

Revised 5-1-06

THEME 2

FADE IN:

Camera pans across the pictures of judges who ran for the first three seats on the bench.

NARRATOR

With a fledgling court beckoning, 16 judges had become official candidates for the three seats on the Georgia Court of Appeals by the time the ballots for the November 1906 elections were printed.
(a beat)

They came onto the scene from all over the state. They had a variety of legal backgrounds and judicial experience. Some saw it as a stepping stone to higher courts across the land. Some saw it as an end goal in itself. Some didn't ask for the judgeship at all.

We see the photos of the first three Georgia Court of Appeals justices. Superimposed is the title: "The First Three Justices."

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By the letter of the law, only three men could emerge as the first judges of the Georgia Court of Appeals. Here are their stories.

We see a photo of Benjamin Harvey Hill with his name superimposed. Lou Reed's "Who Am I?" plays in the background.

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Born Cicero Holt Hill,
Benjamin Harvey Hill, while in
college at the University of
Georgia, took the name of his
father. So famous was the
senior Hill that a published
memorial for the son began
with a description of the
father.

Camera pans across the 1922 Memoriam for Hill.

NARRATOR

But in his professional life -
as a lawyer, a member of the
General Assembly, the
Solicitor-General of the
Atlanta Circuit and as a U.S.
District Attorney - Hill
emerged from his family shadow
and made a distinct name for
himself.

The Georgia Bar Association,
1906.

We see Hill's picture again.

MEMBER OF THE
GEORGIA BAR

We think that this court
should be composed of lawyers
of acknowledged ability and of
high personal character. We
have practiced law with you -
some of us for many years -
and we believe that you
possess, in a marked degree,
the qualifications essential
to a good judicial officer.

NARRATOR

Although the state's legal
minds held Hill as a favorite
for the Court of Appeals,
voters seemed less convinced -
at least at first.

We see newspaper clippings about Richard Russell and A.G.
Powell's lead in the polls with third place up for grabs.

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Since the Court of Appeals election was done by popular vote throughout the state, it would be days after the ~~November 1906~~ election before results were made known. Newspapers across the state had projected that Richard Brevard Russell and Arthur Gray Powell were the sure winners and that third place would likely be won by Henry C. Peeples.

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Days after the projections were published, the papers would have to correct their initial reports.

We see the newspaper article announcing the official results of the election.

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Hill would serve on the Court of Appeals as its first Chief Justice until 1913. He ran for re-election seven years later and won, serving on the bench until his death in 1922. In the memorial published in his honor - the same memorial that recognized his father first - it was said Hill was "unparalleled in efficiency, brilliancy and the amount of work done." During his tenure on the Court of Appeals, Hill became famous for an eloquence and grace with the English language, both written and verbal.
Benjamin Harvey Hill:

HILL

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Born to a renowned and famous father, Hill died having achieved a voice, and a name, for himself.

FADE TO a photo of Richard B. Russell. The song "Fortunate Son" by John Fogerty plays in the background. Russell's name is superimposed.

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He was described as an "essentially poor man with a narrow margin of this world's goods." He conducted a low-cost campaign that relied more on word of mouth than endorsement by large newspapers and famous politicians. When his name was first mentioned as a candidate for the Court of Appeals, "there was scarcely a man who did not laugh it to scorn," one newspaper wrote.

CUT TO interview with Russell's granddaughter Sally Russell. Her name and title are superimposed.

SALLY RUSSELL

Well, he actually did not decide to run for the judge, for the judgeship, because he had just run for governor in 1906, and that was a pretty moderate race in a lot of ways, but it was supposed to be between Hoke Smith and Clark Howell, and then Russell got in. And in those days they did sort of decide who was going to run for governor in the smoke-filled back rooms. I think it was more tobacco juice back then, not so much smoke. But they didn't start smoking so much until after WWI, but they've supposed to be those two candidates. But then Russell decided he had always wanted to be governor from the time he was a young boy, he had wanted to be governor.

