Oral History of STEPHEN J. POLLAK
Fourth Interview-January 14, 2003

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewee is Stephen J. Pollak, and the interviewer is Katia Garrett. The interview took place at the Shea & Gardner law firm at 1800 Massachusetts Avenue, in the District of Columbia on Monday, January 14, 2003, at 10:00 a.m. This is the fourth interview.

Ms. Garrett: Steve, when we left off the last time, you indicated that you wanted to touch on or comment a little bit more about your law school experience.

Mr. Pollak: In those days, one got on the Law Journal by grades, and my second semester grades put me on the Journal. You were assigned a note topic.

Ms. Garrett: You didn't select it at that time? You just were given the topic?

Mr. Pollak: The student had to search for a note and maybe the officers made some suggestions, or the Note and Comment Editor. In any event, my Note was on the enforceability of the bonds of the New York Third Avenue Elevated in reorganization. A very short opinion of a capable district judge, Edward Dimock. I remember praying over every word. Then, a Note was probably ten pages of the Journal or a little less, with lots of footnotes.

The practice was for the student to proceed to write a comment, which was not necessarily about a case, but about a subject area. Professor Myers McDougal suggested to me a topic which was the legality and constitutionality of a statute passed just recently called the Expatriation Act of 1954, which took away citizenship of Americans who performed specified acts. Included in the acts was violation of the Smith Act, which proscribed advocacy of overthrow of the

government and various other subversive activities. It was a statute addressed to communists primarily. It was a very good topic and I developed a lengthy comment with new approaches to the issue of the legality of that kind of a law. Particularly, I researched the decisions of the Supreme Court and other courts respecting the Eighth Amendment's proscription of cruel and unusual punishment. I ultimately presented a thesis that taking away citizenship was an added punishment in this instance for a crime of which the individual had been convicted and that rendering the individual stateless by taking away citizenship was historically cruel and unusual. As I think I mentioned before, soon after I graduated, a case called *Trop v. Dulles* [356 U.S. 86] went to the Supreme Court in which the very issue was presented. The Court, following theories that were reflected in the comment, and, I'm sure, following briefs that were presented to it, held a related denationalization provision unconstitutional as a cruel and unusual punishment. So it was a rewarding topic. I worked very hard on it during my second year at the Law School. The Editor-in-Chief, Norbert A. Schlei, became my editor in respect to the comment. The final product was a very good one and such credit as there is for it would go to me and to him as well. The comment won a prize given by the Law School.

One more comment. I think the Law Journal experience was a major part of my law school education. Classes were another part, but the Journal was certainly a big part.

Ms. Garrett: And a positive part?

Mr. Pollak: Very positive. I became the Managing Editor which in those days was one of six officer positions. That was in my third year. I had to read and ready for publication every article or paper in the Journal.

Ms. Garrett: Your first job was in D.C. Was that always your plan to come to the District of Columbia and work as a lawyer?

Mr. Pollak: I went through law school harboring the idea that I would ultimately go into the family real estate business in Illinois. That was something that I knew my father wanted and it influenced me. Each summer during law school rather than take a job with a law firm or the government in the law field, my wife and I and our first child went to Illinois where my parents lived and Ruth's parents lived. I worked in the family business in real estate. I earned money and I needed to earn money. I now think that was probably an unwise use of my time, although it worked very well because our parents, the grandparents of our daughter, Linda, got to see us and their granddaughter. But I didn't advance my experience in the law.

By the time I began interviewing for law positions, I had focused on Washington and three firms there, Covington & Burling, Arnold, Fortas & Porter, and a firm called Cox, Langford, Stoddard & Cutler, which ultimately became Wilmer, Cutler & Pickering. Those three firms were considered by me to have many graduates of the Yale Law School and to be congenial places to work. I thought that they had good attitudes with respect to public service and pro bono activities. It was my thought that I would go to Washington for perhaps three years and then we would relocate to Illinois. Possibly I retained some thought

that I would go into the family real estate business. That never happened. I recall during the second year of practice considering whether I would leave the law and go to Illinois. That caused me some anxiety because I felt I was breaking from what my father wanted. I'm not sure that I correctly read him. He probably wanted what I wanted. In any event, it was never really in the cards that I would give up the law.

