Born in Reno in 1869, Norcross was one of four members of the University of Nevada's first four-year graduating class. While still attending the university, he served as Supervisor of Washoe County and was a captain in the Nevada National Guard. In 1894, he graduated from Georgetown Law School and became District Attorney for Washoe County. After a term in the state legislature, the voters elected him to the Supreme Court in 1904 where he served until 1917. Like many of his contemporaries in the profession, Norcross' career bridged the nineteenth and twentieth centuries. When he returned to private practice, he prosecuted a State of Nevada claim against the federal government for Civil War compensation and recovered over half a million dollars after many years of litigation, a significant sum at the time. Norcross first came to the attention of the federal judiciary as a candidate to fill a vacancy on the Ninth Circuit in

¹¹ Hugh A. Shamberger, Memoirs of a Nevada Engineer and Conservationist, interview by Mary Ellen Glass (Reno: University of Nevada Oral History Program, 1967), 201.

¹² In Memoriam: Edward A. Ducker, 63 Nev. 477 (1946).

1925, but a United States Attorney General's memorandum noted that "Judge Norcross is so persistently and actively against the 18th Amendment (prohibition) that it would strongly influence his action against the enforcement of the law if he were put on the bench." As a result, the Coolidge Administration did not appoint him, although the president later named him to the Federal District Court bench in Nevada in 1928, where he remained for 17 years.¹³

According to one assessment of his judicial skills, Norcross was a good and fair judge, but was not considered "brilliant." Despite his 17 years presiding over trials in federal court, lawyers generally viewed him as a better appellate judge. Norcross tended to be "slow and deliberate" in his decision making process, characteristics more suitable to the appellate process than the quicker paced trial court room. However, he had the reputation of being both "profound and proficient" while serving on either bench.¹⁴

The majority of the lawsuits and trials in a community occur within the state courts. They are the backbone of the local judicial system, and the venue where new lawyers, such as Claiborne, would begin and spend the bulk of their trial careers. Due to Las Vegas' relatively small population in the 1940s, Clark County had only one District Court Judge. When Claiborne arrived in 1943, it was George E. Marshall. Born in Michigan in 1897, Marshall and his family moved to Ely, Nevada in 1907 where his father worked as a railroad conductor. After his father was killed four years later, the

¹³ Reno Evening Gazette, November 4, 1952; Nevada State Journal, November 5, 1952; Thomas W. Miller, Memoirs of Thomas Woodnutt Miller: A Public Spirited Citizen of Delaware and Nevada, interview by Mary Ellen Glass (Reno: University of Nevada, 1966) 101; David C. Frederick, Rugged Justice: The Ninth Circuit Court of Appeals and the American West, 1891-1941 (Berkeley: University of California Press, 1994) 130-131; In Memoriam: Frank H. Norcross, 69 Nev. 355, (1952).

¹⁴ Harry Hunt Atkinson, Tonopah and Reno Memories of a Nevada Attorney, interview by Barbara C. Thornton (Reno: University of Nevada Oral History Program, 1970), 71-73.

14-year-old Marshall worked in the mine at Ruth to support his family. In 1917, he enlisted in the United States Marine Corps. Marshall was wounded in the crucial battle at Belleau Wood which stopped the German advance on Paris. After recuperating, he returned to active duty, but was again wounded during hand-to-hand combat at Mont Blanc Ridge. After the war, he attended the University of Utah Law School and served as Deputy County Attorney in Salt Lake City. Marshall moved to Las Vegas in 1929, and was elected Justice of the Peace in 1938. In 1940, he defeated Roger T. Foley for Clark County's sole District Court judge by a mere 17 votes. In 1946, Marshall resigned to run for the first of two unsuccessful attempts for the United States Senate. In 1958, Clark County voters returned him to the District Court bench where he served until retirement in 1966. The Nevada Supreme Court designated him a Senior District Court Judge in 1977, and he continued in that judicial role until 1979. The county courthouse law research facility was named the Judge George E. Marshall Law Library in 1966 to honor his long and distinguished career. Marshall died in March 1980.¹⁵

Claiborne had many dealings with Marshall over the years. He described Marshall as an "old timer" in the Las Vegas area who was very popular with the voters, and for good reason he believed. In Claiborne's view, Marshall was a good judge; he was knowledgeable, had a good temperament on the bench in most cases, and was as accommodating as a judge could be without passing over the line. "But for some reason, and it might have been just as much my fault in looking back, he didn't like me. I could walk into court and his whole temperament changed. He just couldn't stand me," Claiborne remembered. One incident characterizing their relationship as well as the

¹⁵ Review Journal, March 24, 1980, Obituaries; Sun, March 24, 1980, Obituaries.

casual manner in which some Nevada judges conducted their business occurred when Claiborne went to the courthouse to get an order signed, but could not find Marshall and had it signed by Judge Clarence Sundean instead. At the next court appearance in the case, Marshall glared at Claiborne and announced, "Before we start, I want an explanation from you why you went to another Judge to get this order signed." The courtroom was full of lawyers. Claiborne asked if he wanted an explanation right then, and Marshall said he did. When asked if he was sure, Marshall demanded an answer. Claiborne replied, "I went over to your chambers, and it was early in the afternoon as you can see from the file stamp and you weren't there. I inquired where you were and nobody knew. So I went and got Judge Sundean to sign the order. I found out later that you were at the Horseshoe (Casino) Bar that afternoon and didn't come back to your office. If you'd stay in your office on Friday afternoons, lawyers would be able to find you and we wouldn't have this difficulty." "His face got deep red. He got so damn mad," Claiborne delighted in recalling.¹⁶

While in the District Attorney's office in the late 1940s, Claiborne had a criminal jury trial with Marshall who was in private practice at the time. A girl on the witness stand testified against Marshall's client. She was a prostitute at the infamous brothel named Roxies, and Marshall knew it. Marshall's cross-examination went something like this according to Claiborne, "Young lady, what is your occupation?" "I'm a waitress." "What restaurant do you work at?" She said, "Well, I'm unemployed at the present." "What was the last restaurant that you worked at?" "I don't remember." Marshall said, "Oh, come off of it," in a loud voice. "What do you mean, you don't remember it? You

¹⁶ Claiborne interview, 237; Wiener interview, 5.

must remember the last restaurant you worked at.” She looked at Marshall and said, “Come off of it, George.” Called him by his first name. She continued, “You know I’m a whore at Roxie’s, you’ve been out there enough.” The jury’s reaction can only be imagined.¹⁷

Claiborne’s anecdotal recollections of Marshall and the other judges and lawyers who functioned during and after the war illustrated the frontier, and to those in other states, the roguish nature of Las Vegas, Reno, and the state itself in the 20th Century. Claiborne’s legal career repeatedly demonstrates this point, but his experiences as a military policeman in downtown Las Vegas helped prepare him for life in one of American’s most bizarre cities. The military transferred Claiborne to Las Vegas in 1943 to serve as prison officer at the air base and as the officer in charge of the downtown Military Police. Basically, he ran the base prison and supervised the MPs in the downtown area. Nellis Air Force Base, originally the civilian airport for Western Air Express, was first called Las Vegas Army Air Corps Gunnery School and later Las Vegas Army Airfield. It has provided southern Nevada with a significant and stable economic stimulus from the war years to the present. Initially established in 1941 to achieve “training of aerial gunners to the degree of proficiency that will qualify them for combat duty,” the base saw its population more than double less than a month after construction began. From 1942 through 1945, 600 gunnery students and 215 co-pilots graduated from the base every five weeks. By 1945 the military base population reached nearly 11,000 officers and enlisted people. The city fathers recognized the importance of keeping the military leaders comfortable with their selection of southern Nevada and tried to

¹⁷ Claiborne interview, 112.

accommodate their uneasiness over local conditions. Creating a military base in an environment where 24-hour gambling, liquor sales, and prostitution were legal concerned the military. In an effort to control problems created by servicemen on leave in Las Vegas, the army established a military police force at the gunnery school.¹⁸

Claiborne's unit principally addressed the commanding officer's concerns regarding prostitution. "That's why we were here, really. That's why there was a cadre of MPs working nights downtown. Colonel George Henry had a thing about prostitutes. In fact, he had a war all the time going about prostitutes in Las Vegas. He even got the Commanding General into the fight."¹⁹ Previously, under pressure from the War Department, the Las Vegas City Commission closed Block 16 in 1942 through daily raids by the police department under the direction of city attorney Paul Ralli. Although Ralli claimed his raids made it "unprofitable and prohibitive for the prostitutes to carry on either in the open or under cover, and so came the end of the red-light district in Las Vegas," prostitution in various forms continued to flourish in Clark County as it always had. Both the policing of the downtown area and the involvement of the military justice system in Las Vegas outside the physical confines of the military base offers some insight into the influence the military could exert over community affairs.²⁰

Claiborne's anecdotal memories of this period illustrate this point along with the fluid nature of policing wartime Las Vegas. For example, Claiborne had eight men working every night, but the town was still small and he really did not need that many men. Since

¹⁸ Insider Viewpoint of Las Vegas, "The Military History of Nellis Air Force Base," www.insidervlv.com/nellisairbase.html. (Accessed April 30, 2007).

¹⁹ Claiborne interview, 33.

²⁰ Ralli, Nevada Lawyer: A Story of Life and Love in Las Vegas, 40.

most of his men had girlfriends, Claiborne normally gave four of them the night off after 8:00 o'clock at night. Someone reported this to the commanding officer who in turn reported it to Colonel George Henry. One night, the Colonel decided to determine how many MPs were actually on duty. Later tipped off, Claiborne already had let four men go home early. He talked to the remaining four men and they devised a plan. As the Colonel drove down the street, he saw two men coming down one side of the street and two coming down the other side of the street. When the Colonel passed, they ran through a club, came out on the other end and walked down the street again. The Colonel counted the same four men all night. Claiborne never heard anymore about it.²¹

To put it mildly, the military's policing operations in Las Vegas were somewhat loose, especially when Claiborne was on duty. Despite being in charge of the downtown MPs and the prison officer, Claiborne also served as defense attorney in a number of court martial cases. At Colonel Henry's request, he tried approximately ten cases. Essentially, Claiborne defended the same people his unit arrested. The obvious conflict of interest never seemed to concern anyone.²²

Military justice was rife with local characters. One court martial case involved a used car dealer called "Mad Man" Dizinger. Claiborne represented a soldier who stole one of Dizinger's cars and drove it to Alabama. The FBI arrested him and sought a court martial. Dizinger often ran newspaper ads in which he described himself as "the craziest man in town. Crazy Dizinger." The army prosecutor, Captain Lou Smith, called Dizinger as a witness and Claiborne objected, claiming he was incompetent to testify as a witness.

²¹ Claiborne interview, 32.

²² Ibid., 152.

When asked why, he said, "He's crazy." Colonel Henry, the presiding judge, ruled that Claiborne had to prove that Dizinger was insane. Claiborne asked Dizinger, "Don't you regularly advance to the general public, as well as the whole world that you are crazy? Don't you even advertise in the newspaper that you're crazy?" Dizinger acknowledged it. Claiborne then asked, "What further proof do you need? The man's not only crazy, but he advertises it." The judge declared a recess. The prosecutor was flabbergasted: "You're in the car business and run those ads that you're crazy to attract attention to your car lots?" He said, "Yes." "You don't do that for any other purpose, do you?" He said, "No." Claiborne then asked, "Weren't you at the El Rancho Hotel for a war bond drive?" "Yes." "Were you out there selling cars?" He said, "Of course not." "You went up there to make a contribution?" "Yes." "Didn't you jump up on the stage and say that you were the craziest man in Nevada?" He said, "Yes." "And that wasn't part of your sales pitch was it?" "No." Claiborne said, "That's all I have." Captain Smith did not know what to do. Colonel Henry told Dizinger, "Get out of here! We don't want to mess with you!" Some time after Claiborne mustered out of the army, he met Dizinger on the street. Dizinger shouted at him, "Goddamn you. You know I'm not crazy." Claiborne confessed, "No, I don't know that. All I know is what you say."²³

²³ Ibid., 208.

CHAPTER THREE

POLICE OFFICER AND ADMINISTRATOR

The army transferred Claiborne from Las Vegas to West Overfield, Massachusetts in September 1945, and discharged him in December 1945. Given a train ticket to Little Rock and \$800 in mustering out pay, he rode to Chicago. At first, he did not plan to settle in the West, much less Las Vegas. But just before boarding the Missouri-Pacific train to Little Rock, Claiborne heard the announcement for the Union Pacific's "City of Los Angeles," and made an instant decision to return to Las Vegas and practice law there. Several days later, on the night of December 4, 1945, Claiborne arrived in town. The next morning, he immediately went to the police station seeking a job and met George Thompson, Chief of Police, coming out the door. As an MP, Claiborne had worked with Thompson and they were friends. At the time, training for Las Vegas policemen was still very informal, if at all. Thompson hired him on the spot, and Claiborne reported to work that afternoon. He rode his first shift the night of December 5, 1945 with Bill Hanlon, who later became the Captain of Detectives.¹

Claiborne's experience with the Military Police, coupled with his legal education gave him a unique perspective regarding law enforcement in a small town environment. As an MP, Claiborne had not concerned himself with the local policies of a community that was not his home. Now, he looked at the same issues, and people, from a different

¹ Claiborne interview, 34; Wiener interview, 1.

and arguably expanded point of view. His law enforcement experiences in postwar Las Vegas gave him a background that he later drew upon in his law practice. It also instilled in him a sense of “camaraderie” with his fellow police officers which influenced not only the types of cases he handled, but also gave him a healthy skepticism of the “evidence” often uncovered in police investigations.

The Las Vegas Police Department of 1945 reflected the small town atmosphere and the “good old boy” system of the community itself. The force consisted of approximately 25 officers (six of whom served in the detective bureau) and three vehicles. In the late 1940s, the Clark County Sheriff’s Department and city police departments of Las Vegas and newly created (in 1946) North Las Vegas handled local law enforcement. Apart from jurisdictional issues, they were similar in composition and sophistication. Yet, it was a community in rapid transition thanks to the postwar population explosion. Although the character of law enforcement and the community changed rapidly over the next several years, the remnants of an entrenched small town mentality remained for many more.

When Claiborne arrived in 1945, V. Gray Gubler was the Clark County District Attorney. Born in Santa Clara, Utah, Gubler received his law degree from the University of Utah, having graduated first in his class. He began his law practice in Las Vegas in 1936, drawn here by an uncle who was an engineer for the Union Pacific Railroad. After serving as a Deputy District Attorney from 1941 to 1943, he became District Attorney, a position he occupied until 1947. A former president of the Nevada State Bar Association in 1958-59, Gubler died in 1986.²

² Review Journal, July 2, 1986, Obituaries; Diamond Jubilee, 62.

Gubler had numerous problems with the Las Vegas Police Department. He was a stickler for proper procedures and thought most of the officers were just a bunch of stupid cowboys--an opinion partly shared by Claiborne. They did not give a “damn about the rules. They caught the bad guys and did not care how.” After starting as a patrolman, Claiborne soon transferred to the detective bureau. His colleagues were Allie Swark, Pete Reid, Bill Hanlon, Joe Bremser, Iram Powell, and Marl Hopkins, whom they called a “super sleuth” because he smoked a crooked stemmed pipe much like Basil Rathbone did as Sherlock Holmes. Claiborne described them as “good men and delightful.” He served as the liaison with Gubler’s office and reviewed all investigations and prepared the evidence before submitting them to the district attorney for prosecution.³

Claiborne and Gubler worked well together, although they got off to a strained start. Gubler suffered from a chronic eye condition that caused him to blink his right eye all the time. During their first meeting, Claiborne recalled that Gubler “began to wink at me.” When Claiborne got back to the police station, the captain asked how the meeting went. Claiborne responded that “I got along with him fine but I kept my distance. That son-of-a-bitch is a fag.” The captain then told him of Gubler’s eye problem.⁴

Claiborne's reminiscence about public drunkenness further exemplifies the small town character of postwar Las Vegas. Chet Morrison, Inspector of the Police Department, was a former Hollywood movie actor, who, because he looked mean and tough, often played the bad guy in western movies. Claiborne surmised he was a prize fighter at one time because his nose was so broken up. Though a genial person, Morrison

³ Claiborne interview, 35-36.

⁴ Claiborne interview, 35.

was “no rocket scientist” according to Claiborne. Claiborne recalled that Morrison once gathered the police force together a day after they arrested a local man for drunkenness. Morrison laid down the law and declared, “By God, there better not be anymore of this.” Everyone looked at each other because they did not know what he meant. He continued, “The next one of you who arrests any local residents for being drunk or driving drunk is going to get fired the next day.” One policeman asked why and Morrison retorted, “Because all of my goddamned friends are drunks. Does that answer your question?” And that was the policy. The police department became a taxi service. If a local got inebriated (and many of them did given the 24-hour atmosphere of the town) an officer drove him home. Fortunately, little driving was involved, because in the 1940s almost everyone walked downtown.⁵

Until the creation of the Metropolitan Police Department in July 1973, the Las Vegas Police Department and the Clark County Sheriff’s Office continually wrestled with jurisdictional issues, some serious, others humorous. On one occasion the Chief of Detectives ordered Claiborne and Joe Bremser to investigate reports of a body hanging from a tree in the desert. They soon located the body. As they approached, the odor hit them. Sickened by the stench, Claiborne decided to let the Sheriff’s Office handle the matter. They returned to the car and drove to a gas station where Claiborne called the Sheriff’s department. “My name is Herbert Thompson,” he announced, “and there is a body hanging in a tree.” Roy Trahan, a good friend of Claiborne’s, answered the telephone but did not recognize his voice. Trahan asked where he lived and Claiborne responded, “Never mind,” and hung up. When they returned to the police station, the

⁵ Claiborne interview, 36, 223; Wiener interview, 52.

chief asked Claiborne, “Okay, what is the deal?” and Claiborne replied, “The Sheriff is taking care of it.”⁶

While hardly a super cop, Claiborne occasionally collared a major criminal--although these incidents sometimes contained a touch of humor. In one case, Ben Shaffer escaped from the Wyoming State Prison and stole a car. The police put out an “all points bulletin” for him. A 22 x 14 inch wanted poster hung on the wall of the detective’s office, warning officers to approach Shaffer with care because he was believed to be armed and dangerous. It gradually became a joke. When the detectives left for the State Café to get some coffee, they often told the Captain: “We’re going out to pick up Shaffer.” The Captain would just smile and wave. One day when Bremer and Claiborne decided to go to the Café for coffee, they told the captain: “Well, we’re going out and see if we can locate Shaffer.” As usual, the Captain waved. They went and had coffee, and as they came walking out, Bremer suddenly stopped. “Jesus Christ! Look, look. Coming down the street. Do you recognize that guy?” he asked Claiborne. It was Shaffer. Claiborne immediately reminded Bremer, “The poster says he’s armed, arrest with caution.” “I don’t think I’m up to a gun battle in the street,” Bremer declared and Claiborne agreed, “I’m not either.” Claiborne later remembered that they nearly walked away. But finally, he told Bremer, “Well, we have to take him. We’ll take him from behind. He’ll stop at the intersection at the light. We’ll take him from behind. I’ll take the left arm and you take the right and we’ll do it so fast he won’t have a chance.” That’s exactly what they did. When they took him to the police station in handcuffs, they marched right up to the Captain’s desk and matter-of-factly told him, “We’d like you to

⁶ Claiborne interview, 186.

meet Ben Shaffer.” The Captain looked at them incredulously and asked, “How did you do this?” The fast-thinking Claiborne responded, “Hell, we've been working on this case for a week.” A disgruntled Shaffer contradicted him: “You Goddamned liar. I've been in town for less than an hour.”⁷

Wyoming had posted a reward for Shaffer’s capture. In those days, police officers could still accept rewards, and Claiborne and Bremer did. The reward check came to the police station along with a letter of praise from the State of Wyoming Department of Corrections. Chet Morrison told Claiborne and Bremer that it was customary, not mandatory however, to split reward money with the Police Widows and Orphans Fund. They, of course, wanted to do the right thing, and did. Claiborne recalled feeling good about his decision, because even though he was not yet married, he would appreciate it if his widow received some money if he got killed.

Years later, detective Billy Woofter died and left a wife and several children. Roy Woofter, who later became the District Attorney in Clark County, was his nephew. Claiborne went to the funeral and while he was paying his respects to Mrs. Woofter, she wondered aloud what she was going to do for money. She was destitute. A sympathetic Claiborne told her, “I don't know if you know about it, but there's a Widows Fund. I don't know how much is in it, but I will find out first thing in the morning.” But, Morrison was no longer working for the police department, and just as Claiborne should have suspected, no such fund existed. Inspector Morrison had cheated them out of the money.⁸

⁷ Claiborne interview, 247-248; Wiener interview, 25.

⁸ Claiborne interview, 247-248.

Any discussion of early Las Vegas law enforcement would not be complete without a comment about the “Blue Room.” It was the only holding tank in the city’s police station. It was Las Vegas’ version of New York’s Tombs Prison. Designed for sixteen prisoners, it had one door, one toilet, one wash basin, bunk beds, and no air conditioning. On weekends, when the town was booming, it held eighty to ninety men. It often became so crowded, they could not even sit down. “God, it was awful,” Claiborne recalled. “When I was a detective, we used to throw guys in there and we knew they were going to plead guilty within three days. They couldn’t stand that damn place. Throwing them in the Blue Room was tantamount to a guilty plea. It took a tough human being to stand even three days. The worst place I’ve ever seen in my life.”⁹

In the 1940s, Las Vegas law enforcement had a close relationship with politics, as Claiborne soon came to realize. This was often true in small communities where everyone knew one another, along with their business and social connections. Roy Parrish, who later became Chief of Police at North Las Vegas, was an officer with Claiborne. Claiborne claimed he almost got fired because of Parrish. A physically handicapped man was gambling in one of the clubs. Jimmy “Bad Boy” Williams was a local prize fighter and a bully. Williams walked up to the man, took a handful of his chips and gambled them away. When he came back for more, the man called the casino floor man who told Williams to return the chips. Williams knocked the floor man down. The casino called the police and Parrish and Whitey Bunker responded. Both were big men. They handcuffed Williams, took him to jail, put him in the Blue Room, wrote their report, and were ready to go off shift when Williams started beating the other prisoners.

⁹ Claiborne interview, 165-166; Wiener interview, 23.

They were all on the top bunk beds trying to get away from him. The jailer opened the door and Parrish walked in. Williams picked Parrish up and threw him against the wall, breaking his leg. The police could not get Parrish out. Claiborne got a call to go to the jail at once. When he arrived, Claiborne saw some unfinished riot sticks, three feet long and made of hickory. He also asked the captain for a sap, a leather bag containing metal BB's. Claiborne planned to occupy Williams while the others got Parrish out. When Claiborne stepped in, Williams had his back to him and was banging a prisoner's head on the bottom bunk. Williams turned around and as Claiborne later told it, "I hit him just like I would hit a fastball." Williams went down and the police dragged Parrish out. The riot stick shattered and Williams started to get up. Claiborne jumped on him and started hitting him in the head with the sap. Pat Clark, a county commissioner and prominent businessman, walked in as he was pounding Williams. Claiborne hit him so hard with the sap that the leather case split and the BB's flew all over the jail. He finally knocked Williams out. As Claiborne started to leave, Clark said, "There's no need for that. You be in the mayor's office in the morning."

Las Vegas Mayor Ernie Cragin and Claiborne met with Clark and Bob Baskin, another commissioner. Cragin said, "Mr. Clark related what he saw at the station yesterday and he's asked that you be fired." Claiborne explained the situation, but Clark still wanted him fired. They took a vote and it was three to one against firing him. Claiborne recalled, "I thought I was real close to getting fired but I found out later that I could have killed the guy and they wouldn't have charged me. I found out years later that Williams' mother and Clark were very good friends."¹⁰

¹⁰ Claiborne interview, 165-167.

Just as Claiborne experienced a sense of camaraderie with his fellow policemen, he had similar feelings for fellow war veterans. Veterans, he believed, owed a bond of honesty toward each other, and a breach of that bond infuriated him. In 1946, Las Vegas converted Helldorado Village, a complex of western buildings used for an annual celebration, into lodging for war veterans. Many soldiers relocated to the city after the war looking for work in the blossoming resort city. The municipal government provided nearly forty army cots, blankets, shaving material, and towels so the men could be comfortable until they found a job. On one occasion, the Chief of Police sent Claiborne to investigate thefts at the village. Claiborne obtained a roster of the men staying there, studied it and soon realized that only one man was present during all of the burglaries. But the district attorney wanted more evidence for court. Claiborne was incensed. He drove to the Village in his police car, found the man and told him to "Get your gear together. You and I are taking a trip." Claiborne put him in the car, drove north on Highway 95 toward Reno and said, "Get out. Don't you ever come back to Las Vegas. Ever. If I ever find out you're back, I'll kill you." The man believed it. He hitchhiked to Reno, went to the United States Attorney's Office and reported what happened. Several days later, an FBI agent came into the Las Vegas Detective's office with the man's written statement. Claiborne was present with Bill Hanlon, Billy Woofster, and others. The agent handed them the statement which recited verbatim what Claiborne told the man. It also described the policeman. "My own mother could not have described me as well," Claiborne admitted. The statement even noted that "He had an accent like he comes from Texas, Arkansas or Oklahoma." "You can't get much closer than that," Claiborne opined. But the officers all agreed: "Nope, that doesn't sound like any of us." Detective Jack Holliday turned around to Claiborne and asked, "How about you

Claiborne?” Claiborne answered, “I don't know him.” The agent just grinned and walked out. Of course, he and the others knew it was Claiborne all the time. But, nothing more was heard of the matter.¹¹

As a policeman, Claiborne learned many things that served him well in his later criminal law practice. One lesson was that eye witnesses to a crime were not always reliable. This was the case when a restaurant operated by two women on Stewart and 2nd street was robbed. They gave the police a description of the robber. As Claiborne and Hanlon responded, they saw a man they thought might be the robber. They picked him up and took him to the restaurant for the women to identify. They did not use line-ups in those days. They removed the man from the car. Hanlon then stayed with him while Claiborne went inside to see if the women could identify him. They came out and claimed, “That's him. The one with the yellow shirt on.” It turned out to be Hanlon. Claiborne went back to the car, got in, and told Hanlon to take the man back to where they picked him up. Afterwards, Hanlon pressed his partner, “They couldn't identify him, huh?” “Oh yeah,” Claiborne responded, “they identified the robber--they identified you.”¹²

Even after Claiborne started practicing law, he still maintained a close personal relationship with his fellow police officers. The force knew and respected him, and for that reason officers also loved to “rawhide” him whenever he came into court representing defendants they arrested. In an incident that could only have happened years ago, Claiborne, early in his law practice, represented a drunk driver who ran into a

¹¹ Claiborne interview, 246-247; Wiener interview, 25.

¹² Claiborne interview, 121-122.

wall and knocked it down. When he appeared for trial with his client, the arresting officer, "Tex" Skelton, greeted Claiborne with a grin: "Hi Harry. You bring the guy's fine with you?" Skelton told Claiborne his client was drunk and he would certainly lose the case. Claiborne responded, "Alright. Tex, you're so damn sure, I'll bet you 20 dollars. That's about all the money you're worth." Skelton jumped at the bet. They both gave their \$20 to a fellow cop, Pete Reid, to hold. The trial began and Skelton testified how drunk the driver was at the time, staggering, etc. Claiborne cross-examined, "Mr. Skelton, I only have one question for you. Do you have a wager on the outcome of this case?" He looked at Claiborne and angrily responded, "You rotten son-of-a-bitch. Even you wouldn't do this." "Answer the question," Claiborne demanded. Skelton reluctantly said, "Yes." "No further questions." Claiborne snapped, "Your Honor, I move to dismiss. You can't find this man guilty on contaminated evidence. The man is betting on the outcome of this case." The judge looked at the beleaguered witness and said, "That's right, Tex. Case dismissed." Claiborne was leaving the courtroom when he heard a scuffle. Pete Reid and another cop were holding Skelton who was trying to get away from them and was yelling, "Turn me loose. I'll kill that bastard."¹³

In the mid-1940's Claiborne not only practiced law but also briefly served as a federal administrator. Rent control had begun in Las Vegas during World War II. After the war, tenants convinced city officials to preserve rent control as a means of restraining greedy landlords in a boom town where the growing number of resorts and casinos sparked a population explosion. The Office of Price Administration (OPA) director for Las Vegas, Albert "Bert" Henderson, was impressed with Claiborne. In 1946, Henderson anticipated

¹³ Ibid., 192.

that current District Court Judge Clifford A. Jones would resign and that he would be appointed to replace him on the bench. Henderson wondered if Claiborne wanted the OPA's director position. Claiborne responded enthusiastically, "Sure, more money." Jones did resign, and shortly after Henderson's appointment to the bench, the State OPA Director contacted Claiborne. "I have an agreement with Judge Henderson to appoint you as the director in Las Vegas. Would you accept it?" Claiborne was appointed the next day.¹⁴

Under the applicable law governing the OPA, landlords had to apply to the agency for permission to raise rents. On numerous occasions, Claiborne took action against those who raised the rent without approval, and irate owners continually flooded the office with complaints. They knew they could not argue with Henderson, but many thought the young Claiborne could be intimidated. Claiborne admitted it was a miserable job, possibly the worst one he ever had in his life. He went home a "wreck" every night. But, the office was being phased out. The state of Nevada requested discontinuation of rent control in August 1950, and Congress approved the action on September 6, 1950.¹⁵ A relieved Claiborne, however, resigned several years earlier in December 1946 after learning he had passed the Nevada Bar Examination.¹⁶

¹⁴ Claiborne interview, 38-39.

¹⁵ Review Journal, July 1, 1946, September 7, 1950; Claiborne interview, 39-40.

¹⁶ Review Journal, December 26, 1946.

CHAPTER FOUR

A BUDDING LEGAL CAREER

Although Claiborne worked as a policeman and with the OPA, his ultimate goal was to practice law in Nevada. In 1945, the Bar Association required a one-year residency before an applicant could take the examination. Review courses for the test were not available then, so applicants studied on their own or with a friend. Claiborne spent the summer studying with Milton Keefer, a former FBI agent, who later became a respected Las Vegas attorney and eventually served as Chairman of the Nevada Gaming Commission from 1959 through 1967.¹

Nevada gave the Bar examination once a year in Reno. Claiborne and Keefer traveled there and roomed together at the Palace Hotel. The day before the test, Claiborne had his first encounter with George Franklin, who was in town to take the examination as well. Franklin approached Claiborne and Keefer in the hotel lobby and told them: "I got a tip on a question we are going to get on the Bar exam tomorrow, be prepared for it. We're going to get a question on the Apex Doctrine." Off he went. Claiborne looked at Keefer and asked, "What the hell is the Apex Doctrine?" Keefer confessed, "Hell, I don't know." About that time Bill Woodburn, a prominent Reno lawyer, walked in. Keefer knew him and introduced Claiborne. Keefer asked, "Mr. Woodburn, what the hell is the Apex Doctrine?" He said it was a mining principle and

¹ Review Journal, January 8, 1999, Obituaries.

explained it to them. Back in their room that night, they looked at the list of authorized potential subjects on the examination. Mining law was not on it. Franklin was clearly playing mind games with them. This marked the beginning of what would become a long and contentious relationship between Claiborne and Franklin.²

George Edward Franklin, Jr., born in Twin Falls, Idaho, attended Reno High School and the University of Nevada. A captain in the Air Force during World War II, he returned to Nevada and was admitted to the Bar in 1945. Franklin held many political positions, including Clark County Commissioner, City Attorney for North Las Vegas, City Attorney for Boulder City, state legislator, and Clark County District Attorney.³ He was hardly an admirer of Claiborne, whom he described years later as “all sizzle and no steak.” As Franklin told listeners, Claiborne “was colorful and flamboyant, but not very successful. Do you ever remember a case he won?”⁴

Claiborne acknowledged that Franklin hated him until the day he died, and for good reason. Franklin never attended law school, but instead studied law through the La Salle correspondence school while working as a guide at Hoover Dam. The two men would later be in the courtroom together arguing some issue, and Franklin would cite a case as legal authority for his client’s position. When the Judge asked Claiborne what he thought about it, he would invariably quip: “Well, it must be correct because Mr. Franklin graduated first in his class. Commencement exercises were held at the post office.” The judges always laughed and Franklin never forgave him.⁵

² Claiborne interview, 41-42.

³ Martindale-Hubbell, Inc. (Chicago: Reed Reference Publishing Company), Vol. III, 1972, 200B.

⁴ Sun, July 13, 1986.

⁵ Claiborne interview, 41; Wiener interview, 79.

In 1946, Claiborne passed the state Bar Examination and was admitted by the Nevada Supreme Court on December 12. The Report of the Board of Bar Examiners dated December 12, 1946 recorded that 17 of the 32 applicants passed, a success rate of 53% , which compares favorably with recent success rates. Interestingly, in that year, only 5 applicants took the Bar Examination for the first time, while 25 others were already members of Bar Associations in other states. So, 78% of those who took the examination with Claiborne were out-of-state lawyers who had recently moved to Nevada.⁶

Claiborne was part of a significant postwar population shift triggered by the growth-promoting effects of World War II and its aftermath. Lawyers migrated especially to the West where new hydroelectric dams provided the energy for defense and civilian industries that supported much larger populations. Unlike the 1930s when the Great Depression forced many low-income and unemployed workers to move to the region, the postwar movement often involved established professionals looking for better opportunities, not just an opportunity. The war's disruption of their lives and money derived from the G. I. Bill gave many a chance to start a new career in the West. The Bar statistics reflect this population relocation, albeit in a small, yet well-defined, segment of the workplace.

Because Claiborne was a licensed attorney in Arkansas when the army transferred him to Las Vegas in 1943, the Clark County Bar Association invited him to its meetings. By the time he passed the Bar two years later, he knew all the lawyers in town. The County Bar in the 1940s and 1950s consisted of a small and close knit group of attorneys. Claiborne recalled, "It was the most amazing Bar you ever saw in your whole life. Half the lawyers in town ate breakfast together every morning. The same thing at lunch. No

⁶ Nevada State Bar Journal, January 1947, Vol. 12, No. 1, 7-8.

lawyer ever missed the monthly Bar Association meeting. If a lawyer wasn't there, we knew he was sick and half-dead.”⁷ The established lawyers looked after the younger ones and often referred cases to them to help them get started.⁸ Partly because of this, Claiborne claimed he never struggled in private practice as a lawyer. He had a good income from the day he opened his office.⁹ After he became established, he referred cases out as well.

As was common in county seats across the nation before the days of computerized legal research which began in the late 1970s, all local law firms maintained offices near the courthouse. In Clark County, downtown Las Vegas was the hub of legal activity. The county had the most accessible and complete law library in town and the local lawyers needed to have ready access to it. Partially as a result of this, the attorneys clustered in offices near each other. The local Bar was almost as informal a group as the city's police force. In the 1940s and early 1950s, many lawyers ate breakfast together at the Melody Lane Restaurant on Fremont and Third Street. One Friday each month, at noon, the Clark County Bar Association met at the Green Shack Restaurant near the intersection of Fremont Street and Charleston Boulevard on the Boulder Highway. These meetings could last seven or eight hours. The restaurant always provided a separate bar for them. The Hickory Wood Barbeque on Fremont Street was a favorite lunch spot for the lawyers, with its inviting barbeque in the front window facing Fremont Street. The attorneys even swam together after lunch on many hot days at the Elwell Hotel on Bridger Street. In fact, Claiborne was in court one day when the opposing attorney failed

⁷ Claiborne interview, 265.

⁸ Ibid., 37.

⁹ Ibid., 223.

to appear for the hearing. After a brief discussion, the judge learned that he was still swimming at the Ewell. It was a gathering place in the evening as well after a long day in the courthouse and office.¹⁰

Before the arrival of television in Las Vegas in 1954, the courts frequently provided entertainment for the community. The more colorful trials, covered daily by the local newspaper reporters, often amused their reading public and spectators alike. The old Clark County Courthouse grounds provided a pleasant setting, surrounded with nearly 40 cottonwood trees towering forty to fifty feet high. The courts often scheduled closing arguments in the evening, regardless of when the testimony finished. Court personnel raised the courtroom's windows. The townspeople came with drinks, blankets, and food and lay on the grass under the trees while they listened to closing arguments. For many people, it was the only show in town. There was no time limit on closing arguments; lawyers could argue as long as they wanted. Claiborne remembered that "we all gave them their money's worth." Arguments would last an hour and a half to two hours for each side. "Those were the days of the courtroom orators, too."¹¹

Claiborne's growing reputation in the community soon brought him to the attention of Las Vegas' power elite. Jones Wiener and Jones was the most politically connected law firm in postwar Las Vegas. It began in 1938 when Clifford Jones opened his law practice. Louis Wiener and Robert "Bob" Jones later joined him to form a partnership. For years, the firm represented all the major businesses in town thanks to their close connection with United States Senator Pat McCarran. Cliff Jones was not only the

¹⁰ Ibid., 222-223.

¹¹ Ibid., 99.

kingpin of the firm, but was McCarran's spokesman in the community.¹² His sister, Florence Lee Jones, was married to Review Journal assistant editor John Cahlan. Besides being the sister-in-law of editor Al Cahlan, she was also a major reporter for the newspaper. But her brother's connection with Nevada's senior senator was paramount. As Claiborne recalled, there was no doubt that McCarran ran the state. There was no middle ground; you were either a McCarranite or you were his enemy as far as he was concerned. As a result, Jones was probably the next most powerful figure in Clark County in 1946, and he was still a young man.¹³

All three major partners in the firm possessed interesting backgrounds and their prominence illustrates the degree of upward mobility mid-century Las Vegas offered to talented professionals. Clifford Aaron Jones was born in Missouri in 1912. After graduating from the University of Missouri Law School, he joined the United States Army in 1937 and eventually retired from the reserves in 1953 as a Lt. Colonel. Jones served in field artillery during World War II. He initially came to Las Vegas to work on the construction of Hoover Dam. Admitted to the Nevada Bar in 1938, he immediately became politically active. After serving as the majority leader in the Nevada State Assembly during 1941-42, Jones briefly served as District Court judge in Clark County from October 15, 1945 to April 15, 1946. He then resigned to run for Lt. Governor, a position he held for eight years. In that capacity, he was president of the Senate.¹⁴ Jones was especially responsible for a law that made it virtually impossible for the City of Las Vegas to ever annex the Strip. The legislation, passed in 1946, made it illegal for a city

¹² Claiborne interview, 74.

¹³ Ibid., 43.

¹⁴ Russell McDonald Collection (Reno: Nevada Historical Society).

to annex an unincorporated township without the county commissioners' approval. As a co-owner of the Thunderbird Hotel, which opened on the Strip in 1948, he was an enthusiastic supporter of the creation of Paradise and Winchester townships in 1950 and 1951, respectively.

