

The following eleven interviews were conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit

**Oral History of  
ALAN MORRISON  
First Interview - December 8, 2007**

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MR. MARCUS: This is Daniel Marcus on Saturday, December 8, 2007. I'm interviewing Alan Morrison. This is the first interview. Alan, let's start by your telling us a little about your family, your background, your growing up wherever you grew up and get us to going to college at Yale.

MR. MORRISON: Okay. I was born in New York City on March 10, 1938. My father had been born in the Ukraine and had come to this country when he was four years old with his father, his mother and his older brother. They came to Massachusetts, they lived in Chelsea for a while and then they moved to Brockton where they grew up. My grandfather was a kosher butcher and they had just the two sons and then they had five daughters after that, two of whom died relatively young, one of them died when she was 13, the other one died when she was 19, and every one of their kids went to college. My father went to Clark and then was out for a couple of years and then went to Harvard Law School. He commuted to Harvard from Brockton on the trolley, except during exams when he rented a room there. He was a classmate and friend of Henry Friendly's, although he did not have an illustrious legal career like Friendly did, and he got out of law school in '27; went to New York and it was not easy to get a job in those days and he did not get a law job, he did various business and corporate reorganization things. He and my mother were married—I'll get to my mother in a second—in 1934. They lived in New York City until the beginning of World War II when my father, who was then 41 years old, was too old to be drafted but enlisted anyway, as a lawyer, got a commission as an officer, but didn't do legal work. He got somehow into lighter-than-air work; he was, I don't, I can't remember what his exact job was, he wasn't a pilot, but we went to California and were there for a few years during the war; came back to Washington for a few months and then moved to Larchmont, where my parents lived until they died. My mother was born in Troy, New York. Her father was a refugee also, came from Poland when he was about 15; became very successful in the dry goods business, had a whole bunch of stores which made a good deal of money for a while; and then he had a great idea to let people buy things on credit and he made a lot of money because nobody was extending any credit in those days; he lost a bunch of it during the Depression but not all of it; he had 20 or 25 stores in the northeast; they then moved to New York City and eventually the business went down because other people had the same ideas and better ideas. My mother went to Emma Willard School in Troy and then she went to Wellesley; and came to New York and worked for Macy's for a while and then she did not work after she and dad were married. The other interesting thing about them was that they went to what was then Palestine right after they were married and stayed there for a year and they almost immigrated—

MR. MARCUS: Wow!

MR. MORRISON: —but decided that since all the family was here in the States that they would come back and so they did, but that was the beginning of my father's involvement with Israel. And in 1947, at the time of the war of liberation from England, he became reconnected with people he had met when he was in Israel, and they were in a shipping company and none of the neutrals would ship to the Israelis when they were fighting and so they had to get their own ships and set up their own companies, and dad did a lot of that; and then he became involved with the setting up of companies in Israel and then the setting up of the Israel Discount Bank in New York City where he was their U.S. representative for a while; and then he did some other business stuff. He practiced law very briefly right before World War II and right after World War II but it was never really what he wanted to do.

MR. MARCUS: What impact, if any, did your father's legal education and sometime career as a lawyer have on your own thinking about what you wanted to do?

MR. MORRISON: Not very much because dad was never very enthusiastic about the law; he didn't say anything bad about the law, it just wasn't the right thing for him and also, it was a question of time and circumstances and so forth; but I always saw it as a respectable job. I think in many ways the most, one of the most formative things that my father did was to go into World War II when he didn't have to. Now it's true that he didn't put himself in danger, but he didn't know whether that was going to happen when he went in. And it disrupted his career. My sister is two years younger than I am, we were young children, and we got moved across the country, far away from everybody's family, and it always struck me as being an important thing for him to have done. And that was always kind of a public service message that I got from him, and the family has a long tradition of helping other people out and doing kind of public service things.

MR. MARCUS: Okay, well let's turn from your parents to your own education and maturing as a young man and your college and law school experiences.

