

ORAL HISTORY OF JUDGE JAMES ROBERTSON

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is Ann Allen, and the interviewee is James Robertson. The interview took place at the Federal Courthouse on November 6, 2003. This is the first interview.

MS. ALLEN: So let me just start with a general question about where you were born and grew up and your family.

MR. ROBERTSON: I was born in Cleveland, Ohio in 1938 as one of twins. My parents were a little older than most parents. My father was born in 1891 and my mother in 1902. My sister and I were their second and third children, the last of their three children. My father, at the time I was born, worked for the Cleveland Trust Bank in Cleveland. I am not exactly sure what the story is, but after some years he was on the outs with the president of the bank, George Gund, who went on become a very wealthy Clevelander. My father left the Cleveland Trust Bank and joined, what I think we would call today, an investment banking firm called Otis & Company in Cleveland, which got into some trouble with the SEC. My father saw that coming and got out because he had nothing to do with the SEC problems. He tried to continue working as an independent financial consultant. All of this occurred over a period of, I don't know, five, six, seven years, when we lived first in Cleveland and then in the little college town of Oberlin, Ohio. Oberlin is the town that I consider my home town.

MS. ALLEN: How old were you when you moved there?

MR. ROBERTSON: Probably two or three years old.

MS. ALLEN: Oh, very young.

MR. ROBERTSON: Yes. We moved away from Oberlin when I was about 12. My sisters and I reconstructed this recently. So it's amazing how the years between three and twelve are the years that anchor one in a place. I've always considered Oberlin my home town, even though I only lived there for nine years.

MS. ALLEN: So when you think back on your childhood, that's home?

MR. ROBERTSON: Yes, that was home.

MS. ALLEN: Was your family from Cleveland originally?

MR. ROBERTSON: No. My father was from Wabash, Indiana. My mother was from Kansas City, Missouri. They met – my father was sort of an itinerant banker. He was in Chicago at the time of the Black Tuesday crash in the stock market and wound up in Cleveland somehow. My mother was a psychiatric social worker, kind of a very early psychiatric social worker. In those days, to be a psychiatric social worker, you had to undergo analysis. So I was raised with a lot of psychiatric social workers and psychiatrists. My mother never told us whether we were being good or bad, she told whether we were being normal or not.

MS. ALLEN: Did she work outside the home when you were growing up?

MR. ROBERTSON: She went back to work after my father's employment situation got shakier and shakier. When he left Otis & Company I think he began on this independent financial consultant track. She found it necessary. She went

back to I think Smith College and got a refresher degree in social work and went back to work in a mental hospital in Cleveland.

MS. ALLEN: She was kind of, I would think, the exception then among your friends' parents?

MR. ROBERTSON: She definitely was. She did not work at all until, as I say, until I was about nine or ten, but then she went back to work and worked from then until the end of her working life.

MS. ALLEN: So you weren't in Oberlin because of the college?

MR. ROBERTSON: My father, I told you he'd been in Chicago, he got caught with a short position in stocks in Chicago and had a substantial amount of debt that arose from that. He felt it was unprincipled to file for bankruptcy and never did. He carried with him the debt that he incurred in the stock market crash of 1929 for virtually the rest of his life. My mother used to tell the story of when she met my father and was considering marrying him, she learned that he was in debt to the tune of \$100,000, which in those days was a very great deal of money, and she thought he must be pretty important to be in debt for that much money [laughter]. But I've kind of forgotten the question.

MS. ALLEN: I'd just wondered if your family moved to Oberlin because of the college.

MR. ROBERTSON: Because of the debt. Life in Cleveland for a not-so-young vice president of a bank and the attendant lifestyle of country clubs and so forth was not what they wanted and not what they could afford, so they moved out to Oberlin for what they called "high thinking and plain living" and

commuted. He commuted for years to Cleveland by the train back and forth every day.

MS. ALLEN: So you then were in Oberlin until you were twelve?

MR. ROBERTSON: When I was about twelve, my father was not making a very substantial income with his independent financial consulting and got a job working for the Air Force as a procurement specialist. He was a GS16, one of the first GS16s in the government. That was before the senior executive service. We moved down to Dayton, Ohio. I went to public high school in Dayton my freshman year in high school, and then I left home and went back to northern Ohio to a little boarding school in Hudson, Ohio called Western Reserve Academy, and I spent three years there.

MS. ALLEN: Was that a hard decision to leave the public high school?

MR. ROBERTSON: It was a wonderful decision. It was very easy for me. I came from this little tiny college town where I knew everybody to what I thought of as a big city high school. Dayton, Ohio was a big city. Now, of course, from Washington, it is ludicrous to think of Dayton as a big city, but everything is relative, and it was a big city. And I don't think I was doing very well, and I was a year ahead of my class anyway because I had been skipped a grade, and I was probably a little immature for the high school scene. My parents put me in line to go to this school. I received a scholarship to go there, and it changed my life. It was a wonderful experience, wonderful experience. All boys school, great teachers, small class. Very, very highly privileged atmosphere to be in. I was just plain lucky to be there.

MS. ALLEN: This is a boarding school, obviously?

MR. ROBERTSON: It was and is a boarding school. There were some day students, but mostly boarders. I got home at Thanksgiving and Christmas and Easter, but not on weekends. Hudson and Dayton were 200 miles apart, and in those days, that was a long way to go for a weekend. Now people bounce back and forth and think nothing of it, but in those days you didn't do that. Besides, we were in class until noon on Saturday.

MS. ALLEN: What was growing up as a twin like? Do you think you were closer to your sister who is a twin, for example, than your other sister?

MR. ROBERTSON: I actually am probably closer to my sister today than I was growing up. For one simple, and I think in retrospect, kind of a disturbing reason. In those days, the doctrine was that twins shouldn't go to class together. So there were two first grade classes in Prospect Street Elementary School, and they split us up in first grade, put one in one class and one in the other. And we screamed and yelled about it for a day or two, and then we kind of went separate ways. And I skipped the second grade and she didn't, and then she skipped the eighth or ninth grade, but by that time I had left home and we had different trajectories and somewhat different friends and it's kind of sad when you think about it. She, until quite recently, lived just outside Washington over in Fort Washington, Maryland. So we've spent twenty years living close together, and we are very, very close now. Growing up, she was my sister, but the twin aspect of it was not emphasized very much.

MS. ALLEN: Interesting. So you went off to boarding school. Before you went, were you very studious or were you athletic?

MR. ROBERTSON: I was not very athletic, that's for sure. Studious, I don't know that I was studious. I suppose I had the gift of quickness and cleverness more than I did study. So I was good at math and good at spelling and good at all that. But I did very well in prep school, high school, boarding school. I think I graduated number one in my class from that school. I did much better there than I did in college I must say. But I was also one of the biggest kids in school.

MS. ALLEN: You obviously were tall.

MR. ROBERTSON: I was tall. I was skinny, but I was tall. But I couldn't play basketball at all. You had to do some sports there all seasons, so I played football in the fall, was on the wrestling team in the winter and played baseball in the spring. You had to do sports.

MS. ALLEN: What were your favorite subjects in school?

MR. ROBERTSON: Well I hate to make this sound like I'm writing my resume, but since you want all the facts, I was first in my class at school. I was editor of the school paper, I was chairman of the student council, and I got the prize at graduation for best Latin student.