Louis Wiener was another success story. The son of a tailor, he moved to Las Vegas from Pennsylvania as a boy. Born in 1915, he graduated from Las Vegas High School in 1932, and then the University of Nevada before attending the University of California, Boalt Hall School of Law. Admitted to the Nevada Bar in 1941, he was one of only 16 attorneys in Las Vegas. Jewish gaming figures such as Moe Dalitz and Benjamin "Bugsy" Siegel would soon transform the former whistlestop into a national resort mecca. In early Las Vegas, anti-Semitism was not the obstacle it was in many other American towns. Wiener, Hank Greenspun, and other Jews would have no trouble launching their professional careers in southern Nevada's gambling hub. Indeed, Wiener served as the Las Vegas City Attorney from 1943 until 1945, before becoming a special prosecutor in the District Attorney's office from 1947 until 1951. His more famous clients included Siegel, Howard Hughes, Kirk Kerkorian and Frank Sinatra during a 55-year legal career. Wiener typically arrived at his office by 4 a.m. to handle his busy law practice. In 1992, Boalt Hall Law School named him its Outstanding Alumnus, the first time a non-Californian received that honor. In that same year, the University of Nevada, Reno, bestowed its top honor upon him--the Alumni Achievement Award. The Regents of the University of Nevada System named him a Distinguished Nevadan in 1993 and, later that year, Wiener was honored again when the Clark County School District dedicated Louis Wiener, Jr. Elementary School in his name. He never stopped working.

In fact, he worked a full day in his office on the day before he died in 1996, at the age of 81.¹⁵

Siegel's retention of Wiener as his lawyer graphically illustrates the informal, if not folksy, legal environment of the time. By 1945, Siegel and his group controlled the Western Union race wire service that reported the horse racing results to Las Vegas. They monitored the results and simulated the races themselves for the sport books, which made it more exciting for gamblers who preferred hearing the replays to merely reading the results. One Friday afternoon, Judge George Marshall signed a restraining order at the behest of Siegel's group which prevented the Northern Club from receiving race results. This essentially put them out of business. The Northern Club's owner, Dave Stern, called Wiener for help. At 5 p.m., Wiener contacted Marshall and convinced him to lift the restraining order, but the judge was going hunting in Ely for two weeks, and was leaving at 3 a.m. Marshall promised Wiener he would sign an order lifting the restraint if Wiener could get the paperwork to him before he left. Wiener returned to his office, typed the petition and order himself, then drove to Marshall's home to get it signed. It was 3 a.m. and Marshall was anxious to leave, but he signed the order. Wiener then called a court clerk who met him at the courthouse at 4 a.m., and opened it so Wiener could file Marshall's order in the clerk's office. The Northern Club was back in business before sunrise. Siegel "went bananas" according to Wiener when he learned what happened, but Wiener's effort and connections impressed him. Within six months, Siegel visited Wiener's office and offered him a \$25,000 annual retainer, telling Wiener

¹⁵ Review Journal, February 7, 1996, Obituaries; Clark County School District, "Louis Wiener, Jr.," http://ccsd.net/schools/wiener/index_files/Page326.htm. (Accessed April 30, 2006).

that he never wanted him representing the opposing side again. To no one's surprise, Wiener was Siegel's lawyer until the gangster's assassination on June 20, 1947.¹⁶

Unlike many American cities, Las Vegas mob figures like Siegel mixed openly with the local politicians and police and enjoyed a good relationship with the town's legal and judicial communities – a fact that antagonized federal judges and law enforcement officials from other states who considered Nevada a rogue state. An affable and polished man, Siegel was liked by most Las Vegans who knew him, according to Paul Ralli. He freely mingled with businessmen and other residents. In the code of the frontier town, no questions were asked and people accepted each other at face value. As Ralli recalled, Siegel even followed the local practice of taking a nap from nine to 11 p.m., to be ready for an active night life that often lasted until dawn, indulging in regular steam baths and massages, followed by 15-minute periods of calisthenics, Ralli remembered.¹⁷

The firm's third partner, Robert (Bob) E. Jones was an equally capable attorney. After graduating from the University of Utah Law School in 1938, he served as a special agent with the Federal Bureau of Investigation from 1940 to 1945. Jones began the private practice of law in Las Vegas in 1945 and continued until his retirement in 1980.¹⁸

One barometer of the power of the law firm's founders was their successful effort to oust Clark County District Attorney Gray Gubler. Wiener had experienced difficulties with Gubler and went to Cliff Jones about the problem, who vowed to "get rid" of Gubler. They could not find anyone to run against the incumbent in the next election, so Cliff convinced his partner, Bob Jones, to enter the race. Jones understood that he could

¹⁶ Wiener interview, 42-43.

¹⁷ Ralli, Nevada Lawyer: A Story of Life and Love in Las Vegas, 280-281.

¹⁸ Review Journal, February 7, 2006, Obituaries.

quit the office any time he wanted after the election, but they wanted to replace Gubler. And they did. On election day, voters selected Jones.¹⁹

The change in leadership hardly affected Claiborne. Gubler had promised Claiborne earlier that he would hire him as his Deputy District Attorney once he passed the Bar Examination. But after Bob Jones was elected, Cliff walked into Claiborne's office at the OPA, put both of his long legs on the desk, leaned back in the chair and said, "You're Bob's new deputy," to which Claiborne responded, "How did this come about, Cliff? I haven't heard anything about this. I don't know Bob Jones." Cliff Jones calmly reassured Claiborne, "You don't have to know him. He will be calling you. I gotta go." He took his feet off the desk, got up, and out the door he went. The next day, Bob Jones called Claiborne and urged him to become his deputy. Claiborne never told him that Gubler had made him the same offer. Once Claiborne learned that he passed the Bar Examination, he called Jones, accepted the position, and was sworn in as Deputy District Attorney on January 5, 1947. The Clark County District Attorney's office now consisted of only Bob Jones and Harry Claiborne. As Claiborne later quipped, he immediately worked his way up to Chief Deputy.²⁰ Claiborne's working relationship with one of Las Vegas' brightest and well-connected attorneys would give the young lawyer valuable experience that would benefit him in his later career.

Although his office consisted of only two attorneys in 1947, the Clark County District Attorney was a powerful individual because his office represented all of the growing county's legal interests. Between the two of them, Jones and Claiborne had little or no practical training in municipal legal affairs and no outside assistance or consultants.

¹⁹ Claiborne interview, 43.

²⁰ Ibid., 43-44.

They rendered legal advice on a broad range of subjects that included bonding and financing, municipal operations, as well as represented the State of Nevada in all criminal matters ranging from routine misdemeanors to major felonies.

Claiborne worked in the District Attorney's office from January 5, 1947 to June 1, 1948. During this period, he began developing the trial skills and techniques that eventually made him one of the most effective trial lawyers in Nevada's history. Hank Greenspun, publisher of the Las Vegas Sun and himself a lawyer, recalled that Claiborne lost only one out of the 90 felony cases he tried while in the District Attorney's office. Greenspun regarded Claiborne as the greatest single deterrent to crime in Southern Nevada because local criminals actually feared him.²¹ After only five days in the office, Claiborne made the local newspaper for handling nine court matters in two hours. But in later years he laughingly dismissed the article because the court appearances were merely arraignments and calendar calls. He regarded them as nothing of significance--items that demonstrated the lack of newsworthy events in the community and the newspaper reporter's lackadaisical approach in selecting substantive matters to report.²²

However, some of his cases were significant even by today's standards. In February 1947, one month after joining the Bar, Claiborne began the trial of Frederick Teeter. This case was the first time in Nevada history that the state Supreme Court reversed a criminal conviction based on prosecutorial misconduct for improper remarks to the jury. Teeter and his partner robbed a jewelry store, they later argued, and Teeter pulled out his gun and shot his companion, who died two days later. During closing arguments, defense attorney John Bonner declared, "We have fought a war. A lot of people had

²¹ Sun, September 3, 1964.

²² Review Journal, January 10, 1947; Claiborne interview, 44.

given up their lives and shed their blood so that democracy and the system of justice would prevail forever.” Claiborne responded that he agreed, but that “I know something about service in World War II. I have knowledge of the reasons that we fought the war and it just so happens that one of the reasons we fought the war was to rid the world of international criminals. I am just bringing that doctrine down to Las Vegas to get rid of Mr. Teeter.” The Supreme Court determined those remarks were improper and reversed the conviction. Because it was a landmark decision that limited a prosecutor’s arguments, prosecuting attorneys needed Claiborne for the rest of his career. Years later, Claiborne chuckled when he recalled how they taunted him with such comments as: “Now, here’s State versus Teeter, you remember that (case), don’t you, Mr. Claiborne?”²³

Entrenched business and political interests exist in communities of all sizes, and postwar Las Vegas was no exception. The gaming fraternity in the late 1940s was already very powerful and, when necessary, could exert tremendous pressure to promote its interests. Claiborne learned this first hand after only three months on the job when a high profile murder occurred at the Las Vegas Club.

Lester Ben “Benny” Binion moved to Las Vegas under forced circumstances in 1946. Born in 1904 and reared in Texas, his family were farmers, stock raisers, and horse traders near El Paso, Dallas, and Sweetwater. Binion developed an interest in gambling in his early teens by traveling to farm-town “trade days” where card and number games were popular. Beginning in the 1920s, Binion gradually established himself as an illegal gaming operator in the Dallas area until a newly elected District Attorney forced him out of town in 1946. Claiborne heard rumors that Binion had two suitcases full of money when he arrived in Las Vegas, but he was sure it was more than just two. Binion

²³ Teeter v. State of Nevada, 65 Nev. 584, (1948); Claiborne interview, 46-48.

immediately purchased a half interest in the Las Vegas Club with J. Kell Houssels and eventually became one of the more colorful casino owners in Las Vegas history.²⁴

As Claiborne noted, Houssels was the major businessman in Las Vegas at the time and a loyal supporter of Mayor Ernie Cragin and most of the city commission. In fact, some reformers such as the Las Vegas Taxpayer's Association president Charles Pipkin spoke of a "Houssels Machine" at City Hall during the late 1940s. Houssels owned a large part of the El Cortez Hotel and operated the largest taxi cab company in town called the Grey Line, as well as many other businesses. Eventually, he bought a half interest in the Tropicana Hotel. He later sold a one-half interest in the Las Vegas Club to Binion because he was too busy to monitor his businesses and wanted someone with experience to run the casino. It was a wise choice.²⁵

Binion replaced the original Las Vegas workers with his own people. Wearing cowboy boots and speaking with Texas accents, the "Texans took over" the Las Vegas Club. Binion even brought his personal body guard to town, who Claiborne described as "a cold blooded, vicious, son-of-a-bitch. He strutted around like a peacock all of the time wearing two silver forty-five caliber pistols in his holster and always dressed in black." His name was Clifford Duane Helm, and Binion depended on him for protection.²⁶

But not all of Binion's roughnecks got along. It was a recipe for disaster. Frank Ferroni, Jr., a.k.a. John Beasley, had a violent past. Ferroni and Helm both worked at the Las Vegas Club. For years, they worked and traveled together. On orders from Binion,

²⁴ Claiborne interview, 52; Lester Ben "Benny" Binion, Some Recollections of a Texas and Las Vegas Gaming Operator, interview by Mary Ellen Glass (Reno: University of Nevada Oral History Program, (1976), iii-iv.

²⁵ Claiborne interview, 52; Moehring, Resort City, 71.

²⁶ Claiborne interview, 52-53.

Helm told Ferroni to leave Las Vegas. On March 25, 1947, Helm and Ferroni met in the boiler room at the rear of the casino and a struggle ensued. As Binion later described it, Helm eventually knocked Ferroni down and shot him in the head killing him. In Helm's mind, he had to kill Ferroni sometime "since this (was) the most dangerous son of a gun in the world. So he just went ahead and done a good job of it."²⁷

Deputy District Attorney Claiborne received an urgent call at home from detective Pete Reid who explained, "Harry, I'm sitting here with Bill Hanlon. We have a problem. The bodyguard at the Vegas Club shot and killed a man and Binion and Houssels will not let us go in and investigate it. We don't know what to do." Claiborne rushed to the club and encountered Binion and Houssels. The body was still lying in the hallway. Claiborne explained, "Mr. Houssels, I understand somebody's been shot in your club and that his body is back here somewhere. The detectives are here to investigate and I understand you won't let them back there." Houssels told him, "Harry, we take care of our own. That's the way it's always been and that's the way it will be." But Claiborne challenged the notion of the county's jurisdiction ending at the casino's door and said, "I don't know anything about that. I haven't lived here long enough to know about that. It may be the way it used to be, it will not be the way it is now, believe me. Times have changed, Mr. Houssels and you have to change with it." But Houssels was unmoved and insisted, "They can't go back." Claiborne turned to Detective Reid and said, "Call Captain Patterson. Get me two uniformed policeman down here." Within minutes, they arrived. Claiborne said, "Go wake up Jake Von Tobel (owner of a hardware store). Check the front doors, I don't know how many chains you'll need, but check on the front doors and go down and get as many chains as you need and as many padlocks as you need. When

²⁷ Binion interview, 27.

you get back, I want everybody out of here and I want the doors padlocked.” Houssels could not believe that Claiborne would close the casino, “You don’t dare.” “Wait and see,” was Claiborne’s reply.

Forty-five minutes later the police arrived with the chains and locks. Claiborne then gave them orders, “Alright, get everybody out. That includes you and Mr. Binion, that includes everybody.” Houssels left and the police began their investigation, which revealed that although a pocket knife with a two inch long blade was found on the boiler room floor, no weapon was found on Ferroni. Helm, however, had a knife in his possession. Also, Helm’s necktie and shirt were cut.²⁸ The police identified a witness who was in the boiler room and saw most of the fight. Claiborne knew his testimony would be critical in prosecuting Helm.

The young Deputy District Attorney waited at the detective bureau and eventually the detectives led Helm into the room. They had the knife that was found in the boiler room in a plastic bag. Claiborne asked what happened and Helm responded, “He attacked me with a knife and I tried to beat him off me and I couldn’t. I finally had to shoot him. He cut my tie.” Claiborne asked, “Do you have a knife, Cliff?” “Yes,” Helm replied. He handed his knife to Claiborne who dropped it in another plastic bag. Helm asked, “Why did you take my knife?” Claiborne said, “I think you cut your own tie. I think you held your tie and cut it with your own knife. If a guy swiped at you and stabbed at you with a knife, it wouldn’t cut your tie in that manner, I don’t think.” Helm scoffed at Claiborne’s reasoning.

The District Attorney’s office filed first degree murder charges against Helm. According to Claiborne, Houssels and Binion used their political influence to get the

²⁸ Helm v. State of Nevada, 66 Nev 286, (1949).

charges dismissed, but to no avail. Helm had a stable of the most prominent attorneys in the county representing him, that included Ryland V. Taylor (later District Court judge), former District Attorney Gray Gubler, Leo McNamee, and G. William Coulthard. The defense team received \$25,000, according to rumors, a significant fee in 1949. Houssels retained the lawyers on behalf of Helm. Bob Jones, Louis Wiener, and Claiborne prosecuted the case.²⁹

At the hearing to set bail for Helm, Judge Henderson expressed doubt that the state could prove premeditated murder and said if the case were submitted to the jury “today, I do not believe they would find first degree murder.” Claiborne argued that Helm deliberately chose the boiler room for the assault “because it is the noisiest part of the building and shots are least likely to be heard from there.” This fact, Claiborne asserted, showed that the killing was premeditated. The judge released Helm on \$25,000 bail, which Binion and Houssels had posted.³⁰

The jury trial began on September 15, 1947. Helm testified he met Ferroni in the boiler room at the rear of the casino and an argument began. As a special police officer for the casino, Helm carried a gun. Helm further testified that Ferroni attacked him with a knife and, during the ensuing struggle, he shot the victim at least once. As the fight continued, Helm struck Ferroni over the head with the gun and knocked him to his knees. Witness Ceas, also a special officer for the casino, testified that he heard two or three shots, went through the hallway from the casino to the boiler room, opened the door, and met Ferroni coming through the door toward the casino. Helm ordered him to stop Ferroni, which Ceas did, holding Ferroni in the hallway. He was later assisted by one or

²⁹ Binion interview, 28.

³⁰ Review Journal, April, 17, 1947.

more other men, but Ferroni still moved toward the casino. Witness Schmidt testified that Ferroni pleaded with the officers, “Don’t let him kill me.” Yet another witness, Fred Merrill, yelled to Helm, “Don’t Cliff.” Helm then shot Ferroni in the back of the neck, but Ferroni still moved down the hallway toward the casino. Helm fired two more shots, one through the aorta, and Ferroni fell to the floor dead.³¹

Claiborne believed the defense never knew about the eyewitness in the boiler room, Henry Moody. Moody testified that Ferroni had his hands in his pockets when Moody heard the first shots. Since Helm claimed self defense, this surprise testimony drastically hurt his case. Next, FBI chemist Roy H. McDaniel compared cloth fragments from Helm’s tie and shirt with Helm’s knife and found fibers on the knife that matched the tie and shirt. Although Helm claimed that Ferroni attacked him, Ferroni’s knife showed no similar fibers. McDaniel concluded that Helm’s knife cut his own shirt and tie. No evidence linked Ferroni’s knife to the clothing.³²

The jury convicted Helm of first degree murder, and fixed the punishment at life imprisonment. It came within one vote of recommending the death penalty. The holdout juror, a girlfriend of South City Bar Owner Sid Martin, was on the prosecution’s challenge list of jurors. But when jury selection got down to the State’s last challenge, there was a potential juror the prosecutors thought was worse. So, they excused him and accepted her.³³

³¹ Helm v. State, at 296.

³² Review Journal, September 15, to October 3, 1947.

³³ Wiener interview, 10; In Nevada, as soon as women were accorded the right to vote in 1914, their right to serve on juries was automatically established. Burnita Shelton Matthews, “The Woman Juror,” Women Lawyers’ Journal, XV, No. 2 (April 1927); In 1916, Helen Stewart became the first woman to sit on a jury in Clark County. K.J. Evans, “Helen J. Stewart (1854-1926): The First Lady of Las Vegas,” A.D. Hopkins and K.J. Evans, eds., The First 100: Portraits of the Men and Women Who Shaped Las Vegas, (Las Vegas: Huntington Press, 1999) 12-14.

A juror later told Claiborne that the knife and fibers convinced them of Helm's guilt. Another juror disliked Helm's demeanor during the trial because he came to court every morning in a new Western suit, fancy cowboy boots, and looked at the jury as if they were dirt under his feet. Despite that impression, he also confirmed that the jury convicted Helm because he used his own knife to cut his tie and then tried to claim self defense.³⁴

Claiborne recalled that the political heat on him was intense and unrelenting--a clear indication of the influence that powerful casino operators like Binion and Houssels could wield in the "casino city." Claiborne received threatening telephone calls and Detectives Bill Hanlon and Pete Reid told him that they feared for his life.³⁵ During the trial, the Review Journal printed a story that a high official in Texas contacted the Nevada governor's office trying to intervene on Helm's behalf. The Texas official reportedly acted on behalf of a politically powerful figure who was "enlisted by local (Texas) residents who are quite well known." Binion later admitted that it was probably him, because "I had a lot of very high, influential friends in Texas."³⁶

Even after the conviction, the pressure continued. At the time, the Woodburn law firm in Reno was the most powerful firm in the state. Founded in 1918 by former Nevada Supreme Court Justice Frank Norcross (later United States District Court Judge for the District of Nevada), former Nevada Attorney General George Thatcher and retiring Washoe County District Attorney William Woodburn, the firm represented the

³⁴ Claiborne interview, 52-55; Review Journal, October 3, 1947; Helm v. State, at 290 (1949); Arthur Bernard, Nevada Mine Inspector and Prison Warden, interview by Victoria Ford (Reno: University of Nevada Oral History Program, 2003), 200.

³⁵ Claiborne interview, 57.

³⁶ Binion interview, 29-30.

state's political powerhouses, including Nevada kingpin George Wingfield. Woodburn's father started practicing law in Virginia City in 1866, giving the firm deep roots in the Nevada legal community. By the 1940s, the firm counted among its alumni Nevada's powerful United States Senator Patrick McCarran.³⁷

Virgil Wedge, later a named partner in that firm and partner of McCarran, handled Helm's appeal. By now, Claiborne was out of the DA's office, but Wedge nevertheless asked Claiborne for an affidavit in support of Helm's appeal. Claiborne stubbornly refused. McCarran himself called Claiborne and asked for the affidavit and Claiborne again refused. McCarran also requested a similar affidavit from the current Clark County District Attorney Roger D. Foley, but he also refused. Claiborne never knew if it was a coincidence, but two or three months after McCarran's requests were turned down, the IRS audited both Claiborne and Foley.³⁸

Still the pressure to free Helm continued, demonstrating the scope of Binion's influence. Arthur Bernard, former Nevada State Prison warden, provided a different perspective on Helm's prosecution. He served as warden while Helm was in prison and took a liking to him. Helm was already a prominent inmate, and with Bernard's approval, he practically had his choice of activities outside the prison. Bernard put him in charge of the horse stables where he rode the warden's horses and even took Bernard's wife and friends riding.

E. C. "Ted" Cupid was the first person to head Nevada's newly-created position created within the jurisdiction of the Parole Board to supervise convicted criminals who were placed on probation. A former investigator with the Clark County District

³⁷ Nevada Lawyer (Reno and Las Vegas: State Bar of Nevada), April 2003, 23-25.

³⁸ Claiborne interview, 75.

Attorney's office, he worked with Claiborne. Although Claiborne claimed that Governor Vail Pittman appointed Cupid to the position based on his recommendation, Bernard claimed credit for Cupid's appointment. According to Bernard, because Cupid "knew how he got the job" he often asked Bernard's advice regarding certain supervision matters.³⁹ During business discussions between Bernard and Cupid, Helm's name occasionally came up. When that happened, according to Bernard, Cupid would get a funny look on his face and change the subject. One day Bernard confronted Cupid who confessed he spent "many a sleepless night" wondering if he should tell Bernard what he knew about Helm's prosecution. Cupid claimed that his brother-in-law, a Las Vegas policeman at the time, helped furnish a safe house where the prosecution held a "very secretive" meeting. At the meeting, the Assistant Prosecutor stripped some threads from Helm's tie, put them on Helm's knife, and then sent it to the FBI. Claiborne and Wiener were the assistant prosecutors. Based on that information, Bernard did some investigating of his own. He spoke with Cupid's brother-in-law and obtained a written statement to that effect. He even interviewed certain jurors, and concluded that the jury convicted Helm upon the belief that Helm used his own knife to cut his tie and then tried to make it look like self defense. In the jury's view, the necktie and shirt fibers in Helm's knife supported this conclusion.

The Chief Justice of the Supreme Court, the Governor and the Attorney General comprised the Pardons Board. Bernard presented the results of his investigation to Chief Justice Milton B. Badt, who was skeptical and, despite assuring Bernard that the board

³⁹ Claiborne interview, 85; Bernard, 200.

would give his petition serious consideration, delayed the matter. Helm died in prison before Badt acted on the petition. Badt then simply dropped the matter.⁴⁰

Most of Claiborne's assignments in the District Attorney's office did not involve such powerful figures. Many were ordinary people whose cases reflected the smallness of the office at the time and the legal system's lack of sophistication. In one instance, Claiborne had to transport a prisoner named William Crosby from Carson City to Las Vegas. Tall, scholarly, and polite, Crosby was one of the most courteous and polite prisoners in the Clark County jail, according to District Attorney Jones. But, he escaped from the Clark County jail and later the prison hospital in Carson City. Deputy District Attorney Claiborne and detective Al Kennedy went up to the capital, got the prisoner, and drove him from Carson City to Las Vegas. The use of an attorney and a detective to transport a prisoner was common in postwar Nevada when small staffs and meager budgets justified such procedures. When they arrived in Beatty, Claiborne and Kennedy decided to eat. Kennedy told Claiborne to stay in the car and guard Crosby. But Claiborne dismissed the idea, telling Kennedy to "take the shackles off him and we'll go in and eat." Kennedy argued, "This son-of-a-bitch has escaped two jails, Harry." "What do you want to do? Go over and lock him up in jail so we can go in and eat?", Claiborne asked. Kennedy retorted, "No, you and I will go in and eat. One of us will stay with him while the other is eating. We'll bring him something. I ain't taking his shackles off of him." But Claiborne persisted, "Aw, come on. I'd hate to admit that the two of us will let this guy get away." So they took the shackles off. They all went in and Crosby was well behaved. They ate, came out, and all of a sudden Crosby pushed Kennedy into Claiborne and they both staggered back. Off ran Crosby. When the prisoner looked back to check

⁴⁰ Bernard, 195-205.

their whereabouts, he ran right into a parked car. Before Crosby got off the ground, they were on him. The rest of the trip was uneventful, but the episode speaks volumes about the primitive state of Nevada's criminal justice system at the time.⁴¹

The County's legal issues were essentially the same as those faced by the local city governments, with which Claiborne also had experience. In January 1948, attorney George Rudiak resigned as North Las Vegas City Attorney. By coincidence, Rudiak and Claiborne were stationed together in the army at Santa Ana. Claiborne remembered, "When I was First Sergeant, he was in my company. Every time he went in the office to see the captain, I'd tell him he could not see the captain. I'd be sitting with my feet propped up on the desk, smoking a cigar, and I always asked him, 'What's your name.'" According to Claiborne, Rudiak always claimed that Claiborne could never pronounce his name, but called him "Ruduco."⁴² The mayor asked Clark County District Attorney Bob Jones if someone in his office could work for the city on a temporary basis. Although the person could not draw a salary from North Las Vegas and from Clark County at the same time, Jones said he would talk to Claiborne, who agreed to help. Through the County, he had already gained some experience in municipal matters. "I had drawn the first County bond issue for the hospital. I did all the legal work on that. As a Chief Deputy, I did nearly all the civil work for the county. So it was nothing new."⁴³ After Claiborne worked in North Las Vegas for some time, Jones realized that he must be sworn into office as City Attorney, Claiborne did and while he held two

⁴¹ Claiborne interview, 62-64; Review Journal, November 28, 1947.

⁴² Claiborne interview, 63.

⁴³ Claiborne interview, 62.

government positions at the same time, he received only one paycheck⁴⁴ Such was the fluid, almost casual nature of governmental administration in Las Vegas at the time. Claiborne estimated that North Las Vegas's population in 1948 was about 2,000, so "they didn't have a hell of a lot of business."⁴⁵ For the most part, he prosecuted misdemeanors and wrote opinions for the city council.⁴⁶ In the 1940s, the position demanded relatively little knowledge or skill. "I sat with them during the meetings and they referred their municipal questions to me. Most of the opinions were off the cuff. Only about half of the time did I know what I was talking about. But I found out early down there, it's not what you know that counts, its how you say it." In April 1951, the newly-elected city fathers "canned all of us" during what the newspaper described as a "shake up among employees."⁴⁷

North Las Vegas was only the first of three southern Nevada cities that Claiborne eventually represented. He became Henderson City Attorney in January 1955 at the request of Mayor James French who had just taken office. After initially declining the job offer because of time concerns, Claiborne agreed to fill the position for six months, but stayed for French's entire term as mayor. After winning a bitter political battle to force him to resign, Claiborne quit as Henderson City Attorney on June 22, 1959. Politics, Claiborne explained, had nothing to do with it.⁴⁸ French was a physician and first met Claiborne in connection with a medical malpractice lawsuit. A patient had cut

⁴⁴ Review Journal, January 15, 1948.

⁴⁵ Claiborne interview, 62.

⁴⁶ Ibid., 164.

⁴⁷ Review Journal, May 15, 1951.

⁴⁸ Review Journal, June 23, 1959.

his finger and gangrene forced an amputation. The nurse prepared the wrong finger for surgery and French amputated it. When the patient recovered and saw the mistake, he immediately told the nurse. French still had to remove the infected finger. The patient sued and French hired Claiborne to defend him. That started a relationship with French that lasted not only through French's single term as Mayor of Henderson, but also for a time after French became a councilman in Boulder City.⁴⁹

Claiborne's position as City Attorney of Boulder City in 1965 was short lived. He resigned after just three weeks, officially blaming time restraints and the distance from his office in Las Vegas. Although Claiborne initially believed he could adjust his time so as to serve the City and not disrupt his practice, he was unable to do so. While Claiborne told the mayor that he was overwhelmed by the time-consuming legal work required involving water and power contracts,⁵⁰ the reason he quit was because Councilmen Bob Broadbent and French fought over everything. Claiborne recalled it was one of the worst jobs he ever held. He told French that life was "too precious" to tolerate that situation. His predecessor, George Franklin, had faced similar problems with the "split council," and he too had left.⁵¹ But this was a common problem in the budding metropolitan area at the time. City governments tended to promote from within and political influence often divided the council; the subsequent political infighting eventually forced resignations. In the 1950s, the City of Las Vegas went through six city managers in less than a decade, and other municipal offices were filled even more frequently than that.

⁴⁹ Claiborne interview, 189-190; Review Journal, January 5, 1955.

⁵⁰ Claiborne interview, 269.

⁵¹ Claiborne interview, 190-191; Review Journal, October 10, 1965.

CHAPTER FIVE

THE CALL OF POLITICS

Claiborne's relatively short tenure as a prosecutor and local OPA director fed his growing appetite for holding elective office. To this end, he resigned from the District Attorney's office on June 1, 1948 to run for the state Assembly. Cliff Jones had urged him to do it, and he jumped at the opportunity. Since state law prohibited any candidate from running for office while holding an appointed position such as Deputy District Attorney, Claiborne resigned. Besides, as Claiborne later noted, a political "request" from Cliff Jones, who at the time was Nevada's Lieutenant Governor, was basically an order that could not be ignored. Nonetheless, he "was very, very interested in politics. Always was. I had the fever, it was in my blood," he admitted.¹ After a hectic campaign, Claiborne won the election for Assembly District 2. Although he garnered only 15% of the total votes cast in a field of nine candidates, he received 152 more votes than the second place candidate, Assemblyman Harley Harmon.²

In 1948, soon after his election, rumors began circulating in the media that Claiborne planned to run for Speaker of the Assembly in his first legislative session. Three weeks after the election, the Clark County Bar Association unanimously endorsed him for the Speaker's post at its regularly scheduled meeting at the Nevada Biltmore Hotel.³

¹ Review Journal, June 1, 1948; Claiborne interview, 83, 141.

² Review Journal, November 3, 1948.

³ Ibid., November 28, 1948.

Claiborne's chances were enhanced by a telephone call he received from a Reno Assemblyman who wanted to oust current speaker, Peter Burke. Even though a group of Assemblymen asked Claiborne to accept the position, he rejected their overtures. He later explained that being a freshman legislator, he did not fully understand how the process functioned, and therefore he felt that he was not qualified for the job. While his promoters persisted a while longer, Claiborne ultimately halted their campaign. However, once the session began, he accepted a leadership role, agreeing to serve as Chairman of the Judiciary Committee and Floor man for the Democrats.⁴

The sales tax bill was a major issue in the 1949 legislature. By 1948, more people were moving to the Las Vegas area and neither the schools nor other governmental services could keep up with the growth. K. O. Knudson, an educator who ultimately organized the local junior high school system and advocacy groups for the blind and the retired, originally proposed the idea of a state sales tax to finance the construction and improvement of Nevada's schools. Without the tax, Knudson claimed, education would be a worsening problem in Clark County. Claiborne supported the idea, and between November 1948 and January 1949, he frequently met with Knudson and Harley Harmon to strategize about how to propose the tax that everyone knew the state's gaming community and big property owners would oppose. In a speech before the Las Vegas Optimists Club in January, Claiborne said the most pressing problem for the legislators was raising additional revenue to finance the expansion of state and local services in a postwar era fraught with continued population growth in Reno and particularly in Las Vegas.⁵

⁴ Claiborne interview, 85, 87.

⁵ Review Journal, January 11, 1949; Claiborne interview, 87-88.

At that time, Nevada lured potential migrants by boasting that it had “no sales tax, no income tax.” As the Democrat’s Floorman in the assembly, Claiborne claimed he pulled every “shenanigan” he could to get the votes to pass the sales tax law in the Assembly, but failed. To his disappointment, the Assembly voted to table the sales tax bill.

Claiborne was the only Clark County delegate to vote against side-stepping the issue.

The sales tax was important, but more important to Claiborne was that legislators have the “intestinal fortitude and courage to face the issues,” and not avoid them. Claiborne told the press that legislators must be capable of meeting the issues squarely.⁶ Only days later, in what was described “as slick a maneuver as has been seen this session,”

Claiborne removed the sales tax bill from the “table” and referred it to the joint Ways and Means and Taxation Committee. With only seven days left in the session, leaders in both houses admitted they could not agree on a definite financial program.⁷ When it became evident that the sales tax would fail, White Pine County Assemblyman Jim Johnson proposed a graduated tax upon the privilege of engaging in business in Nevada, and introduced it jointly with Claiborne. The sponsors estimated it would yield in excess of \$2 million annually, but Nevada’s cautious lawmakers were not yet willing to raise taxes. Johnson paid the price for his bold foresightedness, suffering a defeat in his next election for his efforts.⁸

Claiborne returned home one weekend and received a telephone call from the editor of the Review Journal, Al Cahlan, who was a political ally of McCarran and influential businessman. He did not ask Claiborne to come down to his office, but ordered him

⁶ Review Journal, March 2, 1949.

⁷ Review Journal, March 10, 1949.

⁸ Claiborne interview, 87-88; Review Journal, March 3, 1949.

down. At the meeting, Cahlan was furious, “Have you lost your Goddamn mind? You are gonna tax business, what the hell is the matter with you?” Claiborne took a beating in the newspapers. One editorial even suggested that the casino owners had gotten to him and Claiborne was trying to avoid taxing casinos.⁹

A wary Governor Vail Pittman, himself a supporter of the state’s casino industry, took no position on the sales tax. Upon later reflection, Claiborne believed that Pittman’s support would have passed the bill. Nevertheless, Claiborne stubbornly persisted, simply because he saw no other way to financially support the state’s growth.¹⁰ However, few legislators were willing to risk their political future on the issue and the sales tax bill died.¹¹

Claiborne’s efforts were premature. In 1949, the anti-tax mentality was too ingrained in Nevada’s electorate and legislative leaders. Since the 1930s, the anti-tax proponents had promoted Nevada as the “cyclone cellar for the tax weary.” Despite studies and polls from as early as 1951 which supported increased taxation for school improvements, the legislature postponed passage of a sales tax until 1955 when the need for more schools to educate Nevada’s baby boomers gave Assemblywoman Maude Frazier and other school advocates enough leverage to push a tax bill through. Even then, a group calling itself “Volunteers in Politics” circulated a petition for a referendum on the sales tax law just weeks after its passage, asking voters to affirm or reject the new law. Despite questions about the legality of the petition itself, opponents agreed not to challenge it in court, but allowed the voters to express their opinion. Thanks to the

⁹ Claiborne interview, 88-89.

¹⁰ Review Journal, April, 27, 1949.

¹¹ Claiborne interview, 87-89, 140-41.

vigorous support of Governor Charles Russell who argued that the revenues were necessary to upgrade the state's notoriously weak schools, nearly 70% of the voters approved the sales tax.¹²

To be sure, the legislature was not an entirely satisfying experience for Claiborne. Although voted "the most handsome and most forceful member of the Assembly" by attaches to the legislature, who conducted a poll during the opening days of the session,¹³ Claiborne was not pleased with the legislature's accomplishments during the session. On April 26, 1949, he spoke at a Lions Club dinner in Henderson and criticized the caliber of the state lawmakers. If Clark County voters were smart, he told his audience, they will not return a single lawmaker in the next biennium. Claiborne felt that most legislators were "not big enough for the job." They were too beholden to special interests such as labor, livestock raisers, and mining to represent the people properly. Claiborne saw a financial crisis looming and predicted that unless new sources of revenue could be identified, the state would be bankrupt before the next session. He observed that Nevada's motto of "One Sound State" was an "absolutely false statement" and noted that even the Reno newspapers had dropped it as their slogan. Nuisance or vice taxes were no panacea, because revenues derived from such items as cigarettes, liquor, and gambling fluctuated too much and did not provide a stable and constant tax base. Relying on these taxes, he insisted, was not sound fiscal policy. Only the enactment of a sales tax could provide enough revenue to finance school construction and the expansion of other services in the growing state. Claiborne also rejected an income tax, because it would take six years to amend the constitution to permit an income tax and there would be no

¹² Mary Ellen Glass, Nevada's Turbulent '50s: Decade of Political and Economic Change (Reno: University of Nevada Press, 1989), 50, 57-60.

¹³ Review Journal, January 21, 1949.

state government left by that time, Claiborne told them. Still, he conceded that this was not the least productive legislature in Nevada history because others actually had worse records.¹⁴

Claiborne's time in the Assembly fed his growing political aspirations. Rather than seeking reelection, he wanted to serve in the state senate and then run for Attorney General.¹⁵ Ultimately, he had his eye on the Governor's mansion.¹⁶ On May 5, 1950, he formally announced his candidacy for Clark County's state senate seat on the Democratic ticket. B. Mahlon Brown was his opponent.¹⁷

In opposing Brown, Claiborne faced a formidable challenge. Brown, born in Shreveport, Louisiana in 1914, moved to Las Vegas at age nine. His grandfather, Dr. Halle Hewetson, came to Las Vegas with the construction of the railroad in 1904 and was the town's first doctor. His mother managed the Clark County Sheriff's office from 1935 to the early 1950s. Brown was a member of Las Vegas High School's first football team in 1927 and was an all-state selection in his final year. Serving as student body president in his senior year, he graduated from high school in 1931. He received his law degree from George Washington University in 1937, returned to Las Vegas, and was elected Justice of the Peace in 1940. After service as a gunnery officer in the Pacific Theater in World War II, Brown returned to Nevada and practiced law until shortly before his death in 1995. Elected to the state senate in 1951, he represented Clark County for the next 25 years, participating in 14 regular sessions and 7 special sessions. Brown was the

¹⁴ Review Journal, April 27, 1949; Although prohibited by statute in 1949, the Nevada Constitution was not amended to prohibit a state personal income tax until 1988. Political History of Nevada, 321.

¹⁵ Claiborne interview, 141-42.

¹⁶ Claiborne interview, 83.

¹⁷ Review Journal, May 5, 1950, 2, September 1, 1950.

Minority Floor Leader from 1955 to 1964, President pro Tempore from 1967 to 1968, Majority Floor Leader from 1965 to 1975, and served the longest of any Senator in Nevada history up to that time. In 1991, Brown was named to the Senate Hall of Fame.¹⁸

But Brown also faced a formidable challenge in the ever-resourceful Claiborne. During the 1950 campaign, Claiborne heard a little ditty on Los Angeles radio advertising household tips. The announcer called himself “Helpful Harry and his Helpful Household Hints.” He sang little household suggestions. Claiborne thought it would be a great campaign gimmick and ultimately secured the rights to use the tune. He contacted KLAS, one of the two radio stations in Las Vegas at the time, and bought air time to run the song. Fifteen times a day listeners would hear the announcer begin with, “Helpful Harry and His Helpful Household Hints”, the song would begin, and soon Claiborne's voice would break in and say, “Vote for Harry Claiborne for your Senator.” Everyone thought Claiborne was singing the ditty. Years after the campaign, Claiborne recalled, he still got calls from local residents seeking advice about how to get rid of grape juice stains from a sweater and other household hints.¹⁹

On September 3, 1950, Claiborne used the radio to attack Dick King, publisher of The North Las Vegas News, who penned an editorial critical of him. Claiborne later referred to King's newspaper in his radio broadcast as “one of those yellow sheets, throw away papers.” Claiborne later conceded he “probably had a few drinks that night on my way out to the radio station where he commented on King.”²⁰ An outraged King retained Claiborne's old nemesis George Franklin to file a lawsuit. The newspaper headlines

¹⁸ Nevada Senate Concurrent resolution memorializing former Senator B. Mahlon Brown, November 22, 1995; Nevada Lawyer, June 2003, 22-24; Russell McDonald Collection.

