

ORAL HISTORY OF JUDGE CHARLES RICHEY

The following interview was conducted on behalf of the Oral History Project of the District of Columbia Circuit. The interviewee is District Judge Charles R. Richey; the interviewer is Daniel Singer. This interview took place in the chambers of Judge Richey in the United States Courthouse in Washington, D.C. in the afternoon of the 25th of April, 1995. This is the third interview.

Mr. Singer: So, that's not a problem. What we were talking about toward the end was basically what your practice was like. We talked about your doing immigration work and you and I had an exchange about the fact that Fried Frank had done some immigration work.

Judge Richey: Right, we did.

Mr. Singer: Schifter was very active in that field.

Judge Richey: And also in Indian law.

Mr. Singer: And also in Indian law. But, that we were talking about our practice. We should have been talking about your practice.

Judge Richey: It's all right.

Mr. Singer: And then actually when we ended, we were talking about your relationship with Clarence Brown and how he was responsible I gather for sending certain matters to you.

Judge Richey: Clarence did. But in the main it was people like H. Alexander's Smith's office.

Mr. Singer: Of New Jersey.

Judge Richey: Of New Jersey. Ab Hermann was at the National Committee in August of 1949. And I was already there in office and he came in with Gabrielson

from New Jersey. Like Grant took Richmond. Everybody was afraid of him but he took a liking to me and then when Gabrielson was replaced, Ab went back to the Senate with his old mentor whom he had elected, H. Alexander Smith, and by that time I had gone on and was in the practice. He used to send me immigration work. Because there was a lot of people from Jersey City and so forth who would jump ship and so forth and have to have their status adjusted. Oh there were others, I remember a Romanian doctor who was a psychiatrist that I went up to Montreal with, after getting permission to get a visa from them. You know you had to go out of the country to do it and that was the nearest Consulate. So we all went to Montreal.

Mr. Singer: Right.

Judge Richey: Mon-real as the French would say. And we got to LaGuardia Airport and I'll never forget while waiting to go through Customs and somebody jumped up from behind and kissed me. I had never been kissed by a man before and here was my client a Dr. Kampeon, and he was from Romania. He was just so pleased to be in the U.S.

Mr. Singer: You had never been kissed by a client before either.

Judge Richey: That's right. But he was very emotional. I could tell you a lot of stories about immigration. But that doesn't make any difference. I did tell you that my first case I tried in this court was an immigration case in the old building. Then argued the appeal here. Judge Harold Greene was the law clerk to Bennett Champ Clark. That is a famous case. *Acheson v. Maenza*. Then

I got criminal work and a lot of personal injury work. These are in the beginning days. Government contracts.

Mr. Singer: My recollection...

Judge Richey: Discharge review board cases.

Mr. Singer: For military discharges?

Judge Richey: Yes, military discharges. I can tell you honestly Dan there isn't a case I didn't try except a patent case.

Mr. Singer: And that's only because they didn't come to you, not because you wouldn't have done it.

Judge Richey: Well, no, I didn't like that. I had a friend who was a patent lawyer. A solo practitioner as many of them were. I don't know whether they still are or not. But, I didn't want to do anything like that. Well, today what they call intellectual property, common law copyrights, or other copyright matters. Yes. I did one of those. I tried a case against Jones Day in Cleveland.

Mr. Singer: Were there other practitioners in the community where you really worked who somehow were models for you.

Judge Richey: Oh yes. Like Jake Stein, Trow vom Baur.

Mr. Singer: Well, Trow vom Baur you mentioned. And Trow is, indeed, I think older and more senior than you are. But if Jake is anything younger than you. Isn't he?

Judge Richey: Well, he's one year younger than I am. But a contemporary.

Mr. Singer: Right.

Judge Richey: Jake spoke at my dinner when I got that award in December.

Mr. Singer: Yes. Were there people who were really kind of the seniors at the bar in those days?

Judge Richey: Billy Bryant of my court was one of them that I admired very much and loved. Sidney Sachs is another one that I admired and loved. There was a fellow named Joe Kaufman who was a partner with Jiggs Donohue.

Mr. Singer: Jiggs Donohue and Joe Kaufman, absolutely. They did criminal law didn't they?

Judge Richey: Joe didn't. I don't know what Joe did. I think he was more of a business lawyer and so was Shaw. Jiggs did a lot of criminal work. But he was always on the right side of his shoes. I loved old Jiggs.

Mr. Singer: He was a legend when I came to Washington in 1956. He was already.

Judge Richey: Nick Chase, Ed Williams a bit my senior but quasi-contemporaries.

Mr. Singer: Would you go to court to hear them to watch them or to hear them argue?

Judge Richey: Yes, yes. I did a lot of that. I was in court almost every day. I tell you there's a lawyer, a little short lawyer, used to, a solo practitioner. Probably one of the smartest men at the bar was a fellow named Jacob Halpern who was in the Investment Building. And the trial bar in the say from the late 50's through the late 60's was basically around 15th and K Street. And there was a drug store named Stoutenburg in the Investment Building corner and they sold coffee. They had a soda fountain, but they sold sandwiches and coffee. And in the morning before you came to court you'd always go to Stoutenburg's and when you came back you always went to Stoutenburg's and Jake always presided. And he would tell us what to expect from Judge

X, Judge Y, whether we were right or wrong. Go look this up, go look that up. The Welch brothers and Joe [undecipherable].

Mr. Singer: They did malpractice. Am I right?

Judge Richey: Yes. I was retained by the brother of a Second Circuit judge who was a blind OB-GYN man here in town. A partner. No - a blind radiologist who worked at Providence Hospital and I remember I defended him with Mason Welch because they only had \$25,000 in malpractice insurance. Joe Bulman was the plaintiff's counsel. And if we hadn't caught the -- it might have been a prevarication, they'd have owned the railroad. But fortunately because of that, we were able to settle it within the policy limits. Thank goodness. But I knew the Welch brothers.

Mr. Singer: Is the Bar as chummy now as the Bar you're describing?

Judge Richey: I don't think so. No, much smaller intimate Bar in those days. Today it is much more diverse, transient. National law firms are here. I'd go out on the bench today and I am lucky if I know the lawyers. Lucky.

Mr. Singer: And you maintained a sense of connection to the local bar associations that probably many of the judges don't have.

Judge Richey: That's exactly right. Bill Bryant really the only one left or maybe Oliver Gasch. There was the famous Buck Nordlinger was a great friend of mine. King & Nordlinger - they used to represent the Redskins in the early days. They were a powerful law firm. Bob Frank was with them. All except Buck are deceased, unfortunately, I see Buck from time to time.

Mr. Singer: Do you see him in the context of being an active practitioner or socially?

Judge Richey: Socially.

Mr. Singer: I think that the whole area of the contrasts between the practice now as you see it from a more lofty perspective than 30 years ago and the practice 30 years ago, there clearly are differences. And I think one of the purposes of this project is to try and articulate and get a handle on those differences and not just in a descriptive sense but why they matter. Why is it important that the Bar be collegial or more or less collegial? How does that impact on the quality of justice that's rendered from your court?

Judge Richey: While the larger the Bar the less collegial it is. The less manageable it is. Our court in Houston, Texas a few years ago adopted some rules on civility. Among counsel. And then Marvin Aspen, I think he's a chief judge, but in any event, he was the head of a study committee for the Seventh Circuit on civility. We're starting one here now. One of my former law clerks is chair of that committee. For both of the courts, the local and the federal. But that's the thrust of it. Also, the complexity of society has changed. Bringing about more and more specializations. About the only specialization that really existed when I was young as a lawyer were lawyers who did nothing but taxation or patent work or bankruptcy. Like Sam Greenbaum.

Mr. Singer: He had a wonderful art collection.

Judge Richey: He is a wonderful guy.

Mr. Singer: Mostly from his clients, but I think it was a great art collection.

Judge Richey: But other than that, all the good lawyers were basically generalists. You had

the Welch brothers who did insurance, medical malpractice work for insurance companies. A few others, but most everybody held themselves out as capable of doing most anything. Like Jake Stein. I did. And I think we did a pretty good job of it.