MS. ALLEN: Best Latin student, wow.

MR. ROBERTSON: I love Latin. I studied Latin for four years in high school. I'm fond of saying today that the most important things I learned, maybe the only things I learned in high school, were Latin and typewriting.

MS. ALLEN: Two very disciplined fields [laughter]. You went to Princeton. How did you decide where to go to college? Was it a difficult decision?

MR. ROBERTSON: Well, there is a short answer to that question. My father went to Princeton.

MS. ALLEN: Okay. There's a longer answer too, probably.

MR. ROBERTSON: Well, not much longer. In those days the competition was nothing like what it is today. The truth is that Princeton is the only place I applied. Can you imagine doing that today? What chutzpah that is.

MS. ALLEN: Right!

MR. ROBERTSON: Not only that, but I applied to Princeton for the Navy ROTC scholarship, and I got their NROTC scholarship, and I got into Princeton, and the Navy paid my entire way through Princeton. Tuition, room and board, books, uniforms and \$50 a month. Amazing program.

MS. ALLEN: Did you apply for that because you were interested in the Navy or were you looking for different kinds of scholarships? I'm curious, and I digress a bit, but my brother did the same thing, went to Princeton and did their NROTC scholarship, and I never quite knew which came first, Princeton or the Navy.

MR. ROBERTSON: Did he? I believe – and I wish I knew who it was– but I believe there was somebody at Western Reserve Academy who had told me about the possibility of the NROTC scholarship. I've had an awful lot of luck in life, and one of the lucky things was having a teacher or a placement person in school who found this for me, suggested that I apply and kind of

sent me on my way. I mean I don't know that I was enterprising enough to find it myself. But I filled out the form when they got it for me and got this NROTC scholarship, which, if your brother did it, you know that not only does it pay your way through college, but it gives you summer jobs every summer that you are in college. So I was off on one cruise or another for all three summers while I was in college.

MS. ALLEN: Great.

MR. ROBERTSON: Very, very lucky and again, privileged experience.

MS. ALLEN: You graduated from college in 1959. So I guess when you were in college, the Korean War was over, so you missed that.

MR. ROBERTSON: I vividly remember, I think it was the summer of 1958 when we landed troops in Lebanon. Eisenhower landed troops in Lebanon in 1958, and I was on a summer cruise that summer and I was on a destroyer, and we were – the cruise went up the St. Lawrence River – I mean that's a pretty cushy way to take a summer cruise. Went to Montreal on a destroyer. But at the particular time this Lebanon thing broke, the ship was in New York and we were all on liberty, and the word got out that everybody was to return to the ship because we were being mobilized and we were going to go to Lebanon. Well, these were a bunch of college boys. We thought we were non-combatants. We didn't think they could send us to Lebanon. Of course they could, but it wound up that we didn't go to Lebanon. The whole thing evaporated. We didn't have to go anywhere, but I remember very vividly thinking I was actually going to war. As it turned out, I spent

three years at sea in the Navy after four years of being a midshipman. Then I spent two more years in the Navy after I did my sea duty while I was going to law school, and we'll get to that later. I never heard a shot fired in anger. It was just a, it was kind of a spit-and-polish Navy doing a lot of maneuvers but not engaged with anybody.

MS. ALLEN: When you went off to Princeton, did you have a sense that it was a real break with Ohio at that time?

MR. ROBERTSON: No, I didn't have that sense, but it turned out to be. I thought I was going to Princeton and then I would return to Ohio. I had no idea to do what. But I never did go back to Ohio except for weddings and funerals and so forth. I just stayed on the east coast after that and have been here ever since.

MS. ALLEN: When you were at Princeton, what did you major in, concentrate in?

MR. ROBERTSON: I went through something called the Woodrow Wilson School of Public and International Affairs. It's a graduate school at Princeton, but there's also an undergraduate program. It was an interdisciplinary program involving history, politics, economics, sociology, at least those four disciplines. It was widely thought of at that time as a pre-law program, although I didn't really know that I was pre-law. I kind of thought I might be, but it was the way to prepare yourself if you had law school in mind. I now say that I majored in Committees, because the method of the Woodrow Wilson School was – what set it apart from the rest of the academic curriculum – was that students in their junior and senior years

would be divided each semester into study groups and the study groups would take on some public issue and study it and issue a report.

MS. ALLEN: This was a real public issue? Not a hypothetical one?

MR. ROBERTSON: This was a real public issue. I'm not sure that I can remember all the public issues that we had, but one I do remember had something to do with nuclear power, what should be the national policy with respect to nuclear power? And the process was you would meet, the first meeting in the fall, and you'd talk about the what the issues were and you'd have a couple of more meetings trying to figure out what the issues were, and then you'd decide on the topics that had to be studied and parcel out the topics and all go out and study and write papers, and come back and then you'd discuss them, and the discussion would somehow turn into a committee report, and then there would be conclusions and you'd debate the whole thing out. So it was literally learning to work by committees. And you did that once in the fall, once in the spring for each of two years. And when you got to be a senior then you got to be chair of this committee. It was quite interesting. I'm not sure how substantive it was, but it taught you a lot about working with other people and group scholarship in getting things done together.

MS. ALLEN: Was that very different from your other classes in Princeton?

MR. ROBERTSON: It was. I don't even know if it was a course. I think it was sort of laid on top of the courses. You still took a history course and a politics course and an economics course and a physics course and whatever else. The

other courses were lectures. At Princeton, they had something called preceptorials, which are discussion groups. But this methodology, this committee methodology, was overlaid on top of all that in the Woodrow Wilson School. It was interesting, and I think in retrospect, quite useful. Although thinking about college education and what you really get out of it, I think I probably spent too much of my college career studying something called Naval Science, which was one class every semester, which would be guns or navigation or seamanship or something like that. And how to work by committees. I'm not sure how much substance I actually got out of it.

MS. ALLEN: [Laughter]. When did you get interested in the idea of the law as a possible career?

MR. ROBERTSON: I can actually remember quite specifically and vividly when that happened. Edward Bennett Williams came to Princeton to speak. He was at that time representing, I think, Jimmy Hoffa. Hoffa, of course, was a notorious union leader who was always in criminal trouble, and Williams, being the brilliant lawyer he was, was smart enough not only to defend him in court but to make something of a public relations campaign about it. He went around to colleges, including Princeton, and spoke to students about not only the constitutional right to be represented by counsel, but about the whole system of justice and how necessary it was that there be good defense lawyers pushing back against the prosecution, and how the credibility and the sustainability of the American justice system depended

directly on the quality, not only of the prosecution but also of the defense. And I was hooked, perhaps in some naïve college student way. I was hooked on the idea of the law, and the rule of law as the cement that held society together, and I set my sights on law school right then and there.

MS. ALLEN: Do you remember what year it was?

MR. ROBERTSON: I don't remember. It may indeed have been before I even applied to the Woodrow Wilson School. It may have been the reason why I applied for the Woodrow Wilson School, but I can't reconstruct that anymore. I mean I could, but I haven't.

MS. ALLEN: But it wasn't senior year? It was fairly early on?