SALLY RUSSELL CONT.

He had also wanted to be Chief Justice of the Supreme Court and he had run for that in 1904 because he thought that the sitting Chief Justice was ill. He was ill, and he thought it would be better if the people elected a judge rather than he would die and then someone be appointed, which is what happened, of course. But it wasn't really kosher to run against the sitting Chief Justice but he did and he had a good response to that so he felt that he would have a chance in the governorship. Two more candidates got into the governor's race, there were five in all. But Hoke Smith was by far and above the one man who was elected but Russell came second.

But, it was a hard fought race and very it was disappointing to him because sometimes, you know, when you are in those races and all you are hearing is from your supporters, you think you have more of a chance than you do. And so he was disappointed.

He was so disappointed that he did go into a depression and they also lost a child at this time. A baby died right at the very same time as the election, he died about a week after the election. So, his friends wanted him to...they wanted to cheer him up and they...this Court of Appeals had been passed that summer, the ruling for it.

SALLY RUSSELL CONT.

And so there was to be this unusual race in November that anybody who could qualify could run, and it was going to be a statewide race, not a county unit thing and all. So they felt he had every chance and they wanted Georgia, these were a couple of lawyer friends, and they wanted Georgia to have some good judges, so they said, "We're going to run you for this." And he said, "I can't run for it." He said, "I have no money, I don't even have the qualifying fee." Which was true, he had no money. And so they paid the qualifying fee.

And he said, "Oh, and if you put my name on the ballot, I will not be able to run, I won't solicit a vote". He said, "I just can't." And this particular lawyer friend, Walter Brown, was also a good friend of Ina, the wife. And she said, "That's true, he shouldn't even be on the ballot, we'll just, you know, forget this". But Walter thought, "He'll be better off and we'll be better off if we run him". So they put him on the ballot, and there were sixteen people on the ballot and he did come first. He had more votes than anyone.

We see the newspaper article about Russell's campaign.

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Richard B. Russell navigated the road of his political and judicial career through sheer hard work. Along his gubernatorial campaign trail, Russell was known to give sometimes eight speeches a day, starting from sunrise to sunset. The Atlanta Georgian, 1906:

THE ATLANTAN
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It is simply honest to say that this indefatigable man of the people has worked his way by colossal energy and by keen, strong tongue, and a vigorous, active brain, and an absolutely dauntless heart up into the front rank of the state campaign.

Once again we see Russell's photo.

NARRATOR

Married twice, Russell fathered a total of 18 children, one of which - Richard Russell Jr. - became Governor of Georgia and a U.S. Senator. Russell's grandson - Robert Lee Russell - would also serve as a justice on the Court of Appeals, the only Grandfather-Grandson combination in the history of the court.

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At age 21 Russell was elected to the Georgia Legislature, served six years, and authored bills establishing the Athens public schools and the Georgia State College for Women. He was elected Solicitor-General and later Judge of the Western Circuit, before landing the Court of Appeals seat that ultimately saw him as Chief Judge of that court. Later in his career he would make history again, when he became Chief Justice of the Georgia Supreme Court, the only person to hold chief positions of both courts.

The memorial to Russell pans across the screen.

NARRATOR

Russell's reputation of an unmatched work ethic followed him through his career until his death in 1938. (a beat) Russell was known for dictating notes sometimes 20 hours straight. It required a relay of stenographers to complete the work. His death only imbedded the stereotype of his work ethic more deeply. His memorial reads:

We hear the narrator begin to tell this story, but the audio of a colleague's voice is overlaid.

COLLEAGUE

The day before his death, the great and beloved Chief Justice had spent the day at the Capitol, laboring with his associates on the final work of a closing term. He had cleared his desk of all cases then to be decided, had gone home, and, as if merely resting from a day's work, had lain down upon his bed and quietly passed away.

The grief of his friends was tinged with pride in the fact that he died as he would like to have died - in the harness.

Russell's photo slowly fades to black.