¹⁹ Claiborne interview, 157-58.

²⁰ Claiborne interview, 83.

read: “Claiborne accused of Libel in Suit filed by Publisher.”²¹ The complaint claimed that Claiborne called King a “Russian-born editor of a two-bit scandal sheet down in North Las Vegas.” These statements, according to King, inferred “that he was and is a member of the communist party or a so-called fellow-traveler.” The lawsuit also included KLAS radio as a defendant because the station failed to exercise due care in preventing the broadcasting of Claiborne’s statements. Although conceding that he “really blasted” King and did refer to him as a Russian, Claiborne denied calling him a communist. “I did implicate him, just a little bit.” King eventually dropped the case.²²

In his campaign against Brown in the Democratic primary, Claiborne emphasized his experience and ability. His campaign literature touted legislation he had sponsored in the Assembly to extend the state’s civil service code to cover police and fire departments. His promotional material particularly highlighted courage and leadership on controversial but necessary legislation in the Assembly. Newspaper advertisements claimed that his “record as a lawyer and as a legislator proves that he has the courage to take a stand. He is no fence-straddler. He is not a pussy footer. He has a proven reputation as a fighter.”²³

Despite running against a longtime resident and hometown favorite, Claiborne made a good showing, receiving 4,774 votes, just 551 short of Brown’s tally. Brown went on to defeat Las Vegas department store owner Richard Ronzone in the general election. For his part, Claiborne put politics aside for the next 14 years and began what would become a long and storied career as a private attorney.²⁴

²¹ Review Journal, September 14, 1950; Claiborne interview, 157.

²² Claiborne interview, 158.

²³ Review Journal, September 1, 1950.

²⁴ Review Journal, September 6, 1950.

During the 1950 campaign, Claiborne successfully sponsored a referendum question which placed on the ballot a law allowing probation for persons convicted of a crime. In later reflection, he declared, "I said this a thousand times, if I said it once. I don't think I contributed a damn thing in my whole life, really worthwhile to mention, save and except one thing. It's something of great pride to me. I used my own money and campaigned the whole summer (of 1950), formed committees all over the state and worked like a dog to get it passed."²⁵

In 1951, the legislature passed a bill allowing probation for persons convicted of a crime. Before enactment, a convicted person received a mandatory prison sentence regardless of the extenuating circumstances. Although routinely accepted today as a necessary option for judges, probation was a controversial issue in the early 1950s. On many occasions, Claiborne had discussed the need for such a law with Clark County District Court Judge Frank McNamee. After Claiborne's election, but before he went to Carson City, McNamee urged him to work on its enactment. McNamee was instrumental in eventually getting the bill passed through a word of mouth campaign.²⁶

Claiborne had predicted that the legislature would never pass a probation law. Indeed, he could never get it through the 1949 Assembly, even though he chaired the Judiciary Committee. There was never a public outcry against probation, opponents instead worked behind the scenes. In a later reminiscence, Claiborne attributed the lack of support to Nevada's conservative atmosphere at that time. But his prediction proved incorrect. During the summer of 1950, when he was campaigning for the state senate, Claiborne spoke at many union meetings. Bill Carter, head of the Teamsters Union,

²⁵ Claiborne interview, 85.

²⁶ Lawrence M. Friedman, Crime and Punishment in American History (New York; Basic Books, 1993) 162-163, 406-409; Claiborne interview, 85-86.

supported his efforts and Claiborne credited him for convincing the union members to support the bill. “He got every organized labor member in the state supporting it. Truly, that’s what passed it.”²⁷

Governor Vail Pittman signed the bill in Claiborne’s presence. The Governor never realized that Nevada did not have some type of probation provision in the law. That admission, coming from the Governor, amazed Claiborne. Several days later at dinner, the Governor asked Claiborne to help form the probation panel. As noted earlier, at the latter’s suggestion, Pittman appointed E. C. “Ted” Cupid the first probation officer and head of the newly created probation department which was placed within the jurisdiction of the Parole Department. Claiborne and Cupid, who later assisted in the attempted release of Cliff Helm from prison, traveled to California about five times to confer with the head of its probation program, then came back, drafted regulations, and formed the probation department. “I’ve always considered that as the only really meaningful thing that I did in my life. I have a lot of pride in that.”²⁸

Claiborne first recognized the need for this law while in the District Attorney’s office. He was not sure, but maybe one case particularly opened his eyes. It involved a rooming house on Garces Street, called the White House, where some casino workers lived. A young California man was walking toward the highway to hitchhike back home. When he got to the White House, he saw the lights on and walked down the hall until he saw a light. He entered a room belonging to the woman who owned the place. She was lying in bed reading a book. He put a knife to her throat, took her money, and ran down the hallway to leave when a renter came in, tackled him, and held him for the police. At

²⁷ Claiborne interview, 86.

²⁸ Claiborne interview, 143.

his subsequent trial, attorney Roland Wiley defended him. Claiborne recalled that Wiley, a former Clark County District Attorney from 1939 to 1942, was a cagey “old bastard and taught me a lesson that day.” In his closing remarks, Wiley made the perfect argument for a probation law in Nevada.

Wiley suffered from migraine headaches. Just as he began his closing argument, he told the presiding judge, “Your Honor, I have a terrible migraine headache. I just don't feel like standing up and making my argument. Could I just pull a chair up in front of the jury and make my argument?” Judge Henderson said, “Why sure.” Claiborne recalled that Wiley's closing argument went something like this:

Now we don't have any probation law in Nevada. They do have in California where this young man is from. Now if you convict him, then he goes to the penitentiary. That's the law. If he had committed this crime in California, where he's from, the court would turn it over to the probation department. They'd send a probation investigator out into the field and make an investigation of the boy. They would find out that he's a good kid. That he's never been in trouble. They'd go talk to his pastor and he'd find out he's a good boy. Goes to church regularly. He'd go to his high school and talk to his teachers. They'd say he was a good student and he never has been in trouble. He's a nice kid. The probation investigator would go back to the judge and say, ‘Judge, this is a good kid.’ The Judge would say, ‘Alright, bring him in.’ They would bring him in the court for sentencing and the Judge is going to say, ‘You're a good kid. I don't know why you did this, but it's contrary to your character. I'm going to give you a second chance and I'm going to put you on probation. At the end of the probation, if you keep your nose clean, I'm going to wipe this off your record. So you won't have a criminal record in the future when you get married and have a family. This won't be hanging over you.’

Claiborne remembered that the jury stared at the boy, then at Claiborne, then at Wiley.

The latter continued,

You know what will happen to him now? You find this young man guilty, and the Judge sentences him to the penitentiary, for what? Not less than two nor more than 10 years. For one mistake in his life. How many of you in here made mistakes? Some may be not as grave as this, but some, maybe worse. I bleed inside

today when I think about this young man's future. I'm going to ask you to do something really, really unusual. I'm going to ask you to unofficially place this young man on probation. The only way you can do that is to find him not guilty. I'm going to check on him constantly through the years as his unofficial probation officer. Mr. Claiborne, this young lawyer here, does a fine job. It's not his fault what the law is. I know in his heart he would like to see this young man put on probation, if he possibly could, under the law.

Wiley put the chair back and sat down. According to Claiborne, everyone in the courtroom was looking at each other. Claiborne got up, looked at Wiley, looked at the defendant, stared at the jury and thought to himself, "What in the hell am I going to say?" He finally sputtered, "Mr. Wiley is asking you to violate your oath. I have no other alternative but to file charges against the young man and to prosecute him. We're here today because I had no other alternative. Because it's my obligation and my responsibility under my oath to do this. Otherwise, I violate the terms of my oath. Unfortunately, as much as you'd like to, you cannot grant Mr. Wiley's request. You just can't do it." The jury did it anyway and acquitted the defendant. That was the only case Claiborne lost while he was in the District Attorney's office.²⁹

Claiborne sometimes called on Nevada's congressional delegation to intervene on behalf of his clients. In fact, some of U. S. Senator Patrick McCarran's power plays actually involved Claiborne. McCarran was arguably Nevada's most powerful politician in the 20th century. After serving as Nye County District Attorney and Nevada Supreme Court Justice, McCarran sat in the United States Senate from 1933 until his death in 1954. Not only was he politically powerful, but McCarran ruthlessly wielded his considerable influence to advance his own career. During the Roosevelt Administration, he established a patronage system which produced a supportive following of young

²⁹ Claiborne interview, 68, 70-71.

Nevada lawyers known as the “McCarran Boys.” McCarran insured that powerful Nevada interests were protected at the federal level, whatever the costs. He indirectly manipulated the system to determine which candidate would (or could) run for political office in the Silver State. Details of Claiborne’s experiences with him shed additional light on McCarran’s backroom deals and hardball approach to politics. They also illustrate the power he wielded and his willingness to use it.

As Nevada’s senior senator after Key Pittman’s death in 1940, McCarran made many political appointments and wasted little time forwarding his nominations to the White House. He once told Claiborne over a drink that he always acted quickly to keep his friends from getting mad. McCarran would tell someone who wanted the just-filled position, “Jesus Christ, I didn't know you wanted the position. If I had known that, you'd have gotten it, you know that.” He gave that line to everyone. The politically astute Senator did not give anyone time to apply or even speak with him before making the appointment.³⁰

Claiborne once represented three Barstow men who wanted to buy land on the Nevada-California line where Whiskey Pete's is located today. Claiborne had difficulty with government red tape and decided to go to Washington to confer with the Assistant Secretary of the Interior. While in Washington, he stopped by McCarran’s office to say hello. After showing Claiborne around, McCarran invited him to eat in the Senate restaurant. Claiborne was direct: “I want a favor,” and McCarran responded, “You got it,” without even asking what it was. After hearing about Claiborne’s difficulties in acquiring the land, McCarran returned to his office with Claiborne where McCarran picked up the telephone and called the Department of Interior officials. The Senator was

³⁰ Claiborne interview, 39.

indignant, telling one bureaucrat: “You people have been jacking Claiborne around long enough. I'm getting very angry about it. He's in my office right now and I'm sending him over there and, by God, the buck stops with you.” Claiborne then went to the Interior Department and got full cooperation. A week later he received the patent for the acreage.³¹

Reno gambler Ernest Primm eventually purchased the property from Claiborne's clients. He reportedly contemplated the development of a large resort area with at least one hotel casino on the several hundred acres. Everything depended upon the success of the water drilling tests. In March 1954, Claiborne announced the future construction of a super gas station, restaurant and tourist court nearby in partnership with others, and hoped to complete the \$100,000 project by the summer. In a story, the Review Journal referred to this development as a “new” strip.³²

It was not long, however, before McCarran expected something in return: “Nobody gets anything for nothing. You know that, Harry.” Claiborne agreed. McCarran then went on, “C.D. Baker (Nevada State Senator from Clark County at the time) is going to announce that he is going to run for governor. I want that son-of-a-bitch buried. I understand you and Baker didn't get along in the legislature. I also understand he dislikes you very much and that he is scared to death of you. When he starts putting the word out that he is going to run for governor, I want you to announce that you are going to run too. I will tell you when to run. That will back him off as sure as I am sitting here.” Claiborne responded, “Alright, I don't have much choice.” McCarran just laughed.³³

³¹ Claiborne interview, 178, 179.

³² Review Journal, March 31, 1954.

³³ Claiborne interview, 78, 179-180.

Claiborne's history with Las Vegas' future mayor (1951-1954) began in the 1949 Nevada legislative session. Claiborne wanted to pass a civil service bill for the police and firemen. Baker, a former city engineer and at the time Clark County's state senator, opposed him on this bill. Although it passed the Assembly, Baker blocked the measure in the Senate. Later in the session, a bill creating a Board of Engineers crossed Claiborne's desk before going to the Judiciary Committee. But it never got there. Claiborne locked the bill in his desk. The session ran into May. The legislature put black-out paper over the clock as a gesture to prevent the statutory time limitation on the legislative session from expiring. The delay was primarily over the sales tax issue. Claiborne remembered that every day he wondered when Baker would look into the status of the engineering bill. Finally, Baker walked over to Claiborne's desk and asked why he was not acting on his bill. Claiborne told him: "Go back over to the Senate and get the civil service bill on the floor, pass it, and the minute it hits the Assembly's desk, I will pull your bill out and we will pass it within an hour." Baker angrily replied, "You can't do a thing like this." But Claiborne did just that. About three days later, Baker returned and told Claiborne, "We just passed your goddamned civil service board bill and it's on the way to the Governor's desk." The next day, Claiborne passed the engineering bill within an hour as he promised.³⁴

Some time later, Claiborne read in the Review Journal that Baker would run for governor. The next morning, McCarran called Claiborne and told him to announce his candidacy for governor immediately. Later that day, Claiborne got a call from Al Cahlan who kept his finger on the pulse of Las Vegas for the Senator. He told Claiborne to come to his office. Cahlan asked, "Did you talk to the Senator?" When told he had, Cahlan

³⁴ Claiborne interview, 142-43.

released Claiborne's "announcement" that he would run for governor after three days of conferences in northern Nevada with both Democrats and Republicans. The news release claimed that the one factor influencing his decision to run was to beat C.D. Baker.³⁵ Baker never filed nor did Claiborne. McCarran knew what he was doing, Claiborne concluded.³⁶

In confirmation of Claiborne's suggestion of McCarran's power, the application of Bonanza Airlines to the Civil Aeronautics Board (CAB) in 1950 provides a brazen example. Bonanza, Nevada's first commercial airline, sought approval to exchange passengers and air freight with other airlines, but the agency delayed approval. While the application was pending, CAB officials appeared before McCarran's appropriations subcommittee for funding. Prior to the hearing, McCarran had asked these officials why the Bonanza application had not been approved. When told they were too busy to act on it, McCarran instructed them to go to the back of the room and consider the application before the hearing began. Fifteen minutes later, they approved Bonanza's application.³⁷

McCarran's influence extended to private corporations as well. The senator, for instance, was very fond of Las Vegas attorney Calvin Cory. When a vacancy for regional counsel for the Union Pacific Railroad opened up, McCarran called the president of the railroad and announced, "You will appoint Cal Cory in Las Vegas as legal counsel." Not wanting to antagonize the powerful Senator, he did. Cory held that position until the day he died.³⁸

³⁵ Review Journal, March 5, 1954; Claiborne interview, 179-180.

³⁶ Claiborne interview, 78.

³⁷ Review Journal, April 4, 2004.

³⁸ Claiborne interview, 74-75.

CHAPTER SIX

PRACTICING LAW IN MID-CENTURY LAS VEGAS

During the late 1940s, the composition of Nevada's Supreme Court changed considerably. Justice Orr resigned from the court on October 10, 1945 to accept an appointment to the United States Court of Appeals for the Ninth Circuit . Justices Ducker and Taber died in office on August 14, 1946 and February 6, 1947, respectively. So, in less than a year and a half, the Supreme Court's composition completely changed.

Charles Lee Horsey replaced Justice Orr. Born in Delaware in 1880, he obtained his law degree from the University of Virginia. A year after graduation, Horsey moved to Nevada and started his legal career in 1905. Settling in Pioche when it was a thriving mining town, he later served as Lincoln County District Attorney for four years and its District Court judge from 1915 to 1919. Horsey also represented Lincoln County in the state senate from 1913 through 1915, chairing the Judiciary Committee. In 1939 he was again elected to the state senate, this time from Clark County. In 1945, Governor Vail Pittman appointed Horsey as District Court judge in Clark County. A few months later, Pittman elevated him to the Supreme Court. All his life, Horsey was involved in the development of mining and served as president of the Virginia-Louise Mining Company from 1917 through 1922. The justice retired from the Supreme Court in 1951.¹

¹ The State Bar Journal, October 1958, Vol. 23, No. 4, 119.

Nevada's mining communities also contributed another member to the bench. Edgar Eather replaced the deceased Justice Ducker at the Supreme Court on September 18, 1946, where he served until his retirement on December 15, 1958. Born in Eureka in 1886, Eather received his early education in the local schools of Eureka. He served as Auditor-Recorder of Eureka County from 1911 to 1922. During that time, he obtained his law education from an International Correspondence course. He began practicing law in Eureka in 1916 and was elected District Attorney in 1922, where he served until 1929 when he was elected District Judge of Eureka County.²

Milton B. Badt replaced Justice Taber. Born in 1884, Badt received his early education in the Silver State, and his legal education at Hastings College of Law in San Francisco. In 1963, after a long and distinguished career in Nevada, the California school selected Badt as Hasting's "Man of the Year" in 1963. After practicing law in San Francisco from 1908 until 1914, he returned to Nevada and continued his career in Elko until 1946. At various times, Badt was City Attorney of Elko, Carlin, and Wells. His practice emphasized mining law, grazing rights, and water rights. After serving one year as District Judge in Elko County, Badt accepted Governor Pittman's appointment to the Supreme Court on March 26, 1947 where he served until his death on April 2, 1966.³

The federal bench had also changed by 1950. In February 1945, Judge Frank Norcross finally announced his long anticipated retirement, effective June 30. The United States Justice Department informally asked Senator Patrick McCarran if he would accept the judgeship. McCarran told reporters he was seriously considering the offer, which would allow him to complete his days on the federal bench and avoid many of the

² In Memoriam: Edgar Eather, 85 Nev. 727 (1970).

³ In Memoriam: Milton B. Badt, 82 Nev. 465 (1966).

“obnoxious” details of politics. The Roosevelt Administration’s motives were obvious-- it wanted the fiercely independent McCarran out of the Senate. It is doubtful, however, that the Senator was seriously tempted, because even though he was 68 years old, he was just elected to a third term and enjoyed a reputation for being one of the dominant powers in national politics. In a characteristic display of ego, McCarran implied he was indispensable in the Senate and his work in that chamber was too important to abandon. In February, he issued a public statement that he would remain in his present position.⁴

McCarran then visited Nevada’s other U. S. Senator James Scrugham in Overton, and advised him that he would let Scrugham appoint Norcross’ replacement.⁵ Other reports, however, indicated that the two senators jointly selected Roger T. Foley. They agreed to appoint someone who would not create a vacancy in any state office, because they did not want Governor E. P. Carville filling it. Foley was relatively unknown at the time when compared to the attorneys whose names were mentioned for the appointment.⁶ However, at the 1944 Nevada Democratic Convention, Foley had supported McCarran in his bitter primary race against Vail Pittman, and this surely influenced McCarran’s thinking.⁷

When Norcross announced his retirement, Foley immediately circulated petitions to have Nevada Supreme Court Justice William Orr named to the vacancy. But McCarran told Foley that he had other plans for Orr (who McCarran later recommended to the U.S.

⁴ Jerome Edwards, Pat McCarran: Political Boss of Nevada (Reno: University of Nevada Press, 1982), 133.

⁵ Norman H. Biltz, Memoirs of “Duke of Nevada:” Developments of Lake Tahoe, California and Nevada: Reminiscences of Nevada Political and Financial Life, interview by Mary Ellen Glass, (Reno: University of Nevada Oral History Program, 1969), 137.

⁶ Jerome Edwards, Pat McCarran, 133.

⁷ Peter C. Peterson, Reminiscences of My Work in Nevada Labor, Politics, Post Office, and Gaming Control, interview by Mary Ellen Glass (Reno: University of Nevada Oral History Program, 1970), 52-53.

Court of Appeals for the Ninth Circuit) and instead wanted Foley for the position.⁸

Within a week after McCarran's visit with Scrugham, they recommended Foley for the appointment.⁹ Franklin Roosevelt nominated Foley shortly before the president's death in April 1945, and President Harry Truman appointed him to the federal bench on May 2, 1945. As one of Roosevelt's last judicial nominations and probably the first federal judge commissioned by Truman,¹⁰ Foley's selection marked the beginning of a half century of Foley family representation in Nevada's federal judiciary.

Born in 1886, Foley joined his father's law practice in Goldfield after graduating from the Chicago Law School. In 1917, he won election as District Attorney for Esmeralda County, but lost his bid for re-election in 1925. Two years after moving to Las Vegas, Foley became Justice of the Peace and, four years later, he was elected District Attorney in Clark County. Democratic Governor Edward P. Carville appointed him District Court judge for Clark County, an elected position he lost two years later. He returned to private practice until his appointment to the federal bench in 1945. Foley assumed senior status on April 1, 1957, but actively heard matters until just before his death on October 9, 1974 at the age of 88.¹¹

Claiborne had many dealings with Judge Foley over the years and remembered him as the "grandest gentleman you ever saw. A terrific Judge. He was a hard knocker. A lot of lawyers did not like him. But the only lawyers that did not like him were the lawyers who came into his court unprepared." Claiborne warned that, "You better be

⁸ Formal Dedication Ceremony of the Foley Federal Building and United States Courthouse, 615 F. Supp. LXVI, LXXVIII (1984).

⁹ Biltz, 137.

¹⁰ Formal Dedication, LXXIX.

¹¹ Review Journal, October 10, 1974; Sun, October 10, 1974.

prepared when you went into Foley's court. A lot of lawyers thought he picked on them. He did pick on them if they came to court and did not know anything about the case. You were going out with your tail between your legs. They all said how tough he was." But Claiborne had a different experience. "I never found him tough, I found him good and knowledgeable. He was quick to see where a lawyer was going with his case. He believed in letting you try your case. He, never one single time, embarrassed me."¹²

Roger T. Foley had four sons, all lawyers. As far as Claiborne was concerned, "George, of all the Foley boys, was the best lawyer. All of them, except John, had a very high temper. But most of the time, that temper worked in their favor. They were never out of line. I guess Joe had the highest temper of all. John was not one of the high-tempered Foley boys. Gracious man. Good lawyer. Could try a good case. Had a good temperament for the courtroom. They were a great family and good to me."¹³ All had accomplished careers in their own right. At various times, three of his sons were Clark County District Attorney (George), District Court Judge for Clark County (Tom), Nevada State Senator (John) and University of Nevada Board of Regent (Joe). His oldest son was Roger D. Foley.

In 1962, Roger T. Foley had the honor of swearing in his successor to the federal judiciary position in Southern Nevada, his eldest son, Roger D. Foley. Born in Goldfield in 1917, Roger studied to be a priest after growing up in Las Vegas. He served in the Army Air Corps during World War II and flew fifty combat missions over Europe as a Bombardier/Navigator. Following his discharge, Foley followed in his father's and grandfather's footsteps and pursued a legal career. After graduating from the University

¹² Claiborne interview, 76.

¹³ Claiborne interview, 136.

of San Francisco Law School, Foley returned to Las Vegas and ran for District Attorney in 1950. He defeated Oscar Bryan, father of future Nevada Governor and United States Senator Richard Bryan.¹⁴ Voters elected Foley as Attorney General in 1958 where he served until his federal appointment to the bench four years later.

Foley went on senior status in 1982, which allowed him to select the cases he would hear. His death in 1996 ended a fifty-year era of Foley family representation on the Nevada federal bench. This time span is amplified when considering that between Roger D. Foley's appointment in 1962 and his father's active retirement in 1970, both Foleys sat on the bench at the same time, effectively expanding their combined service an additional eight years. Incredibly, through 1996, at least one Foley sat on the federal bench in excess of 40 percent of the time since Nevada's statehood in 1864.

Claiborne believed that Roger D. Foley "never received the recognition he should have received on the Federal bench." They worked together in the District Attorney's office in 1947, later they were judges on the federal bench at the same time. He "was a good lawyer," Claiborne remembered, "not spectacular, but good. Conscientious. He was a fine Federal Judge. He did not have writing skills but his decisions were to the point. He had excellent judgment."¹⁵

Two other judges also influenced Claiborne's early career. When Claiborne began practicing law in 1946, Albert (Bert) Scott Henderson and Frank McNamee were the two District Court Judges in Clark County. As noted, most of the jury trials in a community occur in state court, rather than federal court. Consequently, Claiborne spent much of his early trial years in front of one of these two judges. In the process, he formed a strong

¹⁴ Review Journal, January 1, 1996, Obituaries; Sun, January 8, 1996, Obituaries.

¹⁵ Claiborne interview, 136.

relationship with both of them. The McNamee family's roots in Las Vegas ran deep. Born in Lincoln County in 1905, Frank McNamee attended law school at Stanford University in 1930, then returned to Nevada to serve as Municipal Judge of the City of Las Vegas. Three years later, he began the full time practice of law and continued until he joined the Army as a private in 1942. Four years later he was honorably discharged as a decorated veteran with the rank of Lieutenant Colonel. Appointed to the Clark County District Court on July 11, 1946, McNamee served until elevated to the Nevada Supreme Court on December 15, 1958, succeeding Justice Edgar Eather.¹⁶ The McNamee family had a long association with the legal profession in Nevada. Frank's father, Frank R. McNamee, Sr., was a widely acclaimed attorney and represented many of the leading mining concerns in central and southern Nevada at the turn of the century. He was the Nevada attorney for the San Pedro, Los Angeles, Salt Lake Railroad Company, later the Union Pacific, a prestigious client. The law firm of McNamee and McNamee began in 1914 when Leo A. McNamee joined his father's practice. Frank McNamee, Jr. joined the firm nearly 20 years later. The family law firm continued with the later addition of Leo's two sons.¹⁷

Claiborne remembered Leo McNamee as the "leading lawyer" in Las Vegas in the mid-1940s and 1950s. Frank, Jr. was not the most prominent attorney in Las Vegas, but, according to Claiborne, he was the smartest. "You seldom will meet anybody in your lifetime as brilliant as him. Masterful Judge." Claiborne thought McNamee was a better trial court judge than he was a Supreme Court justice.¹⁸ He knew because he spent a lot

¹⁶ In Memoriam: Albert (Bert) Scott Henderson, 85 Nev. 731 (1970); Nevada State Bar Journal, October, 1970, Vol. 35, No. 4, 6-7.

¹⁷ Nevada State Bar Journal, Oct, 1958, Vol. 23, No. 4, 121.

¹⁸ Claiborne interview, 51; Wiener interview, 20.

of time arguing cases before him. Despite his respect for the man, Claiborne was not above engaging in his usual courtroom antics before the judge. For example, McNamee's courtroom had a drinking fountain that Claiborne used to his advantage for 10 years before McNamee caught on to him. Sometimes when a prosecutor was in the middle of closing argument and making points against his client, Claiborne would walk over to the fountain and in the process of supposedly getting a drink, intentionally sprayed water all over himself. He then took his handkerchief from his pocket and wiped his face, all with great flourish, hoping the jury would watch his misadventure and not pay attention to the prosecutor's argument. McNamee eventually grasped the situation and without telling Claiborne, ordered the water fountain removed, leaving only the stubbed pipe. At the next trial, "I went over to the water fountain to do my thing and I looked down--the water fountain was gone! I must have looked dumbfounded . When I looked up, McNamee had his head down laughing, as did the Court Clerk and the Court Reporter. They were all in on it. I've always said that was Frank McNamee's finest hour."¹⁹

Claiborne also tried many cases before another long-time Nevada judge, Albert (Bert) Henderson. Born in Eureka in 1879, Henderson attended public schools in Eureka before enrolling at the University of Nevada for two years. He joined the Bar in 1908, having qualified by studying law in the office of Judge Peter Breen in Eureka. Henderson's early career exemplifies the fluid nature of a frontier society in the early 20th Century when it was still relatively easy to change positions without much formal education. After serving as District Attorney for Eureka County from 1906-08, he moved to Las Vegas in 1910 where he began as the first principal of Las Vegas High School. After

¹⁹ Claiborne interview, 252-253; Review Journal, August 16, 1978.

two years, Henderson started his law practice before entering politics. He served three terms in the Nevada State Assembly beginning in 1921, where he was Speaker Pro Tem in 1923 and Speaker in 1925. He was elected to the Nevada State Senate in 1926. After seven years as Las Vegas City Attorney, Henderson became Clark County District Attorney for two terms. Following his service as Rent Director for the local office of the Office of Price Administration, he was appointed Clark County District Court Judge in 1946, where he remained for 14 years. Henderson died in 1962 shortly after retiring from the bench.²⁰

Claiborne remembered Henderson as “pretty weak on the law. But he was a hell of an equity judge. They used to say his decisions were always right, but always for the wrong reason.”²¹ Claiborne recalled a story people told about Henderson in his youth which provides considerable insight into his character and perhaps his strength on the bench. He was a United States Marshal stationed in Elko, Nevada. A local doctor owned a thoroughbred horse upon which he used to make house calls to the surrounding ranches until someone stole the animal. The doctor was obviously upset, so Henderson promised to retrieve his horse. He tracked the horse thief south to Beatty, Nevada and into Death Valley. Henderson finally caught up with him. The thief was frying bacon when Henderson rode up, got off his horse, and said, “The jigs up. I’m the United States Marshal.” The thief said, “Yeah, I know who you are, Bert. It just so happens that you don’t have any jurisdiction. Right down there, that clump of bushes, is the California line. You don’t have any jurisdiction. There’s not a damn thing you can do.” Henderson

²⁰ Nevada State Bar Journal, October, 1962, Vol. 27, No. 4; James G. Scrugham, ed., Nevada: A Narrative of the Conquest of a Frontier Land (Chicago and New York: The American Historical Society, Inc., 1935), Vol. II, 69-70; Communique: Official Journal of the Clark County Bar Association (Las Vegas: Clark County Bar Association), October 1995, 13.

²¹ Claiborne interview, 161.

pulled out his pistol and shouted angrily, “Alright, get up and turn around. I’m a United States Marshal. I ain’t no damn surveyor. I don’t know where the lines are. As far as I’m concerned, we’re still in Nevada.” And he took him in.²²

While Claiborne was still in the District Attorney’s office, an older lawyer, John Cope, took him under his wing and treated him as a son. Born in 1894 in Colorado, Cope was a World War I veteran, admitted to the California Bar in 1922, moved to Las Vegas in 1941 and began to practice law. Described as a “fine old gentleman, a wonderful lawyer”, Claiborne claimed Cope gave him the best advice he ever received, none of which he ever followed.²³ It was while dining with Cope and Henderson that Claiborne first met “Bugsy” Siegel. On that occasion, Cope asked Claiborne to join Judge Henderson and him for dinner at the Flamingo Hotel. He agreed. During dinner, Siegel approached them. Claiborne recalled he was “really a good looking guy. Nattily dressed. You’d never believe that he was a gangster and killed something like 20 people. Soft spoken, just a very nice man.” After introducing himself, Siegel sat next to Judge Henderson and talked about Nevada history. “Judge Henderson liked to talk about the history of Nevada about as much as I like to talk about my old cases that I won,” Claiborne explained. After 30 minutes, Siegel excused himself and left. It did not register with anyone, except Claiborne, who he was. As they were driving home after dinner, the Judge asked Cope if he knew the man and Cope said he assumed he was one of the hotel executives. The judge asked Claiborne if he knew the man and he replied, “Yeah, Bugsy Siegel.” Startled, Henderson lost control of the car, drove off the road, and

²² Claiborne interview, 161-162.

²³ Claiborne interview, 160; Nevada State Bar Journal, October 1962, Vol. 27, No. 4, 2.

ran into the desert. The next day, the judge asked Claiborne not to mention to anyone that they had been to the Flamingo the previous night.²⁴

Siegel's mere presence in Las Vegas symbolized the dramatic transformation the city was undergoing during and after World War II. A decade earlier, there were virtually no mobsters in town except for a few rum runners. But, as reformers began clearing gamblers out of Southern California and as soldiers and defense workers confirmed the hopes of James Cashman and other Las Vegas promoters that gambling would be the city's salvation, the legal profession, both locally and in the state, began to change. The postwar urbanization of Las Vegas and Reno, along with the shifting reliance upon gaming and tourism rather than ranches, farming, and railroading, brought corresponding changes to Claiborne's future profession.

The general postwar migration to western states such as Nevada did not initially effect the Bar, but geographical relocation of lawyers like Claiborne within the state reflected the changing economies within the state's borders. In 1950, the State Bar Association's membership consisted of 284 lawyers. Although the Bar's total membership had increased by only 50 lawyers since 1943, their move to the larger cities was apparent. Las Vegas lawyers increased by 28 and Reno lawyers by 39. The "cow counties" clearly lost attorneys, which reflected the movement of business and population away from the state's fading mining and ranching communities.

Bar membership statistics five years later indicated another trend: Las Vegas posted a faster growth rate than Reno. Las Vegas added 31 attorneys during that time while Reno gained only 2. In terms of percentage, 30% of Nevada's attorneys practiced in Las Vegas in 1955, compared with 23% in 1950. The Reno percentages dropped from 57%

²⁴ Claiborne interview, 160-162.

to 50% during that same time period. This trend continued until 1967. Then, 6 more attorneys practiced in Las Vegas than Reno.²⁵

While the Clark County Bar Association was numerically small, it boasted many capable lawyers, according to Claiborne. Their interaction and antics illustrate the colorful nature of practicing law in Las Vegas during the 1940s and 1950s. Specific anecdotes demonstrate the closeness of the members, revealing a bygone era when lawyers took time to laugh at themselves, and each other, while practicing their profession. Their “war stories” describe a legal environment that faded long ago and will likely never return to Las Vegas.

Madison Graves and Claiborne had several entertaining encounters. Born in New York, Graves moved to Las Vegas in 1941, where he became an Assistant District Attorney, and later a Deputy City Attorney for Las Vegas. Very prominent in Bar activities, he was president of the Nevada State Bar in 1960-61, served on the Board of Governors for several years, and was president of the Clark County Bar Association in 1948. Graves was a Harvard Law School graduate and, according to Claiborne, “quickly let everybody know it.” Graves thought Arkansas was a wilderness and that “everybody in Arkansas was an ignorant hillbilly.” Claiborne was no exception. Graves “had the most magnificent vocabulary that you’ve ever seen in your life and he loved to expound to juries. The jurors never understood the words, much less being able to pronounce them.” When Claiborne had a jury trial against him, “I’d throw that country boy style at him that I used quite often. I found it very appealing to juries. He never got wise.” Then he shared a courtroom tactic he found effective against Graves. “I would mispronounce

²⁵ Nevada State Bar Journal, April 1943, Vol. 8, No. 2, 69-75; April, 1950, Vol. 15, No. 2, 101-108; January 1955, Vol. 20, No. 1, 43-49; January 1967, Vol. 32, No. 1, 58-71.

a word deliberately and he would jump up from the counsel table and correct me. I'd always turn around and say, 'I didn't go to Harvard like you did, Mr. Graves, and I'm very sorry that I mispronounced that word.' He never got it. I used to stop him. I'd say, 'Hold it. Hold it. Mr. Graves, what does that word mean?' He would turn around and define the word to me. He never got it. For twenty years, he never got it."²⁶

Claiborne and Graves once argued a civil case before Judge Henderson who took it under advisement. Six months passed and Graves wanted a decision. He proposed to Claiborne that they both call Henderson and push for a decision, but Claiborne did not want to "kick a sleeping dog." Graves contacted Henderson on his own, which, according to Claiborne, really "pissed the judge off." They next day they received a call from the court that the judge was ready to rule. Henderson had the wrong case in front of him, which Graves readily pointed out. When Graves told him the name of the correct case, Henderson wrote it down but never asked his clerk to bring him the file. Henderson proceeded: "Let the record show that Mr. Graves representing the plaintiff is present and Mr. Claiborne representing the defendant is present." Henderson read off the notes he just made. Graves just smiled knowing he was going to win. Henderson continued, "The court finds for the defendant and against the plaintiff together with the defendant's costs." Graves mouth "flew" open, Claiborne recalled. They went into the hall and Graves was furious. "You knew all the time it was the wrong case, why didn't you join me?" Claiborne replied, "Every lawyer in town knows, Maddy, not to interfere with anything you do." Clearly, Henderson ruled against Graves without remembering what

²⁶ Claiborne interview, 72-73; Diamond Jubilee, 62.

the case involved; but he only remembered which attorney pressured him to render a decision.²⁷

John Bonner was another prominent and colorful Las Vegas lawyer. Born in Ireland in 1904, he was the County Clerk in White Pine County before receiving his license to practice law. After obtaining his law degree from a correspondence school, Bonner served as District Attorney in White Pine County from 1939 until 1946 when he moved to Las Vegas as part of Nevada's big city migration in the postwar era. Bonner represented nearly all of the labor unions and union leaders in town at one time or another. In 1962, President John F. Kennedy appointed him United States Attorney for Nevada. Eventually, the Clark County School District named an elementary school in Las Vegas for him. He died in 1991 at the age of 87.²⁸

As a lawyer, Bonner was a worthy opponent, and Claiborne had many an encounter with him in the courtroom. In one of their memorable contests, they were on opposing sides of a criminal case set for argument in Las Vegas' District Court. Both were preparing in the Clark County Law Library. Bonner had a high stack of law books and marked them with pieces of paper. When Bonner was out of his sight, Claiborne changed all the book marks, assuming that Bonner had written down his legal citations. They appeared in Judge McNamee's court for oral argument. Bonner read half of the first page of a civil case, which of course had nothing to do with the criminal matter. When McNamee began to questioningly look at him, Bonner said, "I don't believe that this is the case." McNamee said, "I'm sure it isn't." So, Bonner put it down and started reading another case, without reading it to himself first. He looked up and said, "I don't think this

²⁷ Claiborne interview, 162.

²⁸ Claiborne interview, 97; Review Journal, December 5, 1991.

case is it either.” He then took the third case and read a little of it. One would think by now that Bonner would look at the case and make sure of its content before reading it, “but not John,” Claiborne recalled. Bonner read a portion of it, stopped, and then asked the judge for more time: “Your Honor, I don’t know how to explain this. But I need a recess.” All the time, McNamee was looking at Claiborne who said, “I’ll agree to that, Your Honor. I’ll agree to that.” McNamee said, “Oh, I’m sure you’re happy to do that.” He knew immediately what happened to Bonner.²⁹

Seven or eight years later, Claiborne and Bonner were in Carson City. The Democratic Central Committee was meeting in Elko and, over lunch, when Claiborne and Bonner discovered each were attending, they agreed to drive from Reno to Elko together. As Claiborne put it,

So we got in John’s car. We got about halfway to Elko, and it begins to snow. I decided to tell John about the books. He threw on the brakes on his car. There was enough snow on the road, about a quarter inch, that the car slid all the way over and off the road. He jumped out. He began to curse me, running around the car. I ran. I didn’t want to fight him. Half of the time, I’m running backwards, holding my hands up. I definitely made four, five circles of the car. While I’m at the back, he stopped and got in the car and drove off. He left me on the highway! He never came back for me. I’m there in the highway and it’s snowing! I’m looking both ways and I don’t see any cars coming from any direction. Finally, a guy comes by in a cattle truck with his kids, and he stopped. He said, ‘Say fella, what are you doing out here in the middle of the road?’ I had a suit on. I said, ‘I was riding with a guy who got mad at me and he put me out of his car and I’m stranded out here.’ He said, ‘Well, where are you going?’ I said, ‘Elko.’ He said, ‘Get in, I’m going there too.’ He had been to a cattle sale somewhere. I get into Elko and John wouldn’t speak to me. I said to him from a distance, ‘John, you still mad at me?’ He turned around and walked away. I rode back to Reno with Cliff

²⁹ Claiborne interview, 231; Wiener interview 8.