Mr. Singer: That's one of the areas, I think that you just touched on, where people would tend to make the following value judgment: that the specialization, while it may have narrowed, the focus of many lawyers involved has raised the quality of the practice. And has somehow offered if you will, in the litigating content, offered to the bench a much higher quality of product from which to use as a touchstone.

Judge Richey: That's your opinion.

Mr. Singer: That's not my opinion. I am giving you some third party's imaginary argument. I am imagining somebody else's argument. Because that's assuredly not my opinion.

Judge Richey: Well, I'm glad it's not because it's incorrect.

Mr. Singer: Okay.

Judge Richey: We didn't use, for example, Rule 23 in class actions in those days. I don't recall hearing about class actions really. I knew it was in the Rule in 1966. I really didn't hear about them until '71 when I came here at the court and inherited a couple of big ones. That's why I was in New York last week at a NYU National Conference on the proposed amendments to Rule 23 and listening to all these academics. But I'm gonna tell you Dan, the quality of work on the part of lawyers has become more specialized. But that doesn't

mean it has necessarily become better. It's also become more complex because the lawyers make it complex or have a tendency to want to make it complex rather than simple. And it doesn't inure to their benefit or their clients.

Mr. Singer: Assume the truth about what you just said. Why do you think people do that?

Judge Richey: Money.

Mr. Singer: Okay.

Judge Richey: Money, pull in the meter. There are concerns in New York City today, I have heard on reliable sources from the Bar that have clients who will deliberately do something they know constitutes say a tort. They know that they are going to get a gross of \$30 million out of it when they are going into it. They know it's going to cost them \$10 million in attorney's fees, a fine of another \$10 million. But they still make \$10 million in profit and they do it willy nilly. Without regard to any constraints. I never heard of that kind of stuff, until six, seven or eight years ago. But, it's done all over the country.

Mr. Singer: But part of -- let me carry the argument a little further. One of the things that has been both the cause and the effect of the specialization has been the fascination of all of us, you, me, many people with our array of toys. The computer is a primary example. And in a sense that allows one with tremendous efficiency to scan the universe of prior decisions in a way we could have never of done and build and collect and form in the past. At least, on its face, that suggests that.

Judge Richey: That's a surface observation. That's what everybody says on the street. But when -- I think I'm about right -- 1952, early '50's F.2d was up to 202 volumes. My goodness gracious where in F.3d now. You can't keep a total volume of F.2d, Federal Supplement rather, in any library today. Now there are twice as many judges in the 24 years that I have been here, since I started. So therefore there's a lot more opinions. We now have magistrate judges which we didn't have. We have bankruptcy judges now, which we didn't have. We have circuit executives. A new field of judicial administration. A whole host of things in order to cope with the complexity of litigation as it is now extant. Alexander Holtzoff of this court, for example, read every advance sheet and then when the bound volume came out from the advanced sheets he would take it home and read that again and he knew every case. Well let me tell you something Dan, you could do that in his day, literally could do it. You cannot do it today.

Mr. Singer: Did that make him a better judge?

Judge Richey: Yes, it did.

Mr. Singer: In what way, he was no more humane surely for having read everything.

Judge Richey: No. It didn't make him more humane but it enabled him to do twice as much work as any other judge in this court in his time. It did. I don't know whether you've had -- how many times you sat in his courtroom next door. But, he could take a patent case and hear motions for summary judgment and without reading the papers deliver a Chaucer like opinion from the bench and then turn around and hear an immigration case and then turn around and hear

a divorce case. It was just absolutely amazing. I remember a bench conference with him.

Mr. Singer: When you were counsel, in practice.

Judge Richey: Yes, in practice. And a fellow name Jesse Chasen objected to some evidence. We got to the bench and he said, "What's your authority for that Mr. Chasen," "Jones v. Smith" he said, "Oh, I remember that case. That was a 2-1 decision. The judges who wrote the majority are now deceased. This court will follow the living. Your objection is overruled." That's a true story. It happened in this courthouse.

Mr. Singer: I surely believe it. But what I'm probing for -- I'm trying to get...

Judge Richey: I'm not answering your question, I guess.

Mr. Singer: Well, I want to get your views on it. But, I want to make sure that we're covering this waterfront adequately. And that is when you get down to the quality of the judicial product of the thought process, of relationships between the bench and the bar, or the judge and the lawyers who appear, have they improved, degraded or about the same? The same range of...

Judge Richey: Oh, I think the relationship between the bench and bar -- that has improved substantially. It was a closed shop here in this courthouse. An absolute closed shop except for a very privileged few. The judges didn't take the bench until 10:00. They took no less than 15 minutes, usually a half hour in the mid-morning. They take an hour and 45 minutes for lunch. Do the same thing in the afternoon and when the clock struck 4:00, no matter if the witness was from California and couldn't come back, that was the end of it, no

matter what. All the judges did it until I came here in 1971. I decided that was unfair. If it took me like they did in Rockville, in Upper Marlboro or in northern Virginia, if you had to stay until 2:00 in the morning, I did it. It didn't sit well with some of my older colleagues, but justice was a precious thing. There are letters over there -- the result of my dinner from my colleagues and staff. I didn't remember it until 2:00 in the morning. In this courthouse. Because we were trying criminal cases all day long and then at night I felt that some of these people ought to have their day in court. So, I had night court.

Mr. Singer: Night court on the civil side?

Judge Richey: That's right, I did it. There is a great relationship, today, I think, comparatively speaking, between the bench and the bar. I never saw a judge maybe more than once or twice come to a Bar meeting. Now, great numbers of them come to the Bar meetings. The American Inns of Court movement is starting. That's made up of judges as well as lawyers, like your partner.

Mr. Singer: Milton Eisenberg.

Judge Richey: Yes.

Mr. Singer: Yes, but why do you think that's common? Is there kind of a reason for that?

Judge Richey: Well, it's in order to enhance more people's knowledge, civility, ethics. A lot of things have come on the scene that are lacking. The American Inns of Court movement is designed to increase the quality of advocacy, increase the element of civility among lawyers and between bench and bar. That sort of thing. That's why it's there. That's why it's manifested itself. The Bar has

grown enormously. That's big business, today. It's also opened its doors.

Mr. Singer: Yes.

Judge Richey: To minorities. Look at the ABA today, 1995, a woman President -- from New Mexico, a woman Chairman of the House of Delegates from Tallahassee, Florida. Who would have heard or ever thought of such a thing? I applaud it and think it's absolutely magnificent.

Mr. Singer: Yes, without question.

Judge Richey: I just want to see the day when an African-American, some Hispanic -- somebody like that becomes the head of the ABA.

Mr. Singer: Do you think that one of those developments you anticipate will be the closing down of the National Bar Association? That they will go out of business?

Judge Richey: No. I don't think it'll ever go out of business, per se. I hope it doesn't because they shouldn't lose their individual identity, but by the same token it won't be the only place an African-American lawyer can go. They will be welcome.

Mr. Singer: Let me get back to -- the law firm you described to me, your law firm, if I remember correctly, you have one partner in there - I think you said [garbled]. What were the economic arrangements with your partner?

Judge Richey: Well, I didn't really ever have a partner, as such per se. As far as the world was concerned, it was a partnership, but it never was. I had the business and they were there to help and to satisfy the thing, you know, called ego. And that sort of thing. So, that was the reason for it. It was my practice. I

made it and I developed it.

Mr. Singer: So, even your partner was essentially an employee?

Judge Richey: An employee. I paid him a salary and a percentage of the income and percentage they brought in. They never brought in anything.

Mr. Singer: Did the associates have that, though in some sense?

Judge Richey: Yes, I always did that.

Mr. Singer: What was the difference between an associate and a partner?

Judge Richey: Not really, nothing. A name on the door, the stationery, that sort of thing.

Mr. Singer: Yes.

Judge Richey: Never had many associates, per se. Usually, I'd use law students.

Mr. Singer: Much less expensive?

Judge Richey: Yes. As things started in the early '50's down in Charlottesville, a law school called the Legal Research Assistance Program. For \$2.00 a half-hour they'd do legal research for you.