MR. ROBERTSON: It was fairly early on. And another thing that happened fairly early on, and it in some way informed this whole thing – and I was involved in this decision, by the way – happened when I was a freshman at Princeton. Alger Hiss was invited to come and speak at the Princeton campus. This was a national happening. It put Princeton squarely in the national spotlight. Hiss had just been let out of prison, and the notion that he would be given a platform to speak anywhere, let alone at Princeton, was outrageous to some people. The Princeton alumni went ballistic and tried to put pressure on the president to un-invite Hiss, because Hiss had been invited by a student debating society that I belonged to called the American Whig Cliosophic Society.

MS. ALLEN: What a wonderful name.

MR. ROBERTSON: The American Whig Cliosophic – or Whig Clio – invited Hiss to speak, and he agreed, and it became a huge, huge issue. The faculty and administration of the University, to its everlasting credit, did not interfere and decided that free speech on campus was a critical virtue that was going to be maintained. Hiss did come to speak, and I was there to hear him. I don't remember a single thing he said, but I do remember the issue and the whole – if you combine that early immersion into the notion of free speech with Edward Bennett Williams' notion of the constitutional right to a defense in a criminal case, you have sort of a lawyer in the making. I remember both of those as being an important milestones for me.

MS. ALLEN: So did you take constitutional law classes?

MR. ROBERTSON: I took constitutional law. There was a famous course at Princeton called Constitutional Interpretation taught by a very eminent scholar by the name of Alpheus Mason. Indeed, Mason was my senior thesis advisor at Princeton. I wrote my senior thesis on the Sam Sheppard murder trial in Ohio and on the issue of free speech versus fair trial. Sheppard was a famous case. His trial was a circus. He was found guilty. Years later F. Lee Bailey filed a habeas corpus petition and got him a retrial, and in the retrial Sheppard was acquitted. So the Sheppard case was my senior thesis, and Mason was my advisor. So I guess there was more law than I thought at Princeton.

MS. ALLEN: Did you have lawyers in your family?

MR. ROBERTSON: No lawyers in my family. I don't know where it came from. My father was a banker, my mother was a psychiatric social worker. My aunt was married to a Presbyterian minister. One of my uncles was a chief of police in Flint, Michigan, and another was a real estate appraiser. So no lawyers.

MS. ALLEN: Did you enjoy college?

MR. ROBERTSON: I had a wonderful time in college. I graduated *cum laude* at Princeton, but frankly I think that was the result of grade inflation more than it was academic excellence on my part. I mean I got very much involved in extracurricular activities. I was chairman of the humor magazine which was mostly what I did during my last two years. I was a little bit involved with student government. I had a good time at Princeton. I think most people who have had the opportunity to go these amazing universities, when they get to my age in life wish they'd studied harder or taken it more seriously. I know when I sent my own kids off to school, I begged them to consider how important an opportunity they had. I begged them to study hard, I begged them to dig into it, and I'm sure they did it about the same way I did [laughter]. Youth is wasted on the young as they say.

MS. ALLEN: Well, but part of college too is that there are so many opportunities. I mean the debating society sounds wonderful.

MR. ROBERTSON: Oh, it was an absolutely wonderful experience to be there, and I loved every minute of it.

MS. ALLEN: On to the Navy after Princeton? Did you have a break?

MR. ROBERTSON: One of the reasons why Princeton was so much fun for me was that in the fall of my senior year, I met the woman I was going to marry, and I married her a year later. I was no more than three months out of college when I got married.

MS. ALLEN: How did you meet?

MR. ROBERTSON: My roommate fixed me up with a blind date. My wife is Swedish. She had come to Princeton to work as an au pair for a family in Princeton. Her best friend lived and worked for a family right across the road, and her best friend was dating my roommate. We went on a blind date. Neither one of us will ever forget it. We went to see Tony Curtis and Janet Leigh and Kirk Douglas in a movie called “The Vikings.” If you can imagine your first blind date with a Swedish woman going to the movie “The Vikings,” which she thought was stupid and so did I. But we spent a lot of time together that senior year, and we were married the following September. So I went straight from Princeton to the Navy with no break at all and was married in September. We lived in a little apartment in Jacksonville Beach, Florida, where my ship was, with a little side trip to Key West for sonar school.

MS. ALLEN: Were you given a choice of what to do in the Navy, or did they just assign you?

MR. ROBERTSON: Not really. You had some broad choices. You could be a Marine, which I didn’t want to be, or you could try to be a fighter pilot, but I was too tall for that. Or you could just go to sea. If you went to sea, they just put you

where they wanted you, and in my case they put me on what was called a radar picket destroyer, and I spent three years as the first lieutenant, which is a deck officer, and then as the anti-submarine warfare officer, and then as the gunnery officer of the destroyer. Wonderful life.

MS. ALLEN: It was called picket radar?

MR. ROBERTSON: They called it radar. Radar picket destroyers is a little bit of a misnomer today, but in World War II – we are always fighting of course the last war – but in World War II, destroyers with strong radar were put out, way out, around the aircraft carriers like a picket fence. Picket duty. In fact, picket may be a military term before it's a fence term. Picket fence may be named after picket duty, but outlying guards are called pickets. Most of what we did was to form screens around aircraft carriers or steam right behind them to do what's called plane guarding. If a plane didn't land properly and fell into the water, we basically picked up the remains.

MS. ALLEN: Did that ever happen?

MR. ROBERTSON: Well, it happened to me several times when I was on duty that a plane fell off, but we never found anything. One of the most interesting things we did was when in 1962, one of the first men in space, maybe the first man in space, was launched from Cape Canaveral. The capsule went up and down. It didn't go around the world, it just went up and down.

MS. ALLEN: Is it Alan Shepard?

MR. ROBERTSON: It was John Glenn in Friendship 7, on February 20, 1962. My ship was one of three ships that were down range to do the recovery duty. I was in

charge of the deck gang, and my job was to practice and practice and practice and practice picking up a space capsule. And we picked up a space capsule out of the water until we could do it blindfolded, and the big day came, and the rocket was launched, and my next-door neighbor picked it up with his ship, the USS Noa, which was about ten miles down range from mine. We didn't get to do it, but we sure practiced.

MS. ALLEN: But you practiced. You were ready [laughter].

MR. ROBERTSON: We were ready.

MS. ALLEN: So were you at sea for long stretches of time and then just back in land briefly and then out again?

MR. ROBERTSON: Well, remember this was a peacetime Navy. We were at sea. We did one major deployment to the Mediterranean. For that one, we were gone for six or seven months. My wife had just had our first child, and she went to Sweden while I went to the Mediterranean. Except for that, there weren't any. We'd go out for two or three weeks at a time, or a month at a time, then come back and stay for a month. We were at sea a lot, but it wasn't as if we were in a nuclear submarine and lost and gone forever. We were in and out.

MS. ALLEN: Were you stationed in Jacksonville the whole time?

MR. ROBERTSON: The ship was in Jacksonville, and I did a month or six weeks or two months in Key West, Florida. My wife went with me to learn about sonar and antisubmarine warfare. I went up to gunnery school in Newport, Rhode Island and learned about gunnery. I went to some other school to

learn about doing air controlling, but Jacksonville was home port. Oh, and we were in the Brooklyn Navy Yard. They tore off the whole superstructure of the ship and built a new one. That was a big deal in those days, and we were in the Brooklyn Navy Yard for maybe ten months out of the three years.