Ms. Garrett: What did Ruth think about this three-year plan and then the ultimate decision to stay in D.C.?

Mr. Pollak: I think that Ruth may have been more open to moving to Illinois. She and I often talked about finding a home in Evanston, which was a near-Chicago urban area on the lake, more urban than suburban. I can't recall that she pushed to go to Illinois or that she was particularly in favor of my giving up the law. I think she probably was not. But I don't recall her taking a position that it was other than a decision for me.

I was influenced by many things in turning away from returning to Illinois. One of them was that in my years growing up there, while the society of young people was open and there were really no particular limitations imposed on me as a Jew, my awareness was that in the adult world, there were religious-based country clubs and that there was some ghettoization of Jews. I didn't find that to be true in Washington, and I think I was happy not to return to Illinois and face the possibility of those limitations. I'm sure that there were similar limitations in some strata in Washington, but coming into the law world as a young associate

and living first on the Shirley Highway in Virginia and then moving into the District and having a life among my peers, those limitations were much less or so perceived to be by me.

Ms. Garrett: Well, tell me some about what Covington was like when you got there, because that is where you ultimately decided to go. You got there, when, 1956?

Mr. Pollak: I came to work on September 18, 1956. I remember my perceptions in Illinois as I looked toward coming back to Washington. Whatever happened I had to be there on the 18th because I said I would be there. I remember having a perception that the law firm would be paying particular attention to when I arrived. Of course, they probably couldn't have cared less. It was just my perception. I now recall that the summer after graduation from law school, I was present in Illinois with my wife and two children, Linda and David. David had been born in January of the year I graduated. That summer I worked partially at the real estate firm, but I devoted myself heavily to taking the bar exam.

Ms. Garrett: Which bar did you take?

Mr. Pollak: I took the Illinois Bar and passed it. It was a two-and-a-half-day exam. I consider that it was wasted time. I spent a great amount of time learning the bar review course, learning the intricacies of Illinois law on various subjects, and I don't think I ever used any of that.

Ms. Garrett: Did you then have to take the D.C. bar when you came to Washington?

Mr. Pollak: I waived into D.C. and don't recall there being any particularly demanding requirements. I remember traveling to Chicago and then driving out to Elgin,

Illinois, to be sworn into the Illinois Bar. In any event, I joined Covington & Burling, which was then a firm of maybe 40 lawyers.

Ms. Garrett: How did that compare to other firms? Did that make it a big firm?

Mr. Pollak: It was a big firm for that time period. Arnold, Fortas & Porter was smaller and Cox Langford was eight or nine lawyers. My close Yale Law School friend, David Isbell, and I had the same purposes of going to Washington and of seeking employment with those three law firms, Covington, Arnold & Porter, and Cox Langford. We each interviewed at each firm. Cox Langford was headed by Oscar Cox, who had been one of the very bright, able attorneys in the federal government during World War II. In the firm were Lloyd Cutler and Lou Oberdorfer, as well as others whom I came to know. That firm chose to hire one person, Sam Stern, who was coming off a clerkship with Chief Justice Warren and did not extend an offer to David Isbell or to me. We both received offers from Covington and joined Covington. I would like this oral history to record one story about the interview process.

When representatives of law firms came to Yale to interview in those days, they stayed in the courtyard where the law school was located. There were suites that had a sitting room and a bedroom. The interviews would be in the sitting room. Gerry Gesell, who later became a Judge on the District Court here, was there representing Covington. He must have interviewed David Isbell before he interviewed me. My memory is that I knocked on the door and it was opened by a robust man with white hair whom I had never met. I said, "Hello, my name

is Steve Pollak. I'm here for your 10:30 interview." And the man said, "Come in. I'm Gerry Gesell. He pointed his finger at my chest and said, "I hear you think we don't take Jews." (Laughter).

Ms. Garrett: (Laughter).