Mr. Singer: [Laughter.] You can't even buy coffee today for \$2.00.

Judge Richey: I never will forget when the Madison Hotel opened, a bunch of us decided we'd go up there for coffee one morning instead of going to Stoutenburg's.

What's the fellow who owns the Madison?

Mr. Singer: Jack.

Judge Richey: He had a construction company called Ajax or something. I forget.

Mr. Singer: He came out of the real estate business.

Judge Richey: Marshall Coyne.

Mr. Singer: Marshall Coyne, that's exactly right.

Judge Richey: Fifty cents for a cup of coffee! We thought that was outlandish. I saw him about a year ago and I mentioned that to him. He said, "Well, Judge, it now costs you about \$5.00." [Laughter.]

Mr. Singer: In terms of your practice how did you -- in terms of the organization of your day and, I assume, was largely controlled by your court schedule. But, you know, when did you write briefs? Did you take it home with you? Or, did you stay in the office?

Judge Richey: I usually stayed in the office. But, I tell you one story - a brief in opposition to a petition for cert once. In my office, then at 1025 Connecticut Avenue, I got into it and at 5:00/5:30 in the morning my wife called. I picked up the phone as bright as the day and said, "Hi, hello," or something. She said, "I hope you're all right?" I was still at my desk writing this brief. Just lost all track of time.

Mr. Singer: Cert granted or denied?

Judge Richey: Denied.

Mr. Singer: Oh.

Judge Richey: There was a great lawyer named Alan Cole.

Mr. Singer: Oh, he was a wonderful person.

Judge Richey: He was a dear, dear friend. He had a lovely son, too -- a partner at Steptoe

Mr. Singer: Don't know his son.

Judge Richey: Chuck Cole, was a clerk to Leventhal. His father had been a law clerk to Robert Jackson.

Mr. Singer: I knew that. I knew that. Alan Cole was somebody...

Judge Richey: I sent him a copy of that brief in opposition. You know what the reply was?
"Dear Chuck, I have read your brief. I am convinced you have deprived yourself of an opportunity to make an oral argument before the Supreme Court of the United States."

Mr. Singer: [Laughter.]

Judge Richey: "Sincerely, Alan." And do you know what happened? He was exactly right.

Mr. Singer: He was exactly right.

Judge Richey: I beat the Solicitor General. That's pretty good for a single practitioner.

Mr. Singer: Because they have an overwhelmingly winning record.

Judge Richey: Oh, they sure do.

Mr. Singer: Certainly in getting to the Supreme Court.

Judge Richey: Yes, cert denied. Boy! That was a big case.

Mr. Singer: Do you remember what kind of case it was?

Judge Richey: An immigration case. Alan did a lot of immigration work.

Mr. Singer: Right. You know, Alan was quite a lawyer. There was one occasion in which one of my partners was sued or threatened -- I guess he was sued for malpractice in connection with a -- if my recollection is correct -- with a divorce settlement. This would have been back in, oh, the late '50's or very early '60's, and we engaged Alan to defend the firm. My recollection is that he ended up with a judgment in favor of the firm. You know, for money. We thought that was a pretty impressive result. [Laughter.]

Judge Richey: You know, it is impressive. I'm not a bit surprised. That sounds like Alan

Cole. Now, what was the name of his partner?

Mr. Singer: Ike Groner.

Judge Richey: Ike Groner.

Mr. Singer: And Ike, I still see him.

Judge Richey: When I first came down here somehow or another as surprising as it may sound Alan was retained by General Electric in a bid protest case and I issued a preliminary injunction.

Mr. Singer: This is while you were on the bench?

Judge Richey: Yes.

Mr. Singer: Oh, I see.

Judge Richey: And he presented proposed findings of fact and conclusions of law. I spent three or four hours reviewing that, and reviewing that. How could I change it to make it better? I finally concluded that there was no way under the sun that I could modify those proposed findings. So, I signed it. I didn't know the law in those days that a judge is not supposed to do that because, in the eyes of some appellate judges, it means that the trial judge has not exercised his or her independent judgment and discretion. Therefore, to copy in haec verba proposed findings by counsel is...

Mr. Singer: Bad form [laughter].

Judge Richey: Erroneous. Some people have been reversed for that. Years later, Alan was a member of the Cosmos Club. Oh, that brings to mind another famous lawyer, expert on civil procedure, he's a professor at Catholic University. His wife use to be President of the League of Women Voters here in town.

His partner was the author of Pike & Fischer.

Mr. Singer: Oh, yes, sure.

Judge Richey: They had an office on DeSales Street.

Mr. Singer: Is that right? And he did that service -- that loose-leaf service.

Judge Richey: That's right Pike & Fisher. Well, anyhow, this friend, whose wife was President of the League, invited Alan and me -- after Alan had his folk to the Cosmos Club. We were up there having lunch. I mentioned what I just told you about those findings -- that I couldn't find a way to change them. He said, "You want to know the real truth about those?" I said, "Yes, I assume you did it."

Mr. Singer: [Laughter.]

Judge Richey: He said, "No, my friend here on my left did it." And that was Ike Groner. Alan had tried the case, but Ike had written it.

Mr. Singer: No, these were really smart people. Really smart people.

Judge Richey: There was a David Bress around, oh, a Mr. Newmyer, Sr. and his boys. They had a lot of wonderful people like Rolle Lamensdorf.

Mr. Singer: Was Frosh someone you knew? Stanley?

Judge Richey: Yes. I didn't know Stan well. Only knew him -- he became primarily a Maryland practitioner, and active in Democratic politics out in Maryland. We just never crossed wires. It was after I became a judge that he became a judge through a mutual friend who was a pediatrician. We both had the pediatrician so we got to know each other socially. He also appeared before me before he became a judge.

Mr. Singer: Right, true.

Judge Richey: But, as you know, Stan's son is in the legislature now.

Mr. Singer: Yes.

Judge Richey: And an awfully nice guy. He tells me that I am as good as any Democrat.

Mr. Singer: [Laughter.] How, do you react to that?

Judge Richey: That's all right. I don't care.

Mr. Singer [Laughter.]

Judge Richey: What difference does it make?

Mr. Singer: Well, to some people, come on, it makes a lot of difference.

Judge Richey: It doesn't make any difference to me.

Mr. Singer: Well, that I can. All right. You've seen, now, 25 years of law clerks, basically. You probably started out with one law clerk.

Judge Richey: I started out with less than that. Myself, period.

Mr. Singer That's when you were a judge?

Judge Richey: No. Oh, starting here?

Mr. Singer: Starting here.

Judge Richey: Oh, we had two law clerks and a secretary.

Mr. Singer: You had two law clerks and a secretary even in 1971?

Judge Richey: Right.

Mr. Singer I see. Because my recollection of 10 or 15 years before that....

Judge Richey: They had one secretary and one law clerk.

Mr. Singer: One secretary and one law clerk.

Judge Richey: When I came here there was a fellow who was the number three person in the

Administrative Office of the U.S. Courts who had gone to my law school. So, I called him up and he took me by the hand around all the agencies within the AO. A pretty big place even then. I said, "You know, Joe, I have a friend whose son is a Capitol Hill policeman. He's trying to get through law school. Because of a shooting up in the House, they are going to abolish all patronage with these jobs." He was on Senator Brewster's patronage as an elevator operator. You know?

Mr. Singer: It was Danny Brewster.

Judge Richey: Yes. He had called me and told me about it and asked if I had any suggestions. I told him that I was going to be a judge and I'd find some way to get him on my staff. So, I went up to the AO with Spaniol and asked him if I could hire him. I didn't want a black messenger. Why couldn't I do that? He said, "That's perfectly all right. You can do that. Other judges around the country have done it." I told Johnny Sirica that, my Chief Judge, that I had done that and he raised holy heck with me. In fact, he ordered me to tell this young man he couldn't come on even though I had hired him. Which, I refused to do.

Mr. Singer: Judges are not in the habit of ordering around other judges on their court are they?

Judge Richey: It depends. Sometimes they do; sometimes they don't. But he did. He said, "You can't function without a messenger."

Mr. Singer: [Laughter.] And your response was?