Jones. I wasn't going to push it and ask John if I could ride back with him.³⁰

Artemus W. Ham, Sr. was an established and successful attorney in Las Vegas when Claiborne began his practice. Born in Chicago in 1892, Ham attended the University of Michigan Law School before arriving in Las Vegas in 1916 to begin his legal career. He was one of only six lawyers in town at that time, and the only one with formal legal training. Ham's law practice included everything from corporate to criminal law. He served as Las Vegas City Attorney from 1924 through 1928 and was instrumental in getting the first street paved in Las Vegas, Fremont between Main and Fifth, by getting it designated as part of US Highway 91 then under construction between Los Angeles and Salt Lake City. He served as president of the Nevada Bar Association in 1943, was on the Bar's Board of Governors for over 10 years, and twice served as president of the Clark County Bar. In addition to his law practice, he actively acquired and developed land and invested in casinos. An original owner of the Frontier Club, one of the first casinos in downtown Las Vegas, he later became a partner and founder of the Golden Nugget Casino. He also built one of the first luxury homes in Las Vegas. Ham's family made large contributions to the University of Nevada, Las Vegas in 1967 for the construction of Artemus W. Ham Hall and later for Alta Ham Hall. He died in 1979.³¹

Claiborne's memories of Ham were not all that favorable. Claiborne remembered that "Art Ham, Sr. hated me. Absolutely hated me. Art Ham was a grouchy, grumpy human being. He envisioned himself as the best trial lawyer in the world. And he was quick to tell you so." When Claiborne was still with the District Attorney's Office he

³⁰ Claiborne interview, 231.

³¹ Nevada State Bar Journal, October, 1970, Vol. 35, No. 4, 3-4; Nevada Lawyer, July 2003, 21-23.

had a case with Ham during which the judge allowed Ham to withdraw his representation from a criminal defendant. After court, Ham walked up to Claiborne and said, “Well, I guess you’re damn happy that I’m out of this thing.” Claiborne responded, “What makes you think that? Hell no. I’m not happy. He’ll go out now and get a good lawyer!” Ham only spoke to him one time after that.³²

Sometime later, when Claiborne was in private practice, he heard a thump at the back door to his office which opened on to an alley near the Golden Nugget. He saw Ham lying unconscious in the middle of the alley. He was ill and passed out. Claiborne called an ambulance. Claiborne then began spreading the story that when he saw Ham unconscious in the alley, he was afraid that Ham would get run over by a delivery truck. So he pulled him over against the wall, then went back to work at his office. Five people walked by, turned Ham over, saw who he was, and walked away. Finally, the porter from the Golden Nugget (Ham was a 20% owner in the Nugget) came down the alley, turned him over, recognized him, and called the management. Ham eventually learned about Claiborne’s story, and six months later they ran into each other in the same alley, of all places. “Goddamn you! You are a rotten son-of-a-bitch. I always knew you were a no-good bastard. But if I hear of you telling that story about me unconscious in the alley, you’re going to hear from me,” Ham screamed. “Jesus, Art, sorry you took offense to it. People would ask me what happened to you down there and I told them,” Claiborne replied, then just walked away. Ham never spoke to him again.³³

In contrast, Claiborne regarded Louis Cohn as the best all-round lawyer that he ever met when considering attorneys who could try both criminal and civil cases--something

³² Claiborne interview, 138.

³³ Claiborne interview, 139.

few people could do with any degree of success. Not all good criminal lawyers can try a civil case, but Cohn was the exception, Claiborne observed. “Fantastically good lawyer.” Louis Wiener agreed and also remembered Cohn as having a nose “that could hold four rolls of nickels, but he had an expression when he talked that made you think he was handsome. He was the most expressive man you ever saw. He just had personality.” Cohn’s talent made quite an impression on Claiborne, because Cohn died only three years after Claiborne started practicing.³⁴

Harold McKinley Morse may have been the best trial lawyer Claiborne ever encountered.³⁵ He had a deep bass voice you “could hear for forty miles,” as Claiborne put it.³⁶ Born in Nebraska in 1892, Morse attended the University of Nebraska Law School and graduated in 1914. He then put his legal degree on hold and enlisted in the U. S. Navy during World War I. As a naval aviator, he engaged in aerial combat while flying a wood framed, canvas covered bi-plane aircraft; pilot parachutes were not yet available. After farming in Nebraska and practicing law for a short time in Los Angeles, he moved in 1932 to Las Vegas where his two sisters lived. One sister was married to lawyer C.D. Breeze with whom Morse started sharing office space. The other sister was married to Dr. Raymond D. Balcom, who together with Dr. Roy Martin built and operated Las Vegas’ first hospital at Seventh Street and Ogden Avenue. Morse was nationally recognized as an outstanding trial attorney, and was the first in Southern Nevada to be admitted to the prestigious American College of Trial Lawyers. In 1940, Morse formed a partnership with Madison Graves and the firm Morse & Graves was

³⁴ Claiborne interview, 37; Wiener interview, 21-22.

³⁵ Claiborne interview, 37, 72, 293.

³⁶ Wiener interview, 2.

Southern Nevada's premier firm for many years. His son William R. Morse (later a District Court judge), and grandson Harold McKinley Morse II, carried on the family name in Clark County legal lore. Harold Morse died in 1966.³⁷

Claiborne had many court encounters with Morse, but one 1947 case typified the semi-humorous twists a prosecution could sometimes take in Las Vegas. Morse defended a man named Fitch who was accused of killing his wife's boyfriend. Claiborne was the prosecutor. Fitch had been a stand-in for Gregory Peck in some films. His wife eventually moved to Nevada and filed for a divorce, exploiting the state's liberal waiting period. Fitch found her living with another man and a violent fight began involving a gun. Numerous shots were fired, killing the boyfriend. Fitch claimed the gun accidentally fired during a struggle on the floor. In front of the jury, both Morse and Claiborne, at one time or another, got on the floor with the gun to reenact the struggle. The jury was delighted, as were the spectators, to see such behavior by the lawyers. One of the jurors in the back row was a man named Leavitt. The jury seats were on cast iron spindles about six inches in diameter. The seats tilted back and forth so a juror could lean back. Morse began talking to the jury with the gun in his hand. He pulled the trigger each time the gun was supposedly fired while in the various positions during the fight. He pulled the trigger for the third shot and for the fourth shot. All the time, Leavitt leaned way back in his chair in the jury box. Morse told the jury that such and such shot was fired, and as he pulled the trigger, at the same time, the cast iron spindle in Leavitt's chair broke, causing a loud bang. Leavitt fell backwards into the window, landing on his backside with his feet in the air. Morse, and everyone else, thought he shot Leavitt. He said to Graham Butterfield, Clerk of the Court, "My God, Graham, I

³⁷ Nevada State Bar Journal, April, 1967, Vol. 32, No. 2, 3-4; Nevada Lawyer, August 2003, 19-23.

thought the gun was empty.” Morse dropped the gun on the clerk's desk. Claiborne knew the gun did not fire because he knew it was not loaded. But Morse still thought he shot the juror, especially after they got Leavitt out of the window and saw that he was bleeding profusely. He cut his head on the window glass. As Claiborne recalled, “It was a wonderful day for the jury, but justice took a beating.”³⁸

Paul Ralli was an established lawyer in Las Vegas when Claiborne arrived. Ralli definitely possessed one of the more interesting backgrounds of any member of the local Bar. He once appeared on stage as Mae West's leading man in “Diamond Lil,” and on screen with Marion Davies in “Show People.” He also worked as a lumberjack in Wisconsin, as a steelworker in Chicago, and as a common laborer in New York before opting for a legal career. Born in Cyprus, Ralli moved to America in 1927, studied law by correspondence, and joined the Nevada Bar. In one of his books, Ralli recalled his first day in Las Vegas in 1933, when he asked the hotel room clerk how many lawyers were in town. He replied, “I reckon about twenty--and they're all rich men.” In the midst of the Depression, that was good news for Ralli, he confessed, and stayed to profit from the Hoover Dam boom. After serving as Deputy District Attorney for two years, he became Las Vegas City Attorney in 1940, but resigned in 1942 to join the military. After the war, he returned to Las Vegas and practiced law until his death in 1953. By all accounts, Ralli was one of the more colorful, and popular, attorneys in the Clark County Bar.³⁹

In addition to writing two books on the practice of law in Las Vegas, Ralli was “a character, delightful guy.” Being Greek, he brought gallons of wine to every Clark

³⁸ Claiborne interview, 79-80; Wiener interview, 3.

³⁹ Nevada Bar Journal, October 1953, Vol. 18, No. 4, 139; Paul Ralli, Nevada Lawyer: A Story of Life and Love in Las Vegas, 2-3.

County Bar Association meeting at the Green Shack Restaurant. He was famous for making Coffee Diablo, a mixture of several different wines and coffee. Called the “custodian of the wine,” Ralli was also the leading divorce attorney in town--even then a very profitable industry. In 1945-47, with so many quickie wartime marriages being dissolved, Claiborne believed some lawyers were handling four or five divorce cases each day. The secretaries did all the work and the lawyers spent less than ten minutes in the courtroom for each divorce. Ralli, Claiborne estimated, handled six or seven a day. Nobody could match him. Since the minimum fee for a divorce was \$100, Ralli earned \$600 to \$700 a day which, according to Claiborne, was a “ton of money” at that time.⁴⁰

Ralli was a relatively popular figure on the Las Vegas Strip where many prospective divorcees stayed, gambled, and partied while they waited out the six-week residency requirement. In the mid-1940s, the Last Frontier and El Rancho, the only hotels then on that stretch of highway, catered to divorcees, and to Ralli. Claiborne laughingly remembered, “You could go out for dinner at either one of those hotels and every hour there would be a page, ‘Paging Paul Ralli, the attorney. Paging Mr. Paul Ralli, the attorney.’ Ralli was paying the switchboard operators to page him. Wherever you went, everybody knew Paul Ralli was an attorney. The divorcees walking around heard it all the time.” He rode around in a big convertible with the top open and was a very good looking man. While Claiborne respected him, he was not above occasionally antagonizing Ralli by making fun of his Greek accent. Claiborne recalled that Ralli frequently said, “I thiiink (sic) that's right,” when asked his opinion on matters, which emphasized his accent. “I’m in court with him one time and he said something and I

⁴⁰ Claiborne interview, 58-59, 98, 222; Wiener interview, 91; Paul Ralli, Nevada Lawyer: A Story of Life and Love in Las Vegas, 1930-1970 (Culver City: Murray and Gee, Inc., 1949); Paul Ralli, Viva Las Vegas (Hollywood: House-Warven, Publishers, 1953).

looked around and I said, 'Yeah, I thiiink that's right.' He didn't like me either; he joined George Franklin.”⁴¹

Of course, not all of the lawyers in Las Vegas were men. Nelle Price, the daughter of an Ohio judge, was one of the first women lawyers in town. She moved to Las Vegas in 1915 at age 15 to help her mother operate a tea house on a “dirty desert road” near Fremont Street. They were described by some as “two prim and proper Eastern-bred ladies,” something of a novelty in the frontier town at the time. Price joined the Bar in 1947 after graduating from the University of Southern California law school, and practiced in Las Vegas for 22 years. “Nelle was a real good attorney. You could pass by Nelle’s law office on many late nights and see her working. She was also a gracious woman,” Claiborne remembered. A stickler for fine fashion, she browsed the finest apparel shops in Los Angeles and was noted for her stunning courtroom attire. Claiborne remembered her as “a very smart young lady. Pretty. Very attractive. She went into law practice with Paul Ralli. They eventually got married and divorced. She left Ralli and went into law practice with Roland Wiley. I guess it was habit forming for her to marry the lawyer whose office she was in. So she married Roland.” Price and Wiley were married and divorced four times. She unsuccessfully ran for District Judge in 1966. She later told her family that her opponent “looks more like a judge than I do.” At that time, she had been married and divorced 5 times, Claiborne believed. He had been married and divorced 3 times. Both obviously took advantage of Nevada’s liberal divorce and marriage laws. When she came into Claiborne’s office seeking his support just before the election, he confessed that he was already committed to another candidate. Disappointed, she lashed out, “You don’t like me, do you Harry.” He responded, “Nelle,

⁴¹ Claiborne interview, 58-59.

I love you. I really do. I don't want anything ever to happen to you. If it does, then I'd be the most married and divorced lawyer in the community. She stormed out of my office." She was married to a total of eight different men. Some, like Wiley, more than once. She was, according to her daughter, "a very romantic woman. She fell in love very easily."⁴²

Emilie Wanderer also started practicing law in Las Vegas after passing the Bar in 1947. Born in Rhode Island in 1902, she was the oldest living member of the Nevada Bar when she died in 2005 at age 102. She attended Boston University and went to Fordham Law School, but dropped out due to financial reasons. Nevertheless, she passed the New York Bar exam in 1933 and worked until 1946, when she moved her family to a drier climate for her son's health. Wanderer worked in Madison Graves' office as a legal assistant before passing the Bar and starting her own practice. She was best known for her work in civil rights, having served as counsel for the NAACP during the 1950s, and was a driving force in establishing the Clark County Family Court system. Claiborne recalled that she represented many clients free of charge. "She was very smart, and I think she was a very, very fine lawyer. She was knowledgeable." In describing one case against her, "she fought like a tiger."^{43, 44}

⁴² Claiborne interview, 68-69, 134; Sun, June 30, 1998; Review Journal, November 7, 1947.

⁴³ Review Journal, March 23, 2003; Sun September 25, 1999, March 4, 2005.

⁴⁴ Although Price and Wanderer were pioneers in a profession that in Nevada was dominated by men, they were not the state's first female lawyers. The first woman attorney of record in Nevada was Laura M. Tilden, admitted in 1893. Alfreda Noland was the first woman lawyer in Las Vegas. Admitted in 1930, she was one of only three applicants to pass the Bar exam out of 11 who took it. The Nevada Bar's records reflect that Price and Wanderer were among the first 25 women to practice law in Nevada, and both, according to Claiborne, were excellent attorneys. Sun, March 4, 2005, September 25, 1999; Review Journal, April 17, 2003; Diamond Jubilee, 35, citing Las Vegas Evening Review & Journal, October 1, 1930.

The pursuit of clients by male and female lawyers is as old as the practice of law itself. Before the United States Supreme Court authorized attorney advertising for clients, enterprising attorneys used business cards as their sole marketing material, but often did it in a very aggressive manner. Many believed that promptness in presenting one's business card to a potential client was the key. Attorney Charles E. Catt, a standout college football player, hustled personal injury cases "left and right." A woman fell from a bus one day, sustained injuries and sued the bus company for her damages. At trial, Catt asked his client, "Did you hit on the ground?" "Yes." "Were you rendered unconscious?" She asked, "What is that?" "Were you knocked out?" "Yes" Catt asked, "When you came to, what is the first thing that you recall?" Catt expected her to say her head hurt and she was in great pain. She asked, "The first thing?" "Yes, the first thing you recall when you came to." She said, "You were standing over me with your card in your hand."⁴⁵

Helldorado and other social activities sponsored by the community illustrate the frontier life style of "old Las Vegas" that was still part of the town into the 1980s. The Las Vegas Posse was a group of horseman consisting of prominent businessmen and civic leaders in the area. They performed in parades, represented Las Vegas, and the state, at many events, and owned a facility known as the "Posse House," where Cashman Field is presently located. Claiborne, a member for 15 years, recalled that the group spent a lot of time together and that there was "no meeting, just socialization." Like many of the town's leading contemporaries, Claiborne spent time at the Posse House three or four nights a week.⁴⁶

⁴⁵Wiener interview, 4.

⁴⁶Claiborne interview, 265.

Sometimes, the group represented the town in various festivities, and occasionally the results were unexpected. In 1953, for instance, thirty-six members of the Posse traveled to Washington to represent Nevada in the parade for President Dwight Eisenhower's inauguration. The inaugural parade committee allowed one group from each state to participate, and the Posse was Nevada's entry. They hired a special train with parlor cars, and special cars for their horses. The members dressed in blue and white uniforms, white hats, and blue and white cowboy boots. They also carried a brace of .45's, but no live ammunition.

On the day of the inaugural parade, the weather was ten degrees above zero. The Posse members wore long underwear and gloves, but they could not cover their Posse suit with a coat without looking strange and detracting from their intended look. They froze. While waiting for the parade to begin, Claiborne and Jimmy Schuyler, fellow Posse member and general manager of the Thunderbird Hotel, decided to get a drink to warm up. They rode down the street and found the Neptune Bar & Grill. As a patron came out, Claiborne yelled, "Hold the door open." He stepped back with the door open and the two rode their horses into the bar. Claiborne ordered a double Jack Daniels, and Schuyler ordered the same. But the bartender refused to serve them while sitting on their horses because the law required customers be seated at the bar. So they got off their horses and sat on bar stools, and while still holding the reins, got their drinks. The bartender was so nervous, he poured "Jack" all over Claiborne. They drank up, put the glasses back on the bar and turned their horses around. On the way out, Schuyler's horse spooked and kicked out some tile on the wall. A person in the bar said: "Wait. Wait. What is your name?" Claiborne told him, and even spelled it for him, not knowing he was a newspaper reporter. Claiborne also told him they were the Las Vegas Posse from

Nevada. Claiborne and Schuyler returned to where they left the Posse, galloped into formation and finished the parade.

After he returned home, Claiborne received a letter from a Washington lawyer demanding \$650 for damage to the bar. The owner had obtained their names from the newspaper article in the Washington Post, which referred to them as “two cowboys from Nevada.” Claiborne never replied. A week later, Schuyler met a representative from a New York television station who was interested in reenacting the story, and so they called Claiborne who met them at Schuyler's office. He explained that, “We do a program called Interesting People In The News. We have as one of our guests the guy who owned the bar. He's going to be on and we're to interview him and ask him what happened when you guys rode into his bar on horses. We'd like some live pictures of you two on your horses.” He had his television crew with him, and wanted to film them in the same posse suits they were wearing and on the same horses. The man also hoped to find a good place in the desert for the photo shoot, but Claiborne suggested they use his pasture which was closer and more convenient. When asked, “Will that look like we're out in the Wild West,” Claiborne replied, “Well, moderately so.” They filmed for an hour. Later, the man gave them two large photos. Claiborne never heard from the bar owner again about the damages. Claiborne speculated that he was so happy to be on television and deemed an interesting person, that he forgot the lawsuit.⁴⁷

This episode illustrates the dramatic contrast between what typical Nevadans and Easterners consider normal. The “frontier behavior” of a western town's leading citizens did not seem particularly unusual to the Nevadans. Indeed, riding horses into Nevada bars happened with some frequency during that era. But it shocked Easterners. Indeed,

⁴⁷ Claiborne interview, 258, 263-265; Sun, September 23, 1973.

from the perspective of the eastern news media, the Posse member's behavior was significant enough to earn them recognition as "interesting people"-- so much so, that the television reporters wanted to capture on film these interesting people in their natural "Wild West" environment.

CHAPTER SEVEN

FAMOUS CLIENTS

In a significant career move, Claiborne left the District Attorney's office on June 1, 1948 to open his own law office. He decided early in his career that he would specialize in trial work. He was convinced that the uncontested divorce business was so lucrative for Las Vegas lawyers that they would not want to go to trial in many cases. It was too much work and they were making enough money processing uncontested divorces. Claiborne came out of the District Attorney's Office with a "very, very good reputation as a trial lawyer," he believed. Soon, lawyers began referring cases to him for trial if they could not get them settled or otherwise resolved. By specializing in trial work, he could make a good living by doing the thing he liked best. "So pretty soon I became the leading trial lawyer, civil and criminal, in town. I know that everybody thinks of me as just a criminal lawyer, but it wasn't up until the last 15 years that I was active that I was handling nothing but criminal cases. I was pretty well balanced with civil trial work. But civil trials never made the newspaper and criminal cases always did."¹

A clear indication of how the maverick nature of Las Vegas society influenced even its legal profession was Claiborne's decision to locate his first office in the Las Vegas Club. Interestingly, the place was still owned by Kell Houssels and Benny Binion who had resisted his aggressive prosecution of Cliff Helm. But they respected Claiborne's

¹ Claiborne interview, 98.

ability, and like all casinos in all eras, sought to recruit the town's best legal talent.

Several days before his resignation, Claiborne met Farmer Page on the street. Page, one of the owners of the Pioneer Club, was talking to Binion. Page said, "Hey, Harry, I hear you resigned." "Yeah, I resigned yesterday. It's effective Friday. I'm going into private practice and I'm going to run for public office." Page said, "You know Benny?"

Claiborne responded that he had seen him and they shook hands. Following this brief introduction, Binion wasted no time putting him to work. "I want to hire you." When Claiborne asked what kind of trouble he was in, Binion replied, "Well, you're still in the damn DA's office today aren't you?" Claiborne said he was until 5:00 p.m. on Friday. Binion said he would see him after Friday. "I got some troubles coming from Texas." Claiborne retorted, "Well, Mr. Binion, from all I hear, you don't like me very well."

During the Helm case, Claiborne felt that Binion "dumped" on him. Binion looked directly at him and quipped, "Well I didn't know there was a goddamn law that said you had to fall in love with your lawyer." They laughed, shook hands and Claiborne represented Binion for the rest of his life. Indeed, from that day forward, the two forged a life-long friendship.²

Binion was clearly one of Fremont Street's most flamboyant operators. As noted earlier, he began his gaming empire in Dallas. Binion's illegal casino occupied a suite of rooms in various Dallas hotels during the 1930s and 1940s. The enterprising Binion furnished the suites with gaming tables and a bar and made arrangements with various restaurants to deliver food. The Southland Hotel was the most famous location, but he used the Blue Bonnet and the Maurice as well. Everyone knew about his operations, Binion bragged, and no one complained. They operated "just like right here" in Las

² Claiborne interview, 56.

Vegas, he once declared. When asked to confirm rumors that the Mafia tried to move into Dallas but found that Binion's organization was too strong to penetrate, Binion shrugged off the question: "I wouldn't want to go into that."³

Claiborne believed that, while in Dallas, Binion operated with the Sheriff's approval as well as the District Attorney's. After World War II, a reform campaign to clean up Dallas resulted in the election of a new Sheriff and District Attorney. Binion asked the new District Attorney whether he could operate on the same terms as in the past or whether he had to shut down. There are two versions to the story. According to Binion, he had an agreement with the newly-elected District Attorney that if he would voluntarily leave Texas permanently, he would not be prosecuted for any past criminal violations that were still within the statute of limitations. The reform-minded District Attorney, however, denied the story and publicly declared he would prosecute Binion for all his gambling violations in Texas. This was the "trouble" that Binion mentioned to Claiborne at their meeting with Farmer Page on the street.⁴ This decision, along with a series of gangland slayings, drove Binion to Las Vegas in 1946.⁵

Claiborne built his early reputation on extradition cases which began with Benny Binion.⁶ Prior to adoption of the Uniform Extradition Act, an accused defendant could go behind the charging state's (i.e., the state that wanted possession of the defendant) indictment and force the state to prove that he or she had actually committed a crime

³ Binion, 16-17.

⁴ Claiborne interview, 100

⁵ For more on Binion, see A. D. Hopkins, "Benny Binion: He Who Has the Gold Makes the Rules", in Jack Sheehen, ed., The Players: The Men Who Made Las Vegas (Reno: The University Of Nevada Press, 1997), 48-67.

⁶ Claiborne interview, 159.

there. That resulted in a full-blown trial within the framework of a habeas corpus proceeding in the state where the defendant was physically located. Moreover, no limitation existed on the number of habeas corpus writs (trials) an accused could file. If a defendant lost in one county's jurisdiction, he could file in another county and get a new trial. Theoretically, a defendant could have seventeen trials in Nevada. It is obvious why a Uniform Act throughout the United States was necessary.

Claiborne exploited this loophole to the fullest in his defense of Binion. Texas tried to extradite the casino operator five different times to face various gambling-related charges. Whenever Texas notified Nevada's governor of an extradition action, Claiborne asked the governor for a few days before he signed the extradition warrant, which he usually did. That gave Claiborne time to prepare and file a writ of habeas corpus in state District Court to block the extradition. It was a clever strategy. If Claiborne won, Texas dropped that case and filed a different one. If Claiborne lost, he would file a writ in a different county. If he lost there, he would go to another county. "I had seventeen shots (one for each county). We didn't have to take them all, but I did have to take five or six. I finally prevailed," Claiborne recalled. The statute of limitations allowed Texas to go back only four years on the charges. It was hard to prove a gambling offense in Nevada given the prevailing atmosphere and attitude regarding gambling. Despite many attempts over a 4-year period, Texas failed to extradite Binion.⁷

Because of his success with Binion, Claiborne began handling other extradition cases, but not always with the same success. Indeed, Texas gambler Bert Wakefield was not as fortunate as Binion. Wakefield surrendered himself to Clark County Sheriff's deputies on April 8, 1954 on a Texas grand jury indictment charging him with operating a

⁷ Claiborne interview, 101-102.

gambling establishment in Texas. While Claiborne was representing Wakefield in Judge McNamee's court, two Texas policemen bodily carried Wakefield out of the courtroom and returned him to Texas.⁸ Wakefield threw Claiborne the keys to his room as he was going out the door, with Claiborne pleading to the judge: "Order to stop, order to stop, your Honor." Although convinced that McNamee knew it was going to happen, Claiborne had to take the judge at his word when he protested: "Oh, Harry, I should have done something quicker but I was so shocked, astounded about what happened, I just could not collect myself to stop this thing. My God, I hope you'll forgive me." All Claiborne could say was: "I'll talk to Mr. Wakefield about it. Maybe he'll forgive you." The next and last time Claiborne heard from Wakefield was to retrieve his clothes from his client's hotel room.⁹

Joseph "Doc" Stacher was the subject of another interesting extradition case that involved some of Nevada's top lawyers, with cross allegations of misconduct and bribery. Claiborne represented the Sands Hotel and "Joseph Stacher, alias Doc Harris, alias ten thousand other names," a high roller at the resort. Stacher, considered by some a hidden part owner of the Thunderbird Hotel, supposedly expressed interest in purchasing Reno's Golden Hotel and the Bank Club. A preliminary investigation of Stacher by the Nevada Tax Commission suggested "mob" connections. Stacher never filed a formal application for licensing but the state gaming authorities believed some applicants were fronts for Stacher.¹⁰

⁸ Review Journal, April 8, 1951, May 28, 1951.

⁹ Claiborne interview, 159.

¹⁰ Robbins E. Cahill, Recollections of Work in State Politics Government, Taxation, Gaming Control, Clark County Administration, and the Nevada Resort Association, interview by Mary Ellen Glass (Reno: University of Nevada Oral History Program, 1977), 709-713, 718; Claiborne interview, 172-173

In 1952, New York indicted Stacher on 25 criminal counts based on his alleged illegal activities at the Saratoga race track. He was in Las Vegas gambling at the Sands Hotel when the police arrested him. Claiborne secured bail for his release from custody. An unidentified man then warned Claiborne that two New York state policemen planned to kidnap Stacher and take him back to New York. Nevada Governor Charles Russell received New York's request for Stacher's extradition and issued his own warrant authorizing the suspect's return. Claiborne learned of Russell's action and surrendered Stacher to the custody of Las Vegas township constable Woody Cole, who was also a special deputy sheriff. Claiborne then hurried to the county clerk's office and filed an application for a writ of habeas corpus. Judge Henderson set a hearing on the writ. By this action, it was no longer possible for the New York officers to take Stacher from Nevada because the writ commanded the Clark County Sheriff to produce Stacher in Henderson's courtroom for the hearing on the writ. Stacher posted a \$5,000 cash bail, as required by the writ, and was released until the hearing. Seizure of Stacher by the New York authorities after this legal maneuver would have constituted kidnapping.¹¹

Claiborne then drove to Ely and filed another writ and bond. That was the court where Claiborne wanted the trial. Claiborne selected White Pine County because Judge Harry Watson had a reputation for denying extradition. Ely attorney C.E. "Dutch" Horton, the State Bar president in 1961-62, worked with Claiborne on the case.¹² Jack Streeter was the District Attorney in Reno. George Dickerson was the District Attorney in Las Vegas and later president of the Clark County Bar (1965) and the State Bar as well

¹¹ Review Journal, November 23, 1952.

¹² Review Journal, November 23, 1952; Claiborne interview, 172-73; Diamond Julibee, 62.

(1973-74). Jon Collins, future Supreme Court justice, was the District Attorney in White Pine County. All three represented the State in this case.¹³

After court one day, Claiborne was lying on his bed. "I rolled over. I was just resting before I went to dinner and my ear hit the radiator pipe that ran down through the building. I heard voices when my ear hit this pipe. So I put my ear up against it. I listened and I recognized Streeter, Dickerson and the DA from New York. They are talking about kidnaping him. They're saying, 'We've lost, we've lost this case.' They're talking about the two guys (kidnappers) being on the way and the best way to do it would be to just take him out of his room in the nighttime. They're going to get some help. I listened to all this." The two New Yorkers were expected the next day. Because no airlines flew to Ely, a White Pine County Deputy Sheriff arranged to meet the plane in Salt Lake City and drive them to Ely.

Colen E. "Bud" Bodell was Claiborne's private detective. Bodell was a legend in Clark County in his own right. A World War I veteran, Deputy United States Marshal, undercover agent for the United States Secret Service and a former operator of the Boulder Club in Las Vegas, Bodell was among "the toughest of the tough men" building Hoover Dam. He became head of enforcement for The Six Companies, the general contractor building Hoover Dam.¹⁴ Bodell switched rooms with Stacher. About 2:00 that morning, there was a knock on the door. Bodell grabbed his pistol, went to the door and asked, "Who is it?" A voice responded, "I'm the bell clerk." They did not have bell clerks at that hotel. The voice continued, "I have an important message for you." Bodell opened the door, pointed the gun at the two New Yorkers, and demanded, "What

¹³ Communique, September/October 2003, 20.

¹⁴ Paul Ralli, Viva Las Vegas (Hollywood: House-Warven, Publishers, 1953), 239; Joseph Stevens, Hoover Dam: An American Adventure (Norman: University of Oklahoma Press, 1988), 154.

are you guys trying to pull?" They pleaded: "Don't shoot us! Don't shoot us! Don't shoot us." They probably thought Bodell was one of the mob, Claiborne believed.

Claiborne appeared in court the next morning and reported the attempted kidnapping to Judge Watson. Claiborne demanded that Streeter and Dickerson take the witness stand and answer questions under oath. Watson replied, "Well, that won't be necessary. They are all officers of the court. Let me hear about this thing from you." Dickerson and Streeter denied knowing anything about it. Watson ruled in Claiborne's favor on the writ of habeas corpus and ordered Stacher's release. The judge determined that the criminal indictment was not properly prepared because it did not state in "plain and concise terms" the nature of each overt act that it claimed to be illegal. Watson also noted, on the record, the New York agents's effort to "spirit" Stacher out of Nevada and remove him from the jurisdiction of the Nevada courts.¹⁵ An angry Streeter wanted an investigation of the judge, intimating that he had been bribed. For his part, Claiborne concluded that they "just got their ass whipped, not by just a margin or two, they got pounded. They were both good lawyers but they just got pounded."¹⁶ In 1964, Stacher pleaded guilty to two federal tax code violations and exiled himself to Israel.¹⁷

In 1955, Claiborne began representing the Thunderbird Hotel in the first, and probably the most significant, challenge to the state's authority to regulate gaming licenses. The legal issues, although procedural in nature, were critical to the state's ability to enforce its decisions. The issue was clear: specifically, what standards, if any, must the state follow in considering the suitability of holders of gaming licenses, and

¹⁵ Ely Record, January 24, 1953.

¹⁶ Claiborne interview, 172-173.

¹⁷ Pete Earley, Super Casino: Inside the "New" Las Vegas (New York: Bantam Books, 2000), 62.

what role, if any, should the courts have in overseeing gaming control issues? The case had a long and suspenseful history. It began with a “sting” operation, then a hearing before the state’s regulatory agency at the time (the Nevada Tax Commission), followed by a trial in Clark County District Court contesting the agency’s ruling, an attempted end run in the 1957 legislature by the Thunderbird lobbyists, and finally a landmark decision by the Nevada Supreme Court in May 1957.¹⁸

The Nevada legislature re-legalized gambling on March 19, 1931. Although each individual county was responsible for regulating gambling establishments within its own jurisdiction, state legislators gave counties little or no guidance concerning regulation. As a result, statewide regulation was inconsistent and enforcement was largely non-existent. With no effective regulatory scheme in place and even less state funding available, Nevada’s regulatory control of the gaming industry was wholly inadequate. By 1945, everyone recognized the need for uniform regulation at the state level.

In that year, the legislature gave the already overburdened Nevada Tax Commission the task of regulating the gaming industry. Never designed to oversee gaming, the small Commission had administered the revenue and tax affairs of the state for decades. The agency, consisting of five commissioners, plus the chairman of the Public Service Commission and the governor, who served as chair, already had enough to do. To demonstrate economic diversity, the commissioners needed a background in one of each of the five basic industries of the state: mining, banking, land values (interpreted as meaning a rancher, developer, or anyone making a living off the land), livestock, and general business. In 1951, the legislature approved some minor changes in the law dealing primarily with horse racing, which only indirectly affected regulation of gaming.

¹⁸ Nevada Tax Commission v. Hicks, 73 Nev. 115(1957).

By 1955, it was clear that with the proliferation of casinos in Reno and especially Las Vegas, the Tax Commission needed help. At the recommendation of Governor Charles Russell, the 1955 legislature established the Gaming Control Board, a three-member investigative unit with a full-time staff. Initially, however, the entire state gaming regulatory division really consisted of just one person.¹⁹

Born in Utah in 1905, Robbins E. Cahill moved to Sparks with his family when he was four years old. He spent nearly his whole life in Nevada as a student, businessman, politician, state employee and civic leader. After serving in the legislature in 1939, he became the deputy state controller who proposed the idea of establishing the Legislative Counsel Bureau. From 1945 to 1963, he was chief administrative officer of the Nevada State Tax Commission, except for 1955 to 1958, when he was chairman of the Gaming Control Board.²⁰ Cahill was a central figure in several high profile cases including the Thunderbird case, which ultimately led Nevada's gaming community to challenge the state's authority to regulate the industry. Aside from Cahill, the case also involved another major public figure, Hank Greenspun.

Greenspun, the flamboyant editor-publisher of the Las Vegas Sun, routinely attacked and investigated governmental corruption in Nevada. In the summer of 1954, Greenspun and Sun investigative reporter, Ed Reid, devised the most famous sting operation in Las Vegas history up to that time, recruiting undercover detective Pierre LaFitte for the job. LaFitte impersonated a notorious gangster who wanted to invest in Las Vegas gaming and other business interests. The purpose of the sting operation was to determine,

¹⁹ Cahill, 241, 254, 587, 593, 594.

²⁰ Cahill, v-vii, 254.

which, if any, Nevada politicians would expose themselves as susceptible to corruption in an attempt to obtain a gaming license for a person clearly not licensable.

Deputy District Attorney Gordon Hawkins and Reid, hiding in a closet at the El Rancho Hotel, recorded conversations between LaFitte and various local politicians and business leaders. Posing as “Louis Tabet,” LeFitte met separately with Clark County Sheriff Glen Jones, Clark County Commissioner Rodney Colton, Lieutenant Governor Cliff Jones, and his law partner Louis Wiener, among others. The discussions with Cliff Jones and Wiener focused on using their political connections to obtain a gaming license for “Louis Tabet.”

Cahill recalled listening to certain of the audio tapes in Hank Greenspun’s house, along with Governor Charles Russell, Tax Commissioner Paul McDermott, and LaFitte. Russell faced a challenge from Vail Pittman in the gubernatorial race that was only months away. Pittman was a decided favorite to oust the incumbent Russell. The tapes, however, recorded boasts by Wiener that once Pittman was Governor, he would remove Cahill from the Tax Commission and gaming applicants with questionable backgrounds would be looked upon more favorably for licensing purposes. The exposure of that type of situation, of course, was one of the objectives of the sting operation. Greenspun demanded to know what Governor Russell and the Tax Commissioners intended to do about this revelation. If Russell took positive action, Greenspun’s newspaper would support him in the gubernatorial race. If Russell did not, then Greenspun would attack both Russell and Pittman.²¹ When Russell hesitated to act, the Sun began running a series of articles on October 11, 1954 detailing the recorded conversations. Years later,

²¹ Cahill, 998-1002; For more on this sting operation, Ed Reid and Ovid Demaris, The Greenfelt Jungle (New York: Trident Press, 1963).

this episode became a part of perhaps the most famous expose of Las Vegas ever written, The Green Felt Jungle, authored by Ed Reid and mob specialist, Ovid Demaris.

Marion B. Hicks built the Thunderbird Hotel in 1948, making it the fourth hotel on the Strip, following the El Rancho Vegas, Last Frontier and the Flamingo. Hicks, a contractor who had earlier built the El Cortez on Fremont Street, partnered with attorney and former Lieutenant Governor Cliff Jones to buy 1,100 feet frontage on the Strip for their Navajo Indian-themed casino. Described as a rather straightforward, quiet man who spoke in a low voice, Hicks managed the operations well according to Cahill, and was cooperative with gaming authorities. The Thunderbird operations proved very profitable.²²

As noted, there was always a suspicion among gaming regulators that “Lansky” money was in the Thunderbird Hotel. Hicks borrowed \$160,000 in 1947 from George Sadlo to construct the hotel. Although it later appeared that Jake Lansky (brother of organized crime leader Meyer Lansky) helped finance the loan, Hicks denied knowledge of Lansky’s participation. Hicks repaid the loan in 1954. In 1948, Hicks borrowed another \$37,500 from Sadlo to bankroll the gaming operation. There was no evidence that Lansky participated in the second loan, which Hicks repaid in 1952. Hicks told Cahill of these loans, and Cahill advised him that he did not see anything “startling” about them. According to Cahill, these transactions were not an issue at the time. So, he promptly forgot about it. He was “rudely” reminded of it later, as he put it, during the Thunderbird hearings.²³

²² Moehring, Resort City, 49; Cahill, 991-992, 995.

²³ Nevada Tax Commission v. Hicks, at 126; Cahill, 991, 993-994.