MR. MORRISON: Okay. I went to public school in Larchmont, which is a small, suburban town about 20 miles from the city or 20 miles from downtown. We lived in a comfortable house. I went to, I'm 99 percent certain this is correct, an all-white grade school, not because it was segregated, but because it was economically segregated there; I think there may have been a couple of Japanese in the school but there were certainly—well there were no Hispanics, of course, living at the time in that area. The junior high school and high school drew from four grade schools, two of which were in Mamaroneck and both of those, especially one of them, had a substantial proportion of low-income African-Americans and Italians; it was definitely a substantial portion of lower-income Italians, there were a few non-lower-income Italians but most of them, at least in that school, were lower-income Italians who did the gardening and other kinds of work like that.

MR. MARCUS: This would've been in the early 1950s?

MR. MORRISON: Yeah, I finished high school in '55. I was always, my birthday is in March, and because in World War II, when we were in California, they wanted to get the women out of the house as soon as they could to work in the factories, and so one could start school at four and a half or five and a half, whatever the half, and so I was always younger than most of the kids in my class; in fact, most of the kids in my class were a full year older than I was. I always say this was the reason I wasn't a great athlete, athletic star, but I know in my heart that that's completely false, that my lack of speed, strength and agility were much more of a factor. The schools were tracked, didn't have labels but it was perfectly clear, certainly in hindsight, that it was a very good public school system. The one thing I think in retrospect about it that was not so good, other than the tracking aspect—and this is probably true of most grade schools and high schools—is we really didn't do much writing, but it was still considered a very good high school and we had lots of kids go on to all of the good schools.

MR. MARCUS: Well let me ask you a question before you move on to your college experience. You mentioned that when you got to junior high school and high school there was a more diverse student body.

MR. MORRISON: Right.

MR. MARCUS: Did that have any significance in your own intellectual or social development or your own movement toward sort of an interest in public policy, social policy?

MR. MORRISON: I would say I don't think so. We got used to having—well just take the African Americans—well as they were then called, Negroes. We certainly used to have them in the school, they were all on the athletic teams, we played ball with them, but we didn't socialize with them. There was a relatively small number of them, I would say probably in my class of 200 and something, two and a quarter when I graduated, there were probably 25 or 30, I would say maybe, well probably about that, and almost none of them were in our classes. Some of the working-class Italian students seemed to be intellectually upwardly more mobile, and hard to know whether this was because they were tracked when they were in the grade school and—had less good education or whatever else it was, but we didn't see them very much in class but—they were around and that it was you were perfectly comfortable with them that way but you didn't, they were not part of your intellectual work or social life.

I mean, I don't say that we never saw them socially, but rarely. Now the other thing that happened was in the middle of my junior year an organization called the American Field Service came around and they said, "We're looking for people to go to Europe this summer." And my closest friend, who still has continues to be a very close friend of mine today, said, "What a great idea." This was 1954 and I had taken French in school—French was not good but it was okay, I mean, it was what you would expect after three years of French—and so we applied and we got accepted; he got accepted to go to Belgium and I was accepted to go to Germany. Well this was five years, seven years after, eight years after the war, and my parents were quite apprehensive and I was

uncertain about it. It turned out that the mother in the family was Jewish and the father had been in some kind of service job in the war, I mean, it was almost impossible to avoid being in the war. But we made the decision to go and that was a quite formative experience; it got me out of the United States, it got me into a different country, in a different place, and I think it was probably very helpful in getting into college because I'd done something quite different from what most people had done; and it kind of it made me think, of course, that I was a very worldly person when I came back for my senior, which was not true in the slightest. But it was a very interesting experience and I learned enough German so that I could get around then and I still occasionally can do it if necessary.

In my senior year in high school I applied only to a couple of colleges, probably stupidly so; I applied to Amherst, which is where my best friend went and I partly decided not to go because I thought I should not go to school with my best friend, rightly or wrongly; and I applied to Yale and I got into Yale, but I had also, this was in 1954, when the draft was on and everybody was going into the military and it was not a question of whether but when and how. And there was a Naval ROTC Scholarship Program which paid for tuition, and since I thought I was probably going to have to go in anyway, my dad had been in the Navy and I figured, well why don't I apply for it (and he encouraged me to apply for it), and I figured that the Navy was better than the Army and so I applied for it and I got accepted into the program; but then Yale had a limit on the number of people who were accepted into both Yale and the program and they had more people than they could take for the program. And so I tossed and turned around for a few weeks about whether I should try to go to some other school that had the program or whether I should go to Yale without it, and in the end somebody didn't accept and so they took me into the Naval ROTC program, which was actually both very good and a little less good; it was a little less good because I took some courses that I probably wouldn't have taken at Yale because you had to take them, and it was at Harvard, I think, had a program that these NROTC courses were always in addition to the regular courses.