Judge Richey: Go to hell!

Mr. Singer: Well.

Judge Richey: I literally said that. You know what happened? He had a messenger who apparently had a drinking problem. I was here about six or eight weeks and I got a call at 5:00 in the morning. I was dead asleep. "Chuck, this is John. How soon can I see you? Something very important has come up." I said, "Well, what is it about?" "Well, I will tell you when I see you."

Mr. Singer: This is John Sirica?

Judge Richey: Yes. Well, I said, "I could be at the courthouse by 8:00 [a.m.]. Is that too late." "No." Down there on the end where Linda Finkelstein Ferren is now.

Mr. Singer: Right.

Judge Richey: There he was marching up and down the hall. Well, I opened the door and said, "John, would you like a cup of coffee?"

"No."

"Want to sit down?"

"No."

And I said, "What's the problem?"

He said, "You know that goddam messenger of mine?"

"Yes."

He said, "He got drunk again yesterday and I fired him."

I said, "Oh, did he have an alcohol problem?"

He said, "Oh, yes. I've been putting up with it for years, but I can't stand it

anymore. Now, what I want to ask you, Chuck, is this: I want to ask you if

I could have Peter?

Mr. Singer: Your messenger.

Judge Richey: "Would you give me Peter?" And I said, "No, John." This is history. "But, I'll tell you what I will do for you. I'll get Peter to get somebody just like him." And so when Peter came in an hour or so later, I told him about this thing. And by that time he had known Sirica. I said, "For God's sake find some Italian fellow."

Mr. Singer: [Laughter.]

Judge Richey: And he did. His name was Richard Azzaro. I haven't seen him since he left the courthouse. Then Sirica, after the Watergate, he was making a speech up at the Army-Navy Club and he had that almost fatal heart attack. He was clinically dead for a couple of minutes. The newspapers said that the Deputy U.S. Marshal saved his life. That was not correct! You know who it was? Richard Azzaro, who by that time was a young staff attorney at the FCC. He administered mouth-to-mouth resuscitation and saved John Sirica's life.

Mr. Singer: Very interesting.

Judge Richey: That's how that happened. That's the honest to God's truth.

Mr. Singer: I see, that's very interesting.

Judge Richey: That's history, true history.

Mr. Singer: What you're describing is sort of a plantation that existed here.

Judge Richey: Oh, it was. You didn't know that? Come on, Dan, you were in the courtroom! Oh, all right. I had a call from Judge Tatel last week or ten days ago. He said, "I look forward to reading Dan's oral history."

Mr. Singer: Okay. [Laughter.]

Judge Richey: [Laughter.] I said don't blame it on him; blame it on me.

Mr. Singer: Well, it certainly.....

Judge Richey: It was a plantation. Now, come on Dan Singer, you were on the Court of Appeals. You knew what went on.

Mr. Singer: It looked like a plantation to me.

Judge Richey: It was.

Mr. Singer: But, the judges themselves seemed to enjoy the plantation. I'm talking about David Bazelon and George Thomas Washington and Charlie Fahy.

Judge Richey: Sure, and Henry Edgerton.

Mr. Singer: Edgerton a little less so. Edgerton was a very special, an especially decent human being, of a very different stripe than the other three.

Judge Richey: Yes, but those four human beings were all on the same wave length.

Mr. Singer: Certainly in terms of their political views and their judicial policy views.

Judge Richey: Exactly.

Mr. Singer: But, on a human level, Edgerton was really a much nicer person, as far as I was concerned.

Judge Richey: Really?

Mr. Singer: Two years up there, one working directly for Edgerton because he hired me, as a motions clerk, and one from the vantage point of...

Judge Richey: Judge Washington.

Mr. Singer: Chambers. And Edgerton was really an interesting person. Wide range of intellect and...

Judge Richey: You know what David told me about him one time?

Mr. Singer: This is David Bazelon?

Judge Richey: Yes. He said, "Chuck, when Henry Edgerton spoke, I listened."

Mr. Singer: Right. It was not Bazelon's normal [laughter] way.

Judge Richey: No, it wasn't, but that's what he said. I think that's about the highest compliment a man could pay to another human being.

Mr. Singer: Well, Edgerton was of that foursome was the only one who was an academic. David certainly was not an academic. David was...

Judge Richey: He had an academic mind.

Mr. Singer: Yes, but that comes very late and only after he was a judge. That strain of mind.

Judge Richey: So, what?

Mr. Singer: No, no, no. My point is that Henry Edgerton was an academic; he was a person who liked always to play with ideas and was always open and accepting. He was not in a sense a practitioner. Fahy was Solicitor General and had been in government service. George Washington had taught a bit, but really kind of consummate bureaucrat, in many ways, whose finest achievement was when he was Lend Lease Administrator in Iran he kept track of every paper clip. I mean, they would talk about him in those terms. Bazelon came out of the streets of Chicago. And Edgerton was appointed because he was the only one who spoke out in favor of the court backing plan toward the end of the Roosevelt court packing plan.

Judge Richey: From Cornell, as a law professor.

Mr. Singer: Yes, that's exactly right. And that's what earned him a place in the sunshine. He had some wonderful views. He thought that no representation of the human figure could be obscene. You know, it was a well-developed intellectual construct that he brought with him. He would sit at his desk and the most important set of books within reach was the, I guess, 18 volumes of the Oxford English Dictionary. He had a wonderful kind of relationship with the English language. And he had two law clerks because he was the chief judge. If I remember correctly. And everyone else had only one. Bazelon had after a while got a second, but he paid them out of some other fund not out of his chamber's administrative fund. He may have had a grant from some foundation nominally.

Judge Richey: That's what Dave would do. It was the National Science Foundation or something.

Mr. Singer: Right.

Judge Richey: He was good at that.

Mr. Singer: Yes. And early, he was one of the first.

Judge Richey: That's right. That's exactly right.

Mr. Singer: But in terms of the sweep of what you've seen now in your own chambers and to the extent you have had any relationships over time -- with not just the other judges, but perhaps their law clerks. Have there been changes in the 25 years in the kind of folks who become law clerks, with whom you interact, with the range of talents that you look for, and can get? To come, to be with you. For how long do you take these young people?

Judge Richey: One to two years. I like them for two years, but sometimes it doesn't work out that way. I've got this young woman right now who is brilliant, has qualities of a genius, but because economic reasons... Early in my judicial career, so that there would be an overlap between the two clerks. One who had been here a year, who could help train the new one. And that's worked out very well. It effectively established a trend. Right after I came here, the court had voted, a split vote by one vote margin, to leave the old general assignment system and go on the individual calendar system. I'd never been lobbied for or against anything so hard in my life as I was by the group that were opposed to individual calendar system.

Mr. Singer: What were the issues and who cared?

Judge Richey: Oh, the judges cared.

Mr. Singer: The judges cared, but what did they care about?

Judge Richey: It was a method of hiding from doing work.

Mr. Singer: The general assignment?

Judge Richey: General assignment. He's in court or he's not available. He's at a meeting. That's how Holtzoff got so many cases. Others didn't do anything. There was no accountability. And that's taken hold; the rule all over the country, except maybe in the Eastern District of Virginia. So, that's a major change in judicial administration in the last quarter of a century. But, Sirica, Hart, Walsh, I don't know who all they were. But, they expect me to come down there and get that turned around. I determined that they were wrong and that ended it.

Mr. Singer: And now, the process is you are assigned a case and it's yours until it goes upstairs or out the door?

Judge Richey: Right. For all purposes.

Mr. Singer: Does it have advantages other than accountability?

Judge Richey: Yes, because if you nurture and structure a case from the beginning yourself you know the issues, you understand it, if it has gone through six hands on a discovery motion, protective order, all kinds of discrete discovery problems including maybe motions to dismiss, maybe even summary judgment motions, then it gets up to the trial stage, the judge doesn't know anything about it at all.

Mr. Singer: Does the familiarity that you get over a period of time, the pre-trial period, help or hinder or make no difference with respect to your ability to bang heads together?