Mr. Pollak: So that was the significant way the interview opened. Surely, I had discussed that question with David and he undoubtedly had asked about it. Of course, Covington had Jewish people among its partners, important partners. In any event, I was always happy with my selection of Covington. It was a good place to begin my practice. My first assignment there – I think there were as many as eight young lawyers, some off clerkships, who were assuming positions with the firm when I arrived. I can remember being intimidated by the fact that most of them had clerked and I had not. I often recounted in those years that my attorney peers introduced themselves as if their names were, "Hello, my name is John Smith. I clerked for blank. " I can also remember that the young lawyers went out to lunch and across the lunch table there were discussions which were like young male animals testing out their fighting skills. The lawyers would be raising questions that were going to the courts and presenting all of the arguments with respect to those questions.

My first assignment was to work with a young partner named Ernest Jeness, J-E-N-E-S-S, who had a burgeoning communications practice. He represented the *Washington Post*, TV and radio stations and other stations and he came to represent a new trade association called the Association of Maximum

Service Telecasters ("AMST") that was composed of licensees of VHF channels. As I recall, its purpose was to address competition that was in the offing from companies obtaining UHF licenses, which were then just being issued; companies that were, because of technical limitations later overcome, less capable of providing good service. In any event, we at Covington filed lots of papers with the FCC on behalf of our clients on license renewals and in rulemakings, mostly a paper practice. Ernie Jenness seemed from my standpoint to want to put out a perfect product, which was not unusual, and I think he did do so, but he did not appear to take much pleasure in it, and the experience of us young persons was not particularly enjoyable. It may have just been the nature of work. I recall working on a renewal of the license for a TV station, Channel 9, held by *The Washington Post*. The requirements were such that we had a stack of typewritten papers about an inch-and-a-half thick and very technical and burdensome to prepare. It fell to me to select all those facts and display them. My feeling was that none of my law training fitted me for doing that compulsive task and that my experiences were not advancing in any direction that would be fruitful. I made an effort to get out of the communications practice and ultimately, maybe as soon as one year, I moved to working with Gerry Gesell who was a trial and appellate attorney mostly in the antitrust field. I proceeded to work primarily with Gerry from then until I left the firm to go into the federal government in November 1961. I had really outstanding experiences with Gesell.

Ms. Garrett: Tell me what he was like at that time. I knew him only after he had gotten on the Bench.

Mr. Pollak: Well, he was a dominating personality, not that he tried to be, he just was. He was a major figure at Covington & Burling. He took great pleasure in the practice of law. He enjoyed the competition that goes with the adversarial process. He was combative without being other than well behaved and pleasing to be around. He loved what he was doing and made it a great experience for those who worked with him. We had challenging work to do. He was very supportive of those who worked with him. He made it a learning experience and was promotive of the confidence of those who worked with him.

My first assignment with Gerry was to help prepare and try a criminal antitrust case. The United States had brought criminal price-fixing charges against five manufacturers of the then-new polio vaccine. We represented Parke Davis, which manufactured the vaccine at its plant in Detroit. The lead defendant, because it had the largest market share, was Eli Lilly. Other defendants were Wyeth, Pittman-Moore in Kansas City and Merck, Sharp and Dohme. It was a great case. It was presented before Judge Philip Foreman of the United States District Court for the District of New Jersey located in Trenton. The Government was represented by Louis Bernstein and Bernard Hollander, both of whom spent their careers almost entirely in the Antitrust Division and were excellent attorneys and straight shooters. The relationships between counsel were good. The evidence against the manufacturers was damning in that prices moved in unison

and were identical down to the fourth decimal place. The packaging was similar as were the terms and conditions of the sale. There was a lot of fact work. I remember going often to New York to deal with the document depository at the Dewey Ballantine firm and case preparation.

I want to recount the lineup of attorneys because it was unusual. Watching them work was an education. Eli Lilly was represented by the Dewey Ballantine firm. Governor Dewey was Eli Lilly's lead counsel. He was seconded by a senior lawyer, Everett Willis, and a younger partner, Len Shapiro. There were three outstanding associates, including Bob Pitofsky, later Dean of the Georgetown Law Center and then Chair of the Federal Trade Commission. Dewey's local attorney was former New Jersey State Judge Richard Hughes, who was subsequently Governor of New Jersey and then Chief Judge of the State Supreme Court. Parke Davis was the second largest producer and Gesell was its attorney. Our local lawyer was Thorne Lord, a sole practitioner. Thorne was head of the Democratic Party in New Jersey. We young lawyers joked that in any group picture, Gesell, Thorne Lord and Judge Hughes, each a strong Democrat, were at pains not to be photographed in chummy relationships with Governor Dewey who was the lead Republican at the time. Another lawyer in the case was Bill Piel of Sullivan & Cromwell, a great trial attorney. He represented Pittman-Moore and I recall his bringing a lot to various evidentiary presentations.