FADE TO a photo of Arthur Gray Powell. Superimposed on the screen is his name. Coldplay's "Speed of Sound" plays in the background.

NARRATOR

In his day, he was known for his ability to work at lightning speed. At 33, he was after all the youngest Court of Appeals justice - a distinction he still holds today. But history is more likely to see Arthur Gray Powell as a grandfather - the grandfather of the Georgia Court of Appeals.

CUT TO: The interview with Elliot Goldstein. Superimposed is Goldstein's name and profession/title.

GOLDSTEIN

I'm Elliott Goldstein. I'm the second generation in a law firm. My father is Max Goldstein who practiced law with Judge Powell. I was around lawyers but he was absolutely the pinnacle of the legal profession.

All I know is that he was the first judge and I know that he was really, many people thought he was, the author of the [inaudible] of the Court of Appeals and then he became one of the first of three members of the Court.

The camera pans across the chapter Powell wrote in The Georgia Review entitled "The Birth of the Court of Appeals of Georgia".

NARRATOR

Arthur Gray Powell, 1948:

POWELL

As I look around me I find no other living person to tell the story; no one who can say, "I myself saw and knew of these things."

Camera pans across photos of Powell.

NARRATOR

Powell could say that, having served from 1901 to 1906 on Bar Association committees that considered the creation of the Court of Appeals. (a beat)

Powell was a prolific writer, made possible by his fast manner of working. Besides the thousands of opinions he published, Powell also authored textbooks on land law, a subject on which he became known as a foremost expert. On his 70th birthday, Powell wrote his autobiography, "I Can Go Home Again."

Camera pans across the autobiography cover page.

We now see the newspaper reports about the organization of the Court of Appeals.

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But for the Court of Appeals, Powell's most important authorship was that of the rules of the Court, the blueprint of how the Court would be formed and would function.

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The draft I submitted for the organization of the Court was quite satisfactory, until I got to the provision as to the Chief Judgeship.

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A provision in the law which created the court stated that the oldest judge elected should be the Chief Justice of the Court. Judge Richard Russell:

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I denounce this! Age is merely accidental! The superiority of judicial experience should determine who acts as President of this Court. If anything, let the popular vote decide who be granted the Chief Judgeship.

We see photos of Powell and Hill.

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Although Powell admitted Russell's arguments were "plausible", the arguments did not sway the youthful Powell, nor did they sway the eldest member of the Court Benjamin Harvey Hill. When the three men voted for the Chief Judgeship it would be Powell who cast the deciding vote, making Hill the first Chief Justice.

NARRATOR CONT.

Powell sat on the court from 1907 to 1912. Afterward he would go on to practice law successfully for a total of 57 years. On Aug. 5, 1951, Powell died - or in his likely words, (a beat) he went home again.

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Camera pans across the 1922 Memoriam for Hill.

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But in his professional life -
as a lawyer, a member of the
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Solicitor-General of the
Atlanta Circuit and as a U.S.
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emerged from his family shadow
and made a distinct name for
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The Georgia Bar Association,
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We see Hill's picture again.

MEMBER OF THE
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We think that this court
should be composed of lawyers
of acknowledged ability and of
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have practiced law with you -
some of us for many years -
and we believe that you
possess, in a marked degree,
the qualifications essential
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Although the state's legal
minds held Hill as a favorite
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Days after the projections were published, the papers would have to correct their initial reports.

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Not only did Hill emerge into the top three, he landed more votes than any other candidate, albeit only edging Powell by a mere nine votes.

Camera pans over the photo of Hill once again.

Delete from Video

Change to stating he had more votes in general election

NARRATOR

Hill would serve on the Court of Appeals as its first Chief Justice until 1913. He ran for re-election seven years later and won, serving on the bench until his death in 1922. In the memorial published in his honor - the same memorial that recognized his father first - it was said Hill was "unparalleled in efficiency, brilliancy and the amount of work done." During his tenure on the Court of Appeals, Hill became famous for an eloquence and grace with the English language, both written and verbal.

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