MS. ALLEN: You were assigned to the Navy yard while the ship was being worked on?

MR. ROBERTSON: I was actually assigned to the ship. I was still assigned to the ship, but nobody lived on the ship. We lived in an apartment off the ship during that time. But I was there supervising construction and so forth, as if I knew anything about supervising construction.

MS. ALLEN: Did the Navy train you in that?

MR. ROBERTSON: No. But they gave me gold bars and told me I could do anything. That's what the Navy does to you [laughter].

MS. ALLEN: Anything else about the Navy that you remember with fondness?

MR. ROBERTSON: Oh, I remember a lot of it was fun. It's no life for a married man, at least not for me. In fact, I was the only married officer in the wardroom, except for the captain and the executive officer. So when we went to the Mediterranean, I was the guy who always agreed to take everybody's duty because they were all going to go out and get drunk and disorderly on the beach, and I was married, you know, and I didn't want to do those things. Or I'd be on shore patrol or something like that. I loved the Navy. I learned an enormous amount in the Navy. I met some good people and some terrible people, like anyplace else. But I'll tell you one thing. I went

from the Navy to law school, and then from law school to the law. We'll get to that I'm sure, but I developed a bias in that process. I will not hire a law clerk today who has not had some kind of life experience other than college and law school. Something to give some perspective to all that learning. The kids that go from high school straight to college and get great grades and go straight to law school and get great grades come out with a great resume and a great sense of entitlement, but no world experience. And without world experience of some kind, I disqualify them from clerkships. And I suppose that's a bias based on my own experience, because by the time I got to law school, I knew why I was in law school, and I had some sense of what the world was about and what my place in it was and might become.

MS. ALLEN: How many years were you in the Navy before you went to law school?

MR. ROBERTSON: I was in the Navy for three years from 1959-1962, and then my tour was up. By that time, I had a wife and a child and I wanted to go to law school and I had no visible means of support. So I asked the Navy if I could – I thought this was very clever of me – I asked the Navy if I could be assigned to one of the universities where I could teach some Navy subject, ROTC subject, and then I would be able to go to law school for free.

MS. ALLEN: What did the Navy say?

MR. ROBERTSON: The Navy said, "That's a great idea. We're happy to do that." And the next thing I knew, they had cut me a set of orders to the Iowa State College of Agriculture and Mechanics at Ames.

MS. ALLEN: The Navy in the middle of Iowa?

MR. ROBERTSON: The Navy had an ROTC program at Iowa State. I received those orders one day when the ship was getting ready to go to sea. The mail came and I looked at this thing and I ran up to see the captain. I said “Captain, I’ve got a real problem. I’ve got to go call the Bureau of Personnel because I am in trouble here.” Because I had run down to my stateroom and looked and there was no law school at the Iowa State College of Agriculture and Mechanics. The closest law school was at the University of Iowa, which was about 100 miles away. So I called up the detailer and I said I can’t do this. He said, “But Mr. Robertson, we have already cut you the orders.” He said “You have already been appointed to the faculty of the Iowa State College of Agriculture and Mechanics. We can’t change it.” I said, but, but, but,” I said, “I think I’ll have to resign.” He said “But Mr. Robertson, have you read Naval regulations?” He said once you have orders cut, you can’t resign for a year. But he said we have a nice minesweeper for you to be executive officer, and you could of course go to Japan. Would you like to go over there? And I said “Help! You’re putting me in an untenable position. Could you please try to find something else for me?” He said, “All right, call me when you get home, when you get back to port.” In these days you couldn’t send e-mails to people from sea. So when I got back about three weeks later, after biting my nails down to the quick, I called him and he said “Good news!” He said, “We found a desk for you in the Pentagon.” So they assigned me to the Office of Naval Intelligence

at the Pentagon where I spent two years doing basically administrative work and went to night law school at GW in Washington. Perfect.

MS. ALLEN: I hadn't realized you went to law school at night.

MR. ROBERTSON: The first two years I went at night. Very interesting experience. It was 1962. The Vietnam thing was heating up. A great many law students in those days, particularly at – I don't know how to put this delicately because I hope I'm a loyal alumnus of GW – but at schools that were not in the very top tier, which GW wasn't, a great many students were there not to study law but to be deferred from Vietnam. The night school was different. People who were in night school were people who really wanted to study law. It was hard to be in night school. You had to work during the day, you had to work hard enough not to get fired from your job, and you had to study way into the night, and on weekends. There were no dilettantes in that night school. I believed then, and I still believe, that the night program, at least in the mid-1960s, was as rigorous and as competitive as the day school. Now I did very well in night school, and at the end of two years when I was ready to get out of the Navy, I was elected editor-in-chief of the law review and I got a scholarship for my senior year. And so I was able to switch over and go full time, and I went full time the third year and one whole summer and scraped together enough credits to graduate in three years.

MS. ALLEN: How did the day law school compare to the night one?

MR. ROBERTSON: Well, it's hard to say because in the third year of law school everywhere, even today, students are kind of putting in time and they all think they are qualified to be lawyers and why do I have to keep doing this, and I was running the law review anyway, so I don't know that I ever did make a comparison. What I missed in being a night student of course was the whole study group phenomenon that everybody else got who was in day school.

MS. ALLEN: Night students didn't have time for it.

MR. ROBERTSON: No time for it. You are on a treadmill. You just barely made it to class. You got home, you grabbed a bite to eat. In my case, you may or may not be there in time to say goodnight to your child, and then you stay up to 2:00 in the morning studying. I don't know how anybody does that, by the way, who is not married. It was a terrible thing to do to my wife, but without her, I wouldn't have had the discipline or the kind of structure that made it possible.

MS. ALLEN: So you were in Washington, in uniform as it were, when there were protests going on? Had the war protests started when you were at GW, and how did that affect you, or didn't it?

MR. ROBERTSON: There were some protests, but when I was at GW, the war protests had not really begun. They didn't really begin until a little bit later than that. I mean, I can remember, for some reason I have this visual recollection of myself in some department store in Washington in uniform and stopping to watch Lyndon Johnson give some speech on television about Vietnam.

But it was just getting serious then. The flag burning and all that hadn't really begun to break out yet. But it happened very shortly after that. The late 1960s and the early 1970s were a time of enormous turmoil.

MS. ALLEN: And you stayed in Washington?

MR. ROBERTSON: I graduated from GW law school on June 5, 1965 and went to work at Wilmer, Cutler & Pickering on June 6.

MS. ALLEN: By choice?

MR. ROBERTSON: I was broke. And a parent. My wife had taken a series of jobs to try to make ends meet. We didn't have any health insurance. We had another child.

MS. ALLEN: By the time you graduated from law school you had two children?

MR. ROBERTSON: By the time I graduated from law school we had another child. Child number two was born in the Bethesda Naval Hospital while I was still in the Navy. But that last year in law school I wasn't in the Navy, had no income, had no health insurance. They didn't have student loans in those days.

MS. ALLEN: So where were you living? Were you living in Washington?

MR. ROBERTSON: We lived in a wonderful area in Virginia called Fairlington, just off the Shirley Highway. A lot of people started in Fairlington and ParkFairfax right across the road.

MS. ALLEN: I remember the old Fairlington building. We had friends who lived there.