The Nevada Tax Commission cited Hicks, Clifford Jones, and others on February 10, 1955 and ordered them to show cause why the state should not revoke their gambling licenses. This would be the first test of the Commission's authority to exercise control over holders of gaming licenses. The response, Cahill recalled, was a long, indignant telegram from Hicks demanding that if they had any evidence of wrongdoing, he wanted it made public. He further demanded the show cause hearing be conducted as soon as possible, preferably before the gubernatorial election. Cahill believed that Jones actually wrote the telegram after conferring with Thunderbird executives. The Commission scheduled the show cause hearings.²⁴

Cahill admitted he was never in a more tense setting, before or since, because of the bitter underlying political issues involved and because there were many gaps in the Tax Commission's case that could weaken the agency's position against Hicks and Jones. The initial hearing, as far as he was concerned, was a fishing expedition by the Commission to get witness statements on the record. It was clear the agency could not conduct a complete hearing and reach a decision within the time frame Hicks requested.²⁵

At the recommendation of Louis Wiener and Jones, the Thunderbird license holders retained Claiborne. However, when Jones testified, and Claiborne represented him, many were surprised. Cahill himself had thought that Claiborne and Jones were not friends, but that Jones had retained him simply because of his legal ability and reputation. He remembered kidding Claiborne by quipping, "Well, I never thought I would see Harry Claiborne playing the fiddle for 'Arkansas Slim.'" Claiborne merely grinned and said,

²⁴ Nevada Tax Commission v. Hicks, at 117-118; Cahill, 1012-1013.

²⁵ Cahill, 1016-1017.

“Ain’t it hell,” and proceeded with his usual vigor.²⁶ Claiborne claimed, however, that he and Jones were good friends, dating back to their time together in the 1949 legislature when they had adjoining rooms in a Carson City motel.²⁷

Cautious in his testimony, Jones testified that he could not remember ever speaking with Tabet. It was apparent that Jones did not know if the Commission had any recordings of his conversations, and he did not want to say anything that might conflict with any possible recorded conversations. Cahill did not believe any such tape recordings existed either.²⁸

In a recent remembrance, Cahill noted that as Jones’ testimony proceeded, he got more tired and nervous, although nothing significant came from his testimony. Eventually, Jones began saying a little more than Claiborne wanted, so during a recess Claiborne cautioned Jones “very vigorously.” When they resumed, Jones’ demeanor changed considerably. He demanded to see the evidence against him and would answer “no further questions.” Other than the considerable sparring on both sides, Cahill did not believe any significant testimony resulted from the first hearing.²⁹

The second hearing was even more tense with loud accusations voiced by both sides. By then, Jones had obtained the Tax Commission’s records and knew they contained no tapes of his conversations. Claiborne believed the commissioners had a tape, but for some reason refused to play or release it.³⁰ Now Jones felt more comfortable in testifying

²⁶ Cahill, 1017.

²⁷ Claiborne interview, 95.

²⁸ Cahill, 1017.

²⁹ Cahill, 1019-1020.

³⁰ Claiborne interview, 93.

and went on the offense by demanding that LaFitte appear and testify. Cahill asked LaFitte to appear, but LaFitte kept hedging until the day before the hearing. Then, he refused to appear. After the second hearing, the Commission took the matter under advisement.³¹

Held in Carson City, the Tax Commission hearings were a “dog-eat-dog fight,” Claiborne remembered. After three days with two more to go, Claiborne remembered that “I got my ass whipped. Those kind of things I usually won.” They were staying in the old Riverside Hotel in Reno, and Claiborne recalled, “Someone with a lot of clout went to Marion Hicks and told him that if you will get rid of Claiborne and hire the Woodburn law firm, this thing will go away. Claiborne's got so many of them mad at him, by now, that you're going to lose your license. Hicks woke me up about 1:00 o'clock in the morning and said meet me down in the bar, it's important. So I met him down at the bar.” After being told the story, Claiborne retorted, “I can tell you what to do. I'm out as of now. You get up early in the morning and go hire the Woodburn firm. Do what the guy says. My objective in this case is to keep them from revoking your license. If me getting out of the case will keep them from revoking your license, then I'm out. My duty is to you.”³²

After breakfast the next morning, Claiborne met Hicks who said he had an appointment with the Woodburn firm. Claiborne recalled, “I told Marion I thought a lot about this. They are going to revoke your license. He looked stunned. I got up to leave and I turned around to him and said, ‘I'm going back and prepare a restraining order. They revoke your licenses, you grab a telephone and you call me. In 10 minutes, I'll be

³¹ Cahill, 1036-1037, 1043.

³² Claiborne interview, 93.

at the courthouse with a court order restraining them from locking your place up. I'll prepare the pleadings and we'll go into District Court and we'll fight this thing. I hope we don't have to, but I've got a feeling that I will be.” Hicks retained the Woodburn firm and Claiborne returned to Las Vegas. Unfortunately for Hicks, Claiborne’s prediction came true.³³

The Tax Commission rendered a decision on April 25, 1955. It declared Hicks and Jones unsuitable to hold gaming licenses and suspended the licenses of all partners in the business until Hicks and Jones disposed of their partnership interests. On May 18, 1955, the co-partnership, doing business as the Thunderbird Hotel Company, filed a court action seeking to enjoin the enforcement of the suspension order. On that same date, the court issued an order temporarily restraining the suspension, and on June 22, 1955, the court also ordered an injunction against the suspension. The Thunderbird was back in business. The judge scheduled trial for October 17, 1955.³⁴

Judge Merwyn Brown of Winnemucca presided over the trial on the injunction while sitting in Las Vegas. Cahill testified, much to Claiborne’s delight. The latter, well-known for his histrionic tactics in a courtroom, was sometimes called “Whispering Harry,” a paradox --because he was never quiet. Claiborne shouted and yelled during his examination of Cahill and Cahill shouted back at him. They had “a pretty good go around.” Clark County Sheriff W. E. “Butch” Leypoldt heard the yelling from the third floor of the courthouse and came down to investigate, Cahill remembered.³⁵ Brown

³³ Claiborne interview, 93.

³⁴ Nevada Tax Commission v. Hicks, at 118.

³⁵ Cahill, 1054-1055.

ruled in favor of the Thunderbird Hotel on December 19, 1955, and the Tax Commission appealed.

While the Supreme Court had the appeal under consideration, Jones and Hicks sought help through the 1957 legislature. On February 20, 1957, Senate Majority Leader Rene Lemaire, Senate Minority Leader B. Mahlon Brown, and rural county Senator Walter Whitacre introduced Senate Bill 92, nicknamed the “gamblers day in court” bill, which provided a license holder a new trial (de novo) in district court when appealing an adverse finding from the gaming regulators. This, of course, was the issue the Supreme Court ultimately refused to read into the existing regulations, but which Judge Brown had allowed at the trial court level. The bill’s preamble declared that the legislature intended to settle certain procedural matters in gaming control, both past and future. The bill passed the Senate by a vote of 12 to 5 less than a week after its introduction.³⁶

It next moved to the Assembly, where the Judiciary Committee conducted hearings, including testimony from the Tax Commission attorneys as well as some casino owners who demanded that gaming regulation should be strengthened, not weakened. The only major casino operator who favored the bill were the Thunderbird owners, who obviously had a vested stake in the issue. Pushed through the process, the bill came up for final reading in the Assembly on the evening of March 13, 1957, only three weeks after its introduction, and passed 32 to 13 at 2:30 in the morning.

As expected, Governor Russell, a strong supporter of Cahill and state regulation of gaming, vetoed the bill on March 20 and returned it to the Senate. Russell pointed out that the Thunderbird lawsuit pending before the Supreme Court was subject to influence if the bill passed. The bill’s proponents were involved in the litigation. Needing six votes

³⁶ Glass, Nevada’s Turbulent ‘50s, 34-36.

to sustain the veto, only five senators opposed the original passage less than three weeks before. The Governor was one Senator short. Russell himself later recalled that no other bill came before him during his eight years as governor with more outside pressure than Senate Bill 92.³⁷

The Republican Party, normally a force against strong governmental regulation of business, supported control of Nevada's gaming industry which, at the time, was infested with mobsters. Senator Ralph Lattin, a Churchill County Republican, changed his vote, which sustained the governor's veto by a margin of 6 to 11. This action finished his political career. Lattin did not return to the legislature after the 1957 session, claiming the pressure over SB 92 ruined his health and nerves.³⁸ But Lattin, like Russell, realized that only through strict regulation of gaming, could Nevada deter the federal government from taxing the industry out of existence.

Claiborne, like many Nevada lawyers, followed the process with great interest. The Nevada Supreme Court on May 3, 1957 issued a landmark decision in Nevada gaming law, and upheld Judge Brown's ruling favoring the Thunderbird Hotel. The Court's opinion defined standards which the state gaming authorities must follow in determining the suitability of licensees as well as the guidelines and jurisdiction of the courts in considering issues relating to gaming control.³⁹

Specifically, the Supreme Court ruled that the trial court could not conduct a new trial and consider evidence which was not presented during the Commission hearing. Rather than conducting a trial "de novo", the trial court had to confine its consideration to the

³⁷ Glass, Nevada's Turbulent '50s, 36.

³⁸ Glass, Nevada's Turbulent '50s, 36-37.

³⁹ Nevada Tax Commission v. Hicks.

record made during the Commission hearing. To do otherwise would “completely destroy” the effectiveness of the Commission as an expert investigative board, relegate it to hearing only meaningless or preliminary matters and place upon the courts the full administrative burden of factual determinations. The justices also ruled that the trial court committed error by issuing a temporary injunction against the enforcement of the Commission’s suspension order. The applicable statutes clearly provided that the suspension should remain in effect until “reversed or modified” on judicial review. In short, a court could not stay the Commission’s suspension order until such time as the judge conducted a hearing on the matter, that is, a judicial review.⁴⁰

The Supreme Court examined in detail the five reasons assigned to Hicks and the three reasons assigned to Jones that justified the Tax Commission deeming them “unsuitable” to hold gaming licenses. For both men, the principal reason was the concealment from the Commission of the identity of the interests of certain individuals who should have been reported; namely, the two loans by Sadlo, along with a newspaper report that Jones boasted of hidden interests by the Lansky brothers. After analyzing the record of the Commission’s hearing, the Supreme Court concluded that the major offenses alleged were “without substantial evidentiary support” and the trial court correctly set aside the Commission’s suspension order.⁴¹

The powerful Thunderbird owners and Democratic party chieftains, led by Cliff Jones, lost their political bid to influence the pending judicial process and weaken gaming control in Nevada. The defeat of Senate Bill 92, coupled with the subsequent

⁴⁰ Nevada Tax Commission v. Hicks, at 122-125.

⁴¹ Nevada Tax Commission v. Hicks, at 126-127, 134-135.

decision of the Supreme Court in the Thunderbird case, were monumental events in Nevada's gaming and regulatory history.

Despite Greenspun's sting operation and Senate Bill 92, Claiborne did not believe these events hurt Cliff Jones' political standing in the community. Claiborne believed there was personal animosity between Greenspun and Jones and Wiener, but he did not know why. It was not politics but a personal matter, he thought. It may have just been Greenspun's intense dislike of Jones, who not only was McCarran's right hand man in Clark County, but was very powerful in Nevada in his own right. As Claiborne observed, "Those kinds of things in Las Vegas in those days didn't hurt anybody. It really didn't. Hank Greenspun built his reputation and the Las Vegas Sun and his ultimate empire by attacking the "good ol' boys" network. Cliff was the golden boy of the powers that be in Nevada. Cliff was their man in Clark County. Hank started attacking everybody that was in the power structure."⁴²

The Sun's sting operation destroyed Rodney Colton's political career. Colton was a 15 year Clark County Commissioner and a descendent of G. F. Colton, who made the first gold discovery in Searchlight in May 1897, which triggered that town's founding. Commissioner Colton was indicted for accepting a \$10,000 bribe from Tabet in exchange for "going along" with Tabet's application for gaming and liquor licenses. Colton met with Tabet on three different occasions, the first on September 8, 1954. He admitted accepting "the finest geiger counter available" from Tabet, after several drinks, but denied offering anything in return. Their conversations were all captured on tape. Colton retained Claiborne, but was convicted after a short trial.⁴³

⁴² Claiborne interview, 92-93, 95.

⁴³ Claiborne interview, 110-111; Review Journal, November 24, 1954; Colton v. Leypoldt, 72 Nev. 83 (1956).

The Tabet tapes also suggested that Clark County Sheriff Glen Jones enjoyed a working relationship with the owners of Roxies, the notorious brothel at Formyle near today's intersection of Boulder Highway and Sahara Avenue. The actual owners were Eddie and Roxie Clippinger, but Greenspun charged that Sheriff Jones and Louie Wiener also owned a part of it. Wiener claimed he was just their lawyer. One night, according to Claiborne, "there was a superficial raid on Roxies. Everyone had notice that they were coming. Wiener figured that they were going to grab the money so he runs out and he's taking the money out of the register when the newspaper reporters and the police come in." Wiener secured approximately \$175,000 in the cash register. When he walked out and was parallel with the bar, a Sun photographer took his picture. The next day, it was prominently displayed on the front page of Greenspun's newspaper under the caption: "Wiener tending bar at a whorehouse."⁴⁴

The Thunderbird was not the only big Strip resort that retained Claiborne's services. He also represented the Sands Hotel. Although he was not the lawyer for the original applicant, Mack Kufferman, he represented Jackie Freedman who purchased the hotel from Kufferman with Claiborne's help. Kufferman, a liquor businessman from New Jersey and a wealthy man, had begun construction of the Sands in 1951. Robbins Cahill soon heard rumblings that Kufferman was a member of the "syndicate" and an associate of Joseph "Doc" Stacher. Kufferman claimed he was building the Sands with his own money and needed no outside financial associates. Cahill remembered that when Kufferman appeared before the Tax Commission for licensing in 1952 that he was a large man, hard of hearing and the most arrogant person he had ever met. Claiborne, who had

⁴⁴ Claiborne interview, 111-112; Wiener interview, 47.

many dealings with Kufferman, agreed with Cahill.⁴⁵ Kufferman's overbearing attitude seemed to confirm the rumors about him. He appeared before the Tax Commission on several occasions and with several different attorneys. A major issue arose when the Sands neared completion, and the Commission refused to issue him a license. As opening day approached, Kufferman became increasingly concerned. In a turnabout, he appeared before the Commission without an attorney, and even assumed a respectful demeanor. Cahill remembered him as rather charming, but very intense as he pleaded his case, even going so far as to say "I'm getting down on my knees to you." He almost got down on his knees, breaking into tears. He admitted that the license was the only thing in his life that he had ever gone after that he could not obtain. The Commission denied him again.⁴⁶

After the licensing denial, Cahill spoke frankly with Kufferman. Cahill remembered Kufferman responding rather meekly: "I know what you thought of me, and I can understand you thinking that. I'm leaving, I'm going to get out. I've got to tell you that you were entirely wrong, but I cannot blame you for it because I can understand how you would believe the things that you had heard." He gave Cahill information that would later prove useful in cleaning up the whole licensing process. Many people came to Kufferman claiming they could get him a license for \$25,000 to \$50,000. Not only did they guarantee the license, but their "fee" was contingent upon it. He believed they were "phonies" and rejected their overtures.⁴⁷

⁴⁵ Claiborne interview, 108.

⁴⁶ Cahill, 795-800.

⁴⁷ Cahill, 801-802.

They shook hands and parted amicably. Kufferman, in Cahill's opinion, was an entirely different man than he first saw at the hearings. Cahill even conceded that the Commission may have been wrong in denying Kufferman a license, and that Kufferman's initial arrogance may have unfairly prejudiced their opinion of him.⁴⁸

During his storied career, Claiborne handled many cases involving major Strip hotels. Ballard Baron owned the majority interest in the Last Frontier Hotel. Originally from Ft. Worth, he was a personal friend of Horseshoe Club owner Joe W. Brown and Jackie Freedman. Because Claiborne was Baron's lawyer, he met Freedman and they developed a friendship. Freedman previously had run a Houston gambling operation in a gorgeous, private, old mansion that he had converted into a private club. He furnished it with French antiques. Freedman was well known and liked in Houston, despite being an illegal gambler. Cahill loved Freedman because they could talk together and frankly discuss problems. He described Freedman as one of the great characters of contemporary Las Vegas.⁴⁹ During the Kufferman hearings, Claiborne had lunch at the Last Frontier with Baron and Freedman. Baron doubted that Kufferman would ever obtain a gaming license. Several days later, Freedman called Claiborne and informed him that the Tax Commission had rejected Kufferman's license request. So, Freedman wanted to buy the Sands from Kufferman. Claiborne agreed to schedule a meeting and Freedman eventually bought the resort, a deal that contributed mightily to Claiborne's reputation and standing in the legal and business community. Indeed, he served as the Sands'

⁴⁸ Cahill, 803.

⁴⁹ Cahill, 803-804, 872.

lawyer until the day Howard Hughes bought it. “I was the first person Howard Hughes fired,” Claiborne boasted.⁵⁰

In his capacity as the Sands Hotel’s lawyer, Claiborne eventually met Frank Sinatra. In approximately 1951, Claiborne received a call from Freedman who asked him to represent Sinatra, who was at a low point in his career and owed the federal government \$116,000 in taxes. His Los Angeles lawyers had withdrawn from the case, so he had no representation for a scheduled hearing before the appeals section of the Internal Revenue Service in San Francisco. Claiborne protested to Freedman that he knew nothing about taxes, but Freedman persisted. With the hearing only one week away, Claiborne agreed, “Alright, I’ll go and do my best but I want this guy to know that this is beyond my field.” Freedman understood but was adamant: “He knows that, but he can’t get anybody else. He doesn’t have any money.” Claiborne settled the matter for \$25,000, which Freedman paid on behalf of Sinatra and the entertainer never forgot Claiborne’s willingness to help. That case started Claiborne’s long relationship with Sinatra. The day after the hearing, Sinatra got a call from a studio telling him he had a part in a movie called “From Here to Eternity,” Claiborne recalled. It was the big break that Sinatra needed. He accepted the role and won an Oscar for best supporting actor in 1953. The singer’s career skyrocketed overnight and he soon became the biggest draw in the entertainment business.⁵¹

Claiborne also represented Sinatra in 1954 when the Gaming Commission approved him for a 2% ownership interest in the Sands Hotel and voted to add his name to the Sands’ gaming license. Claiborne recalled that gaming regulators kept deferring the hearing to get more information and it took what seemed to be an unreasonable length of

⁵⁰ Claiborne interview, 108-109.

⁵¹ Claiborne interview, 104-105.

time, but Sinatra received his license on February 8, 1954.⁵² The Commission hearing raised some interesting issues. Jack Entratter, the Sands' entertainment director, originally signed Sinatra to perform, but now the singer wanted a gaming license. Some of the commissioners balked at his application. It was not because of Sinatra's mob connections in New Jersey, Chicago, and Los Angeles. At the time, the only issues the commissioners had with Sinatra were his problems with the Internal Revenue Service and a pending divorce proceeding. Cahill saw no connection between these issues and his right to hold a gaming license. In fact, two of his commissioners were themselves undergoing tax audits by the IRS, Cahill noted, and the other commissioner had marital problems. He believed that some of the commissioners simply wanted to meet and question Sinatra because of his celebrity status. It was one of the few times, Cahill recalled, that the commissioners took advantage of the fact that an applicant was publically well known and they could show the public how tough they could be, especially when dealing with high profile applicants.⁵³

Commissioner Bob Allen asked about Sinatra's court action and the amount of money involved. Everyone saw Allen get mad over the answer, including Sinatra, who asked if he had offended Allen. "What have I said that's wrong?" Allen would not tell him, but just glared at the singer. Finally, a one word response by Allen gave a clue. Sinatra made a deprecating remark about an amount of money that was small to him, but not small to Allen or any of the other commissioners. Allen soon remarked that Sinatra must not care about money to make a remark like that. Sinatra told Allen he worked very hard for his money and was sorry if he had offended him. Allen just continued to glare.

⁵² Claiborne interview, 105; Review Journal, February 9, 1954.

⁵³ Cahill, 807, 809-810.

Although it was clear that Allen would not support Sinatra's application, the commission approved him for a gaming license.⁵⁴

Claiborne served as Sinatra's attorney for six years until it began to overwhelm him. "I wasn't equipped to handle it. I wasn't a business lawyer; he needed the best there was in that field and so I quit him. The money was good but I never was so miserable as during that period when I worked for him. You have to know your limitations. When I quit him, I told him, 'Hey, your business has gone beyond my capabilities and I dearly love you. My relationship with you has been wonderful but I'm through.'"⁵⁵ Still the experience demonstrates how flexible Claiborne was in practicing law and how fluid the profession still was in Las Vegas. But once specialization became more of a prerequisite, Claiborne knew it was time to hand Sinatra off to someone else. That someone was Mickey Rudin. Claiborne admitted that hiring Rudin was the best thing that ever happened to the entertainer. Rudin made Sinatra lots of money, capably managed his affairs, and became his close personal friend. Later, however, when Sinatra faced the loss of his gaming license for hosting Black Book member Sam Giancana at the Cal Neva Lodge, the entertainer again turned to Claiborne for help.⁵⁶

Robbins Cahill no longer headed the Tax Commission. Moreover, in 1959, new Nevada Governor Grant Sawyer had championed a bill through the legislature that removed gaming regulation from the overburdened Tax Commission and gave it to a new agency, the Gaming Commission. The law also shifted the Gaming Control Board to this new agency. Edward A. Olsen was chairman of the Control Board from July 1961 until

⁵⁴ Cahill, 808.

⁵⁵ Claiborne interview, 101.

⁵⁶ Claiborne interview, 108.

1966. Born in New York in 1919, he spent nearly his whole life in the West while pursuing careers in journalism and gaming control. Handicapped since birth by a serious physical condition, he required the aid of a walker. This later became an issue in the Sinatra matter.⁵⁷

Sinatra had received a gaming license for his Cal Neva Lodge in Lake Tahoe, Nevada, in approximately 1960. Although previously licensed for an interest in the Sands Hotel in Las Vegas, he never participated in the operation of that business. However, he intended to be the major owner in the Cal Neva and in 1961 built a new showroom, the “Celebrity Room,” which better suited his style and performance. By 1962, the gaming authorities had grown suspicious of the operation. Their investigators reported a series of “peculiar incidents”, as Olsen described them. In one instance, an automobile killed a man whose wife was a Cal Neva employee. Upon returning to work, she gave conflicting stories about her relationship with some of Sinatra’s people and indicated the “accident” may have not been an accident at all. In another episode, a shooting occurred on the front steps of the Lodge involving an employee who then disappeared for a week. He was later found in a local hospital severely battered and bruised. When the patient explained to the physicians that he fell off a horse, the doctor commented that it must have been an “awfully high” horse. Federal investigations also revealed the transportation of prostitutes from San Francisco to the Lodge.⁵⁸

Mickey Rudin, Sinatra’s Hollywood lawyer, promised Nevada gaming authorities that his client would be more careful in the selection of his executives and better monitor

⁵⁷ Edward A. Olsen, My Careers as a Journalist in Oregon, Idaho, and Nevada: in Nevada Gaming Control: and the University of Nevada, interview by Mary Ellen Glass (Reno: University of Nevada Oral History Program, 1970), v-vi.

⁵⁸ Olsen, 372-373.

the operations. More importantly, he assured them that Salvatore “Sam” Giancana, a.k.a. Salvatore “Momo” Giancana, a.k.a. Sam Moony, had never been in the Lodge.

Nevada’s Black Book, created in 1960 by order of the new Gaming Commission, listed Giancana as a person who was permanently banned from the premises of a licensed casino such as the Lodge.⁵⁹ But, Olsen received information in July 1963 that Giancana had recently stayed at the Cal Neva. An investigation revealed that he occupied a chalet registered to Phyllis McGuire, a singer performing at the Lodge at the time. A nervous Sinatra called in his old friend Claiborne to help resolve the matter. Claiborne recalled that Sinatra “had a limousine pick him up at the airport. This wasn’t just one visit that was involved in this. Comped his room and everything.” He was also involved in a ruckus. Giancana got into a fist fight with a man, and when he got the worst of it, Giancana solicited the help of an employee to “take care of the gentleman.” In the meantime, Sinatra and his valet showed up, personally stopped the fight, and even applied a band-aid to the victim.⁶⁰

At a later meeting with Olsen, Sinatra adamantly denied any knowledge of this incident. When asked if he would deny knowledge of the incident under oath, he declined, explaining that he never talked under oath without consulting with his attorney. Sinatra admitted that Giancana was a friend of his, and that he saw him six to ten times a year and occasionally played golf with him. He also confirmed that Giancana was sometimes a guest at his Palm Springs home. While Sinatra insisted that he would continue his association with him, he assured Olsen that he would not associate with Giancana in Nevada. He agreed with Olsen that his association with people like Giancana

⁵⁹ Olsen, 373-375.

⁶⁰ Olsen, 379-381, 391; Claiborne interview, 107.

not only discredited him, but also reflected badly on Nevada gaming. However, the singer only promised to refrain from fraternizing with people of that type while he was in Nevada; Sinatra insisted that he would continue to associate with whomever he wanted when he was elsewhere. "This is a way of life," Sinatra asserted, "and a man has to lead his own life."⁶¹ Claiborne recalled that Sinatra could not understand why his association with Giancana was a problem. Raised in the Italian district in Hoboken, New Jersey, Sinatra started as a prize fighter and lived in a tough environment where there were strong bonds between friends. In Sinatra's mind, a friend was a friend. If a man was your friend, he could do wrong. It made no difference what he did, he's still your friend. As Sinatra told Claiborne, "Don't they understand, Harry? He's my friend."⁶²

Olsen saw it differently. Not satisfied with Sinatra's responses or with the cooperation that Cal Neva executives gave to gaming regulators, Olsen ordered subpoenas issued requiring several individuals associated with the Lodge to appear in Carson City for questioning. By coincidence, a newspaper article in the Chicago Sun-Times written 30 days earlier came to the attention of Hank Greenspun. Greenspun began making inquiries about whether a Nevada investigation was in progress. When Sinatra learned of Greenspun's articles and the now public investigation, he was furious. He wrongly assumed that Olsen had leaked the information to the press and demanded to see him immediately.⁶³

After failing to convince Olsen to visit the Lodge to meet him over dinner and see his show, Sinatra telephoned Olsen on August 31, 1963 and proceeded to malign and vilify

⁶¹ Olsen, 381-382.

⁶² Claiborne interview, 106-107.

⁶³ Olsen, 384-385.

him, the gaming authorities and, in general, everyone in the state. Olsen prepared a memo on September 4, 1963 relating the facts of the investigation and the details of his conversation with Sinatra. On that same Labor Day weekend, Cal Neva's manager tried to bribe two Gaming Control Board auditors during a routine observation of the money count in the resort's casino cage. This occurred after Sinatra instructed the Lodge's manager to "throw the sons of bitches out of here!" Sinatra's attitude regarding compliance with Nevada gaming guidelines quickly led to a show-down between the singer and the state. The issue now became: was Sinatra above Nevada's gaming law?⁶⁴

Olsen responded immediately by seeking revocation of Sinatra's license at both the Cal Neva and the Sands for conducting an unsuitable operation and associating with people who were deleterious to the gaming industry. Governor Grant Sawyer supported him even though he knew Sinatra. Indeed, the singer played an active role in John F. Kennedy's presidential campaign. Sawyer, like others, understood that Sinatra could be a very abusive person who set his own rules, violated laws with impunity and bought his way out of most problems, if he could. Sawyer believed Sinatra would give the state authorities problems when they tried enforcing gaming regulations. When the Board wanted to revoke Sinatra's license, Sawyer told Olsen to "go for it! He's no better than anybody else, and you do with him exactly as you would with anyone in that situation. Do the right thing, and do not be intimidated by him." After authorizing the complaint, Sawyer warned that Olsen had "better be right" regarding his investigation, Olsen recalled. After all, Sinatra was a powerful figure whose prosecution could alienate numerous people if the state's case were weak. Olsen and his colleagues understood the

⁶⁴ Olsen, 388-394.

position they were in. But they were confidant and so the Commission filed the complaint on September 11, 1963, and as Olsen put it, “all hell broke loose.”⁶⁵

The powerful entertainer posed the greatest challenge to the state’s regulatory powers since the Thunderbird case, and Claiborne was again in the thick of the battle. On September 27, Claiborne responded on behalf of Sinatra by issuing a subpoena duces tecum demanding that Olsen produce all records in connection with the investigation and appear at his office for a deposition on October 3, 1963. Because Olsen had previously tangled with Claiborne, he decided to “josh” him a little bit. He appeared at Claiborne’s office with the requested documents, including two rolls of blank recording tape. Mickey Rudin was also present. Although Claiborne glanced at the tapes, he never asked about them during the four-hour examination. At the very end, Claiborne asked Olsen if he brought any tapes with him, and Olsen replied that none existed.⁶⁶

A newspaper reporter quoted Sinatra as saying that Ed Olson was “not only crippled in the body, but he’s also crippled in his head.” The negative public reaction to Sinatra’s comment was immediate. The die was cast, according to Claiborne. He had a conference with Sinatra and expressed his concern over the singer’s offensive comments about Olsen. For his part, Sinatra regretted what he said, but it was too late, the damage had been done.⁶⁷ On October 7, four days after the deposition, Sinatra issued a press statement through Claiborne’s office. An accompanying letter from Claiborne to Olsen stated that Sinatra decided to withdraw from Nevada’s gaming industry in Nevada and

⁶⁵ Grant Sawyer, Hang Tough! Grant Sawyer: An Activist in the Governor’s Mansion, interview by Gary Elliott and R. T. King (Reno: University of Nevada Oral History Program, 1993), 93-94; Olson, 394-399.

⁶⁶ Olsen, 402-403.

⁶⁷ Claiborne interview, 107.

requested that all gaming licenses issued to him be terminated. The Gaming Commissioners gave Sinatra time to sell his stock in the Sands. Because the Cal Neva Lodge normally closed for the winter; the stock was sold in due course and the matter ended.⁶⁸

Surprisingly, “Rat Pack” member Sammy Davis, Jr. supported Sinatra’s ouster. After seeing Davis’ performance at the Sands Hotel several months later, Olsen had a chance meeting with Davis in the lobby. When he recognized Olsen, Davis wanted to talk. Olsen assumed a brawl would occur since Davis was a recognized member of the famous “Rat Pack.” Instead, the entertainer surprised him: “That little son-of-a-bitch (referring to Sinatra), he’s needed this for years. I’ve been working with him for sixteen years, and nobody’s had the guts to stand up to him.”⁶⁹

Then there was the matter of President John F. Kennedy’s aborted intervention on Sinatra’s behalf. Kennedy visited Las Vegas in 1962 and Governor Sawyer rode in a automobile caravan with him from McCarran Airport to the hotel. During the ride, Kennedy asked Sawyer, “What are you guys doing to my friend, Frank Sinatra?” Sawyer replied, “Well, Mr. President, I’ll try to take care of things here in Nevada, and I wish you luck on the national level.” Olsen surmised that lobbying by the President of the United States was the highest level of political pressure that could be applied to anyone.⁷⁰ But it failed to sway the Democratic governor who recognized that any hint of mob connections to casinos would hurt Nevada nationally. Ironically, President Kennedy’s brother, Attorney General Robert Kennedy, would soon set his sights on Las Vegas when

⁶⁸ Olsen, 403-405.

⁶⁹ Olsen, 405-407.

⁷⁰ Sawyer, 94; Olsen, 407.

he began investigating loans made by Jimmy Hoffa to the Dunes, Caesars Palace and other Las Vegas resorts using funds from the Teamsters Central States Pension Fund. In fact, the Kennedys' crusade against the mob eventually drove Sinatra to the Republican Party. Indeed, the singer supported Richard Nixon in the 1968 election and forged a close relationship with Vice President Spiro Agnew. With regard to gaming and Las Vegas resorts, Sinatra continued to appear in Las Vegas, and occasionally in Reno and at Harrahs-Tahoe, but he would again seek a gaming license in 1980-81 when a new Gaming Control Board approved his application.

Since the 1940s, Las Vegas has attracted the rich, the famous--and even the infamous--for a variety of reasons, depending on the individual. Potential resort profits lured some like "Bugsy" Siegel and Horace Heidt, while the gambling itself appealed to others such as Nick "The Greek" Dondolas. For some, like Joseph "Doc" Stacher, Nevada represented a safe haven from legal problems elsewhere. As Las Vegas developed its "star" status as the entertainment capital of the world, established celebrities increasingly flocked to the city seeking the limelight it offered. Frank Sinatra and the "Rat Pack" fit that category. All brought their legal problems with them, and many retained Claiborne as their local attorney.

As Claiborne's reputation and trial skills grew, so did his client list of famous people. Nick "The Greek" Dondolas was arguably the most famous gambler in Nevada, if not the world, in the 1950s and 1960s. At one time, he was a major high stakes player. Because Benny Binion's Horseshoe Club was the first casino with "no-limit betting" in Las Vegas, Dondolos started gambling there and eventually met Binion. The two became good friends. At one point, Dondolos was listed as an officer of the Horseshoe Club, which Binion owned until his conviction for tax evasion in 1953 sent him to Leavenworth

Prison and forced him to relinquish his gaming license for the rest of his life.⁷¹ When Dondolos finally went broke, as most gamblers do if they play the game long enough, Binion staked him for the last five years of Dondolas' life. Because of Claiborne's friendship with Binion, he represented Dondolas on various legal matters over the years.⁷²

Horace Heidt was a popular band leader in the 1940s and 1950s. As a youth, he attended the University of California where he was a star guard on the football team, but after a fractured back during a scrimmage ended his potential career in professional football, Heidt turned to music. A sophisticated investor, he owned several hotels and restaurants in Southern California which provided him with a \$2 million annual income by 1946.⁷³ Heidt performed so much on the road that he wanted to spend more time in one place, so he settled in Las Vegas. He bought several undeveloped parcels of land on the corner of Main and Bonanza Street in Las Vegas from Clem Malone, who was a County Commissioner. Malone immediately sold the same three lots to someone else and then claimed the Heidt sale was an error. That, along with a conflict concerning the number of bar licenses allowed in the area, kept Claiborne busy for a long time representing Heidt, whom he got to know quite well.⁷⁴

After Claiborne favorably resolved these cases, Heidt built what was a major hotel at that time in Las Vegas, the Biltmore. It included a number of cottages similar to the design of the El Rancho Hotel on the Strip. Claiborne recalled the hotel was furnished

⁷¹ Review Journal, May 13, 1951.

⁷² Claiborne interview, 103.

⁷³ Review Journal, September 7, 1950.

⁷⁴ Claiborne interview, 195-196.

better than any place in Las Vegas. The Biltmore employed an age-old ploy to enhance its importance in the minds of customers: using the public paging system to attract attention. Practically all of the major movie stars were paged by the hotel at one time or another during the evening. Indeed, the minute a patron came in, they would hear major stars being paged. Paging Clark Gable, paging all the top stars, recalled one patron. It “completely flabbergasted” the people from rural areas who came into Heidt’s hotel and believed the movie stars were actually in the same hotel with them. Some described it as a “breathtaking experience.”⁷⁵

Claiborne even represented some of these stars. In 1953, for instance, he represented actor Dick Haymes in his divorce from Nora Eddington, the widow of Errol Flynn. Rita Hayward came to Claiborne’s office and explained that they were just waiting for his divorce so the two of them could get married. Hayward wanted to know if she and Haymes could do that immediately, or if there was a waiting period, as was common in many states. They were married the day after the divorce, with Claiborne in attendance. In this case, he made an exception to his rule against taking divorce cases.⁷⁶

Linda Lovelace was the most famous porn star in the mid-1970s in America for her performance in the film “Deep Throat.” While staying at the Dunes Hotel, a maid saw heroin in Lovelace’s room and reported it to the authorities. Because she was registered in the room, the District Attorney’s office charged Lovelace with two counts of possession of drugs, cocaine and pills. Los Angeles attorney Robert Shapiro, who later helped defend O. J. Simpson in his famous murder trial, referred her to Claiborne for representation. When he initially saw her in jail, Claiborne “was shocked. I was

⁷⁵ Review Journal, February 10, 1955; Claiborne interview, 195-196; Cahill, 740-741.

⁷⁶ Claiborne interview, 176.

expecting to see a crude individual. She was the sweetest person. I couldn't believe it." Claiborne got the charges dismissed. Over the years, she called Claiborne four or five times. "She was so dumb. I really felt sorry for her. If there ever was a human being that was taken advantage of, it was Linda Lovelace. As I remember, she only got \$200.00 out of 'Deep Throat.'" The most memorable moment of this case was the Sun's screaming headline: "Claiborne to be Linda's Mouthpiece." Claiborne later joked that he took a lot of ribbing for that in the town's legal community.⁷⁷

For years, Claiborne had a mostly undeserved reputation for being a "mob lawyer," a predecessor to future Las Vegas Mayor Oscar Goodman who made his reputation defending such notorious clients as Anthony Spilotro and Frank Rosenthal. But this was not the case. Claiborne himself claimed he represented only one member of the "mob" in his whole career, "Doc" Stacher. "I have all my life steered away from the mob guys in my practice and I have had numerous opportunities. I simply always had a feeling that there was no way you could represent one of those guys without pretty soon learning too much, and when you learned too much about their activities you were expendable, in my opinion. And I wanted to live a long time. That was my sole reason."⁷⁸ One of those opportunities involved "Lucky" Luciano. Claiborne was attending a Yankees game in the 1950s when a person came up and introduced himself and invited him to have dinner with Luciano. Claiborne had no idea how they knew he was in New York. The mob had recently shot a lawyer who represented them in Los Angeles and dumped his body on the side of a highway. But he went to dinner anyway. When Luciano proposed that Claiborne be their lawyer in Las Vegas, Claiborne told him he had all the clients he could

⁷⁷ Claiborne interview, 298-299; Sun, March 14, 1974.

⁷⁸ John L. Smith, Of Rats and Men: Oscar Goodman's Life from Mob Mouthpieces to Mayor of Las Vegas (Las Vegas: Huntington Press, 2003), 60.

handle. Luciano told him that “we’ll pay you good.” Claiborne answered, “It’s not a matter of money. From what I read in the LA newspapers, your lawyers don’t live very long. I’d like to live to at least 90.” Luciano “just laughed.”⁷⁹

While not “mobbed up”, Joseph “Joe” Conforte, the owner of the Mustang Ranch brothel near Reno was one of the more controversial clients that Claiborne defended. He had many brushes with the law, and some included Claiborne, either as his attorney or as the object of his bribery accusations in 1980. Claiborne first represented Conforte in 1968 when he was indicted and tried for a violation of the Mann Act, which prohibited the transportation of women across state lines for purposes of prostitution. Claiborne recalled the case involved a minor who Conforte hired to work at the Mustang Ranch. Despite Conforte’s criminal background and reputation in the community, Claiborne won his acquittal on the Mann Act charges. But prosecutors were interested again in the brothel operator. In 1977, a ten-count indictment charged Conforte and his wife, Sally, with the willful attempt to evade federal employee withholding taxes. The Confortes retained Claiborne who claimed the prostitutes were independent contractors, not employees, and were not subject to the assessment of payroll taxes. The jury rejected that argument and convicted the Confortes on four counts. Unknown to Claiborne, there was strong animosity between Conforte and the federal trial court judge, Bruce Thompson, which stemmed from Conforte’s attempt to join a Reno bridge club where Thompson was a member. After Conforte was admitted to the club, Thompson tried to have him removed because of his reputation and the type of business he was conducting. After giving Sally probation, Thompson sentenced Joe to five years in prison on each count, the terms to run consecutively for a total of twenty years. Conforte was also fined

⁷⁹ Claiborne interview, 163.