After five weeks of trial in which the Government put in its case, the indictment was dismissed on grounds that the Government had failed to prove that

the uniformity in prices and terms of sale was not the result of the Government's deep involvement with the development of the vaccine. Judge Foreman held that it was the burden of the United States to negative all innocent explanations of the alleged uniformity and that it had failed to do so. It was a big win and the defendants never needed to put in their case. There was difficult evidence in the case in that the manufacturers had been meeting and talking together in the effort to bring out this new vaccine. It was a terrific learning experience for me.

There was a book at the time about the world of business competition. I remember reading it to find passages for Gerry Gesell to use in his argument to the court on the motion to acquit.

Gesell and I prepared Park Davis' defense, with Gesell handling the in-court work. I had a responsibility to know the whole case, all the documents and to be master of all. Governor Dewey had partners Willis and Shapiro plus three associates, each of whom had a slice of the case. Gesell often commented negatively on the wisdom of having lawyers learn only a part of the facts. He thought that to be really useful, one had to be master of the whole case. I've always believed the same thing. When you are able to have a mentor, as Gesell certainly was, you tend to view law and practice issues like your mentor views them.

Ms. Garrett: So was it just you and Judge Gesell?

Mr. Pollak: Just the two of us.

Ms. Garrett: Unusual for a case of that size, certainly today. Was that unusual for the times?

Mr. Pollak: I don't know. It was typical of Gesell. He thought he could do it and of course he could. Another aspect of Gerry was that he worked hard during the week. I don't recall his working many nights except when he had a deadline. But on the weekends, he had a farm and he did not do law work. He went home. He did other things. As far as I could tell, he didn't obsess about the issues presented in his law practice.

When the polio case ended, I was immediately jumped into representation of General Electric which was the subject of a grand jury investigation into price fixing and other antitrust violations in the heavy electrical equipment industry. While Gerry and I had been on the polio case, Graham Claytor, Gerry's partner, had been handling the representation of GE. Gerry took it over and I worked with him for several years, until I left for the government in November 1961, on that big series of electrical industry cases brought by the United States that were criminal and civil in nature. The grand jury was sitting in Philadelphia. Robert Bicks, Acting Assistant Attorney General in charge of the Antitrust Division, was in overall charge, assisted by two outstanding attorneys in the Department of Justice, Gordon Spivack and Craig Wittinghill. It was the largest antitrust case to come along. My major responsibility was to prepare and take GE officials to the grand jury. My memory is that I took 42 of them and prepared and debriefed them. The company's instructions to its officers and employees were to tell the full truth and I worked with the witnesses to do so. Generally, they recounted quite inflammatory and damning stories of price fixing and secret meetings that

are all part of history now. Again, there were outstanding attorneys who represented the various defendants.

Westinghouse was represented by Bruce Bromley of Cravath, Swaine & Moore. Judge Bromley, as he was called – he had been appointed to the New York State Court of Appeals with an interim appointment. The story goes that it fell to him to write an opinion in a case challenging a fair housing statute. I recall that he upheld the statute and, as a result of his ruling, he wasn't named to a full term. He was always known as Judge Bromley, however. He was greatly talented and had a wonderful sense of humor. He obviously had, as did Judge Gesell, great talents in the acting line. Perhaps the best courtroom lawyers are great actors, and Bromley as well as Gesell were that. Both men were very likeable.

The electrical industry cases were presented before Judge Cullen Ganey of the Eastern District of Pennsylvania. Motions were presented before Judge Ganey. We attorneys would gather in Philadelphia the night before and all of the attorneys for the defendants and there were many – six, seven, eight companies, manufacturers. The lawyers would compare readinesses for the argument. I recall Gerry Gesell, after presenting a difficult motion to Judge Ganey, coming back where I was seated and asking me what my view was of his performance. I felt then, and I never had reason to doubt it later, that, like everyone else, he wanted reassurance after he presented an argument that he had done a good job. This to me was a window into his makeup, even though he had great confidence

in his ability.