MR. ROBERTSON: That's where we lived.

MS. ALLEN: So you had a job, but you still had the bar exam to face and you're working, so in a way you went back to night school again.

MR. ROBERTSON: Yes. You know the bar exam – Yes, I was already at work at Wilmer, Cutler when I took the bar exam. I took the D.C. Bar. These days nobody takes the D.C. Bar. I mean it's a hard bar to pass and almost all kids today take the easiest bar they can take and then waive into the District of Columbia later on. You couldn't do that in those days. There was a bar review course taught in the District of Columbia at that time by a wonderful old man by the name of Joe Nacrelli. Do you remember him?

MS. ALLEN: Yes, I do, very vividly.

MR. ROBERTSON: Joe Nacrelli's bar review. I still remember Nacrelli's lecture on bailments. He said, "Now I will tell you the law of bailments." He said, "If you go into a restaurant and give your hat to the hat check girl, you have not bailed that hat. But if you go into a barber shop and put your hat on the rack to get your hair cut, you have bailed that hat. Why? Because you can't get your hair cut with your hat on." I swear that's what he said [laughter]. Joe Nacrelli's bar review. I took the bar and worried about it and sweated about it with everybody else and got *The Washington Post* the morning that it came out and learned that I had passed the bar. And spent the years from June of 1965 until about March of 1969 at Wilmer, Cutler & Pickering.

MS. ALLEN: Let me go back a little bit and ask you about the decision to go to Wilmer, Cutler. Had you thought much about options or what you wanted to do?

MR. ROBERTSON: Oh yes. I told you, I have been unbelievably fortunate in my life to have some people steer me in the right direction, from the teacher at Western Reserve who found the Navy scholarship to just any number of people who kind of nudged me. I wasn't even aware enough to know that – I didn't care where I went to law school when I was in the Navy. Iowa State would have been fine with me if there had been a law school. I guess I knew that Harvard was supposed to be a great law school, but I didn't think I could afford it actually, so I didn't apply there. At any rate, getting back to Wilmer, Cutler & Pickering. As I said, I was editor-in-chief of the law review, and I had the best grades in my class. I didn't go to Harvard, but I was – I wouldn't say I could write my own ticket, but I had lots of offers. And so I took advantage of it. I flew out to California and interviewed at a couple of law firms in Los Angeles. I went back to Cleveland and interviewed at a couple of law firms because I contemplated going back to Ohio to practice law because I thought, gee, maybe I am an Ohioan, I can practice law, maybe I could get into politics someday. I didn't know. I went to Atlanta to interview there. I interviewed at Sutherland, Asbill & Brennan, which was then in Atlanta and in Washington. I interviewed with Jones, Day and a couple of other firms in Cleveland. I interviewed with a little firm called Kindle & Anderson and a couple of other big firms in Los Angeles. I interviewed in New York with White & Case and two or three other firms. I really had a ball running around and letting people buy lunch for me and interviewing.

I interviewed at Covington & Burling here in Washington. I couldn't interview at Arnold & Porter. They weren't taking anybody right out of law school in those days. I had quite a number of very flattering offers, but a college classmate of mine, who had not been in the Navy and who got into law practice earlier than I did, was at Wilmer, Cutler & Pickering and said you ought to come over and talk to us, this firm is just getting off the ground. The firm at that point was only three years old. Indeed, when I interviewed, they were less than that. And I got quite excited about Wilmer, Cutler & Pickering. It was small, it was very high quality, it was growing. I guess I won't – I will too, I mean this is legal history after all, why not. I had a very nice offer from Covington & Burling, but I was advised at the same time I had the offer that my chances were about one in three of ever making partner there.

MS. ALLEN: Was there a because?

MR. ROBERTSON: Because we take in more people. It was one of these “look to the left and look to the right and one of you is going to be a partner” things. It was and arguably still is the premier law firm in Washington D.C., and I was enormously flattered to have the offer, but I guess I was already getting to be a little bit conservative because you know I was married, I had two kids, I wanted certainty in my life. That's what young people got in those days. You went to IBM and stayed the rest of your life. Wilmer, Cutler & Pickering, which was just getting started, had a completely different view, and they could afford to because they were still growing. They said if you

are as good as we think you are, you'll be made a partner in this firm.

That was a lot more comforting than you have a one in three chance. And

I liked the people enormously.

MS. ALLEN: Do you know how big the firm was when you went in?

MR. ROBERTSON: Very specifically. I remember I was the 26th lawyer in the firm. There were sixteen partners, and I was the tenth associate. In the first year I was there, I worked for every single lawyer in the firm. That's just the way you did things. You worked for every partner in the firm. Let's see, in 1965 I went to work. Actually, I divert here. The first day I reported for duty at Wilmer, Cutler & Pickering was a Monday in June, and I walked in and there was nobody there. I said what's going on here. Well it turned out the first Monday in June was the Monday when traditionally the Cravath firm in New York had its outing at some golf club in the Hamptons. Wilmer, Cutler & Pickering sprang from the rib of Cravath, Swaine & Moore. Mr. Wilmer, or Colonel Wilmer as we all called him, had been the Washington partner of the Cravath firm.

MS. ALLEN: So Cravath had an office here?

MR. ROBERTSON: They had a Washington partner. Not much of an office. I don't think they had an office at all. Pickering and Cutler had both been associates at Cravath in New York at one time. So, it's a long story and sort of outside my own legal history, but when the firm came together, it established a "corresponding relationship," as they called it, with the Cravath firm, and Cravath considered us to be their Washington office. Every year at

Christmas time, John Pickering would give a speech to the firm in which he said, "Once again we are not giving any bonuses, and once again I can announce that we are not going to open an office in New York, and Cravath has agreed not to open an office here" [laughter]. So I worked for nearly four years at Wilmer, Cutler & Pickering. One of the people I worked with was Louis Oberdorfer, who was a partner who had just returned from Bobby Kennedy's Justice Department.

MS. ALLEN: What had he done there?

MR. ROBERTSON: He'd been Assistant Attorney General in charge of the Tax Division. But he also, like everybody else on Kennedy's team, had a roving portfolio. He was involved in civil rights and all kinds of other things. I worked for Lou Oberdorfer during that first year. Then I went on vacation the following summer in 1966, and when I came back there was an envelope on my front door with a note from Lloyd Cutler telling me that I was to meet him on the Northwest flight to Detroit the next morning at 7:00. Well, you know, you are 28 years old or something, you are on vacation with your wife and your two babies, you're coming home all scruffy. You don't have any money left, and there were no ATMs in 1966, so I had to go and talk to somebody at a 7-Eleven into cashing a check for me which was almost an impossible thing to do in those days. So, I had enough cash to get to the airport. I got on this airplane, looked around, and there were six or seven Wilmer, Cutler lawyers on the airplane, and we were all going out to Detroit where we met with the Automobile Manufacturers

Association, whom we had undertaken to represent in connection with all of the safety standards that were being proposed by the federal government. There's a long story here. Ralph Nader plays a role in all this. Ralph Nader had written this book called *Unsafe at Any Speed*, a broadside attack on the motor vehicle industry, and General Motors made a terrible mistake. They thought Nader was kind of an enemy of the state, and they hired somebody whose advice was to put a tail on Nader. Nader found out about it and let the press know about it, and General Motors was looking terrible until they turned to Lloyd Cutler who straightened it all out and saved General Motors' bacon. That led to a very large engagement to represent the Automobile Manufacturers Association, which had to deal with the development of new safety standards for American cars.