\$10,000.00 on each count, for a total of \$40,000.00. The Court of Appeals upheld the convictions, but vacated the sentence and returned the case to the trial court for further sentencing. Thompson then scheduled a sentencing hearing for December 23, 1980. The night before the hearing, Conforte fled the country.⁸⁰ This case is significant because it served as the basis for some of Conforte's later claims to federal prosecutors investigating then federal judge Harry Claiborne in 1983 that he had bribed his former lawyer.

Not all of Claiborne's cases were in Nevada. In 1973, he tried a case in Kansas City where he represented a man accused of blowing up a competitor's LP gas company plant on behalf of the Empire Gas Company. F. Lee Bailey, the famous criminal lawyer, represented the co-defendant, Empire. At trial, all defendants were acquitted. Claiborne understood why Bailey enjoyed "such a good reputation. I saw enough of him to know that he was a very, very good lawyer, but he was not good in that case." He was newly married, had his bride in the courtroom every day, and was "showboating for her effect." Bailey used part of the trial in a book he wrote entitled For The Defense. Bailey printed Claiborne's cross-examination of Alfred Earl Hartflinger, the key witness, as an example of an effective cross. Although Bailey did not credit himself for the examination, he left the impression that it was his own. The next time Claiborne saw Bailey, he asked, "You print my cross-examination of Harflinger, but you didn't give me credit for it. The implication is, that it was your cross-examination." Bailey responded, "It didn't say that." "Oh, I know it didn't say that," Claiborne admitted. Bailey just laughed and told Claiborne, "Well. I tell you what you do Harry, sue me." To be fair, Bailey did write,

⁸⁰ Claiborne interview, 316-319; John L. Smith, Of Rats and Men, 164; Conforte v. United States, 457 F Supp. 646 (1978); Conforte v. United States, 624 F. 2d 869 (1980); State Bar of Nevada v. Claiborne, at 144.

“Harry Claiborne, who should be even more famous than he is, gave a marvelous final argument on behalf of Harold Jones. He was very emotional, almost righteously indignant, and when he finished there was very little meat left on the bones of Hartflinger’s testimony.”⁸¹

⁸¹ Claiborne interview, 119-121; F. Lee Bailey with John Greenya, For The Defense (New York: Atheneum Publishers Inc., 1976), 212-246.

CHAPTER EIGHT

BUILDING A FORMIDABLE REPUTATION:

THE 1950S THROUGH THE EARLY 1970S

Questionable business practices affect communities of all sizes, and a “last frontier” city like Las Vegas had more than its share. Only the sophistication of the “rip off” varied depending on the business itself. Particularly in the 1950s when consumer protection was still in its infancy locally, used car dealers posed a problem for consumers. Las Vegas had its share in the 1950s. One of the most egregious con-artists was Johnny McClanahan, owner of an automobile dealership known as the “Friendly Irishman,” located at the intersection of Fifth Street (now known as Las Vegas Boulevard) and Main Street. Beth Ronnow purchased what she thought was a new car from McClanahan and later discovered it was used. She demanded a new car, or her money back. The Friendly Irishman did neither and Ronnow hired Claiborne. When Claiborne’s investigator served McClanahan with a lawsuit, he saw two legs sticking out from under a car. It was McClanahan. He was sticking bananas in the rear end of a car and explained that bananas quieted the car when running. When asked if the bananas would not simply dissolve and the same problem return, he answered, “Yeah, but I won’t own it.” The “buyer beware” principle thrived in early Las Vegas. Ronnow got her

money back after a successful court trial and an appeal to the Supreme Court by Claiborne.¹

Sometimes Claiborne defended politicians. Horace Tucker may have been Claiborne's most memorable criminal client. Tucker came to Las Vegas during the construction of Hoover Dam, and settled in North Las Vegas in the early 1940s. He owned the Tower Club on Main Street, the most popular bar in North Las Vegas. Claiborne had frequented the place when stationed at the Army Gunnery School during the war and became friends with Tucker. Appointed the first Mayor of North Las Vegas following its incorporation in 1946, he retired after one term to become the "king maker" in North Las Vegas politics. Tucker, the most influential political figure in that city, ran an efficient political machine that usually controlled local elections. According to Claiborne, he was the classic "big fish in a small pond."²

On May 7, 1957, the morning of an election day, Tucker and one of his friends, Earl Clayton Kaylor, started drinking Coors beer and both got drunk. Tucker excused himself and went to bed. Kaylor stayed in the front room to "take a nap." Tucker awoke at 3:30 in the afternoon and found Kaylor stretched out dead on the floor, shot 5 times with a .38 caliber handgun which belonged to Tucker. The autopsy indicated that the shooting occurred while Kaylor was in a sitting position. Tucker denied any knowledge of the shooting to authorities. "All I can tell you is that I didn't shoot him," Tucker claimed. The police arrested Tucker and took him to jail. Convinced that Tucker was innocent, Claiborne approached District Attorney George Dickerson who agreed to conduct a lie detector test. Dickerson hired an examiner from the Pasadena Police

¹ Claiborne interview, 208-209; The Friendly Irishman v. Ronnow, 74 Nev. 316 (1958).

² Claiborne interview, 113-114; Review Journal, May 8, 1957.

Department, Art Farley, considered one of the best on the West Coast. Dickerson agreed to the polygraph for two reasons: to test if Tucker was telling the truth, and to determine his degree of drunkenness. A person not aware of his actions while drunk is not responsible for them, explained the District Attorney. The preliminary reports of the test indicated that Tucker “had no guilt feelings” himself and was apparently unconscious of his actions at the time of death. Police released Tucker after 3 days in custody and did not charge him with a crime.³

Six years later, on October 8, 1963, another friend of Tucker’s visited his house just before another election. Both of them got drunk on Coors beer and Tucker went to bed. Tucker awoke and found that his friend, Omer Jack Evans, was shot with Tucker’s pistol through the heart while sitting on a couch. Although neighbors reported hearing gun shots at 11:45 pm, two hours elapsed before Tucker notified the police. When the police arrived they found Tucker in pajamas and slippers and numerous beer cans in the kitchen and living room. When Tucker finally called the police he reported finding “an old man on his couch and I think he had a heart attack.” He told the officers that he was asleep and awoke to discover Evan’s body on a front room couch. The police found the gun in a chair where Tucker admitted sitting before going to bed. They arrested Tucker again and took him to jail.⁴ The newspaper headlines said it all: “Another Victim Found in Ex-Mayors House: NLV Mystery Murder.” The murder appeared to be a “re-creation” of the prior killing, the newspaper reported. North Las Vegas Police Chief Nick Janise conducted the investigation and eventually called the polygraph examiner from the 1957

³ Review Journal, May 8-10, 1957; Claiborne interview, 113-114.

⁴ Claiborne interview, 113-114; Review Journal, October 8-9, 1963.

killing who told Janis that the prior results were inconclusive, an opinion that directly contradicted the earlier reports that had cleared Tucker.⁵

While released on bail and awaiting trial, Tucker invited Claiborne to his home to discuss the case. Claiborne quipped that he would visit Tucker only if he had no Coors beer in the house. Claiborne was not taking any chances, even kidding to friends that he had not had a Coors beer since that time.⁶ Claiborne again took Tucker's case. The District Attorney charged Tucker with murder and a jury convicted him of second degree murder on March 21, 1965. Four days later, District Court Judge John Mowbray sentenced Tucker to 10 years to life in prison. Claiborne appealed to the Nevada Supreme Court which reversed the conviction and returned the case to District Court for retrial. The court ruled that Mowbray had committed an error when he allowed the state to introduce evidence of the 1957 Kaylor homicide. Since no evidence connected Tucker to the Kaylor killing and anonymous crimes had no relevance to the Evans case, prejudicial error occurred when the court permitted the jury to hear and consider it.⁷

There was a second trial and this time the jury convicted Tucker of only involuntary manslaughter. The judge sentenced him to one year in jail, the maximum allowed by law. Two months later, Claiborne saw Dr. Denman, the jail doctor, who said Tucker is "a very sick man. He's not going to last very long. He has a heart condition, he's really on his way out." Claiborne petitioned the court to release him, which it did. Claiborne had once again served his client well. The former club owner and political kingpin spent only sixty days in jail for arguably killing two people. Paul Price, a popular Las Vegas

⁵ Review Journal, October 9-10, 1963.

⁶ Wiener interview, 55; Claiborne interview, 113-114.

⁷ Tucker v. State of Nevada, 82 Nev. 127, 129 (1966); Review Journal, March 25, 1965.

Sun columnist for many years, turned it into a public joke because Tucker lived for many more years. Every year on the anniversary of Tucker's release, Price's column read: "Good morning, Harry, it appears your old client Horace Tucker had an anniversary today. So many years ago, you told the Court that he was dying of cancer (Claiborne denied he said Tucker was dying of cancer, but rather a heart condition) and the Court released him from jail. I saw Horace yesterday and I know you would be pleased on his anniversary of his release to know that he is doing well."⁸

Claiborne recalled the worst thing he ever said about a case occurred when he came down from visiting Tucker right after they jailed him for the second time. In response to a reporter's question, Claiborne quipped, "This is the biggest indictment of law enforcement in the whole community. They were charged with the responsibility of keeping the citizens safe. This is the second time somebody's gone into Horace Tucker's house and killed somebody." Years later, Claiborne told an interviewer: "Oh God, I lived to regret that."⁹

Claiborne believed Tucker had a mental condition which caused him to black out and truthfully did not remember anything. Before the second trial, Claiborne decided to consult with Dr. William Joseph Bryan who claimed he could revive the memory of witnesses through hypnosis. Several years earlier, Claiborne had defended Bryan himself in Reno for furnishing liquor to a minor, a gross misdemeanor.¹⁰ Bryan later moved to Los Angeles where he began a hypnosis practice. He became a very well known consultant on jury selection and eventually wrote a book on the subject--and even sent

⁸ Claiborne interview, 113-114.

⁹ Claiborne interview, 113-114.

¹⁰ Bryan v. State of Nevada, 78 Nev. 38 (1962).

Claiborne an autographed copy¹¹ Claiborne asked Bryan to see Tucker. Claiborne waited outside while Bryan examined his client. After about 20 minutes, the door flew open and Tucker ran at full speed down the hall into the cabana area and ran around and around the swimming pool. Claiborne started chasing him. A room waitress appeared with a tray full of plates in front of Tucker. He knocked her down and the dishes went everywhere. Claiborne eventually caught him. Weighing nearly 400 pounds, Bryan ambled over, walked up to Tucker and snapped his finger. Tucker was hypnotized. Bryan said, "Well Mr. Tucker, let's go back and pick up where we left off." Tucker made a vulgar statement and then said, "Come on Harry, I'm going home." Tucker refused to go back. Bryan later confided to Claiborne that Tucker was at the point in the story where the victim came to his house, but that is when Tucker "snapped" and bolted out the door towards the pool.¹²

Some criminal prosecutors have a theory concerning "guilty" defendants who escape conviction either through the legal maneuvering of a good defense attorney, or via an acquittal by a bad jury. If the person is habitually disposed to committing crimes, they will be arrested and convicted for the next crime they commit. On the other hand, the criminal process frequently scares a criminal to go straight, thus the phrase "scared straight", and the person will not commit another crime. When that happens, they believe the system worked and provided an even more effective rehabilitation than a prison term.

At least one of Claiborne's cases fits this theory. In 1962, "Tea Bags" Thompson was a "burglar, a thief and an excellent crook. He would have gotten, at least, honorable

¹¹ Claiborne interview, 274-275.

¹² Claiborne interview, 248-249.

mention in the association of crooks,” as Claiborne later noted. Thompson, named Tea Bags because of the big heavy bags under his eyes, worked with another burglar who was a key member of a gang that operated across the West. On one occasion, Thompson received \$5,000, probably his cut for a burglary. A friend invited him to Lake Tahoe for dinner. The friend arrived with his girlfriend. Thompson sat in the back seat. Suddenly, the girl turned around, pointed a gun at Thompson and demanded his money. Thompson grabbed for the gun and during the struggle, it fired, killing the driver and causing two superficial wounds to the top of the girl's head. That was Thompson's story.

Herbert Ahlswede, then Washoe County Deputy District Attorney, embraced a different theory. The deceased driver was a drug addict. The gang believed that if the police arrested the driver, he would implicate the others. So, the gang decided to kill him. Thompson drew the short straw as the one to commit the murder. While driving to Lake Tahoe, Thompson pulled his gun and shot the driver. The car ran off the road and hit a rock. When the girl jumped out and started running, Thompson chased her, grabbed her hair and shot her in the head. Afraid she was playing possum, he grabbed her by the hair, and shot her again in the head. This accounted for the two wounds. The girl wore a red wig so all he was doing was lifting her wig up, not her head, and the shots just grazed her. The police found her, treated her wounds, and were waiting for Thompson when he arrived at his apartment. At the station, two detectives walked in with the girl who identified Thompson and they arrested him.

At the jury trial conducted by Judge John W. Barrett, the girl testified that Thompson shot the man, then jumped over the seat and continued to struggle with him, eventually shooting him three times. This all occurred while the driver was steering the car. Ahlswede brought the car seat into the court room to show that the blood stains were

clearly on the driver's side of the seat, not the passenger side. Because no blood stains appeared in the passenger seat where the girl sat, the evidence seemed to support Ahlswede's theory.

Claiborne noticed that one of the jurors leaned forward, stared at the seat, and shook his head. At the recess, Claiborne looked at the seat again but saw nothing wrong with it. But he kept staring at the juror, who would look at Claiborne and then look at the seat again. Claiborne's instincts told him that something was wrong. At the next recess Claiborne examined the seat and discovered what was wrong. The "outer" portion of the seat was a darker color brown than the rest of the seat. It hit him. Ahlswede placed the seat backwards. The darker colored portion was not the "outer" part of the seat, but rather was the back part of the seat that fit underneath the back rest portion of the total seat. The darker color was the original color of the seat and was protected from the sun. The lighter portion of the seat was faded by the sun. Ahlswede based his entire case on the wrong positioning of the seat. Claiborne said nothing at the time of his discovery.

During his closing argument, Ahlswede told the jury: "Now in this case, ordinarily you would have to make a choice between the defendant and the woman as to which is telling the truth. I'm going to relieve you of that burden. You do not have to make that choice. The defendant says that the struggle for the gun took place with the victim underneath the steering wheel on that side of the car." Then the prosecutor pressed his point, "You have to convict him because he lied when he said the shots were fired in the struggle over the gun on the girl's side of the seat. See, the blood is on the driver's side." He then looked at Claiborne as if to say, I got you this time. But the prosecutor's overconfidence got the better of him.

In Claiborne's closing he argued, "Okay, I accept the challenge. If Mr. Ahlswede is right, then you should convict him. If he is not right, you should acquit him. Well, he is not right." Claiborne turned the seat around facing correctly and a big smile broke out on the face of the juror who had been staring at the seat earlier. Claiborne went on: "See here, this portion, the outer portion was underneath the seat, where the sun and the weather could not hit it and bleach it out. You see, here is the bleached area." He turned the seat around, pushed it in the frame and proclaimed to the jury: "See, it fits." He then turned to Ahlswede and said, "Now Mr. Ahlswede, since you put all your eggs in one basket, here's the truth, and you lose. Because you already told the jury it was one way or the other, you lose." The jury acquitted Thompson.

Later, Thompson embraced Claiborne and promised him, "I'll clean myself up and do something with my life and I'll never be in the courtroom for any crime after this one. Never, from this day forward, will I commit any kind of crime." He moved to Los Angeles, got a job and eventually worked his way up to become superintendent of his company. He married a respectable woman, had three kids, and got involved in community service, including the Boys Scouts, Little League, and other groups. In time, he became a pillar of the community. Thompson had been scared straight.¹³

Although based in Las Vegas, Claiborne took cases in various jurisdictions throughout Nevada, as did other prominent attorneys. And he often defended unpopular clients. One was Beverly Hooper, a renegade rancher from Pleasant Valley, Eureka County. Everybody in the county knew and hated him. Once, while playing poker with some men, Hooper left the game, donned a mask and returned to rob them. During his escape, he ran out the door and into a post, knocking himself out. He confessed to

¹³ Claiborne interview, 143-146.

Claiborne that he had previously hanged some men he caught stealing his cattle. Many people also believed that he killed his wife. On another occasion, Hooper burglarized a business in Eureka during the summer time. He took off his hat during the caper because it was so hot. In his hurry to leave, he left his hat lying on the table. On the inside of the hat band was written "Beverly Hooper."¹⁴

Claiborne, however, represented him on a different matter. An elderly lady ran the only hotel in town. A young man, 15 or 16 years old, lived on-site and worked for her. Since he had no home, she took him in while he attended school. Early one morning, someone came to the hotel, tied up the young man with a rope, then went upstairs and bound and gagged the lady. He robbed the safe and left both of them tied. The lady suffocated. The young man eventually got loose and called the sheriff. A witness saw a truck leave which was the same color as Hooper's. Hooper was tall, six foot ten inches, and because he was in and out of the hotel all the time, the young man knew him. The District Attorney charged Hooper with murder.¹⁵

Judge John Sexton presided over the trial. According to Claiborne, Sexton was a real character and a drunk. He would not drink during a trial, except sometimes at lunch. Nevertheless, he frequently came to court drunk. "You had to love John Sexton because John Sexton loved everybody else," according to Claiborne. He was the happiest drunk Claiborne ever encountered and yet was a fine judicial scholar. Saxton traveled all over Nevada to try cases because the court in his district in Battle Mountain had few cases. He was the visiting judge in Las Vegas every summer when the local judges went on vacation. Claiborne believed that, except for Frank McNamee, there was not a more

¹⁴ Wiener interview, 14.

¹⁵ Wiener interview, 14.

knowledgeable Nevada judge than Sexton. When in Las Vegas, Sexton always stayed at the Thunderbird Hotel. He always got drunk and urinated in the potted plant in the lobby. He was so likable that management never threw him out. But, his drinking detracted from his image. Now, when Sexton's name is mentioned, people laugh because of his alcohol abuse. It destroyed not just his ability, but his reputation as well, according to Claiborne.¹⁶

Because Hooper was so well known, and disliked, twelve jurors could not be found in Eureka County who could be impartial toward him in a criminal trial. Every potential juror, except one, publicly declared that they "not only had an opinion of the case, but they were all of the opinion that he was guilty." The one unbiased potential juror had just moved into the area and knew no one.¹⁷ Sexton moved the case to Reno in an effort to get an unbiased jury. Claiborne's investigation revealed that the main witness, the young man, worked for the lady for nearly two years. She paid him little money beyond his board and room. After the robbery-murder, he bought a new motorcycle with cash, an act that raised Claiborne's suspicions.

At the trial, the young man could not explain how he got that much money. On the night of the murder, he also managed to untied himself very soon after he supposedly heard Hooper drive away. Because Hooper was a rancher and experienced in securely tying the legs of cattle, the young man's quick escape from the rope seemed unlikely. In front of the jury, Claiborne had the young man tie up Claiborne's assistant in exactly the same manner as the assailant tied him that night. Then Claiborne tied up the young man in the same way the young man tied the assistant. Claiborne then told the jury, "Now,

¹⁶ Claiborne interview, 245; Wiener interview, 17.

¹⁷ Wiener interview, 14.

you see, I've tied him up just exactly like he tied him up.” He untied the assistant. He then told the young man to untie himself and Claiborne would time him to determine how long it took. He could not untie himself. That convinced the jury who found Hooper not guilty. Although Claiborne never asked a client if he was guilty, he could always tell from the defendant’s demeanor and responses. Hooper, however, was a smart and devious man. Claiborne conceded that he never could decide if he was guilty or not. After the trial, Claiborne lost track of Hooper, so whether or not he was “scared straight” is anyone’s guess.¹⁸

Some cases just seem to have a classic Las Vegas flair to them. The circumstances of the event, evidence concerning the dollar value of the grievance, and the jury’s acceptance of the way things were done in Las Vegas all came together at times to help Claiborne and his clients. In one such case, circa 1965, Charley King, an owner of the Golden Nugget, took his secretary to the El Rancho Hotel on six different occasions where they had sex. Her husband eventually learned about it. The often-used claim of “alienation of affections” was no longer the law in Nevada, so the husband sued King under an old civil remedy called “criminal conversion,” which used invasion of the sanctity of a husband’s home as grounds for suit. From the beginning, Claiborne believed the husband and his wife conspired to shake King down for money. Claiborne kept telling King she would testify against him but he refused to believe it. Claiborne, however, was right. Mrs. King testified to the circumstance of all six occasions, including the times and dates. During closing argument, the husband’s lawyer, John Mendoza (later a Clark County District Court Judge), emphasized how King's conduct

¹⁸ Claiborne interview, 243-244; Wiener interview, 15.

impugned his client's honor, and demanded \$100,000 as just compensation. Claiborne argued in his closing:

The plaintiff talked about being dishonored. He wants to put a dollar and cent value on his dishonor. I am going to admit, Mr. King and his secretary went out and they had sexual intercourse at the El Rancho on six different occasions. His secretary was truthful about this. Now, she is a nice person. She went willingly. She wasn't forced. She wasn't threatened by loss of job if she didn't go. And apparently, she enjoyed it or she wouldn't have willingly gone the second time. Now, she's not a professional. Everybody in town knows there are fifty prostitutes working the streets of the strip every night. I understand, and I don't think the plaintiff's lawyer is going to dispute me, but the going price for sexual intercourse with a prostitute is a hundred dollars. That price is fixed among the prostitutes. His wife is definitely not a prostitute. She's not a professional. So, I'm going to be generous. Even though she is not a professional, I figure Mr. King does owe the Plaintiff \$600.

The jury returned a verdict for \$600, \$100 for each occasion.¹⁹

From his experiences as a Las Vegas policeman, Claiborne learned to be skeptical of eye witness identifications of defendants. This natural suspicion proved to be of an inestimable value in one of his more bizarre cases where misidentification almost sent an innocent man to prison. Claiborne insisted one of the best legal representations of his career was for a man named Morris McGaughey. He owned a motel on the Boulder Highway and had never been in trouble before. A successful businessman, he was the vice president of the Nevada Motel Association. On one Friday afternoon in a local bank as one woman conducted her business with a bank teller and another woman stood at the counter in the middle of the lobby making out a deposit slip, a man then walked behind the woman who was with the teller. When she left, the man put a nickel-plated pistol in the teller's face and robbed her. He ran past the other woman, then past a third woman

¹⁹ Claiborne interview, 291-292; Sun, September 23, 1973.

who was in front of him in line. While going out the door he knocked down a fourth woman before jumping in his beige Lincoln sedan and driving away.

McGaughey had a second job. He operated advertising sky lights for business openings. One night he had a lighting job at the El Cortez Hotel. He took a break with his assistant and went inside to have a drink. He sat next to the women who had been in front of the bank robber on the teller's line, and she whispered to her husband: "The guy sitting next to me is the guy who robbed the bank." Her husband called the police who then called the FBI. An FBI agent came down, met a detective at the front door and they sat next to the husband. McGaughey went back outside to work. The woman identified him again. The FBI agent returned to his office, got the names and addresses of the other two witnesses who came down and identified him. The police followed McGaughey home to his motel, got a search warrant, and searched his place. They found a silver plated .32 caliber pistol. Sitting in front of the motel was a beige Lincoln, and so they arrested him on the spot. When McGaughey was taken to jail, he was also identified as the robber of three local supermarkets. In all, he was identified by a total of 13 witnesses.

Claiborne believed McGaughey was innocent from the start, but could not explain the eye witness identification. McGaughey passed a lie detector test, but the results were not admissible into evidence at trial. Since Claiborne had no evidence to support a defense, he tried the case with "sincerity", that is, using character witnesses who emphasized McGaughey's reputation as a law-abiding citizen. Claiborne managed to get a hung jury in federal court on the bank robbery case. The supermarket cases were tried in state court, where he got acquittals in two of the supermarket robberies and a hung jury on the third.

While waiting for McGaughey's retrial in federal court, Claiborne visited Eureka County on another case and stopped to talk with the county sheriff who was an old friend. While waiting for the sheriff to join him, Claiborne read the wanted posters on the wall. He saw an artist's rendition of McGaughey for a bank robbery in Reno on a certain date. Shocked by this coincidence, he took the poster with him. Claiborne called McGaughey and his wife into his office and asked where they were on the date indicated on the poster. They determined he was not only at a Motel Association convention at the Thunderbird Hotel in Las Vegas, but was presiding as Vice President. Claiborne obtained affidavits from twelve people in attendance, all swearing that McGaughey was in fact present at that time. He then got a photograph of McGaughey and went to the Reno bank that was robbed and talked to the manager. They located the teller who was robbed, handed her the photo and asked if she knew that man. She responded: "Why I should, he robbed me." Claiborne corrected her, "This is the man who robbed you" and showed her the poster. She instantly replied: "Well, it's the same man." Claiborne retorted, "No it's not. That's what the FBI thinks too. But it's not." He obtained her affidavit as well.

Claiborne disclosed all this to the prosecutor, Assistant United States Attorney Bob Linnel, who agreed to dismiss the charges but needed authorization from the Justice Department. His superiors in Washington refused. Claiborne suggested they show his information to the judge presiding over the case, Roger Foley. Foley recalled, "I knew in my heart this man was innocent but I couldn't establish any evidence of it in my mind. By God, this man came within 3 votes of losing his freedom. Bob, dismiss it! You know he's innocent." Linnel showed Foley the letter from the Justice Department refusing to dismiss the charges. Foley immediately dictated an order dismissing the charges. Justice

Department officials were so angry with Linnel's support of Claiborne's argument that they later banished him to a small town in eastern Washington. When Claiborne met him several years later, he said, "It's ironical. You were sentenced and McGaughey went free." Justice was finally served several months later when the police captured the man depicted on the wanted poster while robbing a bank in St. Cloud, Minnesota. Although unrelated, they looked almost like identical twins. The real culprit for all these crimes carried a nickel-plated pistol and was driving a beige Lincoln sedan. He later confessed to 67 different bank robberies, including the one in Las Vegas.²⁰

In another bizarre, but far more high-level case, Claiborne teamed up with current Las Vegas Mayor Oscar Goodman to defend the builder of Caesars Palace and Circus Circus from federal prosecution. Jay Sarno was a major contributor to the Strip's success in the 1960s. He envisioned and built two of the most original casinos on the Strip: Caesars Palace in 1966 and Circus Circus in 1968. Sarno met his future best friend and business partner, Stanley Mallin, in a fraternity house at the University of Missouri in 1946. "Jay had more chutzpah than anyone I've ever met," Mallin claimed. Thanks to their contacts with Jimmy Hoffa, Sarno and Mallin tapped Teamsters Central States Pension Fund monies to realize their vision of building unique hotels in Las Vegas, but the same connections made them targets for federal investigators. After several months of examining the books of Circus Circus, the Justice Department accused Sarno of several tax code violations. On September 27, 1973, Sarno and Mallin met an IRS agent, Robert Smith, in the steam room at Circus Circus and offered him \$75,000 to drop the investigation and another \$50,000 if the agent could secure a \$400,000 refund on taxes previously paid. The meeting was arranged by Leo Crutchfield, who had his own issues

²⁰ Wiener interview, 12-13; Claiborne interview, 240-243; Review Journal, August 16, 1978.

with the IRS. On March 7, 1974 the grand jury indicted Sarno, Mallin, and Crutchfield on 11 counts of bribery and conspiracy. The court later separated Crutchfield's trial from the other two defendants for procedural reasons.²¹

It was a measure of the respect that Claiborne then enjoyed that Sarno and Mallin wanted to retain him as their lawyer for the trial. As Claiborne later observed, "Jay Sarno was a very interesting man. He was a genius, there's no question about it. Like nearly all geniuses, he had kind of a screw loose." Although Sarno and Mallin wanted to retain Claiborne, he explained to them that he could not represent them both because a conflict of interest could arise. They understood that problem but still wanted him and whatever associate he preferred. So they told him, "Get somebody, we want you to try it."

Claiborne called Oscar Goodman. It was understood that Claiborne would be lead lawyer in the trial. When Goodman arrived, Claiborne asked him which defendant he wanted to represent. Goodman did not know Mallin--few people did--but he was half-owner of everything Sarno owned, except, he "was worth ten times as much as Sarno," Claiborne believed. Goodman replied, "I'll take Mr. Sarno if that's alright with him," and Sarno nodded his agreement. Claiborne remembered that he "almost busted out laughing. I figured ol' Oscar knew which one of the guys had the most money. He never heard of Mallin. I went to laughing. Mallin looked at me and he was laughing too, he got the same message." The trial started on February 18, 1975 and concluded on March 13 when the jury failed to agree upon a verdict. They were deadlocked eight to four for conviction. Judge Foley then entered a not guilty verdict because, as a matter of law, the

²¹ Smith, Of Rats and Men, 64-66; Earley, Super Casino, 50-51, 66-69.

government failed to prove that Crutchfield was not an “unwitting” agent used by the IRS to entrap the defendants.²²

Undaunted, the government filed perjury charges against Sarno, but not Mallin, for lying about certain of his conversations with the IRS agent during the trial. Sarno again came to Claiborne for representation on the new charges. Claiborne told him that Goodman was his attorney and to go see him, but Sarno insisted “He wasn’t very complimentary about Oscar.” So, Claiborne represented Sarno and won an acquittal on those charges as well.²³

Clearly, Sarno was frustrated with Goodman’s defense of him, but Goodman recognized that his client was no Boy Scout. During the first trial, Claiborne started calling character witnesses on behalf of Mallin. “I called the first one. ‘Do you know Mr. Mallin?’ ‘Yes, I know him.’ ‘How long have you known him?’ ‘Ten years.’ ‘Do you know his reputation in the community for truthfulness and veracity?’ ‘Yes, I do.’ ‘Tell the ladies and gentlemen of the jury what it is.’ ‘It’s good.’ Sarno eventually punched Oscar and said, ‘Ask him about me.’ Oscar didn’t do it. Second witness, same thing. Oscar just sat there. Sarno said, ‘Ask him about me.’ Oscar didn’t do it. As the third witness was leaving the witness stand, Sarno said, ‘Goddamn it, ask him about me.’ Loud enough that you could hear him, everybody could. Oscar was trapped. He said, ‘Just a minute, do you know Mr. Sarno?’ ‘Yes.’ ‘Do you know his reputation for truthfulness and veracity?’ ‘Yes.’ Oscar then asked, ‘What is it?’ The witness said, ‘Fair.’” Goodman did not ask the fourth character witness any questions about Sarno.

²² Claiborne interview, 314-316; Review Journal, February 25, 27-28, 1975, March 4-6, 14, 1975.

²³ Claiborne interview, 316; Sarno v. United States, 593 F.2d 404 (1979).

Goodman marveled at Claiborne's ability to light up a courtroom. When he criticized the government's conduct, the jury sat up and listened, according to Goodman.²⁴

Aside from prominent hotel owners and celebrities, Claiborne also defended elected officials. The criminal prosecution of an elected public official guarantees newspaper headline coverage. Nate Adler, Clark County Public Administrator, was indicted on July 31, 1975 for attempting to obtain money under false pretenses. The Public Administrator takes charge of estates in which the deceased has no will. Often, the Public Administrator is the first person to visit the death scene. It is his duty to seal off the premises, take an inventory of the deceased's property as soon as possible, and safeguard it until it can be properly probated. Usually that required the rental of storage space during the probate period. Adler stored the belongings of the estate of James Gillespie for nearly seven months and charged the estate \$11,340.00, based on 1400 square feet at the rate of 10 cents per square foot per day. The heirs of the estate became enraged when they learned of the charges. Later investigation showed that Gillespie lived in a furnished two bedroom apartment approximately 880 square feet in size, and his belongings consisted of clothing, furniture no larger than a chest of drawers, and perhaps a living room chair. Adler admitted that the rental rate was incorrect, due to an error by his secretary. It should have been 10 cents per month, not per day, and the corrected billing was \$368.00. Also he did not determine the amount of space needed; he did not even inspect the warehouse or Gillespie's belongings, but that his assistant, Charles Lecker, made that decision. The 68-year-old Adler retained Claiborne to represent him. The week-long trial, which provided front page coverage, concluded on March 2, 1977 when the eight man, four woman jury found Adler guilty on all counts. As a convicted

²⁴ Claiborne interview, 315-316; Smith, Of Rats and Men, 65-66.

felon, he was removed from public office, was given a suspended sentence, and placed on probation for five years.²⁵

Adler's appearance and demeanor likely contributed to not only the newsworthiness of the case, but also his conviction. Claiborne laughingly recalled, "He weighed about 300 pounds. God, he was a mess. His office was a mess. He was filthy, sloppy. During the trial, I smell something terrible. I thought, 'Goddamn, something's dead around here.' I looked and he was sitting at counsel's table with his shoes off. Both shoes off. Goddamn, did his feet stink." During closing argument, Claiborne actually told the jury that "Adler is fat, he is ugly, but he is innocent." The jury clearly disagreed with at least the last comment. Claiborne even had trouble getting witnesses to testify for Adler. Repeatedly, Adler would suggest that Claiborne talk to a certain prospective witness, but the witness would not support the Public Administrator's version of the story. "Every witness we talked about, backfired. None of them supported him. Hell, I would've called them if I was a prosecutor. Not one of them supported him. I'd tell him that and he said, 'That surprises me, Harry.' Time after time. I almost said, 'That doesn't surprise me.' But it would always surprise him. I don't think he was really surprised." Adler came to Claiborne as a referral from Louis Wiener. Adler came to Claiborne's office and with righteous indignity, asked, "Have you been seeing in the paper what's happening to me? What do you think About it? It's all politics, Harry." Adler continued, "Louie Wiener is my lawyer. I just wondered what you thought about this thing and what you'd do if you were in my shoes." Claiborne asked, "Why aren't you talking to Louie about it?" Adler admitted, "I'm a little tight for money." That should have been the tip off to Claiborne, but he took the case anyway. Although this did not

²⁵ Review Journal, February 23-26, 1977, March 2-3, 1977; Adler v. State of Nevada, 95 Nev. 339 (1979).

qualify as one of Claiborne's many pro bono cases, Adler "never paid me a quarter. He kept putting me off." Claiborne represented him on several related matters during that time, and Adler would tell him after each one, "You know I'm good for it." The first time, Claiborne told Adler, "Oh sure. I know that!" The second time, Claiborne observed, "I don't know, Your record's not very good." The third time, Claiborne responded, "Goddamn it. This is the last time, Adler." He must have been saving his money for surgery because not long after the trial, Adler had approximately 100 pounds surgically removed, but he died shortly afterwards, and Claiborne was never paid.²⁶

Fortunately for Claiborne, he had enough affluent clients to offset deadbeats like Adler. Indeed, Claiborne represented the Dunes Hotel (now the site of the Bellagio) for many years. The Dunes was the recipient of Teamster pension money from Jimmy Hoffa to finance its high rise and other additions, and had been linked to mob interests in The Green Felt Jungle and other exposes in the media. The disclosure that a prominent Las Vegas casino owner was allegedly a confidential government informant made headlines in an otherwise routine case. One of the resort's major executives, Sid Wyman, was indicted in 1977 with four other defendants for running an illegal bookmaking business. Due to health reasons, he was granted a separate trial that was indefinitely postponed. Claiborne then represented one of the other defendants, and Gary Logan represented another. The prosecutor was Kevin O'Malley from Washington, DC. In May 1977, a federal court jury convicted the remaining four defendants. In July, the defendants' lawyers moved the court for an acquittal, new trial, or dismissal of charges because one of their co-counsels, Logan, had a conflict of interest which came to light during the trial. Jackie Gaughan, owner of the El Cortez, Union Plaza, and other casinos, was the expert

²⁶ Claiborne interview, 302-304.

witness for the defendants. Logan was very close to Gaughan. The day before Gaughan was to testify, Logan met with the prosecutor, O'Malley, who told Logan that he had an FBI affidavit identifying Gaughan as a confidential FBI informant. Gaughan denied it. But, unless they could reach an agreement, O'Malley threatened to use this information in his cross examination of Gaughan, which, of course, would make it public. O'Malley agreed not to use this information if Logan would tell him the substance of Gaughan's testimony. Logan agreed, but never told Claiborne and the other defense counsel.