There are two more stories about the electrical cases I'd like to tell. The first is of the Chairman of GE, Ralph Cordiner, an American corporate official of preeminence in the United States at that time. The president of GE was Robert Paxton. One group vice president, Mr. Burens, and many division vice presidents responsible for heavy electrical equipment products were indicted. The question was whether they were acting on their own or were the two top executives also involved in the conspiracy. Ultimately, Paxton was indicted on the testimony of senior executives who had been indicted. They said that Paxton had come from his office in New York to Philadelphia and instructed them on their conspiratorial activities. Gesell conceived the idea of going to the prosecutors, Wittinghill and Spivack, and saying to them, "Paxton denies the accusation and says he never made that trip to Philadelphia. I believe that the executives one rung down are lying about it. If you will tell me when he is supposed to have come to Philadelphia, I will take that period and three weeks or five weeks or whatever number of weeks around it and I will bring you proof that he was never in Philadelphia as they say. If I show you proof, I will expect you to dismiss the indictment." I don't know whether any government prosecutor would do so today, but they agreed. Roberts Owen and I, with Gesell, assembled all of the evidence of Paxton's whereabouts. Being president of the company, his whereabouts were pretty heavily detailed, for example, whenever he went into the company's lunchroom, it was recorded. So we amassed this tremendous amount

of detail and presented it to the United States. The prosecutors dismissed the indictment.

The other interesting story involves Ralph Cordiner who was never called before the grand jury or indicted. The United States Senate called him to testify. We at Covington prepared his testimony and worked on it with the company liaison, a very able attorney who had rusty red hair. Cordiner obviously was concerned. Late in the process, he retained Clark Clifford to represent him personally. Clifford came over to see us at Covington. My recollection is that he wore a double breasted suit and had a great big, colorful striped tie. We showed him what we had done and briefed him and he took it all in. Soon thereafter, we had another meeting with Cordiner and Clifford. My observation was that Clifford relied on what we had done and presented it up to Cordiner. I felt then that Gesell's role was diminished unwarrantedly by Clifford. On the other hand, as I look back on it, Clifford had been a significant adviser to Presidents even then, and what may have been occurring was Clifford's relying on what we had done but bringing to Cordiner his own experience and evaluation of the upcoming Senate hearing, and giving Cordiner the confidence to go ahead with both our product and Clifford's advice. It taught me that attorneys can have significant roles tied to the judgments they make and the experience on which those judgments rest, even if they really aren't doing the leg work of writing or reading or even evaluating facts and cases. It was another learning experience.

Ms. Garrett: Tell me, in addition to these cases which seem to have consumed a fair amount of your time at Covington, did you have any opportunities to do any of the pro bono work that had drawn you to the firm?

Mr. Pollak: I did. Let me just say that I had one other case that I worked on with Judge Gesell that pretty much ran its course and was a smaller case located here in the District of Columbia. Gesell was retained by Lykes Steamship Line, which had been sued by Bloomfield, a smaller, non-subsidized company. States Marine, like Lykes, was a subsidized steamship company. There was a requirement that subsidized companies had to disclose all of their ownerships and they were precluded from acquiring any line which was not subsidized, or at least had to have permission before doing so. When States Marine's subsidy came up for renewal, Lykes, which was a competitor, opposed the renewal and Lykes' attorney, Odell Kominers, head of a small maritime firm here in D.C., argued that States Marine had acquired, surreptitiously and without the government's permission, a small unsubsidized line, Bloomfield Steamship Company. He made this assertion orally in argument before the Maritime Board. Bloomfield or States Marine or both sued Lykes for slander, saying the allegation was that it had committed a crime. Gesell was retained to defend the case. The lawsuit was before Judge Alexander Holtzoff in the United States District Court for the District of Columbia. The case was left for me to prepare. I remember going to New York to take depositions of the General Counsel and President of States Marine. I was probably four years into the practice, maybe less, and I had never taken a deposition. I prepared these

depositions and then was sent off alone to take them. I spent all day doing so. I felt utterly defeated by the witnesses. I had all my questions and documents ready and I kept getting the "wrong" answers, which were essentially denials of the acquisition and ownership. As the case later played out, and some of it played out after I had left for the government, I heard that the answers were shown to be less than candid. I couldn't understand the flow of the testimony in light of the documents. The flow of course, was to maintain the total innocence of States Marine.