MS. ALLEN: The National Highway Traffic Safety Act.

MR. ROBERTSON: Engineers from Ford, General Motors, Chrysler and American Motors were getting together to write safety standards and propose them to the government. Any time you get engineers from four motor companies together, you have antitrust problems. We were hired to provide antitrust prophylaxis to these companies when they got together. So there'd always be a lawyer in the room who would tell them what they could talk about and what they couldn't talk about. But lawyers are pretty useful people, and just sitting and chaperoning these guys became pretty dull, so we began inserting ourselves into their business, and we would help them

write their standards. I spent I think fourteen months going to Detroit every Monday morning and coming back every Friday evening.

MS. ALLEN: Sounds grim to me.

MR. ROBERTSON: At first it was fun, and then I felt important, and then I wasn't seeing my children, and then it was grim, really grim. I may have the chronology a little bit off, but sometime around late 1968 or early 1969. Excuse me, there's one other important milestone here. In April of 1968, I'd been doing this Detroit thing for about 14 months. We were still doing it, but not as constantly as we had been. Martin Luther King was assassinated, and this town went up in smoke. And I was probably in some down period of my time with the law firm. I wasn't enjoying what I was doing. I was very much in a sophomore slump. That day I walked from 17th and I Streets where our offices were down to Superior Court, almost following my nose to the teargas. I walked in and started accepting assignments of criminal cases of people who were being arrested for looting and all the other things that were happening to people in those days.

MS. ALLEN: You did this spontaneously?

MR. ROBERTSON: Completely spontaneously. I don't think anybody in my office knew where I was. I just responded. Some neuron was triggered. I just had to do it, so I went down there. I didn't really know what I was doing. I didn't know much about criminal law. They didn't care about that. They needed lawyers who would step up, and I went up to that assignment court or arraignment court over in what was then the Court of General Sessions,

and I must have picked up 15 or 20 cases that day. I went home that night completely exhausted. I remember we had house guests at that time. As a matter of fact, our house guest was my wife's good friend from Sweden and her husband. They were later divorced, but they were visiting us.

MS. ALLEN: So they came in at the time of the riots?

MR. ROBERTSON: They just happened to be here at the time of the riots. They didn't come for the riots. And I hadn't been in the house ten minutes before the phone rang, and it was Lou Oberdorfer on the phone, and he said, with that wonderful Alabama accent of his, "Jim, a number of us are going down to Superior Court to see if we can help take cases," and I said, "Lou, I've been there all day." He said, "Well, I guess if you don't want to be a part of it," and I said "All right, I'll be right down." So I turned around and went back downtown and stayed there all night. That night – somebody should write this story up because it is really an important part of legal history in Washington, and maybe somebody else has talked about it – but that was the night that Lloyd Cutler went down to the Court of General Sessions and practically took over the Courthouse. With that very special sense of presence or self-confidence that he has, or whatever it was, he went down there and began organizing lawyers, and everybody accepted his leadership. Everybody including the chief judge of the court accepted his leadership, and he became the organizer of an effort to bring Washington lawyers down there to accept court appointments and to

regularize the whole intake and lawyer assignment process in Superior Court.

MS. ALLEN: So he was almost doing an administrative role as well?

MR. ROBERTSON: He was sort of a volunteer chief judge of that Courthouse. I wasn't in his presence at that time, so I don't know exactly what he did, but I know from having heard many people talk about it at that time that Lloyd basically took charge of the situation. When the night was over and we began to kind of tally up the situation, Wilmer, Cutler & Pickering had taken on – I can't remember – my memory tells me upwards of sixty cases. And I volunteered to be the follow-up person, so in effect all the cases became my cases, and of course almost all of them pleaded out or were nol-prossed or disposed of in one way or another, but I became the firm's point man for organizing all of this volunteer activity, and that probably was another turning point for me in my career because it gave me a glimpse I had not had of a lot of other aspects of the law. Frankly if you go straight from law school to a big law firm, there's a lot about the law you have no idea about. And that was April/May of 1968. A month later, Robert Kennedy was assassinated. And eight or ten months after that – the way I remember it – I got out of bed and looked at myself in the mirror one morning while I was shaving it struck me that I'd spent more than three years practicing law and had no idea how many different ways there were to be a lawyer, or indeed what I was doing in this big law firm. I didn't have any perspective. So I quit.

MS. ALLEN: When we'd talked before, I think you mentioned you talked to Lou Oberdorfer?

MR. ROBERTSON: I did. The way you quit in those days, and I'm not sure anyone had quit, but one sort of instinctively knew that the right way to quit was to go around and speak to every partner in the firm, and I did that, because I thought they'd been awfully good to me and they'd given me a lot of encouragement. They had given me useful work, and I felt like I was betraying them somehow. And many of them for their part were very concerned that they had not treated me very well and they thought it was the Detroit experience that had done it, that I was quitting because I couldn't stand the Detroit experience. But I think the truth was that I was in some sort of identity crisis. Erickson says we all go through one. I just didn't know why I was doing what I was doing and I had to find out.

MS. ALLEN: Did you spend a long time thinking about it before you decided to talk?

MR. ROBERTSON: Oh yes. Well, I didn't spend a lot of time thinking about talking to people because, as I say, I literally woke up one morning and said "I can't do this anymore." But one would be foolish just to walk out the door. I mean I had to get some idea what I was going to do next.

So I looked around, and a couple of people gave me some advice, and I came very close to taking a job for Pierre Salinger, who at that time had organized some offshore investment opportunity with headquarters in the Bahamas, and he wanted a general counsel to go to the Bahamas. The notion of my leaving Washington and taking my family and going to the

Bahamas to be general counsel of an offshore mutual investment fund is ludicrous in hindsight, but it sounded like a plan in those days.

Well, one of the people I went to talk to was Lou Oberdorfer. Lou said, “Why don’t you go to Mississippi? We need a chief litigating counsel in the Jackson office of the Lawyers’ Committee.” I said, “I can’t do that, Lou. I’m married and have three kids.” By that time I did have three kids. He said, “Well, it’s not as dangerous as it used to be down there. Why don’t you go take a look at it?” So I approached my wife with that proposition. Her immediate response was “No way.” And I said, “Why don’t we go check it out just for Lou’s sake.” So we flew to Jackson and we were met there by Judy Lichtman and Elliott Lichtman. Elliott had just left, or he was on the point of leaving. He had been a staff lawyer in the Jackson office and was back in Washington where he’d gotten a job working for Joe Rauh, but he came back to Mississippi to show me around. He and Judy were both there. He took us on a tour and showed us what life would be like in Mississippi, and I think it’s probably fair to say that my wife was horrified, but I was hooked. And I won’t, for the benefit of the legal history project, recount the domestic aspects of this discussion which were complicated.

I left the firm and went to Jackson in March of 1969. I lived for three or four months in the volunteers apartment off Lynch Street in Jackson and worked at the Lawyers’ Committee, and then in July, moved my family to Mississippi. It seemed that we were there for a long time,

but we actually lived there only for 13 months. So I was there 18 months, and my family was there for about 13 months.