Claiborne became suspicious during trial. Claiborne remembered that after trial one day, "In getting my books together, I saw O'Malley doing the same thing. He looked at Logan and gave him a nod. That made me suspicious." The next day, Claiborne asked Logan point blank, "You went upstairs yesterday with the prosecutor. I think you have an obligation to tell us what you were talking about." He said, "We weren't talking about this case." "Okay, good enough," Claiborne replied. But Claiborne started having his doubts, and again confronted Logan who admitted, "(O'Malley) asked me if I could come up and talk to him. I did. He told me that Jackie Gaughan was an informant for the FBI. It would ruin him in this town. He wouldn't voluntarily advise the court that he was an informant and would keep it quiet. If it got out, he'd be ruined in this town, particularly among the gamblers. If I would tell him what he was going to testify to, he would withhold that information." Claiborne recognized that Logan "was trying to save Gaughan because he was a friend of Logan's mother, sent Logan and his brother to college and law school. He was trying to save Jackie," but Claiborne's obligation to his client came first. At the post-trial motion hearing, Judge Foley did not find prosecutorial misconduct on O'Malley's part, or unethical conduct on the part of Logan, but he did

grant the defendants a new trial. However, the information concerning Gaughan was widely reported in the newspapers. The defendants were later acquitted.²⁷

One big case led to another. The Lawrence Arvey affair had all the elements of a front-page criminal trial. A candy and ice cream magnate, Arvey, a.k.a. “The Candyman,” was indicted for infamous crimes against nature, lewdness with a minor and lewdness, open and gross. Nancy Pipkin, a prostitute who Arvey used periodically, testified that Arvey went swimming with her and her two daughters, ages six and nine, while they were all nude. Further, he took nude photographs of the nine-year-old girl and even tried to induce the girl to perform an “abnormal sex act” with him, but the mother stopped him. Arvey retained both Oscar Goodman and Claiborne to defend him. During pretrial proceedings, Arvey wore a dreadful wig and beard to the courthouse to avoid public scrutiny, but it had the effect of exaggerating his already poor image. The trial began on January 26, 1978, and before long Arvey began trying to ingratiate himself with the jury by looking at them and smirking, sometimes shaking his head, and rolling his eyes during the testimony. Judge Paul Goldman put an immediate stop to his antics. Despite Claiborne’s claim that Arvey was framed by a child’s imagination, the jury found him guilty of all charges on February 3. Bail was immediately revoked, Arvey was taken into custody and sentencing scheduled. Claiborne filed a motion to reset bail, but Goldman denied it. They filed a motion in the Supreme Court to set bail pending appeal, which it did in the amount of \$100,000.00. In June, Pipkin was found beaten and near death in San Diego. Three days later, Arvey skipped bail and has not been seen since. Claiborne admitted, “We were responsible, I guess, for nobody else being granted bail by the Supreme Court.” He remembered Arvey as a fairly well-known person in the

²⁷ Claiborne interview, 309-310; Review Journal, July 12-14, 1977.

community, a big political contributor to both parties and prominent in many civic organizations. Like Adler, Arvey was physically unattractive, “big and fat. Heavy-set doesn’t express his size. Fat, fat.”²⁸

The Supreme Court of any jurisdiction conjures images of dignity, solemnity and proper decorum. Certainly, the Nevada Supreme Court is no exception, but occasionally humor creeps between the pillars of justice to provide some comic relief. Not surprisingly, Claiborne occasionally contributed to this tradition. He particularly enjoyed the oral arguments before the Nevada Supreme Court when he represented the owner of the Playhouse Lounge. The Clark County Liquor and Gaming Licensing Board had revoked his liquor license after detectives walked into the lounge and spotted five prostitutes sitting at the bar. The detectives testified in District Court that there “were no fewer than five acts of solicitation” in the bar on the evening of May 23, 1973. Claiborne challenged the constitutionality of the Clark County Code which the Lounge supposedly violated. When he arrived at the Supreme Court for arguments, Claiborne learned that the Supreme Court invited the senior class of McGeorge Law School to attend and listen. Claiborne decided to give them an experience “they’ll never forget.” He began his argument. “These five whores were walking down the street...” Justice Al Gunderson began to smile. He knew it was going to be an enjoyable morning. Claiborne continued, “...as was customary. Minding their own business. Walking down the street to establish themselves at their place of employment, which was a street corner.” Then the trouble began, he declared, “Here comes the Sheriff’s prostitute squad in two cars. Two carloads of cops. They pull alongside the five whores. They recognized that the police was

²⁸ Smith, Of Rats and Men, 83-84; Claiborne interview, 312-313; Review Journal, January 27-31, 1978, February 1-3, 1978.

alongside them and they all began to run. The five whores ran into my client's bar. They figured that once they ran in there, the safest place to be was the men's room. They would never look for a whore in a men's room." But there was a complication, "There was a farmer from Iowa visiting here. He was at the urinal relieving himself when five whores come running in on him. He turned around and the police come flying into the room behind the five whores and they arrested him, evidently for indecent exposure. Eventually, he was found not guilty in Justice Court." He got on the first bus he could find out of town and the last thing he said, "I'll never return to Las Vegas." Claiborne won the case. His client flashed on the Lounge's large electric sign: "Harry Claiborne for President!" And he kept it up for a week.²⁹

Claiborne witnessed another interesting performance in the Supreme Court. Charley Garner, appellate lawyer for the Clark County District Attorney's office, and Claiborne appeared in the court for an oral argument. Immediately after Garner began his argument, Justice Milton Badt began firing questions at him. Garner stood silently, then turned around and walked out of the courtroom. The justices just sat there stunned. Eventually, they began looking at each other. They finally leaned together and began talking. Justice Badt said to the bailiff, "Go find Mr. Garner, right now." The bailiff returned with Garner, explaining that he found him walking down the street. Badt scolded Garner, "We expect an explanation for you walking out on the Court." Garner looked straight at him and in all seriousness said, "Your Honor, you asked me so many questions, so fast, that I got to where I just couldn't think. I went outside for some fresh air." Garner's response was so absurd, but honest, that Justice McNamee put his head down on the bench and began laughing, Claiborne remembered. Badt said, "Alright, ten

²⁹ Claiborne interview, 299-300; Cline v. Clark County Liquor & Gaming, 91 Nev. 303 (1975).

minutes after we conclude here, we're going to determine whether or not we are going to cite you for contempt." Claiborne later saw Garner in a restaurant and laughingly observed, "Well, you're not in jail, Charlie." "No, they just reprimanded me." Claiborne offered, "That was a stupid thing to do." Garner conceded, "I just didn't know what I was doing." Then he blamed Badt for causing it.³⁰

During his career, Garner provided more than his share of courtroom entertainment. During one trial with Claiborne, "I saw this gaping hole on the seat of his pants. He had no underwear on." When he turned his back on the jury, the women would "look at the ceiling, rather than at him." When Claiborne told him of the problem, Garner simply nodded and continued with his case. At noon, Claiborne assumed that he would go home and change clothes. He mentioned that to the judge who responded, "Hell, I fully expect him to come back without changing clothes." "By God, he was right," Claiborne later recalled: "He never changed during the lunch hour."³¹

³⁰ Claiborne interview, 228.

³¹ Claiborne interview, 228.

CHAPTER NINE

PRO BONO CASES

While Claiborne certainly charged Benny Binion, Jay Sarno, and other wealthy clients top dollar for his services, he estimated that 25 percent of the clients he represented was free of charge and notably tried 50 pro bono cases over the years.¹ He once had five in one year. Not until 1963 did the government provide and pay for legal representation to indigent criminal defendants.² Previously, most state Bar associations offered representation through a volunteer system. Either attorneys volunteered on a case-by-case basis, or the trial judge would appoint counsel. Either way, the attorney was neither paid for his time nor reimbursed for costs. Accepting an indigent case, or pro bono, was an expensive undertaking, but attorneys recognized their obligation to the Bar and community to provide this representation.

Often, a judge would press Claiborne to take such a case. On one occasion, Judge Roger T. Foley approached Claiborne and said, “I was impressed with this defendant. This defendant just damn well may be innocent. I made up my mind that I’m going to get him the best lawyer in America, and that’s you.” Claiborne stared at him and said, “Boy, are you the biggest bull shitter in the State of Nevada. What the hell can a guy say to that? You know I can’t say, ‘Well, of course I’m not.’ I’ll take the case.”³

¹ Review Journal, August 16, 1978.

² Gideon v. Wainwright, 372 U. S. 335 (1963).

³ Claiborne interview, 76.

Claiborne's largest and most difficult pro bono case began with screaming newspaper headlines in Reno: "Lawyer slain in Reno court room! Two men wounded." The tragedy worsened five days later when one of the wounded men, also a lawyer, died. The victims, popular Reno attorneys Eli Liverato and Ed Mulcahy, were both active in Bar and community activities. At the time, both men represented clients who were involved in a contentious dispute relating to a divorce. White Pine County District Court Judge Jon Collins (later Nevada Supreme Court Justice and founding member of the law firm Lionel, Sawyer & Collins) presided over the case involving Robert "Sandman" Williams, his estranged wife, and mother-in-law. Although Williams and his wife had a divorce action pending, this court hearing was an ownership dispute between Williams and his wife over their sand and gravel business (thus the nickname "Sandman"). Attorney Samuel Francovich represented Williams and the two deceased attorneys represented his wife.⁴

Judge Collins had just begun to announce his decision when Williams pulled a .38 automatic pistol from beneath his shirt and started shooting. He shot Liverato first, and then a trial witness. He then tried to kill his wife, but she jumped under the table. He then turned his gun on his mother-in-law, but missed, and instead hit her brother as well as attorney Mulcahy. Police found eight empty cartridges in the courtroom. Francovich, a decorated World War II Navy pilot, grabbed Williams and scuffled with him until the court reporter wrestled the gun away. As he left the court room, Williams asked the arresting deputies: "What happened?"⁵

⁴ Reno Evening Gazette, November 25, 1960.

⁵ Reno Evening Gazette, November 25, 1960.

Two days after the shooting, eight Reno law firms, representing twenty-three attorneys, filed a civil lawsuit against Williams, which immediately disqualified them from a court-appointed representation of Williams in the criminal case. Supreme Court Justice Milton Badt was very upset and believed that the Reno lawyers deliberately removed themselves from being appointed to represent Williams. But many Reno attorneys agreed that while Williams had the right to legal representation, it was almost impossible for him to engage local counsel. At Badt's request, Claiborne agreed to represent Williams on a pro bono basis. Later, the court also appointed Reno attorney Les Fry. Claiborne believed that Fry, a highly principled lawyer, felt guilty because of the way the Reno Bar had reacted.⁶

Jury selection began on June 28, 1961 and took three days. According to court observers, the last jury selection that took this long was a murder case 13 years earlier. Due to the publicity and potential juror bias, over 72 potential jurors were questioned. District Court Judge Merwyn Brown from Winnemucca presided and Washoe County District Attorney William Raggio and Eric Richards represented the State.⁷

Today, one thinks of Raggio as a legislative power broker, but in the 1950s and 1960s Raggio was, in Claiborne's opinion, the best prosecutor in Nevada.⁸ A Reno native, he had attended the University of Nevada and the University of California's Hastings College of Law, graduating in 1951. Raggio served as Washoe County District Attorney from 1959 until 1971, before entering private law practice. Active in politics, he ran for

⁶ Reno Evening Gazette, November 26, 1960, December 10, 1960; Claiborne interview, 200.

⁷ Reno Evening Gazette, June 30, 1961; Nevada State Journal, June 30, 1961, July 1, 1961.

⁸ Wiener interview, 21.

the state Assembly in 1973, and later went to the Senate where he served as majority leader for many years.

Because Claiborne argued that Williams was not guilty by reason of insanity, the trial became a contest between opposing psychiatrists. The defense claimed that Williams suffered from delusions of persecution which included the confiscation of his sand and gravel business. Williams also believed that Judge Collins tried to aggravate his heart condition. In fact, Williams had a heart attack prior to the trial and still experienced palpitations during the trial. William's lawyers had asked for a continuance, but Collins refused. So in William's delusional mind, he believed that Judge Collins had tried to kill him.

Witness testimony demonstrated that Williams was a very angry and potentially dangerous man, who often warned people that he would shoot anyone who interfered with his family affairs. Testimony revealed that Williams had threatened that if anyone took any of his property there would be three shots fired--one at his wife, one at his mother-in-law, and one at any witness. A neighbor told of Williams target practicing with a human shaped cardboard target.⁹

Claiborne called Williams as his first witness. Described as a nervous, pain racked old man at 57 years of age, he sobbed dramatically and claimed he had "no guilty feeling and I can not even visualize shooting them." Nonetheless, he believed he was justified in shooting them because they were trying to rob him of everything he owned. The judge and the attorneys went into the back room and decided against him, he claimed. Judge Collins tried to kill him by running overtime court sessions knowing that he had heart problems. He then concluded his testimony by complaining that he had no chance for

⁹ Nevada State Journal, July 7, 1961.

acquittal because the jury had already decided against him. He also contended that he did not think that Claiborne was working hard enough, claiming, "I feel you could win the case if you try," he exclaimed.¹⁰

During the course of the trial, Williams wrote notes constantly and handed them to Fry, who read them before putting them in his pocket. One day at lunch, Claiborne asked about the notes. He told Fry that he needed to know what Williams was thinking and maybe the notes contained good ideas. At least they should pay attention to what their client was telling them. Fry reached into his pocket and pulled out a note at random that read, "Claiborne has sold me out." Claiborne later recalled with frustration, "I've never taken such a beating in my life and he claimed I was selling him out."¹¹

Both sides called many witnesses and presented psychiatric testimony by eminently qualified physicians. The conflicting testimony was whether Williams knew right from wrong and whether he realized the nature and quality of his actions. To prove legal insanity, the Reno Evening Gazette explained to its readers, the defendant must not be cognizant of the facts. Heated, and sometimes uncontrollable, arguments and shouting matches between the attorneys contributed to the tension. The case went to the jury on July 12, 1961 at 4:52 p.m.¹²

The jurors had six possible verdicts. Three required a first degree conviction with the only difference being the penalty. It could be the gas chamber, prison for life, or life in prison with the possibility of parole. The other three verdicts were second degree murder

¹⁰ Nevada State Journal, July 8, 1961; Reno Evening Gazette, July 7, 1961

¹¹ Wiener interview, 7.

¹² Reno Evening Gazette, July 10-12, 1961; Nevada State Journal, July 11-12, 1961.

and two acquittal choices, either not guilty by reason of insanity or simply not guilty.¹³ On July 14, after 11 hours of deliberation, the jury found Williams guilty of first degree murder and sentenced him to life in prison without the possibility of parole. Jury members reached a verdict of first degree murder after only a few hours of deliberation. The initial vote was 7 to 5 for the death penalty. They ruled out insanity “first thing” during their deliberations, but eventually decided against the death penalty because they believed Williams, in his own mind, felt he had been provoked into shooting the men. As one juror later described their view of Williams, he was a broken, old man who helplessly watched his sand and gravel “empire” crumble before him, his wife turned against him, and seemingly even the judge and his own attorneys did not understand him. Williams ultimately died in prison.¹⁴

The trial took its toll on Claiborne, but it also tested his mettle and demonstrated his devotion to giving every defendant the best possible defense. Afterwards, Judge Merwyn Brown claimed he took the Williams trial because “the Judges in Reno were too close to the slain attorneys.” He believed it was his most difficult case during his 16 years on the bench. In chambers, Brown commented that the verdict demonstrated the fallacy of the defense in claiming insanity, but he also credited Claiborne and Fry for giving the defendant the best defense possible. According to some observers, Brown at times seemed on the verge of holding Claiborne in contempt of court for his “disrespectful attitude,” but failed to do so for fear of jeopardizing the trial.¹⁵ Claiborne recalled it was

¹³ Reno Evening Gazette, July 13, 1961.

¹⁴ Claiborne interview, 200-208; Nevada State Journal, July 14, 1961; Reno Evening Gazette, July 14, 1961.

¹⁵ Nevada State Journal, July 14, 1961.

probably the hardest case he ever tried. Because he received so many threatening and harassing telephone calls at his hotel, Claiborne stayed at the home of Reno attorney John Drendel. But he was still vulnerable in public. Indeed, one woman, who was attending the trial, actually attacked Claiborne in a restaurant.¹⁶

But this was definitely one of the high points in Claiborne's career. Indeed, Reno attorneys generally commended Claiborne for his skillful and courageous representation of Williams. Some jury members even credited Claiborne for "putting on quite an act that we will never see again in the court room." Other jurors praised Raggio for "standing up to Claiborne and giving one of the most brilliant summations we have ever heard." In recognition of his efforts, the Nevada State Bar Association later passed a resolution commending Claiborne for his "defense of an unpopular cause, at his personal expense and under criticism, (which) exemplifies adherence to the highest ideals of our profession." Robert Herz, executive secretary of the State Bar, praised Claiborne's conduct "as an example to the entire Bar of the State of Nevada." Past President of the Washoe County Bar Association Robert Taylor Adams introduced a resolution that declared, "As a lawyer from Washoe County, I wish to commend on behalf of the entire Bar of the State of Nevada as an outstanding example of such action by a Las Vegas lawyer. I refer to Harry Claiborne. I suggest to you that his recent defense of an unpopular cause, at his personal expense and under criticism, exemplifies adherence to the highest ideals of our profession. It is easy to live up to an ideal when it is popular. It is difficult when such adherence to principle means sacrifice."¹⁷

¹⁶ Claiborne interview, 202-203, 205.

¹⁷ Review Journal, January 5, 1962, 2; Nevada State Journal, July 14, 1961.

Claiborne's problems during the trial did not just involve his ungrateful and unstable client, but Judge Brown as well. According to Claiborne, the selection of Brown created its own problems. Years earlier, Claiborne had filed an affidavit against Brown for judicial misconduct based on a conflict of interest in a civil lawsuit where Brown was a part-owner of the insurance company involved in the case. Brown had never disclosed his stake in the company, but Claiborne learned of it quite by accident from an insurance adjuster on the case. Claiborne felt he had no choice but to settle the case for whatever money he could get under the circumstances. After the settlement, he started to drive home, but turned around and went back to confront Brown in his chambers. Brown said, "I'm glad you settled that." Claiborne responded that, "Well, I didn't have much choice. Under the circumstances, why didn't you disclose to us that you had an interest in the insurance company that wrote the insurance policy?" Brown angrily replied, "That had nothing to do with this case. Are you telling me that you think I would have been prejudiced?" "That's exactly that I'm telling you." Brown retorted, "Well, get out of here."¹⁸ Claiborne later filed a judicial complaint against Brown.

In a small state like Nevada with the relatively small number of judges and lawyers practicing in the 1950s and 1960s, such conflicts were inevitable. Years later, the spiteful Brown made Claiborne's life miserable during the Williams trial. Claiborne surmised that Brown got revenge for filing the judicial complaint. Claiborne and Fry ate lunch every day at the Holiday Hotel during the trial and saw Brown come in and "drink his lunch." Claiborne counted the judge's drinks before returning to the afternoon session of court. "There were always 4 or 5, and I never saw him go to the dining room to eat while I was there," Claiborne recalled. One day Claiborne tipped off Fry that they were

¹⁸ Claiborne interview, 240.

going to have some fun when they got back to court after lunch. After about 5 minutes in court, Claiborne asked to approach the bench. He then went to the bench, sniffed the air and said, "Are you drunk?" He sniffed 4 or 5 more times and said, "Are you?" Brown leaned way back away from Claiborne. He again asked, "Are you drunk? Are you drinking, Judge?" Brown ordered him to "Keep your voice down!" Claiborne blithely replied, "God, you smell like you fell in a beer barrel. I want you to know, right now, that I have a man's life at stake, and I can't risk his freedom to a drunk judge. I'm not going to do it." Claiborne knew the first 2 or 3 jurors heard this conversation. An angry Brown then said, "We're going into chambers." In chambers, and in front of the court reporter, Brown shouted at him: "Now you have done it, you son-of-a-bitch!" Claiborne turned and said to the court reporter, "Take that down! Let the record show that he called me a son-of-a-bitch! The Judge called me a son-of-a-bitch!" Raggio stood in the hallway with his arms folded and grinning from ear-to-ear. He could not have had it any better. Claiborne said, "I demand that you go out to the hospital and take a blood alcohol test." Brown told the court reporter, "Don't take that down." Claiborne yelled, "Take it down." This went back and forth several times. Finally, Brown declared: "I'm not going to do any such a damn thing. Get out of here! Get out of here! All of you, get out of here. Go back to court." Brown was smarter than Claiborne thought because he told the jury, "Ladies and gentlemen of the jury, the court is going to be occupied with other matters this afternoon, you're excused and free to go home and be back tomorrow morning at 8:30." He glared at Claiborne and went, "Ha!"¹⁹

Claiborne was tenacious as a lawyer. On one occasion, he tried to help the Tomiyasu family save their land and produce business. Bill Yonema Tomiyasu and his family

¹⁹ Claiborne interview, 238-239.

moved to Las Vegas in 1916, settled on 85 acres of land, dug a well by hand, and started growing produce. Claiborne estimated that they had the finest artesian well in the Las Vegas Valley. Their business flourished, and they eventually expanded into the nursery business with their son, Nanyu. In 1961, they visited Japan and turned the business over to their son to manage while they were gone. However, Nanyu failed to make the mortgage payments on the property. The bank sent notice after notice, and finally, a notice of foreclosure. The Tomiyasus never responded. Claiborne maintained that the father did not know of the delinquency, but the court records indicate that he was aware of the problem, but was short of funds. The bank finally foreclosed on the land on April 25, 1962. The 80 acres involved, worth \$200,000, was sold for \$18,025.73; one dollar more than the mortgage balance. Bill Tomiyasu, age 82 and a Clark County resident for 43 years, and his wife, lost everything. Feeling compassion for the old couple, Claiborne agreed to represent them for free. He filed suit to return the property, and won at the trial court level. But the Supreme Court reversed the decision, holding that the bank complied with all statutory requirements for a foreclosure proceeding and that the inadequacy of the price alone was not sufficient to set aside the trustee's sale. Claiborne eventually appealed through the federal system and to the U. S. Supreme Court, but to no avail. The Tomiyasus lost their land, and Claiborne was out \$70,000 to \$80,000 of his own money trying to help the family. Years later, a frustrated Claiborne still wondered about it, "I cannot understand why a guy (Nanyu) with a year's time would not even remember that he had this small chore to do (make the mortgage payment). I don't know to this day whatever excuse he gave his dad."²⁰

²⁰ Claiborne interview, 217-218; Golden v. Tomiyasu, 79 Nev. 503 (1963); Tomiyasu v. Golden, 81 Nev. 140 (1965).

As noted earlier, Claiborne maintained a close working friendship with the Las Vegas' police department after he started practicing law. Claiborne took his personal association with fellow policemen seriously. Indeed, he knew everyone on the police force. Knowing that their profession often placed officers in situations that exposed them to personal liability without adequate funds to defend themselves, Claiborne often represented them for free. This reflects relationships generally found only in small town environments. In the postwar era, there still existed a close relationship between the legal community and residents in a town where many people still knew one another.

In 1952, Claiborne defended Floyd "Tex" Young who was accused of molesting a young girl. Because Claiborne had worked with Young as a cop, he defended him at no charge. "I had to; he was a comrade." Young and his wife took the 13-year-old girl into their home to adopt, but she claimed that Young molested her. The prosecutors, George Dickerson and John Mowbray, believed child molestation was the worst crime imaginable and "went wild" whenever Claiborne tried to talk about settling the case prior to trial. In preparing for the case, Claiborne learned that the girl had earlier claimed that her father molested her and had reported him to the Boulder City Police Department several years later. Her mother claimed the girl was a habitual liar. When Claiborne interviewed the Boulder City policeman involved in the earlier claim, he learned of still another incident. She was in school, climbed on top of her desk and brought out a bottle which had a skull and crossbones on it with 'POISON' written on the label. She swallowed the contents and fell faint into the aisle. The school rushed her to the hospital and pumped her stomach. It was grapefruit juice. Dr. James French verified the story as did the teacher. Despite this evidence, Mowbray refused to budge and declared, "I believe the girl. That rotten bastard needs putting away and I'm going to put him away."

But Claiborne uncovered more information about the girl. A girlfriend who attended “sleep overs” at the girl’s house reported that the girl had pornographic books which she showed her. At trial, Claiborne charged that the state’s three major witnesses were motivated by spite and bias. He argued further that the so-called victim, in accusing Young, was merely repeating her past conduct. Every time she got in trouble, Claiborne observed, she would claim she was molested as a way of making herself the center of attention. Mowbray, in a powerful closing argument, admitted the girl was perhaps not a “little saint,” but that Young was in part responsible for the girl’s conduct. “He made her what she is,” said Mowbray.

But Claiborne’s evidence and persuasive arguments were convincing. After nearly four hours of deliberation, the jury found Young innocent. The Review Journal described it as a complete, and to many courtroom observers, an astounding victory for Claiborne. As Claiborne and Young left the courtroom after the verdict, a furious Mowbray shook his finger in Young’s face and said, “God will exact vengeance on you. Wait and see.” Claiborne replied, “You stupid son-of- a-bitch.”²¹

In another case involving former police “comrades,” Claiborne defended four veteran detectives in 1950 who were fired for making disparaging statements about their supervisor. When Police Chief George Thompson resigned his office and returned to the position of captain, the department’s booking sergeant Archie Wells became acting Chief of Police until the City Council appointed a permanent chief. Stanley Halstead, a newcomer to the department, applied for the job. Halstead asked then Chief of Detectives B. J. Hanlon, Detective Pete Reid, Sergeant Eddie Davis and Captain George Thompson to meet with him. Without their knowledge, Halstead bugged the meeting

²¹ Claiborne interview, 129-130; Review Journal, May 11, 1952.

room. He told them that he would soon be appointed Chief of Police and wanted to talk with them to get a lay of the land. He wanted to know which officers he could trust, as well as the good and the bad cops on the force. He also advised them he intended to completely reorganize the department, but that they had been recommended as officers who should be retained. Halstead then asked each man for his opinion of Chief Wells and how he was running the department. He assured them that their responses would be kept confidential. Claiborne recalled, "They said a lot of derogatory things about everybody. They just didn't stop at just Wells, they went after everybody. They had more grievances than he ever thought." Someone sent the tape recording to Wells. Although he denied any association with Halstead or any involvement with the recordings, Wells fired all four of them for "causing dissension in the department." Claiborne defended them pro bono. The Police Department had a weak case, and after a month of hearings, the men returned to work with back pay.²²

In later years, some of Claiborne's respect for certain police officers waned. In 1971, he represented Richard Charles Roy, a 22-year-old bus boy, pro bono. Roy lived down the street from a drug dealer, who was being staked out by a couple of undercover detectives. Roy could neither read nor write, and the cops could easily see that he was mentally retarded. They befriended him and asked if he would help them. They gave him \$20 to buy some marijuana from the dealer, which he did, and brought it back to them. The officers then charged him with the crime of selling marijuana. Although Roy was convicted by a jury and sentenced to four years in prison, Claiborne won a reversal from the Supreme Court justices who reasoned that the defendant could not be a seller when he was acting on behalf of the police. Disgusted by their actions, Claiborne

²² Claiborne interview, 154-155; Review Journal, April 26, 1950.

referred to the undercover policemen as “those rotten bastards,” a far cry from the high esteem in which he held his earlier “comrades.”²³

Not all of Claiborne’s pro bono work was satisfying. Bill Villa was “blind” and used a seeing eye dog. Over the years, Claiborne handled many cases for him--all free of charge. One day, while walking to lunch, Claiborne saw Villa standing on the corner with his dog. The dog started to cross the street and Villa jerked him back because the traffic light suddenly changed to red. Claiborne “started to think of all the work I’ve done for the guy and if he was a phony, I’d die.” When he returned to his office, he announced to his two secretaries, who were very fond of Villa, that “Your friend Bill Villa is no more blind than I am.” To prove his point, the next time Villa came to the office, Claiborne put a wastebasket right in the middle of the hallway where Villa had to walk. Ruby, his secretary, said, “Oh, he’ll fall over it and hurt himself. My God, you’re just plain mean.” When Villa arrived, he began walking down the hallway. “He’s got the white cane and he doesn’t even put it in front of him. He walked right around the basket.” After Villa left, Ruby, who was crying, said, “I wish I hadn’t seen it.” Although Claiborne never said anything to Villa, he stopped representing him.²⁴

²³ Claiborne interview, 283; Roy v State of Nevada, 87 Nev. 517 (1971).

²⁴ Claiborne interview, 281.

CHAPTER TEN

FEDERAL JUDGESHIP

The roots of Claiborne's appointment as a federal judge lie in his developing friendship with Senator Howard Cannon. The 1964 Senate race in Nevada created a personal and professional relationship between Claiborne and Howard Cannon, Nevada's U. S. Senator from 1958 until 1982. This relationship extended to Claiborne's near involvement in President Richard Nixon's potential impeachment proceedings and the background investigation of Nelson Rockefeller prior to his nomination as Vice President, before culminating in 1978 with Cannon's nomination of Claiborne for a federal judgeship. The senator benefitted from Claiborne's legal and tactical skills in turning back a serious challenge to his United States Senate seat by Paul Laxalt in 1964. A very powerful figure in Washington during the 1960s and 1970s when Democrats controlled Congress, Cannon was Chair of the Senate Rules Committee and of the Commerce Committee and a high-ranking member of the Armed Services Committee. Prior to the election, Cannon and Claiborne were "friendly, but casual." But in 1964, they became friends and their relationship was a long and mutually beneficial one.¹ As Claiborne remembered, Cannon "was a good lawyer and he was a good man, no question about it. I had a very good relationship with him. I was always impressed with his ability. He had the personality of a cold mashed potato sandwich. But he was good to

¹ Claiborne interview, 115.

Nevada. One thing, he never politically voted in a way that might damage the State of Nevada. I liked Howard Cannon. He was a workhorse.”² During Senate Rules Committee hearings in 1974 regarding Rockefeller’s Vice Presidential confirmation, Claiborne worked with Cannon every day and regretted his departure from Congress. “I think it was so sad that he got defeated (by Chic Hecht in 1982). I left (Washington) with the feeling that he was the best United States senator that this state ever had. He worked so hard. He wasn’t spending 80% of his time creating building blocks for his future. He was taking care of business every day, into the night. A lot of nights, I had been with him in there. We’d leave his office and go have dinner at 9:00 at night. Marvelous man. I didn’t think too much of him when I ran against him (in 1964). My respect for him grew, the longer I was around him.”³

Claiborne and Cannon had known each other for years. The latter had served as Las Vegas City Attorney in the early 1950s and they interacted frequently. In 1958, Cannon ran for the Senate and won. Ironically, it was Claiborne who challenged Cannon in the 1964 Democratic Party primary for the Senate seat. Claiborne claimed there was a “groundswell” of opposition to Cannon among Democrats and believed Nevada voters preferred a man of courage, conviction, and good character to represent them in Washington. For Claiborne, the main issue was integrity, and he hammered Cannon for his involvement with the Bobby Baker scandal brewing in Washington. The Nevada media, however, barely covered the scandal because Cannon was popular, had the ears of

² Claiborne interview, 116.

³ Claiborne interview, 261.

President Lyndon Johnson , and was therefore good at securing federal money for Nevada. Cannon “trounced me pretty good,” Claiborne later confessed.⁴

Much like its predecessors, the 1964 Democratic primary campaign still required a lot of face-to-face meetings with voters in small towns, unlike today’s contests where heavy media advertising dominates the process. The relatively rural nature of campaigning in the early 1960s allowed a more spontaneous interaction with voters and other campaigners on the political trail. Claiborne campaigned in Elko during the Fourth of July celebration where Peter Echeverria, Reno attorney and good friend, was master of ceremonies. Echeverria introduced Claiborne with “tremendous flourish,” but all in the Basque language. Claiborne had no idea what he was saying, but in the end, the crowd just roared with laughter and clapped. Echeverria ended with, “Harry!” They shook hands and Echeverria sat down. Claiborne made his speech, they shook hands again, and he left to attend another Fourth of July celebration in another town. Later, Claiborne learned what Echeverria told the crowd. “This is a wonderful friend of mine and I love him. He’s the best damn lawyer I have ever seen! I’m not for him. I’m gonna vote for Cannon. He’s gonna lose, but despite that, be nice to him.”⁵

Claiborne recalled the political prediction he received from an old man in Fallon. After handing the man his card, Claiborne said, “I’m Harry Claiborne and I’m running for the United States Senate and I’d appreciate your vote. More than that, your help, if you feel so inclined.” The old man looked at Claiborne, smiled, and said, “God, I feel sorry for you, young man. You’re really gonna get whooped.” He patted Claiborne on the head and said, “But, I’ll pray for ya.” Off he walked. Claiborne didn’t know how to reply,

⁴ Claiborne interview, 115; Review Journal, July 11, 1964, July 15, 1964, August 19, 1964.

⁵ Claiborne interview, 279.

but did a lot of thinking about what the man said. Surely, he knew something, Claiborne surmised.⁶ Hank Greenspun later wrote that Claiborne did accomplish one thing with his campaign. “He finally got all the newspapers to agree on the same thing ... that he did not belong in the U. S. Senate as long as the people had Howard Cannon as the alternative.”⁷ Maybe that is what the man in Fallon thought as well.

The night Cannon won the Democratic primary election, Claiborne went to Cannon’s headquarters, congratulated him and promised to do whatever he could to help him win the general election against Paul Laxalt, a popular Basque who had strong support in rural Nevada. Claiborne even agreed to work in Cannon’s campaign. He delivered many speeches for Cannon in the following months. In the general election on November 3, 1964, despite Barry Goldwater’s drag on all Republican candidates, Cannon defeated Paul Laxalt by only 64 votes, statewide. But a stubborn Laxalt demanded a recount for later that month.

Cannon convinced Claiborne to head his recount election team. Claiborne wrote a legal brief on Nevada election law and focused on the issue of illegal ballots. He attached samples of illegal ballots for illustration purposes. The legal brief formed the procedural basis for Cannon’s recount team to follow when examining questionable ballots. Claiborne conducted educational sessions with lawyers recruited to help the senator. They reviewed all possible ways ballots could be voided. Their strategy was that if a precinct heavily favored Cannon, they would make no objections to the ballots. If it heavily favored Laxalt, then they were to go “gung ho” to contest it. In analyzing ballots, they assumed that if Cannon got more votes in a precinct than Laxalt, there likely

⁶ Claiborne interview, 335.

⁷ Sun, September 3, 1964.

would be more people marking void ballots in Cannon's favor. It was a simple matter of statistics. It worked. Cannon ultimately won the recount. Completed on December 2, 1964, the recount showed Cannon won the election by a slightly greater margin than the original count. Laxalt filed a contest of the election with the Nevada Supreme Court on December 3, 1964.⁸

In response, Cannon filed a motion to dismiss Laxalt's Supreme Court petition on the grounds that the United States Senate, not the Nevada Supreme Court, had exclusive jurisdiction over United States Senate election results; that is, the United States Constitution prevented a state court from considering the merits of a federal senatorial election. The attorneys representing each side reflected a Who's Who of prominent, politically influential Nevada lawyers. On December 22, 1964, the Nevada Supreme Court granted Cannon's motion to dismiss Laxalt's election contest and certified Cannon as the winner.⁹

Senator Howard Cannon's friendship exposed Claiborne to national politics and policy for the first time in his career. During the 1970s, Cannon chaired the Senate Rules Committee. So, when it appeared that President Richard Nixon might be impeached, Cannon called his trusted and legally talented attorney, and told Claiborne: "I want you to come back here and confer with me in a few days. I'm not going to tell you what it's about over the phone. It's a sensitive matter. I'd rather talk to you in person." It could be done in one day. When he arrived in Washington, Cannon told him, "Nixon is going to be impeached. Historically, the Rules Committee has conducted impeachments. I'd like you to serve as general counsel if you would. I'd like to ship the books on impeachment

⁸ Claiborne interview, 115.

⁹ Laxalt v Cannon, 80 Nev. 397 (1964).

to you.” Claiborne returned to Las Vegas to prepare for the impeachment trial he thought would be held in the Rules Committee, but Nixon resigned shortly afterwards on August 8, 1974.¹⁰

Earlier, the vice presidency had also become vacant due to the resignation of Spiro Agnew over corruption charges stemming from his days as Baltimore County’s Chief Executive and Governor of Maryland. Once again, Cannon called Claiborne and asked him to be special assistant to the United States Senate Committee on Rules and Administration in the Vice Presidential confirmation hearings of Nelson Rockefeller. Claiborne was in charge of the investigation process. Senator Henry “Scoop” Jackson of Washington hired six investigators and Claiborne supervised them as part of his responsibilities as committee counsel. The divorced New York governor, who had run a spirited campaign against Barry Goldwater for the Republican Presidential nomination in 1964, was not a popular choice with conservative Republicans. Rockefeller was not well received within his own party many of whom viewed him as too liberal and an adulterer. There was a heavy contingent of Republican Senators, led by Senator Jesse Helms of North Carolina, who despised him and were always sending derogatory material to the committee, which it investigated. During the investigation, Claiborne got to know Helms, whom he described as the “most delightful old gentleman you ever saw in your life. I enjoyed him tremendously. He started calling me ‘Brother Claiborne.’ I said to Cannon, ‘I don’t understand why people say he’s hard to deal with, I find him just absolutely enjoyable.’ Cannon looked at me and said, ‘I think I’ll send you home.’” The Attica Prison riot that Rockefeller brutally repressed in 1971, resulting in the deaths of 39 men, was a major issue. People objected to hundreds of his administrative acts while in

¹⁰ Claiborne interview, 259.

office that contributed to the mounting opposition to his selection. Conservatives, many of whom were tied to religious constituents, made Rockefeller's divorce an issue, while, at the same time, ignoring the divorce of California Governor Ronald Reagan whom many supported for president in his 1976 campaign. But now-President Gerald Ford wanted Rockefeller, and the committee eventually approved the nomination.¹¹

Although Claiborne never personally interviewed Rockefeller, Cannon did in his presence. Claiborne described Rockefeller as "friendly, bordering on being an extrovert. You could see from his very presence that he was a kind and caring man. But he had some steel in him. His friendly nature may have been somewhat of a shield. That's the way he came off to me and I think that's the way he came off to all the other senators."¹²

Cannon advised Claiborne that the investigation would not be partisan in nature. In fact, the senator assured him: "I want you to know that. We don't, and will not, color anything. You're going to get some pressure, and you're going to get a lot of it. And your investigators are going to get a lot of it. You make damn certain to them that we'll call it like we see it. He may be a good man and qualified to be Vice-President, or he may not be. But whatever it is, that's the way I want it presented."¹³ While working on the Rockefeller confirmation hearings, Claiborne and Cannon spent many nights together. One night Cannon actually asked him: "If a judgeship opens up, would you take it?" Claiborne thought about it and replied, "Probably not, but I would sure like to be asked. I would expect that to be a long time down the road. By then, I might want it." About two years later, Cannon informed him that federal Judge Bruce Thompson was

¹¹ Sun, November 14, 1974; Claiborne interview, 260-261, 116; State Bar of Nevada v. Claiborne, at 207.

¹² Claiborne interview, 259-261.

¹³ Claiborne interview, 261-262.

taking senior status, making a judgeship available. Claiborne had not been interested in a judgeship earlier because he was too young and loved being in the courtroom as an advocate. But now, at 60 years of age, he was ready to go on the bench. "Do you want it?" Cannon asked. Claiborne said he did and Cannon promised, "You got it."¹⁴

Claiborne's age was a consideration in the confirmation process. Some members of Congress and the judiciary preferred younger men who would be long-term judges. "They passed the word to all senators to please not nominate people who are 60 and over. I think I barely got under the wire. Wouldn't have made any difference because Cannon said he had the juice to do it anyway. So, I didn't worry about it and he didn't worry about either." Cannon made it appear that others were under consideration, such as U. S. Magistrate Joseph Ward and federal Bankruptcy Judge Lloyd George, but Claiborne was the only nominee.¹⁵

Once Claiborne's nomination went from Cannon to President Jimmy Carter, the investigation began. One roadblock quickly appeared that almost damaged Claiborne's chances for confirmation. During this time, a lawyer friend of Claiborne informed him, "I went into (State District Court Judge Paul) Goldman's chambers and his secretary was not there. The door was closed. I could not clearly hear the conversation. I did hear enough of it that I got the hell out of there. Thought I would come over and talk to you. He's talking to some investigator and he's calling him by his first name, Bill. He's telling him that you lied in a case with him in open court. That you denied that you had seen a psychiatrist report, when actually you had." This pertained to the Lawrence Arvey case. Claiborne knew that "Bill" was Bill Jansen, the FBI agent conducting Claiborne's

¹⁴ Claiborne interview, 323-325.

¹⁵ Claiborne interview, 323-324; Sun, May 18, 1978.

investigation. Previously, Jansen interviewed him for nearly 20 hours. Goldman was wrong and Claiborne needed to correct it.