Later, we took the deposition of Warner Gardner, who had represented American President Lines in the same proceeding. Warner was a partner in Shea & Gardner, the firm I joined in 1969. It was the first time I met him.

Judge Holtzoff was short of stature and considered a tyrant in his courtroom. I know that when Gesell and I went to court, Judge Gesell advised me that Judge Holtzoff required everyone in his courtroom to have their suit jackets buttoned and to sit up straight, to do no talking, no reading and, of course, to stand up whenever addressing the Court and to be completely respectful, which he was at pains to be and so was I. Judge Holtzoff received several significant briefs from us. The case was argued on summary judgment, but may have been tried after I left the firm in 1961. In any event, it was the first experience I had in the United States District Court here. My recollection is that Judge Holtzoff ran a good court. It was a positive experience.

You asked about pro bono. Early on, after I had gone to Covington, I started devoting time to cases brought by the American Civil Liberties Union. I recall working with Jim Heller on a case in which Joe Rauh was involved. We were dealing with coerced confessions and exclusion of the confession from evidence as violative of the Fifth Amendment. I also recall representing the ACLU in giving testimony opposing an effort to impose on the City of Washington a curfew for young people. I also testified against a proposal for preventive detention. A wonderful partner at Covington & Burling, Charles Horsky, was a close colleague and participated among others in cases and matters that came in to Gesell. Their offices were back to back, with a doorway between, and Gesell would often open that door and consult Horsky on difficult issues. Horsky was active in the Washington Housing Association, which had a purpose of working for better housing for indigent people, supporting public housing and urban renewal. I began volunteering time with the Washington Housing Association which was then chaired by Horsky. I became a board member and over many years was very active with that organization. Later, I became its chair and participated with Reverend Channing Phillips in a corporation called Citizens for Better Housing, CBH, which was an organization that endeavored to purchase and rehabilitate housing for the poor. A wonderful man and attorney named Bruce Terris was active with that organization too. He was a lawyer with whom I served in the Solicitor General's Office.

So I began immediately at Covington to be active in city and pro bono affairs. I cannot recall the firm ever raising any issues about that. My recollection is that I could do anything that I wanted, provided I was able to perform the work that was assigned to me and do those other things without a problem.

Ms. Garrett: Tell me a little bit about the firm culture when you got there. Were there minimum billable hours requirements?

Mr. Pollak: There were no minimum billable hours requirements. At the end of each year, in the month of December, each associate had a meeting with Edward Burling, Jr. He was not the most powerful partner, but performed this important function. At that meeting, he would tell you in a general way how you were doing and what your bonus for the current year and salary for the next year would be. I believe associates of equal seniority received the same salary. I recall that my annual starting salary in September of 1956 was $4,600. I think I received a small bonus at the end of the year and then it went up some. Maybe it went up to $6,000. I harbor the idea that bonuses were by seniority, but my memory is vague about that.

I found the firm socially quite congenial. It was somewhat old worldish. The senior partner was John Lord O'Brien, who was a great figure in American law. He was 90 I think when I got there, came to the office daily and was available and held in great respect by everyone. He was called by everybody "Old Mr. O'Brien." Dean Acheson had returned from being Secretary of State.