Although there was a fascinating course in military history that I took and they had a course at that time, most of the Navy court-martials in that time, special court-martials were handled, not by lawyers but by line officers, and so everybody had to take a course in the Uniform Code of Military Justice, and that was a very useful, formative thing for me because I realized that this was fun and interesting and I was very good at it. And so, then when I got into the Navy I did a lot of court-martial work, which I could talk about if we have time. And so that was one part of it, and so I went to Yale and did that and that meant, of course, that when I got out of Yale I had to go in the Navy for three years and I ended up staying for four, which I could talk to you about in a minute. I had an okay experience at Yale; I would not say that I didn't love it; I had a bunch of good friends; I worked on the radio station, which was kind of fun, news, disc jockey, broadcast sports; and of course Yale was not coed in those days, so when you wanted to go out on dates you had to get in a car and go someplace, which was a bother.

MR. MARCUS: And it wasn't as diverse as it was—

MR. MORRISON: No. There were only two black students in our whole class. It changed after Kingman Brewster came in, in the late '60s.

Our older daughter went to Yale and I tell this story; in my class there were 1,000, in her class there were 1,400; in my class a quarter of the class came from Andover, Exeter, Groton, so forth, and there were probably 50 from Andover and 50 from Exeter more or less; in her class of 1,400 there were 15 from Andover, of which half were women. So as it changed the face of it and it's a much more intellectually rigorous and intellectually accepting place now—Nina graduated in '92 from Yale—than when I went there. But it was okay I went there thinking that I might want to be a math major and in my second year of math I realized that there were a lot of people who were much better at it than I was, and I stopped and ended up going into history. I wasn't wildly excited about history but it was interesting and I'm glad I did it. I wrote a senior thesis paper about a guy named Grover Cleveland Bergdoll, who was a famous draft dodger in World War I. And in the course of it there was a lot about his case and so I went and read Supreme Court papers, and so forth and so on, and that kind of furthered me along in my thinking about what I wanted to do when I got out.

MR. MARCUS: When you started college you weren't—well you said you were going to be a math major, so you obviously weren't thinking that much about becoming a lawyer at that point. What would you say were the other things at Yale College, in that experience, was it just becoming a history major and then sort of reorienting yourself?

MR. MORRISON: I have a hunch, I've never really given it a lot of thought, but that law was always sort of in the back of my mind. And I was very good in math in high school, as lots of people were, and so that seemed like an okay thing to do, and I think I didn't think that it would be a problem going from math to law.

MR. MARCUS: Did you ever consider an academic career in history?

MR. MORRISON: No. I would never, I was not an academic. I mean, not an academic, certainly not for history, that was never given a thought. So I finished Yale in 1959 and I went in the Navy. My first ship was stationed in Long Beach, California. Are you from Long Beach? They used to say, "Long Beach by the sea and San Pedro by the smell." And, my Navy experience, I view it with great fondness, not in any sense every moment that I spent in it, but that it was a wonderful maturing exercise for me. It gave me an opportunity to see how people did jobs properly; I learned from some of my superiors how to be a good boss and how to be a terrible boss. I got to go all over the world; and I met a number of people who are today among my closest, still closest friends, and from very, very different backgrounds, different parts of the country, different majors, different interests, religions, a quite diverse group of people and we are still, a lot of us are still very, very close today. And I always tell young people that, "Take a few years out before you go to law school." Don't do it because, "My God it's September, I've always been in school in September, I've got to do it again. Be sure you really want to go." And then when I got to law school and I was—I'll explain to you in a second, it took me four years to get through the Navy instead of the three that I had given—but

when I got to law school I was one of the—at Harvard there were 535 people and I was one of the half a dozen oldest people in my class, even though I was one year younger, in terms of time out of school there were no more than half a dozen people who were four years or more out of school. And when all the students were complaining about law school I said, “How can you complain? Does anybody wake you up in the middle of the night to make you stand out in the cold? Do people yell at you? They don’t tell you what you can wear, what you can eat, how can you be complaining? You get to read all these good stories all the time.” And, but more seriously, I was able to put everything in perspective in a much better way and, of course, I had real-world experiences that I could see, relate to in class, and so forth, and so that was extremely valuable. I went in the Navy, we were in Long Beach, we were there for four or five months, then went to the Pacific. When we were in the Pacific we were there, we were in Japan and then when it was relatively soon after the war, this was 1960—

MR. MARCUS: The Korean War?