MS. ALLEN: At that point I think you had children in school, right?

MR. ROBERTSON: Let's see, that was 1969, so Steven is eight and I think in second grade. Catherine is five and in kindergarten, and Peter is three and isn't anywhere.

MS. ALLEN: So what was it like living in Jackson?

MR. ROBERTSON: It was professionally exhilarating. It was both the most fun, the most intensity, the most important – I'm mixing the tenses of these adjectives, but it was the most fun, intense and important work of my life. It was very difficult for my family. We were neither black enough nor white enough. We lived in a white subdivision, a brand new subdivision. We were required by the banks to sell our house in Bethesda before they would loan us money to buy a house down there. We think in retrospect it was because word was out that I was a civil rights lawyer and they were afraid that I was a "blockbuster" – a person who would go around and buy up houses and then sell them to black people who would move into the neighborhood. So they wanted some bona fides that I really wanted to live in the house, and for that they required me to sell our little starter house in Bethesda. So we sold it, and you take a loss every time you sell a house.

We sold our house, bought another house, moved down there and the kids were – I don't think they were ostracized – we had some nice neighbors who were good people, they didn't want much to do with us,

but they didn't give us any trouble either. Steven's elementary school was just up at the head of the street. Jackson's school had desegregated that very year, and that is when the white community learned first-hand what they had wrought. A black teacher was transferred to teach in Steven's school who himself was the product of a Mississippi education and didn't know anything and couldn't teach anything, and it was a tough year all the way around. The most interesting story, though – it didn't have anything to do with race, it had to do with our daughter Catherine who we tried to find some educational opportunity for. Some schools were not open to us because of who we were. Private schools, they didn't want us. She finally went to kindergarten at some Southern Baptist church, and for a month or two – she was just a five-year old girl, really a very, very bright five-year old girl, and she wanted to learn. She had started to read at home, and then she went to this school where, as far as we can tell, all they did all day long was to tell her that she was damned.

MS. ALLEN: Oh no.

MR. ROBERTSON: And this frustrated little girl used to come home and just raise hell with the rest of us because she was so frustrated about what she was not learning. But my wife was tuned in and said we've got to get this kid out of this school. We put her into an Episcopal day school called St. Andrews, and just overnight little Catherine flowered. She was reading, she was speaking French; she was happy. It was just unbelievable what a change came over her as a result of the whole atmosphere of the school. It was

quite stunning. It had nothing to do with legal history, but it certainly had a lot to do with family history.

St. Andrews, by the way, was of course an independent school, but it was integrated. It was integrated before the Jackson public schools were. So that was the situation. In July of 1970 or maybe August or September, I've forgotten exactly what month, the Lawyers' Committee co-chairmen called me and asked me if I was interested in coming back to Washington to serve as the National Director of the Lawyers' Committee. That was an easy question because as much as I loved what I was doing down there, it was just too hard on family life.

MS. ALLEN: What kinds of cases were you bringing?

MR. ROBERTSON: Well, there were five or six of us in that office. We were doing voting rights work, and we were doing some of the early Title VII class action work. We were still doing a lot of First Amendment work because there were civil rights movements in all the little towns where people wanted to march and picket and demonstrate and boycott, and they were being shut down in various ways by the town governments. I remember one case in which one of the civil rights leaders announced a civil rights march for the next Saturday night and instead, the town fathers got three doctors to certify that he was probably mentally ill, and he was involuntarily committed at the State Facility for the Insane at Whitfield for observation for 30 days. You could do that then.

We had some criminal cases to defend. I remember so well one case in Lexington, Mississippi, in which we were asked to represent a black man, a woodcutter who was charged with assault on a police officer. The police officer was what is known in Mississippi as a constable. The constable is sort of a sub-sheriff whose job is to serve papers and that sort of thing. This particular constable had made quite a habit out of harassing black people, wandering around the black community and ogling their women and fondling their women and dissing the men. One Sunday afternoon he came into a black neighborhood to serve some papers on a man and they had some kind of an altercation. The man was sitting in the driver's seat of his car, the constable was standing outside, and it's not quite clear who did what first, but at the end of the confrontation, the woodcutter had a bullet in his lung, and the constable had a very deep cut across his neck inflicted by a razor. The charge was of course brought against the black man. Bob Fitzpatrick and I defended him in a jury trial in a courthouse that was packed to the rafters with the black community. That case was ultimately won by the jury selection process because we actually managed to get two blacks on that jury, and they took the position in the jury room that not only did they think this man was innocent but that they were going to stay there until Thanksgiving. Maybe it was Easter – they were going to stay there for months. The whites all gave in and voted to acquit. He was innocent. The attack was provoked by the constable.

Then there was the case of Reverend Perkins who was rehearsing his Sunday school choir when he got notice that one of his flock had been arrested and was in the jail and they were beating him. Reverend Perkins piled his choir into a van, drove down to the jail, and knocked on the door. In some towns in those days the jail and the courthouse were in the same building. The jailer answered the door, and Perkins said, "We understand you've got X here." The response was, "You are under arrest, nigger, and so are all those little kids." So all the kids and Reverend Perkins were thrown into a jail cell just for being there. Reverend Perkins, who knew a good issue when he spotted one, threw open the windows of the jail and began singing with his choir "We shall overcome" out into the square, whereupon the jailer panicked and maced the kids through the bars.

MS. ALLEN: Oh, no!

MR. ROBERTSON: The state highway patrol were summoned and it was a big brouhaha. Reverend Perkins was charged with contributing to the delinquency of a minor. They had gotten to the parents of one of the children who didn't like it that he had taken the kids to the jail. The charge was that he had caused this 12-year old girl to be in a bad place. We tried that case. With me was a young woman, the first black woman graduate of the Ole Miss Law School who was on my staff at the Lawyers' Committee by the name of Constance Iona Slaughter. Connie Slaughter got her first trial experience in this case. She was the one who got to cross-examine this 12-year old girl. She kind of hunkered down and talked to this little girl in

her own language. The girl recanted everything she had said, but the jury, which was all white, convicted Perkins in about ten minutes. The hardest part about that trial was the decision not to let Perkins testify because he really wanted tell his story, and we said that's not a good idea, just let it be where it is. We got it reversed on appeal.

MS. ALLEN: They were wonderful victories.

MR. ROBERTSON: Oh, wonderful, wonderful!

MS. ALLEN: How many lawyers were in the office did you say?

MR. ROBERTSON: I think the most we had when I was there was five or six. Some really marvelous people. Bob Fitzpatrick, who is now in practice here in Washington, is an employment discrimination lawyer. I think he's mostly on the defense side now. Bob was there. A legendary guy by the name of Frank Parker who worked for the Lawyers' Committee for the next 25 years and was really one of the greatest voting rights lawyers in the country was there at that time. A guy named Larry Ross who is now up in New Jersey. Martha Jenkins, then known as Martha Woods, who went over and became city attorney for Charles Evers, Medgar Evers's brother. And one or two others. Great group.

MS. ALLEN: So there were some Mississippi trial lawyers as well?

MR. ROBERTSON: Well, Connie was from Mississippi. Connie came on board maybe six months before I left.

MS. ALLEN: And the rest of you?

MR. ROBERTSON: The rest of us were from the north. Carpetbaggers.