Judge Richey: Oh, helps enormously. Not only that it helps in your understanding of the case and you get to know the lawyers, their ability or lack thereof, so on. And you can also deal with matters much more quickly when you are the boss. It's a wholesome thing - it has proved itself to be wholesome.

Mr. Singer: If you took a vote today would it be unanimous?

Judge Richey: I think so, it would be unanimous. Nobody would have the nerve to vote against it today.

Mr. Singer: That's a different issue.

Judge Richey: It would be unanimous and the vast majority would vote to sustain it on its merits.

Mr. Singer: Let's get back to the law clerks because that's a population that we used to see at the bar in private sector two or three years later. And what I was asking if you've seen the change in your own clerks over the period?

Judge Richey: That's a terrible question. I don't know how to answer it. I guess I tend to attract the same kinds of people but I had deliberately sought and obtained young men and women from all over the country that is law schools and disparate backgrounds. Why? Because I love the interaction with young people. And I use them as a sounding board. Assume you were a law clerk for a moment. I would say "Dan I've got this such and such a case, I think the government is wrong and these are the reasons. What do you think of that?" That may be wholly incorrect as to my real views but I'll call you in to ask you that and I want your honest answer. "That's off the wall Judge, you can't do that." "Why, tell me why?" Then I confess I didn't want to do it anyhow. But it is a sounding board and you get back from them a picture of the country. Don't forget this is a national court from young men and women from around the country. Gerry Gesell, my late colleague, friend always took his law clerks with one exception from Yale in all the eight years he served here. And that was a person from Harvard law school.

Mr. Singer: Well, you know he grew up in New England. I understand that his father was distinguished pediatrician and academic.

Judge Richey: Correct, but I used to tell Gerry, I think you are crazy as heck, you are denying yourself access to a lot of information you would otherwise get, but for your narrow-minded parochialism. I used to tease him. I liked him. His

picture is up there on the wall.

Mr. Singer: The same people they used to get at Covington.

Judge Richey: They were all Yalies. I'm sure, probably.

Mr. Singer: Well, Yalies, and Harvards, Ivy League types and then far righted in that category, feet first. But you now have three clerks, if I understood from our conversation, with Jeff.

Judge Richey: Yes, that is right.

Mr. Singer: And either because of or in spite of all these classy toys you've got you've no secretary.

Judge Richey: That is right I don't need one. I need the help and the brains.

Mr. Singer: How do you communicate with these guys? Guys is unisex.

Judge Richey: I know that.

Mr. Singer: Do you leave the messages on their computer? Do you have e-mail to the next room?

Judge Richey: Yes. I have e-mail from here, I call them in, usually face-to-face, I send e-mail from home.

Mr. Singer: Are you on-line?

Judge Richey: Yeah. I have a little program called *PC Anywhere*.

Mr. Singer: Right. Except for the fact that it tends to be slow, it really works.

Judge Richey: It does. You get a faster modem it works pretty fast, pretty good. What have you got, a 2400?

Mr. Singer: No. No. No. I have a 14-4 at home and it's slower than sitting at my desk in the office as opposed to...

Judge Richey: It's a little bit slower but not a heck of a lot. The slow part is getting into the program. Have to wait a few minutes, but that's alright.

Mr. Singer: How much work do you do from home?

Judge Richey: It varies from time to time depending on how I feel, what other things I'm doing.

Mr. Singer: What about your colleagues here? Are they computer literate? Or are they someplace in the 14th century still?

Judge Richey: Pretty much, I hate to say. I've never gone to one professional class. I'm self-taught. And they have a school in San Antonio, Texas for judges. These characters, three of them, just got back from there.

Mr. Singer: You don't think they learned much, I gather.

Judge Richey: Well, they tease me about being a computer guru and so on. What did you learn? Well, you know it all anyhow. They just go over the basics of it.

Mr. Singer: But their clerks are all literate. I mean all of this next generation. They are not only literate, they're really good at it and for them it's...

Judge Richey: They are not as good at it as you might think. Some are better than others.

Mr. Singer: That is always true about everything, I've concluded.

Judge Richey: Yes, but don't assume that every kid coming out of law school today is really good at using the computer. And they don't know as much as you think they should about Westlaw Lexis or Nexis even though it's free in the law schools.

Mr. Singer: We poach on that in the law firm. Because we have law students who come to work for us and use their law school accounts to find stuff.

Judge Richey: Very expensive for a law firm.

Mr. Singer: It's expensive but we bill it out to the extent we can.

Judge Richey: My son's senior partner, old man Glovsky, he cannot understand why I belong to the law practice and management section of the ABA. Why would you want to do that, you are a federal judge. I said "Well, Henry, I have to fix attorney's fees. I want to know what is going on within the legal profession and I think I have a duty to do that. How many of your colleagues belong to that section?" "None." "Well, doesn't that prove my point, Chuck?" No.

Mr. Singer: Au contraire. If anything, it proves your point. Do you like those cases involving the fixing of attorney's fees?

Judge Richey: No, I hate them. But, if you have to do it you might as well do it right.

Mr. Singer: There's a lot to be said for that.

Judge Richey: And I don't know, is the book still there, it was there on the corner of the desk? The three ring notebook. I just did that. Brand new. It is to be published by West.

Mr. Singer: Hot off the presses.

Judge Richey: You still haven't gotten me, by the way...The gender thing. I told you I will.

Mr. Singer: And I was going to bring you something on the American Society for the Protection of Nature in Israel. I now see my note on that.

Judge Richey: That's all right. We'll do that soon because I have to make a speech on Friday to the Florida Bar on ENE and Arbitration.

Mr. Singer: I had my first ENE appointment from Linda.

Judge Richey: Which court?

Mr. Singer: Your court.

Judge Richey: Good. You'll be good at that. I can tell.

Mr. Singer: I've done a lot of mediation and I enjoy it a lot and I think it is useful and Linda and I and Nancy Stanley, I think have a pretty good relationship in that area. But it's the first time I did an evaluation where I really told people what I thought instead of just trying to cajole them into some kind of settlement posture. At least so far, it hasn't totally gone away, gone to trial yet. So, I don't know what will happen. I did not have the feeling I was being immensely successful.

Judge Richey: Let me ask you this, Dan, under the arrangement we're not told who the mediator is and that is wholesome and good.

Mr. Singer: I think that's good.

Judge Richey: But I do something that I don't know whether the other judges do. Everything I do as a judge, everything, I impose a self-imposed deadline on myself, and the lawyers. There is a next date throughout the entire process. When I send something to ENE, which is seldom, but when I do, I impose a deadline. Does that strike you as bad?

Mr. Singer: No, I think it is essential. All of the mediation cases I've been involved in come with an order saying get it done and report back by such and such a date.

Judge Richey: It does?

Mr. Singer: Absolutely!

Judge Richey: Well, I don't think the forms have a deadline. Mine, I do, but...

Mr. Singer: But when I get one of these and I see what the deadline is and I begin to bring

the people in, frequently it can't be done within that time and if I sense that it may be worth pushing ahead with it, I'll call Nancy and ask her to get the judge to extend. Some judges will do it without the kind of formal intervention of motions; other judges will not. They will ask for a joint motion from the parties and I don't know why they should choose one rather than the other but...

Judge Richey: It may be because they got a discovery deadline, a pre-trial conference and a trial date.

Mr. Singer: They could extend it without having a joint motion, because I'm reporting essentially that the parties have told me that they are interested in staying in the mediation process and would she with a phone call to the judge's clerk see if we can't get another two weeks or month to do it. That office really runs well.

Judge Richey: It does. I want to tell you that Linda is a crackerjack. She is super.

Mr. Singer: She is just super. My experience is she is very, very thoughtful about her relations with the private bar and to the extent I've seen the way that she talks to me about her relationship with the judges. Obviously thought a lot about all of the things she is doing.

Judge Richey: She has. You know Dave Bazelon -- this idea of a circuit executive was a Warren Burger idea. Dave was unalterably opposed to it.

Mr. Singer: Yeah. He didn't like it because it was a Warren Burger idea.