Claiborne called Jansen and asked to meet with him. When Jansen arrived, Claiborne said, "I'm informed that Judge Goldman has reported to you that I lied in his court about a psychiatric report." Jansen said, "I can't answer that. I can't verify or refute it. I'm not allowed to." Claiborne replied, "If he did, and I think he did, you will report it and it will affect whether or not I'm confirmed. So, I'm going to write the Attorney General of the United States and put him on record that I demand the right to be advised as to what Judge Goldman said and the right to refute it." Jansen said, "Okay. I'll tell you what, Harry. What I'll do, and this is the best I can do, is call my supervisor and ask advice about what to do." The next day Jansen contacted his supervisor who said that Jansen could relay to Claiborne what Goldman had said and give Claiborne the opportunity to refute it. Jansen confirmed what Claiborne's friend told him. Claiborne obtained a transcript of the court hearing in question which supported Claiborne's position. He showed it to Jansen and it resolved the issue. Claiborne immediately confronted Goldman and demanded: "Why did you tell Bill Jansen that I lied in your courtroom?" Goldman declared: "I didn't tell him that." Claiborne angrily replied, "You're goddamn lying. If you didn't tell him that, I want a letter from you stating that you did not tell him that." Goldman refused to give him such a letter. By then, he really did not need the letter. Claiborne never really understood Goldman's motive for his comments to Jansen.¹⁶

President Jimmy Carter nominated Claiborne to fill the vacancy on the federal bench in July, 1978. The United States Senate scheduled his confirmation hearing for August 8, 1978. The hearings opened by announcing that a "substantial majority" of the Standing

¹⁶ Claiborne interview, 311-312; Review Journal, June 17, 1978.

Committee on the Federal Judiciary of the American Bar Association agreed that Mr. Claiborne was “well qualified” for appointment to the federal bench. A minority of the Bar Association’s committee, however, found him not qualified on the sole ground that Claiborne was sixty-one years of age. Nevada Senators Cannon and Laxalt testified on Claiborne’s behalf and recounted his numerous professional accomplishments. Cannon praised his reputation as “one of the foremost criminal attorneys in the West.” The print media throughout Nevada echoed the testimony of the Nevada Senators.¹⁷

Otherwise, Claiborne’s nomination process went smoothly. No one protested his appointment except one female attorney, Eugenia Ohrenschall, who later served in the state Assembly. She did not question his qualifications, but believed a woman should receive the appointment. She wrote a letter to that effect but appeared late to the confirmation hearing and missed it. Unlike many of the judicial confirmation hearings today, Claiborne’s was not confrontational. The hearing was before the entire Senate Judiciary Committee. Rather than ask Claiborne how he would rule on various hypothetical questions concerning the issues of the day, the Senators simply asked personal questions raised during the investigation. The hearing was very short and the Senate confirmed him by a unanimous vote on August 11, 1978, just three days after the hearings began.¹⁸ Senator Cannon later called Claiborne on the telephone to congratulate him. When Claiborne said, “Hello,” Cannon responded, “Your Honor.” Claiborne knew by his comment that he was approved.¹⁹ He was sworn in on September 1, 1978.²⁰

¹⁷ State Bar of Nevada v. Claiborne, at 205-206.

¹⁸ Claiborne interview, 324-326.

¹⁹ Review Journal, August 16, 1978.

²⁰ Sun, September 2, 1978.

Claiborne filled the position vacated in Reno by Judge Thompson. Of course, a Las Vegas lawyer appointed to a Reno judicial position did not sit well with some Reno residents, but they knew another federal judgeship would be created within a year by pending federal legislation. Cannon passed the word that a Reno lawyer would get it. A year later, Renoite Edward Reed was appointed to a newly created Nevada federal judgeship. He stayed in northern Nevada and Claiborne transferred to Las Vegas.²¹

²¹ Claiborne interview, 326; Sun. July 25, 1978, 1.

CHAPTER ELEVEN

THE FALL FROM GRACE

Claiborne's tenure as a federal judge had more than its share of controversy. Tensions were already running high between the federal court and the Federal Strike Force, a special division of the Justice Department, when Claiborne returned to Las Vegas in the fall of 1979. The Justice Department created the Strike Force to investigate and prosecute organized crime. Although authorized to begin investigating one specific issue at a time, members of the group could, and did, extend their inquiry into different areas of criminal activity. The Strike Force unit in Las Vegas consisted of approximately three attorneys, headed by Geoffrey Anderson. Claiborne recalled that he had no issues with the Strike Force, Anderson, or, to his knowledge, any of the FBI agents at the time. Judge Roger D. Foley, on the other hand, was "up to his neck with problems with them. He was fighting with the Strike Force all the time."¹ Claiborne assumed Foley's administrative duties as Chief Judge for the District of Nevada in May 1980. Claiborne believed that Foley resigned because he had some run-ins with the Chief Judge of the Ninth Circuit, and was "kind of disgruntled." At about the same time, Foley announced that he would no longer preside over Strike Force cases due to the ongoing tensions. Claiborne was now on the hot seat with both the high profile cases and the Strike Force.²

¹ Claiborne interview, 335.

² State Bar of Nevada v. Claiborne, at 134; Claiborne interview, 136.

In later years, Claiborne analyzed the circumstances that eventually led to his problems. Foley believed that Geoff Anderson came to Las Vegas with the preconceived idea that the gaming community owned Foley. For his part, Claiborne thought Foley was correct. Strike Force members did not trust Foley from the day they arrived in town. Had it not been for their antagonism toward Foley, and the resulting tensions, Foley would not have refused to hear their cases and Claiborne would not have been the only judge hearing Strike Force prosecutions. He would have just been handling his own cases. “Of course, I would’ve not been in a position to shoot my mouth off about how I felt about what they were doing and that corruption thing.”³

The conflicts that would eventually lead to Claiborne’s prosecution began with the arrival in 1980 of the Special-Agent-in-Charge of the local FBI office, Joseph Yablonsky. His heavy-handed tactics to remove Claiborne from the bench would include the use of bribery allegations by the notorious brothel owner Joseph Conforte. On just his second day in Las Vegas, Yablonsky met with Sun editor Hank Greenspun, and during the visit, bragged about the adornments on his office walls, which were newspaper articles and photographs of his previous FBI criminal investigations. According to Greenspun, Yablonsky boasted that he was “going to hang Claiborne up” on a large vacant spot on his office wall which was specifically reserved for him. Corroborating Yablonsky’s bold prediction was former IRS District Director for Nevada Gerald Swanson who later revealed that Yablonsky made similar comments to him during a meeting between the two in December 1981.⁴

³ Claiborne interview, 347.

⁴ State Bar of Nevada v. Claiborne, at 132.

Claiborne recalled that Greenspun called him the day he met Yablonsky, and asked the judge to stop by his office on the way home from the courthouse, which he did. “Hank thought there was something mentally wrong with (Yablonsky).” According to the conversation as related to Claiborne by Greenspun, Yablonsky said, “I’m going to plant an American flag in Las Vegas and that the Mormons run Las Vegas with the help of the gamblers. You know, Mr. Greenspun, the Mormons are a bunch of crooks. I’m gonna clean it up. I’m gonna start with a federal judge.” Claiborne did not believe Yablonsky even knew his first name because he referred to him as “this Claiborne.” Claiborne thought it was just some cop popping off. “Well, he wasn’t popping off.” Years later, he received the same information from one of Yablonsky’s contemporary staff members who confided to Claiborne that he would be Yablonsky’s target once the new FBI boss arrived.⁵ For many local observers, Yablonsky’s behavior raised serious doubts about his character, veracity, and judgment. During the 1982 political campaign for Nevada Attorney General, for instance, Yablonsky secretly solicited Air Force help to check into the military career of candidate Brian McKay, hoping to obtain derogatory information about him. McKay was running against Yablonsky’s friend, Mahlon Brown, then the United States Attorney for Nevada. Yablonsky initially denied contacting the Air Force, but a week later admitted that he made the request. At that time, Clark County District Attorney and future governor Robert Miller expressed “serious concerns” about Yablonsky’s credibility.⁶ Lamond Mills, U. S. Attorney for Nevada from 1981 to 1985, even called Yablonsky “an embarrassment.”⁷

⁵ Claiborne interview, 356-357.

⁶ Sun, March 27, 1983.

⁷ Sun, March 26, 2004.

As a result of the subsequent FBI investigation, FBI Director William H. Webster announced that Yablonsky's actions were "inappropriate and made at a time and under circumstances likely to bring into question the integrity of the FBI inquiries." He also characterized Yablonsky's actions as involving "extremely bad judgment in utilizing the files of another agency to inquire about Mr. McKay for a reason I did not consider adequate or sufficient." Webster censured Yablonsky and placed him on probation. Although Webster did not remove him from his position, the Sun reported that the 54-year-old Yablonsky faced mandatory retirement in six months.⁸ But it did not end there. After his retirement, Yablonsky engaged in another questionable action. His bank mistakenly credited his account with \$40,000 as a result of a computer error. Yablonsky not only failed to notify the bank of its error, but kept the balance in his account for three years. It was ultimately discovered during a bank audit. A grand jury investigated the matter, under the direction of the Justice Department's Public Integrity Section, but did not return a criminal indictment against Yablonsky.⁹

Yablonsky's three years as head of Las Vegas' FBI headquarters were marked by a vigorous campaign against organized crime as well as local corruption. His investigations into political corruption soon acquired the nickname "Yobo" and attracted considerable coverage by the local media. Numerous indictments and convictions resulted from this series of sting operations. Claiborne believed these government operations were "not only morally, but legally wrong." He reasoned that the government "had no right to create a crime, involve an individual in criminality when he may have never even thought of such things and was not involved in that activity before hand or

⁸ Sun, July 2, 1983; Review Journal, July 2, 1983; State Bar of Nevada v. Claiborne, at 146.

⁹ State Bar of Nevada v. Claiborne, at 146.

any other illegal activity,” and, rightly or wrongly, Claiborne publicly said as much. He even threatened, on one occasion, to dismiss these cases and release all the Yobo defendants. Because Foley refused to hear Strike Force cases, including Yobo cases, Claiborne was the sole federal judge before whom the cases could be prosecuted. After Claiborne’s public statement, the lines were drawn between him and the government. Strike Force attorney Geoffrey Anderson, who took his orders directly from Yablonsky in the Yobo cases, according to Claiborne, asked Claiborne to disqualify himself from all the Yobo cases, but Claiborne stubbornly refused.¹⁰

In April 1980, the news media reported that Claiborne was the target of a grand jury investigation by the Strike Force and the FBI. Claiborne heard of the investigation when a reporter told him about it, but he did not know the specifics at the time.¹¹ He later learned that the jurors were hearing evidence into allegations that Claiborne had hired private detective Eddie LaRue to conduct illegal wire taps on the home of one of his girlfriends in 1977 and 1978.¹² In the end, the Las Vegas grand jury did not indict Claiborne.

The Strike Force changed strategies when it looked to Portland, and for the first time, claimed that brothel owner Joseph Conforte bribed Claiborne. The first Portland grand jury convened on May 11, 1982, but its mandate expired without returning an indictment. The second grand jury convened on March 16, 1983, but it never indicted Claiborne either.¹³

¹⁰ Claiborne interview, 336-337, 348.

¹¹ Claiborne interview, 338.

¹² Sun, April 10, 1980.

¹³ State Bar of Nevada v. Claiborne, at 139; Claiborne v. United States, 765 F. 2d 784, 788 (1985).

Lacking in scruples, Conforte was well acquainted with legal proceedings, having been in and out of court on a variety of charges for more than two decades. The owner of the notorious Mustang Ranch outside Reno, Conforte was one of the more controversial people in Nevada during this time. His first significant brush with the law involved a 1960 conviction for an extortion plot against Washoe County District Attorney William Raggio for which the brothel owner was sentenced to the Nevada state prison.¹⁴ Then in June 1963, he pleaded guilty to federal income tax violations and was also sentenced to federal prison. He was released in 1965. By 1968 he was in trouble again. This time he was tried for violating the Mann Act, which prohibited the transportation of women across state lines for purposes of prostitution, but was acquitted. In 1970, the IRS filed a civil complaint for condemnation and forfeiture of certain trailer houses used by Conforte in his prostitution business. This case was also decided in Conforte's favor.¹⁵ In 1976, an employee of Conforte's shot and killed Argentine heavyweight boxing contender Oscar Bonavena outside the Mustang Ranch. This event only worsened Conforte's negative image. Bonavena's family filed a civil wrongful death suit in 1977 alleging that Conforte was negligent in the supervision of his employee which resulted in Bonavena's death.¹⁶ As previously noted, in 1977, a ten-count indictment charged Conforte with the willful attempt to evade federal employee withholding taxes and he was convicted.¹⁷ The Court of Appeals upheld the convictions, but vacated the sentence and returned the case to the trial judge for further sentencing. In the meantime, in July

¹⁴ Reno Evening Gazette, June 29, 1984.

¹⁵ Conforte v. United States, 457 F. Supp., at 645-646 (1978).

¹⁶ State Bar of Nevada v. Claiborne, at 143.

¹⁷ Conforte v. United States, 457 F. Supp. at 646; Conforte v. United States, 624 F.2d 869 (1980).

1979, the Washoe County Grand Jury indicted Conforte and charged him with bribing the Lyon County District Attorney for help in obtaining a license to operate a brothel.

Washoe County District Attorney Cal Dunlap publicly announced on September 15, 1980 that if Conforte were convicted, Dunlap would seek habitual criminal enhancement of the sentencing to impose a life sentence. This was based on Conforte's prior felony convictions. In fact, a supplemental information alleging habitual criminal enhancement was eventually filed in court on February 26, 1982.¹⁸

The night before the re-sentencing hearing in federal court scheduled for December 23, 1980 on the conviction for evading employee withholding taxes, Conforte fled to Mexico and later to Brazil with a substantial amount of cash. He later admitted fleeing the jurisdiction to avoid his inevitable prison sentence. As a result, he was indicted in federal court on March 10, 1981 for failing to appear in court. Nevada filed similar charges for his failure to appear for the Lyon County bribery case. Before fleeing in 1980, however, Conforte began paving the way for his return. Conforte telephoned Geoffrey Anderson, suggesting that in exchange for "some help" from Anderson, he could supply incriminating information about Claiborne. "If you want him, I will give him to you in (sic) a platter," Conforte told Anderson according to his later court testimony. Yablonsky seemed to confirm both the time frame and the essence of the conversation.¹⁹

Conforte returned to Nevada on December 4, 1983.²⁰ At that time, Conforte's legal status included approximately \$26 million in IRS liens against his property, pending

¹⁸ State Bar of Nevada v. Claiborne, at 142; Reno Evening Gazette, September 15, 1980.

¹⁹ State Bar of Nevada v. Claiborne, at 144.

²⁰ Claiborne v. United States, 781 F. 2d 1327,1329 (1986); State Bar of Nevada v. Claiborne, at 142.

criminal sentencing in both the federal employee withholding tax case, and the Nevada bribery case, potential monetary fines in each case, and two civil lawsuits.²¹ Conforte had everything to gain and nothing to lose in cooperating with the government.

In exchange for his testimony before the federal grand jury and at Claiborne's later trial, Conforte improved his status considerably. The Department of Justice agreed to recommend: 1) that Conforte be re-sentenced in his federal tax conviction case to concurrent, rather than the original sentence of consecutive, five-year terms on each of the four counts on which he was convicted, 2) that all but 15 months of each five-year sentence be suspended, 3) that any sentence imposed should be served concurrent with any sentence imposed by Nevada on any pending charges, 4) that the federal charges for fleeing the jurisdiction should be dismissed, and 5) that the Department of Justice would assist Conforte in negotiating plea agreements with regard to the pending Nevada charges. Obviously, this was a very good deal for Conforte. On December 15, 1983 (eight days after Conforte's Reno grand jury testimony), Judge John Lewis Smith of the United States District Court for the District of Columbia re-sentenced Conforte in conformity with the terms of the above recommendation.²² He served a total of five months in prison.²³ Although the agreement did not address the pending tax liens, Conforte testified that, although the IRS at one time claimed his tax liability was about \$19 or \$20 million, he eventually settled his entire tax liability for \$7.3 million.²⁴ Clearly, federal prosecutors were out to get Claiborne.

²¹ State Bar of Nevada v. Claiborne, at 143.

²² Claiborne v. United States, 781 F. 2d, at 1329; State Bar of Nevada v. Claiborne, at 150.

²³ Claiborne interview, 345.

²⁴ State Bar of Nevada v. Claiborne, at 149-150, 152.

After its lack of success in Portland, the Justice Department again changed geographical directions and convened a fourth grand jury in Reno in June 1983. This grand jury, for the third time, considered charges of bribery involving Conforte. This time, however, the grand jury heard the live testimony of Conforte and returned a seven-count indictment against Claiborne on December 8, 1983, one day after Conforte's testimony and only four days after he returned to Nevada.²⁵ Four counts, the "Conforte counts," involved the claim that Claiborne solicited and received bribes from Conforte; two other counts involved tax evasion (unrelated to the alleged bribes) concerning the under reporting of income on his 1979 and 1980 federal income tax returns; and the final count alleged he filed a false financial disclosure statement with the Judicial Ethics Committee for the year 1978.²⁶

Claiborne's trial began in Reno on March 12, 1984. Conforte testified for three days and claimed that he paid Claiborne \$85,000 in bribes in 1978 and 1979. Specifically, Conforte said he bribed Claiborne in exchange for rulings in Conforte's post-trial motions in a pending criminal case against him. However, these allegations were proven to be false when Claiborne's lawyers demonstrated that Claiborne had never presided over or ruled on any aspect of Conforte's case. That case had been handled by another judge. Conforte also testified that he paid another bribe to Claiborne for his favorable treatment of certain subpoenas issued to Conforte's employees in a voting fraud investigation. Federal prosecutors offered no evidence besides Conforte's unsupported testimony to support this claim. Claiborne supposedly took another bribe to secure a favorable result in Conforte's appeal of his federal conviction regarding employee

²⁵ State Bar of Nevada v. Claiborne, at 139.

²⁶ State Bar of Nevada v. Claiborne, at 154.

payroll taxes, although the case was pending before the appellate court at the time of the claimed bribe and was beyond Claiborne's jurisdiction or alleged influence.²⁷

After twenty-two days of testimony and eight days of deliberation (over 52 hours), the jury announced that it was "hopelessly deadlocked." Jurors later reported they were 10 to 2 for acquittal on the bribery charges and 9 to 3 on the income tax counts.²⁸ Judge Walter Hoffman of Virginia, appointed by U.S. Chief Justice Warren Burger to preside over the case, declared a mistrial and scheduled a new trial.²⁹

Due to the brothel owner's lack of credibility, the prosecution surprised no one when they announced on June 27, 1984 that they were dropping the "Conforte counts" against Claiborne. They claimed the evidence relating to those counts "may have distracted the jury in its consideration of (the remaining counts) and contributed to its inability to reach a verdict on those counts."³⁰ Observers believed Conforte made a poor witness and the prosecution presented little evidence to corroborate his testimony. There was even talk about demanding that the Justice Department indict Conforte for perjury.³¹ The prosecutor, Steven Shaw, reportedly conceded to a special panel of the Circuit Court that Conforte had lied both to the grand jury and at the federal court trial, although he claimed to have had no knowledge of Conforte's fabrications at the time he presented Conforte's testimony and, it should be emphasized that he took no steps, however, to charge Conforte with perjury or to revoke his probation.³²

²⁷ Claiborne, 781 F.2d, at 1328-1329.

²⁸ Claiborne interview, 345.

²⁹ Sun, April 14, 1984.

³⁰ Claiborne v. United States, 765 F.2d, 784, 789 (1985).

³¹ Sun, July 29, 1984.

³² Sun, January 27, 2004.

The re-trial began on July 31 and proceeded on only the two federal income tax counts of tax evasion for the years 1979 and 1980 and the judicial financial disclosure report for 1978. The government claimed that Claiborne intentionally under reported taxable income in the amounts of \$19,000 and \$88,000 for the years 1979 and 1980, respectively. The income represented legal fees earned before becoming a judge, but he received the money after taking the bench. Payment to Claiborne was made in the form of checks. Both parties agreed that Claiborne did not deposit all the checks in his bank account, but cashed several at a local casino, Binion's Horseshoe. The government conceded that Claiborne properly reported the income represented by money deposited in his bank, but he failed to report the checks which he cashed.³³

On August 10, 1984, the jury returned guilty verdicts on the two income tax charges, but an acquittal on the judicial financial disclosure report. The jury deliberated only four and one half hours. The newspaper reported that a "trace of a smile" crossed Judge Hoffman's face as, hands shaking, he read the verdict.³⁴ Judge Hoffman sentenced Claiborne to serve two years in federal prison on each count, the terms to be served concurrently, imposed a \$10,000 fine, and assessed him costs of prosecution in the amount of \$14,384. Claiborne began serving his sentence in May 1986, and eventually served the entire sentence. He was denied parole twice.³⁵

Claiborne's conviction triggered his impeachment hearings. In September 1986, proceedings were instituted in the United States Senate on four counts of impeachment. Aired live on C-SPAN and covered by all the major networks and newspapers, the trial

³³ Claiborne v. United States, 765 F. 2d, at 796-797.

³⁴ Sun, August 11, 1984.

³⁵ Claiborne interview, 358; State Bar of Nevada v. Claiborne, at 169-170.

was conducted before a twelve-member special committee of the Senate, rather than the Senate as a whole. A vote by the full Senate was scheduled for October 9, 1986. Before the full Senate voted, transcripts from the committee hearings were placed on each of the Senators' desks. This contained the evidence which the full Senate was to consider in rendering its decision on Claiborne's impeachment trial. Before the vote, Cannon said, "Look at the desks. You will find a copy of the transcript on their desk just like the Senate pages put it. Unopened. Not read." Claiborne believed that none of the transcripts were opened or read before the Senators voted on his impeachment. Claiborne attributed this to "indifference" by the Senators.³⁶ On that date, and without further hearings, the full Senate voted that Claiborne was guilty of three of the four counts of impeachment based upon the evidence contained within the unopened and unread transcripts.³⁷

Consequently, Claiborne became the first sitting United States federal judge to be removed from the bench in 50 years, and the 13th federal official to be impeached by the House. He was also the first federal official to be convicted by the Senate without the benefit of the full Senate hearing the evidence. Claiborne not only lost his position on the bench, but spent 13 months in a federal prison in Alabama and five months in a North Las Vegas halfway house, only the second sitting federal judge to be imprisoned.³⁸

On May 27, 1986, the Nevada Bar Counsel requested that the Nevada Supreme Court temporarily suspend Claiborne from the practice of law and refer the matter to the Southern Nevada Disciplinary Board to assess the extent of the discipline resulting from

³⁶ Claiborne interview, 357.

³⁷ State Bar of Nevada v. Claiborne, at 171; Sun, January 20-21, 2004.

³⁸ Sun, January 21, 25, 2004.

his conviction. The Supreme Court asserted its inherent authority to discipline the Bar, and recognized its obligation to conduct an independent and de novo review of the record to determine whether discipline in any particular instance was warranted. On May 18, 1988, the Supreme Court issued a 131-page written opinion entitled State Bar of Nevada v. Harry Eugene Claiborne where it declined to impose punishment upon Claiborne by way of professional discipline, and dismissed the State Bar Disciplinary proceedings.³⁹ In effect, Claiborne could continue to practice law in Nevada.

The decision was very controversial. The government's prosecution of Claiborne sharply divided Nevadans, especially members of the tight-knit legal community. Some argued that the decision indicated that the Supreme Court was second-guessing the impeachment process itself. But Hank Greenspun fiercely defended Claiborne in numerous articles in his newspaper. In contrast, rival Review Journal, reportedly the long-time recipient of information fed to it through contacts inside the FBI and Justice Department, wrote editorials criticizing the justices for their decision.⁴⁰

The federal courts disbarred Claiborne the day he entered prison. It was automatic. Eventually, he petitioned the federal courts for reinstatement, but it was initially denied. The court stated that he could re-open his petition in one year, which he did. In April 1990, it granted his petition and his right to practice law before the federal courts was reinstated.⁴¹ Claiborne continued practicing in state and federal courts until the day he died.

³⁹ State Bar of Nevada v. Claiborne, at 233.

⁴⁰ Review Journal, January 21, 2004; Smith, Of Rats and Men, 400.

⁴¹ Claiborne interview, 358.

Ten years later, Claiborne admitted that the way he handled his income taxes “was downright stupid. I should have been cautious. I should have known they would have gone after me for tax offenses. If I had been more careful with my return, none of this would have happened.” He acknowledged that no one accepted his explanation that he was just too busy on the bench to pay close attention to his tax return.⁴²

⁴² Sun, October 5, 1996.

EPILOGUE

In 1993, fifty years after he came to Nevada, Claiborne argued his last jury trial at the age of 76. It involved a dispute over a timeshare. The day before trial, outside the presence of Claiborne, Judge Jack Lehman told the opposing attorneys that Claiborne was on the other side of the case and that “you better come prepared.” One attorney commented, “Well, I understand he was very good in his day, but he’s a has-been, he’s old, and he ain’t what he was once.” When Claiborne learned of the comments, “I went after those bastards with a vengeance. I don’t think they think I’ve lost many steps. I know I have, but they don’t know it.” The jury was out for a very short time and returned a verdict favoring Claiborne’s client. After the judge excused the jury, three jurors came over to the counsel table and asked Claiborne for his business card. His first jury trial was in 1947, and his last was in 1993. Few trial attorneys can boast of a courtroom career lasting 46 years.¹

Much of Claiborne’s reputation was based on his spell-binding closing arguments. Local lawyers worked their schedules so they could witness them. He often used a country-boy style, which he admitted was not always genuine, but the juries found it very appealing.² However, Claiborne claimed that “my strongest attribute as a lawyer was cross-examination. I don’t think there was anybody better.”³ He bragged that “I could break any witness.” He would pick out the key witnesses for the prosecution, generally it

¹ Claiborne interview, 67-68.

² Claiborne interview, 72-73, 302.

³ Claiborne interview, 29.

was no more than two, and concentrate on them in his preparation. His style was to keep constant pressure on the witness. “Don’t give the witness time to think what his answer should be. Keep pressing him at the speed that he can’t think.”⁴ When trying a case with Herb Jones, they had a witness they needed to break, and Claiborne said, “I’ll get him, Herb.” He began to press the witness, “I took him over about 1:00 o’clock and I went until about 2:30, and then I began to hammer him and hammer him good. About 3:30 the witness stood up in the witness box, stepped down, began to turn around, and fell right in front of me. He had an epileptic fit.” Claiborne immediately administered CPR, the witness recovered and they convicted the defendant. Using a similar style in a murder case in Ely, “I had this witness on the stand all goddamned afternoon. I saw perspiration breaking out on him. I knew right then, I have him now. I began to very gently say, ‘Now, you could be wrong, right?’ He wanted off the witness stand so bad, he said, ‘Yes.’ That’s all I wanted, reasonable doubt.”⁵

Claiborne understood the difference between aggressive witness examination, arguing with a judge on legal issues, and being disrespectful of either the judge or witness. A lawyer must keep in mind that the case may depend on the attorney’s demeanor, not that of the witness or anyone else, he cautioned. “You would think ordinarily that if you fight with the judge, that it would turn the jury against you. You can not be disrespectful, but you can challenge him left and right.” If it appears to the jury that the judge is not being fair to you, they may hold it against the other side, not yours, he observed.⁶

⁴ Claiborne interview, 123.

⁵ Claiborne interview, 121-123.

⁶ Claiborne interview, 124.

Claiborne tried many cases outside the friendly confines of the Clark County court system. His reputation for an aggressive and flamboyant style preceded him into other jurisdictions. Judges outside Las Vegas often knew him by reputation. They frequently had preconceived notions of his demeanor and his impact upon their courtroom: that is, who was going to be in control, Claiborne or the judge. He recalled one such potential confrontation in Reno before Judge Antonio Maestretti, a former Lander County District Attorney. As Claiborne recalled, Maestretti said, “I know all about your reputation and I want you to know, right now, you’re not going to get away with any of those cunning tricks in my courtroom. You’re not going to take charge of this trial.” Claiborne looked at him and replied, “Judge, I’m going to make a deal with you. You just forget about all those derogatory things you’ve heard about me and I’m going to forget about all the derogatory things these lawyers around here have told me about you. We’re going to start even.” Maestretti’s face grew red, but Claiborne recalled he was a good judge and fair to each side.⁷

Claiborne’s reputation as a successful criminal defense lawyer sometimes had unexpected, and unwanted, results. In 1973, Claiborne finished closing arguments in a criminal trial and was awaiting the jury’s verdict. An eavesdropper overheard some of the jury’s deliberations. The jury was deadlocked at 6 votes each for acquittal and conviction, when one of the jurors commented that if the defendant was really innocent, why would he have to hire a high-powered defense lawyer like Claiborne. Within minutes, the jury returned a unanimous guilty verdict.⁸

⁷ Claiborne interview, 124.

⁸ William Koot, interview by J. Bruce Alverson, April 4, 2007.

The quality of the judge and opposing counsel greatly affected Claiborne's enjoyment of a trial. "The two worst things for a trial lawyer is to try cases before a stupid judge, and the next worse thing is trying a case against a stupid lawyer. You know exactly what a good lawyer is gonna do. You know exactly where a good lawyer's going. But you take a stupid lawyer, you don't know where the hell he's going. They scare me to death."⁹

In a series of interviews with him before his death, Claiborne offered interesting observations about the habits of lawyers in the 1940s compared to today. He felt the "typical old western lawyers and judges sometimes were much more knowledgeable than modern day lawyers for the simple reason that the law was not in the fast lane in those days, like it is now. Lawyers didn't lead a helter-skelter life. They had more time." The nature of the law practice was different. "There was far less litigation in those days. Maybe you would have a case a year, trial a year, or maybe not at all. Your principal service was wills, mortgages, contracts other business related transactions. If the old lawyers did not have a client in the office, they would read a law book. That was their habit." Upon reflection, Claiborne made this comparison, "They were, maybe, better lawyers and did their clients a better job than we do for our clients. Really and truly they were better lawyers than we are. Better lawyers, I guess you would say, in viewing the whole picture. They would not be better lawyers now, we would be better lawyers now. But they were better lawyers in their period of time than we are in our period of time."¹⁰

The increased presence of illegal drugs over the years changed the practice of criminal law. Previously, criminal defendants usually had no money unless they were

⁹ Claiborne interview, 227-228.

¹⁰ Claiborne interview, 250-251.

“mobbed up.” Even if they were successful criminals, they had spent all their money by the time they were indicted and went to court. But drug dealers still maintained their drug business while they were in custody. It was not unusual for them to be operating their business from inside of the jail, according to Claiborne. “I think it made a lot of lawyers rich. When I was on the bench, I’d say at least one-third of all the criminal cases were those cases. Maybe more, who knows,” Claiborne surmised. Consequently, the drug practice not only increased the “client base” for criminal law attorneys by one-third, it created a very solvent defendant as well.¹¹

When asked if friends and colleagues started treating him differently once he became a judge, he answered “yes”, but could not say why. “But it is the truth. It’s kind of like getting and having cancer. Your friends wish you well. They still like you and they still care for you. But, they kind of feel guilty to be around you. I would say there’s a very close parallel to that situation of being on the bench, because I have experienced both.”¹²

Most lawyers lose themselves when they go on the bench. “You kind of get lost for some reason or another. They don’t get out. Especially a federal judge. I guess it’s historical. You get appointed as a federal judge, that’s the last anybody ever hears from you. They isolate themselves. They think it’s expected of them. Seems like they just go in hiding. They stop going to community affairs, also,” explained Claiborne.¹³ Bill Raggio, who rates Claiborne among the top five trial lawyers he’s ever seen,¹⁴ did not believe that Claiborne “fit the mold of an ordinary federal judge. Maybe in that sense, he

¹¹ Claiborne interview, 291.

¹² Claiborne interview, 327-328.

¹³ Claiborne interview, 271.

¹⁴ William Raggio, interview by J. Bruce Alverson, January 4, 2007.

shouldn't have sought the bench. Today, a federal judge has to be almost impersonal. Harry was outgoing and gregarious. It wasn't his lifestyle.... He was a nonconformist--a maverick in judicial robes." During the ceremony for his induction to the bench, Claiborne told reporters, "I plead guilty to being colorful." Even Claiborne acknowledged that his "exuberance" may have created an "imperfect" image for himself. Yet he insisted that he always "kept his feet on the ground."¹⁵

"The longer, it seems, that most judges are on the bench, the more disgruntled they get. It is impatience more than anything else. They get impatient with the length of direct examination, with the length of cross-examination. They get impatient with delays, they seem overwhelmed with a desire to get the case over. New judges will let everybody go on and on. In other words, they will let you try your case, and not only the case, but the fringes," Claiborne observed.¹⁶

Every judge has an obligation to make sure that the defendant gets a fair trial. "Lawyers get out of line, especially in criminal cases. Prosecutors get out of line," Claiborne remarked. But, "if a lawyer is guilty of misconduct, the judge must call him on it, and admonish the jury. Otherwise the judge is not doing his job."¹⁷ Unfortunately a small minority of judges go too far and become "really terrorists" on the bench. According to Claiborne, the worst was federal judge Jack Ross in Carson City, father-in-law of Paul Laxalt. Before Ross went on the bench, Claiborne participated in many cases with him, and he never went to Carson City without making a social call such as lunch or

¹⁵ Sun, October 5, 1996; Review Journal, January 21, 2004.

¹⁶ Claiborne interview, 125-126.

¹⁷ Claiborne interview, 301.

dinner. Most of the time, Laxalt accompanied them.¹⁸ In court, Judge Ross “brutalized me, absolutely brutalized me, and I was shocked, absolutely shocked. I told him afterwards. I told him that I resented it.” He looked at me and said, “Listen Harry, you’re not getting thin-skinned on me are you?”¹⁹ Clark County District Court Judge John Mendoza “was another guy that was outrageously abusive to lawyers and that got him defeated (in his re-election bid.) The lawyers almost en masse went out campaigning against him. Good man. Brilliant mind.”²⁰ Clark County District Court Judge Tom O’Donnell was another. “He was a good lawyer and very knowledgeable,” Claiborne remembered. He was a Jekyll and Hyde: “Terrible temperament on the bench and the most wonderful guy to be with you’ve ever seen in your life. Talk about a transition. I never could understand it.” Despite their friendship, he treated Claiborne “as bad as he treated everybody else.”²¹

The heavy case load awaiting Claiborne when he took the federal bench shocked him. “If I had known the work load of the court at the time, I would have emphatically said ‘no’ when Senator Cannon called me” about the appointment. He was working day and night. “I know that my friends in the FBI set out to do three things. They set out to ruin me financially. They accomplished that. They set out to take my freedom. They accomplished that. They set out to really destroy me. They didn’t do that. But, what they don’t know--they saved my life. I’m sure if they did know, they would not appreciate it. They really did. That’s the truth. Because at the very end when I was on

¹⁸ Claiborne interview, 116-117.

¹⁹ Claiborne interview, 126.

²⁰ Claiborne interview, 134.

²¹ Claiborne interview, 132-133.

the bench, it took me all day Saturday and Saturday night to get rested. I know that would have eventually killed me. God, I hate to say it, but I'm living because of the FBI." (Laughter)²²

While many Justice Department officials disliked Claiborne, colleagues in the legal profession generally admired his trial skills. Indeed, two former district attorneys expressed admiration of Claiborne's trial skills. "Claiborne was without a doubt the greatest criminal defense lawyer in the southwest United States. We always used to call him the 'Arkansas preacher.' He just had that knack of captivating a jury," according to George Dickerson. "I think he's the greatest criminal defense lawyer I ever saw, head and shoulders above anybody else," George Foley said, more than 50 years after he first met Claiborne.²³

How did Claiborne personally deal with his fall from grace--from his status as a nationally recognized trial lawyer and federal judge to impeachment and prison? "Clearing my name is not a priority anymore," he declared years later. "I don't worry about it. They took away a lot of things I cared for. They took away a lot of things I enjoyed, and they heaped a lot of pain and suffering on me. But they didn't win because I'm a better man today than I would have been had I retired and walked away from the federal bench putting in my full term."²⁴ But, he was determined not to let it eat away at him. "I always figured that bitterness resulted in continued unhappiness for people. It just isn't worth it. As well as hatred. I have no hatred toward anybody who brought this on. It takes a lot of energy to hate. If you've got to pick up the pieces and go forward

²² Claiborne interview, 329.

²³ Review Journal, January 21, 2004.

²⁴ Sun, October 5, 1996.

with your life, you need all the energy you've got.”²⁵ Claiborne adopted a pragmatic philosophy about his future. “Go your way. Forget it. It's done. It's over with. Don't dwell on the past. Go on and have a productive life. I never thought of it anymore. I never talk about it. I never bring it up. I never think about it. It's part of my life that's done and gone. I can't resurrect my life beforehand. Just go on and do something with what you have left. As the old saying goes: I never have a thought of what I lost, I was just grateful for what I had left.” He recognized the opportunity that the Supreme Court decision gave him. “I was so grateful that the Nevada Supreme Court didn't disbar me. That I was able to be readmitted in the federal courts. My profession gave me an opportunity to pick up the pieces and move forward. As a result, I have done well. I went right back into the practice of law and I've been productive for my clients. I did well.”²⁶

To be sure, Harry Claiborne was a character, a maverick molded in the maverick city and state that became his home for more than a half century. But he was also a gifted lawyer and a middle-of-the-road Democrat whose lifetime experiences as the son of an anti-Klan southern father in the Great Depression, as an M.P. in World War II, and as a New Deal rent regulator, gave him a liberal view on many issues. While Claiborne represented big casino moguls such as Jay Sarno and Texas wiseguys such as Benny Binion, he also defended disreputable characters such as Lawrence Arvey and sleazy politicians such as Nate Adler while also taking dozens of pro bono cases in recognition of his responsibilities to the Bar and to his community. True to his commitment, whether his clients were wealthy or destitute, he gave them all the same spirited effort.

²⁵ Sun, January 20, 2004.

²⁶ Claiborne interview, 225.

In many ways, Claiborne's upward mobility from policeman to high-profile lawyer and eventually to federal judge clearly reflected the opportunities and rewards that mid-century Las Vegas offered talented professionals. While Claiborne's career was in many respects exceptional, other attorneys also prospered in a town racing toward its glorious future. Indeed, just as Claiborne was not the same lawyer in the 1940s that he was at the century's end, neither was his city, whose dramatic expansion created myriad opportunities for Claiborne and his colleagues. He clearly took full advantage of them and through the force of his strong and charismatic personality, propelled himself into a position of prominence both locally and nationally. Claiborne's life and career offer a glimpse of the forces that drove the sleepy railroad town of 1940 to its present-day status as a world destination. As part of that process, the business and social community evolved from a 'good old boy' system to one dominated by large corporations. In some respects, Claiborne's fall from grace was almost predictable, as tourism and casino gambling transformed the city and state from the periphery to the core of American popular culture—a transformation that concerned both moralists and Justice Department officials. Claiborne's rise and fall epitomized this conflict. He was elevated by the old and fading system of the 1950s and '60s and brought down by the new forces in town led by Joe Yablonsky and the Strike Force attorneys. Claiborne's story is not only marked by the loyalty and friendship of those who built 20th Century Las Vegas, but also by the prejudices and vengefulness of those who abhorred it.

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