MS. ALLEN: Carpetbaggers. So you came back to Washington. Was that because there was someone leaving the job, or was it a new job?

MR. ROBERTSON: There was. A lovely guy by the name of Mike Miskovsky was the Director of the Lawyers' Committee. He was hired by Oberdorfer. Lou Oberdorfer, by the way, I forgot to tell you had been the Co-Chairman of the Lawyers' Committee at the time. That was the connection. When I got back, the co-chairmanship had changed. The co-chairs were John Douglas of Covington & Burling and John Doar, the famous John Doar who was in New York. I worked for those two people. After that, it was Lloyd Cutler and somebody else whom I've forgotten. The Lawyers' Committee always had two co-chairs, and very carefully one was a Republican and one was a Democrat, and one was in Washington and one was in New York. It was just convenient to do that to kind of keep everybody together.

MS. ALLEN: For the record, it would be interesting to get a little background of the Lawyers' Committee. Was it founded in New York?

MR. ROBERTSON: I'll give you a quick thumbnail of the official version of the Lawyers' Committee. The Lawyers' Committee was founded in June of 1963 at the request of President Kennedy, and it grew almost directly out of the confrontation with George Wallace in Alabama when somebody, the President or his brother, was heard to say, "Where are all the lawyers? Why aren't the lawyers standing up for the rule of law here?" That rhetorical question brought a very few people, including Lloyd Cutler,

again, the ubiquitous Lloyd Cutler – the ubiquitous Lloyd Cutler – and Bernard Segal of Philadelphia, who either had been or was about to be the president of the American Bar Association. They organized a White House meeting to which, I don't know, a couple of hundred lawyers were invited. The President spoke and urged the lawyers to do something to reestablish the rule of law, and the Lawyers' Committee was founded then and there because of that meeting.

The Lawyers' Committee's original membership included – not Oberdorfer because he was still in government, but Whitney North Seymour, who had been president of the American Bar Association, and a blue ribbon list of real bar leaders. They came together more or less under the rubric of the American Bar Association. But the ABA had gone its own way in response to this and it put together really quite a – I wouldn't call it a reactionary – but quite a conservative group of people who didn't really want to do much of anything. The Lawyers' Committee was much more proactive and was trying to figure out a way in which it could be of help.

The first thing the Lawyers' Committee did was to recruit some volunteer lawyers to go to Mississippi to work with the Freedom Riders, and that led to the opening of a litigation office in Jackson, Mississippi in about 1966 or 1967. It was about two or three years later that I got there. There were two or three groups of lawyers down there working on various things. There was the NAACP Legal Defense and Education Fund, Inc.,

which we called the “Inc. Fund.” There was a group called “LCDC” which was the Lawyers Constitutional Defense Committee of the Roger Baldwin Fund of the American Civil Liberties Union. And there was the Lawyers’ Committee, which was known at that time as the “President’s Committee.” The President’s Committee had a pretty substantial grant from the Ford Foundation to keep us in business, and the Jackson office of the Lawyers’ Committee was sort of where it was at. That was the entire program of the Lawyers’ Committee until the urban riots of 1967-68, and the Kerner Commission report on violence in the cities. When Lou Oberdorfer was co-chairman in 1967-68, the Ford Foundation made a huge grant to the Lawyers’ Committee in order to try to replicate the Committee’s structure in cities around the country. The idea of the Lawyers’ Committee was to mobilize the private bar to become involved pro bono in the race conflicts of the cities.

MS. ALLEN: So it had offices in several cities?

MR. ROBERTSON: Beginning in 1968, there were Lawyers’ Committee offices in a lot of cities – New York, Chicago, San Francisco, Boston, Philadelphia, Atlanta, Los Angeles, Indianapolis, of all places, and maybe one or two other places. This was all done by kind of networking through the “establishment bar,” which is a euphemism for the big firm defense bar really. Organized bar leadership people would hire a staff guy and get all their buddies to come together as the executive committee of the local Lawyers’ Committee and go to work on the problems in their community.

There was one in San Francisco and one in Oakland. So at that point the Lawyers' Committee had become quite a big operation. We had a litigating office in Mississippi and then these urban areas, committees all around the country. David Tatel, who of course now sits on our Court of Appeals, was the executive director of the Chicago Lawyers' Committee while I was executive director of the National Committee.

MS. ALLEN: So you met him at that time?

MR. ROBERTSON: I did meet him at that time, and not only did I meet him at that time, but when I decided to go back to practice, he was my nominee to replace me as Director, and he did. Some time in 1972, I got a call again from Lou Oberdorfer, to whom I owe so much. He asked, "Are you ever going to come back to this firm?" He said, "If you're going to come back, now might be about the right time because you've been gone long enough that if you stay gone much longer, you're going to lose all of your seniority rights and opportunities to become a partner."

MS. ALLEN: You're still at the Lawyers' Committee?

MR. ROBERTSON: I'm still at the Lawyers' Committee, and by the way, I was not on leave of absence from Wilmer, Cutler & Pickering. I left Wilmer, Cutler & Pickering. I was gone. Although the firm, to its – this was such a beautiful place, still is – the firm and John Pickering particularly really didn't like the idea of my going down there without insurance coverage. So the firm kept my health and life insurance policies in effect while I was in Mississippi.

MS. ALLEN: That's wonderful!

MR. ROBERTSON: Isn't that beautiful?

MS. ALLEN: Yes.

MR. ROBERTSON: So I went back to Wilmer, Cutler & Pickering in 1972. I agonized for a while about going back to the firm because what I really wanted to do was to start my own law firm, but I don't think I had the energy or maybe the entrepreneurial spirit or something to do that. I had a lot of family obligations and they were paying awfully good money at Wilmer, Cutler & Pickering. My friends in the civil rights movement all thought I was selling out, but I went back to Wilmer, Cutler & Pickering on the belief, probably seizing the rationale, that I could do something. I could provide some leadership and connections for the firm so that the firm could keep its pro bono projects going and could keep its hand in the pro bono field. And it worked out pretty much that way. I was pretty active in pro bono stuff all the time I was there, lots of pro bono cases kept the firm plugged into the community that could send pro bono cases.

MS. ALLEN: Were big firms doing a significant amount of pro bono work in the early 1970s?

MR. ROBERTSON: Some. Washington was then, is now, and always has been, by far and away the leader in pro bono practice of any city in the country. It's part of the culture and tradition of the legal community in this city that has not ever been matched anyplace else. We had a lot of trouble getting a Lawyers' Committee started in New York and never did really get one

going successfully. It started, but it didn't go anywhere because New York is so entrepreneurial and so commercial and so big, we didn't have that nucleus of leadership that you had here in Washington. But here in Washington, with John Douglas at Covington & Burling, with John Nolan at Steptoe and Johnson, with Stuart Land at Arnold & Porter, with Lloyd Cutler and John Pickering at Wilmer, Cutler & Pickering – I don't know who was in charge of things at Hogan & Hartson, but later on it became David Tatel, he went to Hogan and became the pro bono partner there – John Ferren and David Tatel. Those firms, and maybe four five others, there was a lot of leadership for and a lot of interest in it. The usual suspects were all ex-Roosevelt Democrats who were trying to do the right thing.

MS. ALLEN: Does this seem like a good time to break?