Judge Richey: Well, I don't think that is fair, Dan, it really isn't. David and I had many intellectual conversations about the merits of it. He thought it was going to

be a bureaucracy, super-imposed not only upon the clerks' offices but also upon the independence of the judges. And I bought into that to be candid with you. And it took me many years to realize that she has brought a dimension to this office that I didn't realize existed. We couldn't function without her now.

Mr. Singer: My point was a somewhat different one. And that was that I don't think David liked Warren Burger very much.

Judge Richey: He didn't. But until 1975 David appointed me -- see I'd only been a judge 3-1/2 to 4 years something I like that - chair of the Judicial Conference arrangements committee. And of course, the Chief Justice was our circuit justice so he had to be there. I got those two fellows together and you would -- I'll never forget it - I can see them hugging each other like they were blood brothers at the end of the conference. Blowing tributes to each other... David blah blah blah. Warren blah blah blah.

Mr. Singer: My experience was...

Judge Richey: Just the opposite, I know that.

Mr. Singer: A law clerk, to the extent I chose up sides, I chose up sides on Bazelon's side inside the court and Warren Burger was the junior judge, was number nine when I was a law clerk there. And David was just, well, just really didn't like him.

Judge Richey: Oh, no question about that. But I want to tell you by 1975 that changed. I saw it with my own eyes. I was there - the three of us, in public, too, as well as in private.

Mr. Singer: Well, that was 15 years later - I watched this from '56 to '58. Fifteen or 20 years later things change even for us older guys things change.

Judge Richey: Well, I became within a matter of weeks, it doesn't take long for people to find out, the courthouse is a small place, the walls and the elevators have ears. David would be down in my chambers or I would be up in his. I had a lot of power in those days.

Mr. Singer: He was the chief judge, wasn't he?

Judge Richey: He was the chief judge and he deferred to me.

Mr. Singer: He ran this courthouse.

Judge Richey: He sure did.

Mr. Singer: And so you can sense there might have been some unease on his part with somebody who was coming in to help him run the courthouse.

Judge Richey: But he took me in, I want to tell you, he took me in lock, stock and barrel. He and Mickey both and we became very fast friends and that is how I met Justice Brennan, who became Bill and Milton Kronheim.

Mr. Singer: Were you in that lunch club?

Judge Richey: Oh sure I was.

Mr. Singer: That went over and ate in the, I want to call it the Stockyard, but that's not right.

Judge Richey: Over in Northeast Washington at Milton's Warehouse. Oh, yes, I was, right off the bat. David always drove or had his chauffeur drive and, as I say, he would come to my chambers and it was frankly made my colleagues jealous, they didn't like it, they didn't like him, and that was transferred to me but I

didn't care because we were the same two peas out of the same pod, we were mid-western populists, I really didn't care. I liked him.

Mr. Singer: Actually, the business of going to someone else's place to say hello is really important and it first hit me when I arrived as a motions clerk on the Court of Appeals and I've tried to live by it since. And that is Henry Edgerton came to the office I was in, to make sure I was comfortably situated.

Judge Richey: Isn't that sweet.

Mr. Singer: I would have crawled up a mountain for him at that point.

Judge Richey: Sure you would have.

Mr. Singer: That was just stunning and I try to do it now with new people coming into the office. I don't have to hold court or audience for them. I'm going to go and welcome them.

Judge Richey: Aren't you kind?

Mr. Singer: And it just makes a tremendous difference, it certainly did for me.

Judge Richey: I'll never forget when I broke my hip playing basketball when I was age 50.

Mr. Singer: (Laughter) With your wife....elbowed you into the corner or something.

Judge Richey: Well, one of my kids did. And I was on crutches - I was only away for ten days but I had five pins my hip. I'll never forget Bazelon showed up here and he said I just wanted to make sure you are all right. I said, well I'm still hurting a little bit, David. He said yes, I presume you are but I know you can still raise a lot of hell out there. I'll never forget that.

Mr. Singer: Let me get back to your law clerks.

Judge Richey: Oh, yes, I love to talk about them. They are children. There is not a week

goes by that I don't hear from at least five out of the 40 odd clerks I've had.
I've had two calls from two different clerks today, this morning.

Mr. Singer: How do you make use of their talents? What is their role? You are a district judge who is not afraid to write things.

Judge Richey: That is part of the key to my success; it's because I do write. In the old days, Carl McGowan told me the government would file a motion to dismiss on the alternative for summary judgment. A trial judge, when he first came here would write "granted" or "denied". He said we could never tell which one they were granting. I've read from day one and they have to be able to write in my style, my way.

Mr. Singer: How do you know that when you hire them? What is the process you go through to hire?

Judge Richey: I don't know it. You try your best by looking at research papers they've written. You never really know whether they've done it themselves or go through an interrogation process.

Mr. Singer: Because you said you don't use the kind of law school filters Gesell would use for instance - two or three people from Yale. Dave Bazelon would use Abe Goldstein. Abe Goldstein at Yale would say David this person is really good - take him or her. But if you are looking all over the country you don't have the benefit of...

Judge Richey: Yes, I do.

Mr. Singer: Okay.

Judge Richey: I do now. I have them at all the law schools - Harvard, Yale, Columbia,

NYU, Michigan, Chicago, Northwestern, Georgetown, GW, Stanford, UCLA,
I have professors in Texas at Austin. I have them at all those schools.

Mr. Singer: These are people you know somehow but are not necessarily former clerks of yours.

Judge Richey: That is correct.

Mr. Singer: But Abe was, I guess, David Bazelon's first clerk.

Judge Richey: I don't know.

Mr. Singer: He came from Jiggs Donohue. Abe was down here practicing law. He must have known him from the Alien Property Custodians office in Justice. Abe I think was his first clerk.

Judge Richey: Well, I've got so many friends, probably mutual friends of yours, Alan Dershowitz, Larry Tribe, I could go on and on -- every law school in the country. I sat at NYU this week, last Friday and Saturday, all these academics from coast-to-coast, knew these youngsters coming off. But I still know them. I've got a new generation of Judge Richey fans and it is "Dear Chuck". They know I'm a hard task master, they know the requirements they've got to work six days a week.

Mr. Singer: No vacations and no beard.

Judge Richey: Oh, Jeffrey Liss says that, I don't give a dam about a beard, come on. Jeffrey says that, that is a joke. It really is a joke. No, I don't care what they look like, I'm interested in their brains, their capacity to do clear, concise legal research and do it accurately and well and have the capacity to express themselves also. Have some original ideas. Teach me something. Stay

ahead of me. Do independent reading. Do independent research.

Mr. Singer: Okay, abandon your family. You're mine for two years or one year.

Judge Richey: That is exactly right, exactly right. You'll see in Fed. Supp. Patty Seitz -- who's right over there on the wall -- President of the Florida Bar two years ago, she said that when she came to me it was seven days a week, 12 hour days at least, and becoming an associate in a law firm was like a "piece of cake" because of the discipline and the training. And as well as the excitement in Judge Richey's chambers. No, this is just the third year that I've done that.

Mr. Singer: Comfortable with it?

Judge Richey: Yes. I don't know why I didn't do it sooner.

Mr. Singer: Anybody else operate in any similar fashion?

Judge Richey: Not here.

Mr. Singer: Most of them are two clerks and a secretary?

Judge Richey: Right. They all are, except for me. But you know what? Turn this off and I'll tell you a secret. [Machine is turned off.]

Mr. Singer: Merci. It is interesting. You say there are 17 staff law clerks. I mean, I think the job I shared with one other law clerk, we were motions clerks, and this was -- there were two motions clerks for the whole court. And that was in the days when an enormous amount of the court's business came up on motions directly from the administrative agencies. There was a whole array of in forma pauperis stuff that first came up on motion and there was something you'll remember called the Municipal Court of Appeals from

which there was a certain type of jurisdiction.

Judge Richey: Correct.

Mr. Singer: We worked very hard and we had it all, because we had something no other clerks had any place: We sat in the conference with the judges.

Judge Richey: You did!

Mr. Singer: We were in the conference with the judges on the disposition of the motions.

Judge Richey: Oh, okay.