MR. MORRISON: Correct and well, yes, and well for Japan, World War II.

MR. MARCUS: True.

MR. MORRISON: They had made recoveries but it was by no means what it was and there were relatively few Americans there. We went, we stopped in Korea briefly, were at – and where else did we go—into Hong Kong and then we went to Australia, too, which is very nice. And to digress for just a second, but—

MR. MARCUS: You were not married at the time?

MR. MORRISON: No, no. No, we got, I didn’t get married until after I got out of law school. They used to say to us that, “If the Navy intended you to have a wife they would’ve issued you one with your sea bag.” And it was a good thing for everybody, I mean, it was okay, people did it, but this was...just better, your life was better.

MR. MARCUS: Simpler, yeah.

MR. MORRISON: Simpler, yeah, yeah. Went to Australia and when I was in Australia my aunt had some friends down there and she asked, suggested that I call them. And when I called them they invited me for dinner; they were in the motion picture business there, my aunt and uncle were not in the motion picture business; they invited me to dinner. So I went to dinner and who should be there but Charlton Heston. Well what’s really funny is when we were getting ready to come back to Washington this year, I found some old photographs and one of the photographs is of Charlton Heston and his son, who was then eight years old, whom I invited aboard the ship the next day.

And we have this photograph of Charlton Heston, his son and me in front of these enormous guns; and now I’m going to be arguing the gun cases in the Supreme Court with Charlton Heston on the other side. I think he’ll be quite embarrassed by the picture;

well, of course, he's not embarrassed by much of anything anymore because he's not at all with it. So I went to Australia and we came back; and then our ship was sent to a shipyard in San Francisco and so we spent four months in dry dock in San Francisco; and then we moved down to San Diego and we were there for a while; and then we went back to the Pacific again, and this was, we're now in the fall of 1961, and the Berlin crisis has just taken place and the Navy is involuntarily extending people for six months. By this time, I had done a lot of court-martial cases onboard ship. I was principally the prosecutor; although in one case I defended an enlisted man who had been on the beach and gotten drunk and picked up by some gays; and they took him someplace and they were performing sex acts on him, and the cops caught them; and the Navy had a proceeding to drum him out of the Navy for whatever they called it, and I defended him unsuccessfully and he got a general discharge; maybe that was a success because they didn't court-martial him, they did an administrative proceeding and he got a general discharge, which meant that he could get a job. General discharges were under honorable conditions, as opposed to less than honorable conditions. But generally I was a prosecutor and most of them were relatively straightforward cases; usually unauthorized absence or missing ship or things like that. I did prosecute somebody for negligent homicide; a marine had discharged a gun and killed somebody onboard ship, got a conviction which was later overturned; I don't know whether it was the right answer or not but the guy was clearly negligent and whether it should've been a homicide or not I don't know; it wasn't my decision to charge him. I said to one of the commanding officers, "I'd like to be the defense counsel." He said, "No, no, you're too good, I don't want you as the defense counsel." But that pretty much cemented my interest in doing that. So I knew I wanted to go to law school after I got out and I was not happy about the potential for six months' extension, and I had no idea whether it would come or when it would come. So I called a former commanding officer of mine, who had by then become an admiral, and I said to him, "If I'm willing to extend for a year, what kind of interesting job could you get me? Could you do that?" He said, "I'll be glad to call the Bureau of Naval Personnel. The next day he called me back and he said to me, "I have two potential jobs for you; one is an aide to an admiral, which would've been quite interesting, I didn't know the admiral or anything about him. I said, "Where is that?" And he said, "It's in Norfolk but that they go all up and down the East Coast and probably go to Europe." I said, "Okay." I said, "What's the other one?" He said, "It's on the *Springfield*, which is the flagship of the Sixth Fleet which is based in Ville Franche, France, five miles from Nice on the Riviera.