He was there as was his son, David. Early in our time at Covington, David Isbell and I decided that we were not getting to know some of the more senior lawyers. We devised a plan of inviting them to go to lunch. We called Barbara, Dean Acheson's secretary. I don't remember her last name. Certainly, we called her by her last name then. We said we wanted to take Mr. Acheson to lunch. She was nonplussed by the request, but conveyed it. He accepted our invitation. David and I had a wonderful lunch with Dean Acheson, of which I remember nothing now. When I applied for and was admitted to the Supreme Court, Mr. Acheson – in those days, admission was moved in open court and granted individually by the Chief Justice – moved my admission and signed my certificate. My observation (possibly wrong) was that Dean Acheson, who was a major national figure, did not have a particularly robust law practice, probably because he had been away in the government so much and his clients probably went to others. I have the impression that he worked primarily on public issues and his memoirs. The dominant lawyers by my observation were Gesell, Tommy Austern who had a fair trade practice, Hugh Cox, who was a great trial lawyer in the antitrust field. Everyone at Covington & Burling thought that Mr. Cox, as he was called, was the best lawyer in the firm, although I'm not sure Gesell felt that way. My observation always has been that to be a great lawyer requires a lot of self-confidence. Gesell had that and it was very becoming to him.

Covington drew wonderful young attorneys. Among those who were there was Harris Wofford, a man of broad talents and interests who became a civil

rights activist and played a major role with respect to civil rights and the campaign of John Kennedy for the presidency. Later, he was active in launching the Peace Corps, president of Bryn Mawr College and ultimately a senator from Pennsylvania. In addition, there was Burke Marshall who worked with Gesell and was universally considered as good or perhaps the best, most talented, most brilliant young lawyer. He became a young partner in the late 1950s and was selected by John Kennedy to be head of the Civil Rights Division. Burke volunteered time on the Kennedy campaign in 1960 and I helped him. I asked to go with him into the Civil Rights Division, but he said he was keeping all of the staff that Judge Harold Tyler, who was head of the division under President Eisenhower, had assembled and that there wouldn't be a job good enough for me to take. I didn't go with him and a few months later had an opportunity to go join the Solicitor General's office. After a lot of agony over the decision, I determined to do that. One vignette about that. I, of course, spoke to my primary mentors at Covington. Judge Gesell counseled me not to go. He said I was right on track to be a partner and said, "You'd be better served by staying." Charlie Horsky counseled me the other way and said I should take the offer. Charlie had served in the SG's office. Gesell had begun his career with the SEC. So both of them had served in federal government. In any event, I chose to go and was never, never sorry. I think Covington was an excellent place to begin practice.

Ms. Garrett: Were there many women lawyers who were working at Covington at that time?

Mr. Pollak: There was an absence of women. There were only small numbers of women graduating from law school. My recollection is that there was a permanent female associate, Amy Ruth Mahin, who practiced in the estates field. It seemed to me that she was not advanced to partnership because she was a woman. I don't know that for a fact. No one ever knocked her work. I don't think there were any women in my entry "class." I don't even recall any women in the entering groups after me. I know that when I came out of the Government to Shea & Gardner, there were no women at Shea & Gardner. And while Frank Shea was noted for seeking the best talents around, that did not extend to the best talents of women because we hired men and I think it took a decision to change what had been a policy not to hire women. The first woman here at Shea & Gardner was Mary Fitch.

Ms. Garrett: Did you play a role in that decision or in the policy change?

Mr. Pollak: I can only say I think I must have. I don't remember the specifics. I think that the thinking then of Frank Shea and possibly other leaders of the firm was that, with all of the traveling the male lawyers had to do, if women were brought into the firm, there would be occasions where the lawyers would get involved emotionally with the women and that would be a threat to marriages. Of course, now one would ask why should women be the ones who are burdened by those concerns. Any number of other things could be said about that as well.

Ms. Garrett: And when was Mary Fitch hired?

Mr. Pollak: Soon after I came in 1969. Her husband was a lawyer, and he became a professor at the University of Chicago and she relocated to Illinois. When the policy changed, Frank Shea applied his high standards to seek the best young lawyers regardless of gender, and we began hiring lots of women, and they worked out wonderfully. I think the first partner was Elizabeth Gibson whose husband, Bob Mosteller, was a public defender. They relocated to North Carolina where he became a professor at Duke Law School and she at the University of North Carolina Law School. Clinton endeavored to nominate her to the Fourth Circuit, but Senator Helms and others blocked it or said they would block it. She is a wonderful attorney. We've had many outstanding women attorneys here including Wendy S. White, a former partner, who is now Vice President and General Counsel of the University of Pennsylvania.

Ms. Garrett: We have been going a while here and I think we've wrapped up with your Covington experience.