Mr. Singer: Thursday mornings they would hear motions and then we would go back with the whole motions docket that included both the ones they had heard and the others. We had memoranda on all of this stuff to the three-judge panel with our recommendations and how the matter should be disposed of. That's where I met Bazelon. That is how I kind of met Bazelon and how he would then reach out to get somebody to essentially develop one of these motions issues. I mean all of this stuff was motions issue. David thought it was a Constitutional question -- it merited much greater effort. [Laughter.] And he was right; he was very much right. This was in the immediate aftermath of *Griffin v. Illinois*, when the court really had to work out how do we provide transcripts and counsel to this vast array of petitioners, who in the District of Columbia were all the state types. That's to say that all -- never mind felony types as well as the U.S. crimes that were afflicting -- you know that had the benefit of Constitutional protection. It was an interesting kind of three, or four, or five year run before that range of questions got surfaced and resolved. And I think got resolved very well.

Judge Richey: I think so too. We are still the beneficiaries of it. Well, you had a lot of satisfaction in that.

Mr. Singer: Yes, and it wasn't without...

Judge Richey: Effort.

Mr. Singer: The naysayers. The Walter Bastians of the world or Millers, the John Danahers and the Warren Burgers.

Judge Richey: You couldn't be more right.

Mr. Singer: And the kind of person who really had clout with those -- was Barrett Prettyman. What a prince.

Judge Richey: I never knew him that well.

Mr. Singer: He was really -- he and Walter Bastian were old Washington folks. Danaher was a new comer, and Burger was someplace else, Wilbur Miller was from Kentucky. I think he was the public utility's chairman in Kentucky. But, Barrett Prettyman had been the Corporation Counsel and was a local person. I think Walter Bastian was a practitioner out in Maryland.

Judge Richey: No. He was National Press Club. His son went out to Maryland.

Mr. Singer: His son went out to Maryland. Yes, that's right.

Judge Richey: Walter was a practitioner here; President of the Bar. He and Bo Laws, who became Chief Judge of this Court.

Mr. Singer: Right, right.

Judge Richey: They were all intimate buddies. But, I think Barrett Prettyman, who lived in Chevy Chase, was a conciliator and a born leader. I just looked at him from a distance. I never knew him.

Mr. Singer: Well he was...

Judge Richey: I have his parking place in the garage.

Mr. Singer: Well, he certainly sat in the middle.

Judge Richey: He did.

Mr. Singer: Of these two very strong foursomes.

Judge Richey: Yes.

Mr. Singer: And he was a person, just in terms of my watching the relationships with other judges -- both first as a motions clerk and then when, you know, George Washington would toddle... down to the end of the hall to talk with Prettyman about what they could do about thus and so. Whatever it was. I thought he was always a very fine guy.

Judge Richey: Well, I didn't know him.

Mr. Singer: And his son is a real leader. He's getting on now, but young, Barrett to Prettyman.

Judge Richey: Yes. He's still very youthful, very vigorous.

Mr. Singer: Yes, he's still very active at...

Judge Richey: Hogan & Hartson.

Mr. Singer: Hogan & Hartson. But, I want to get back to the law clerks again as to whether there are changes over time.

Judge Richey: Not a great deal.

Mr. Singer: Not a great deal. Okay.

Judge Richey: Not a great deal. I think I've only had three Republicans out of the whole lot. All the rest of them have been Democrats.

Mr. Singer: Well, this young Jeff is...

Judge Richey: Oh, Jeff. Oh my God! Is he ever a right wing conservative!

Mr. Singer: He's off-the-wall.

Judge Richey: He sure is. He sure is.

Mr. Singer: I must say that I appreciated the fact that, in a sense, he didn't permit me to stuff my foot in my mouth with him. He told me pretty much. It came out pretty early on that he was...

Judge Richey: Oh, he's not a Republican. He's a Libertarian.

Mr. Singer: Yes. Maybe it's unfair to characterize him that way.

Judge Richey: Well, I just laugh at him. I don't pay any attention to him and he knows I don't.

Mr. Singer: How does he get on with your other clerks?

Judge Richey: They get along beautifully.

Mr. Singer: Oh, well that's good, because that's a good lesson to learn early.

Judge Richey: Oh, they've got to learn that. I mean it's such an intimate, small environment. The architecture is bad here. We don't have enough space. Upstairs -- they've taken over two floors, you know.

Mr. Singer: I didn't know that.

Judge Richey: The Court of Appeals now has the whole third floor. You should see their offices!

Mr. Singer: Where's the U.S. Attorney's now?

Judge Richey: Up on Fourth Street.

Mr. Singer: So, they kicked the U.S. Attorneys out of this building?

Judge Richey: Totally.

Mr. Singer: I didn't realize that happened.

Judge Richey: Oh, for a while they had the Probation Office up on Eleventh Street.

Mr. Singer: Because all of that was -- the U.S. Attorneys had the third floor.

Judge Richey: I know. I know it. That's all Court of Appeals now.

Mr. Singer: Oh, I see.

Judge Richey: Palaces, palaces! You've never seen anything like it.

Mr. Singer: No. When I left the Court of Appeals after my year as a law clerk, when each of the judges had only one law clerk. I was in the largest office I had ever been in. I just saw Linda Finkelstein. My office was the size of Linda Finkelstein's office. Linda Ferren's office. I mean, adequate quarters for someone who's a year and a half or two years out of law school, I thought. Not only that, but where Washington's chambers where I had a dead-shot look at the Capitol. It was wonderful! It was just wonderful!

Judge Richey: You thought you were in heaven.

Mr. Singer: I thought I died and had gone to heaven. It would never be that good again.

Judge Richey: That's what our son tells his mother. He died and gone to heaven.

Mr. Singer: [Laughter.] Where's he working?

Judge Richey: He's a partner in Glovsky & Glovsky in Beverly, Massachusetts.

Mr. Singer: And Glovsky was a classmate of mine in law school. I am sure. Jerry Glovsky?

Judge Richey: Henry Glovsky.

Mr. Singer: Lovesky?

Judge Richey: Glovsky.

Mr. Singer: "G"? No, that's a different one.

Judge Richey: He was a classmate of Lou Oberdorfer.

Mr. Singer: Yes.

Judge Richey: At Dartmouth College.

Mr. Singer: So, he's a little older, because Lou is a couple of years older than I.

Judge Richey: He was a Republican. Would you believe third generation immigrant from Russia.

Mr. Singer: Yes. He came early.

Judge Richey: Well, two generations back.

Mr. Singer: Yes.

Judge Richey: And they literally own that area of Massachusetts, north of Boston to the New Hampshire border.

Mr. Singer: Yes, yes.

Judge Richey: Banks and everything else. Charlie tells me that that's no longer true with respect to the banks because the banking industry has changed. And that's hurt a little bit. But, that he was a Republican believe it or not. He was in the state Senate.

Mr. Singer: Yes.

Judge Richey: When Lodge was running for Vice President. Henry Cabot Lodge.

Mr. Singer: Right, right.

Judge Richey: It was 1960, I guess it was.

Mr. Singer: Yes.

Judge Richey: Henry ran all over the country. He was one of his major campaign managers.

Mr. Singer: Right.

Judge Richey: First case Charlie worked on up there was something about a dispute with a gas line for one of the Saltonstalls. I mean they knew all those, you might say what we call today, liberal Republicans.

Mr. Singer: They were wonderful and a very important piece of American history. I mean people like Christian Herter.

Judge Richey: Exactly.

Mr. Singer: The Joe Welches of the world. And those who forget that history do themselves a disservice.

Judge Richey: You know that's absolutely right. And you might say, "What's the difference about law clerks?" I've only had two or three that have really had a grasp of history. That's the deficit in the last 25 years in the young mind.

Mr. Singer: Yes.

Judge Richey: Of both the men and women. With a couple, two or three exceptions, they don't have any idea about it. You ask them who Joe Welch was, Christian Herter -- they wouldn't have the slightest idea. Paul Douglas of Illinois, Herbert Lehman of New York -- they wouldn't know.

Mr. Singer: Yes, sure.

Judge Richey: Well, it's their loss.

Mr. Singer: Well, yes, but it's a national treasure to recall that kind of history. To use it, and particularly, in this next generation -- the next two generations. To be

able to integrate that into whatever current problems are that are being faced.

It's not irrelevant.

Judge Richey: It isn't irrelevant!

Mr. Singer: In walking around with whatever it is we do now.

Judge Richey: Yes. Well, I'm not telling you very much. What else?

Mr. Singer: No, because I want to -- I think we finally stopped ducking this question about law clerks. That some are better than others. We've established that.

Judge Richey: Yes.

Mr. Singer: And that at least over time, there seems to be some diminished knowledge or perception or perspective with respect to history. I don't think that's unique to your law clerks, my guess is.

Judge Richey: Oh, it's true of all job levels.

Mr. Singer: I have the same problem with younger people in the firm and what I find is that the ones who have that sense of history are the people who are -- I don't want to put too strong a cast on this -- are the most critical of their own role as practitioners.

Judge Richey: Yes, and they're better lawyers too.

Mr. Singer: In firms like mine they're certainly more imaginative.

Judge Richey: Yes.

Mr. Singer: They're no less willing to work hard.

Judge Richey: No. That's absolutely right.

Mr. Singer: And you know, a more interesting crowd with which to have lunch.

Judge Richey: Steve Pollak was telling me one day, "You know I had lunch the other day with your friend Elise Rabekoff."

"Oh, you're a lucky man. Yes, what did you talk about?"

"What do you think we talked about?"

"I have no idea, Steve."

"Sailing"

Now, Elise is the kind of human being who could talk to you about any subject you could want to name. Any subject. She's just that much of a genius.

Mr. Singer: What is her relationship to you?

Judge Richey: Law clerk.

Mr. Singer: Law clerk, right. In practice now?

Judge Richey: She was until recently and she had her second baby.

Mr. Singer: Yes.

Judge Richey: And she now is taking an additional leave of absence from her firm, has become general counsel to her husband and father-in-law's business the Quadrangle Development or something.

Mr. Singer: Oh. They're interesting folks.

Judge Richey: Gladstone. She's just, she and Chris are just lovely young human beings.

Mr. Singer: Yes. Well that's a nice way to practice law. I mean, it's...

Judge Richey: Well, I told her not to do it.

Mr. Singer: You told her not to do it. That you wanted to see her in the public arena somewhere.

Judge Richey: Oh, I got her an appointment as Assistant U.S. Attorney and she after getting it -- turned it down. She decided she didn't want to do it. She now admits that she was wrong.

Mr. Singer: She went into practice then rather than going into...

Judge Richey: Right.

Mr. Singer: My view is that you can't ask someone to help you with a job like that and not take it.

Judge Richey: Well, you're right.

Mr. Singer: I mean, I just...

Judge Richey: But, see Elise is so liberal she couldn't...

Mr. Singer: She didn't want to put people in jail.

Judge Richey: That' it, exactly it. She couldn't do it. And I told her you've got the power of being a prosecutor; you can divert a lot a people from the system. You also can recommend probation. You can do all kinds of things.

Mr. Singer: I'm very impressed with how lucky we are with Mr. Holder.

Judge Richey: Well, you're darn right. You ought to be.

Mr. Singer: Good. I'm glad you said that.

Judge Richey: You ought to be.

Mr. Singer: Well, I think he's...

Judge Richey: He's terrific!

Mr. Singer: He's terrific!

Judge Richey: Oh, he sure is.

Mr. Singer: He's just really...

Judge Richey: Elise admits today that she was wrong. I could tell you the names of their spouses, where they went to college, to law school, the names of their children. I can't name some who have about two or three kids. I can't maybe name all the kids, but I can name the number.

Mr. Singer: Of your clerks?

Judge Richey: Yes, yes.

Mr. Singer: Well, that's one of the great things of being a clerk. It really is.

Judge Richey: Well, it's a difference between judges. Some of them say, "Good-bye. Thank you very much." And that's the end of it. They won't help you get a job.

Mr. Singer: I never knew anyone who...I didn't know all that many. But, Fahy, who would fire his clerks routinely, three or four times in the course of a year.

Judge Richey: He would.

Mr. Singer: A man of just monumental temper. I mean...

Judge Richey: I heard that.

Mr. Singer: Really just volcanic in that way. And it was part of the game that you got fired. And you know, the next day if you didn't come in, or you came in late, he was worried what happened to you. Well, he had wonderful relations with his clerks throughout. George Washington less so, but he himself had no family. He was married to Helen Goodner. It was a match made by the American Historical Society because she was a lineal descendent of Patrick Henry. Each of them well into their forties when they found one another. It was, as I said, the American Historical Society probably achieved nirvana in

some way.

Judge Richey: Yes.

Mr. Singer: Fortunately, for me, she was herself a tax lawyer. So, she acted as his law clerk on the few tax cases that would come up, either District taxation or a very small number of cases coming from the Commissioner of Internal Revenue. But, it was interesting to me the kinds of the things that George Washington would articulate. We had a slip and fall case. A classical slip and fall case involving somebody slipping into a storm drain. Well, whatever the law was, there was no way George Washington was going to hold in favor of the City. He said, "I can't tell you how many times I've pulled Helen out of one of those storm drains." They're designed improperly.

Judge Richey: Oh.

Mr. Singer: I mean there was just going to be no stopping him on that issue. My recollection is it was a 2-1 decision in which he and somebody else voted to hold the city liable and then there was a lot of...

Judge Richey: Somebody else. Probably Wilbur Miller.

Mr. Singer: Probably Wilbur Miller, exactly. [Laughter.]

Judge Richey: I had an experience like that one time. There used to be a judge over in the old, I think it was called the Municipal Court then.

Mr. Singer: Yes, it was indeed.

Judge Richey: His name was called Harry Walker. Remember him?

Mr. Singer: No.

Judge Richey: He came from the Corporation Counsel's office.

Mr. Singer: I don't remember him.

Judge Richey: And I represented O'Donnell's, down in Bethesda. They were downtown.

Mr. Singer: They were on E Street.

Judge Richey: That's right. Somebody went in there and ordered a, oh, what do you call those little cups of... seafood...

Mr. Singer: Chowder of some sort?

Judge Richey: No. Shrimp, shrimp!

Mr. Singer: Okay.

Judge Richey: It had glass in it.

Mr. Singer: Yes.

Judge Richey: And allegedly cut her lip. And then this youngster went and started working as a receptionist for a broken-down doctor. And he was broken-down as evidenced by the fact that he spent his entire life in the U.S. Army and only became a second lieutenant.

Mr. Singer: You really have to work at that.

Judge Richey: You'd have to work at that to only get that far.

Mr. Singer: [Laughter.]

Judge Richey: He started and that's where he ended. It was crooked as heck. It came time to charge the jury. And the limit was only \$3,000. And I said, "You know, Your Honor, I am entitled to a directed verdict." The law in the District of Columbia is that if the plaintiff did not sustain substantial physical injury, she is not entitled to claim damages for fright and shock, or emotional distress.

is not entitled to claim damages for fright and shock, or emotional distress.

That may be in the minority rule, but it's the law in the District of Columbia

Mr. Singer: Sure.

Judge Richey: He said, "I'm not going to give it." And I argued with him and argued with him. We finally got back in chambers. And you know, they didn't have court reporters over there. He confessed, he said, "You know why I'm not gonna give it or why I don't want to give it?" "No, your Honor, I don't." "Well, I was Assistant Corporation Counsel and I had bought a new white suit. I went over across the street to Bassin's Restaurant and I bit into some food and cut my lip and got blood all over that suit. And that cheap S.O.B. wouldn't even pay for the cleaning of that suit. It was ruined! I never could get the blood out. That's why I don't like your request for charge or that law." So, he went out and gave it. But, Dan, as God is my witness, he gave it so fast nobody could have assimilated it. And I lost the case. They gave her \$2,500, which was a terrible loss to me. Well, the first insurance company case that I had, but I was trying to really show them.

Mr. Singer: Right.

Judge Richey: But, in any event, kind of an interesting aside. I'll never forget it, though.

Mr. Singer: Well, we're coming up on ten till six. I'm going to ask if we can turn this off.

Judge Richey: Sure.