MR. MORRISON: And I said, "This is five miles from Nice on the Riviera?" And I remember my father said to me once, well it was probably more than once, he used to say this about letters and big decisions: "Sleep on it." So I said, "Can I call you back tomorrow?" He said, "Of course." And I called him back tomorrow and I said, "I'll take the *Springfield* job." And so in the end of December of 1961 I left California; came back East; went to Europe; and then went on the *Springfield* where I had a glorious time in the south of France, traveling all around the Mediterranean and doing all sorts of interesting things, met a whole bunch of interesting people there. And it turns out that I would probably not have been extended but I never cared about it, it was only one more year of my life and so this was much more enjoyable and interesting and fun to do that.

MR. MARCUS: Yeah. But you didn't do any court-martial work during that period?

MR. MORRISON: Oh, no, I did some more court-martial work on ship, we still did a bunch of them. It wasn't until a few years later—these were special court-martials, the maximum penalty was six, six and a kick; six months in the brig, six months loss of two-thirds pay and benefits and a kick out of the military, and so they were not the most serious crimes but we still did some of those. And then I came back and went to law school.

MR. MARCUS: Did you apply to law school while you were in the Navy?

MR. MORRISON: Yes, yes, in fact, probably also unwisely, I applied only to Harvard and Yale and I didn't get into Yale and I had gotten deferred at Harvard and I suddenly panicked and then about a week or two later Harvard came through and accepted me and I said, "Yes," and went there; this was in the fall of 1963 and as I said, I was more than happy and ready to go to law school. I did not want to live in the dormitories so I took a small apartment. Law school at that time was, I think, \$2,000.00 a year; my father was able to afford that.

MR. MARCUS: I take it because of your ROTC scholarship you were, that pretty much covered your college costs?

MR. MORRISON: It covered the tuition portion and they gave me, I think, \$50.00 a month, which didn't cover the rest of them, but my parents were certainly able to afford that. I mean, they could've afforded the rest, then they wouldn't have been pressed, they would just have preferred not to have it, and since I was giving my time to the Navy nobody thought that that was an unreasonable thing to do. Yale was, room, board and tuition was \$1,800.00 a year and it had just increased from 1,600 and stayed the same for four years. My recollection of Harvard Law School tuition was 2,000 and—with your other expenses it would probably be around—is that what you recall law school being about that price at that time?

MR. MARCUS: Yeah, right.

MR. MORRISON: And...probably another 1,500 or \$2,000.00 a year; a little different from the cost of today.

MR. MARCUS: So you lived off campus?

MR. MORRISON: Yes. I went to law school and I loved it from the day I walked in. It was absolutely, it was the right thing for me. I had actually gone—I had a friend at Yale and one of the trips back across the country, maybe it was when I was going over to Europe, I went up and saw him in New Haven. I went and sat in on a couple of classes, and this was in the middle of the year. I had never been to law school, but I could understand everything that was going on, I could answer some of the questions and it seemed to me, "Okay, that's what this is about, that's this." I don't know whether I'm

smart or not but I'm law smart. And I realized that that would, that I had sort of figured this out before that this was, although I had not done particularly well on my LSATs, and so I loved law school; I loved it from the first day I was there, I participated lots in class. We had a small study group; one of the other members of the study group was one Larry Tribe and we were very close friends in the same class section in law school. In those days in law school, at Harvard at least, you had the same 125 people in your section the whole time for all of your classes.

MR. MARCUS: Just for the first year or for the three years?

MR. MORRISON: For the first year and then you had a section in the second year which took up—I think we had accounting for half a year, tax, corporations and constitutional law for a whole year and then you had a couple of other electives, and then third year there were no sections because you didn't have any mandatory classes. Stanford has sections but they have six sections, because only 170 students and there are 30 people roughly in a section, and you pair up with one of the other sections so that you get to know everybody in the class. But with Harvard, you had 120 or 130 people in your section and you had the same section for all your courses. And, of course, in those days you all had the same classes and the first semester you had legal research and writing and then all the rest of the classes were year-long classes and you took no exams until June. And you had a practice exam which everybody did badly on and you learned from that. And so we had our study group, we had, my recollection is, I'm pretty sure I'm right about this, we had six days of classes; we had Saturday classes...

MR. MARCUS: We did too, yeah.

MR. MORRISON: ...and Louis Loss always used to say, "The beginning of the end of the Harvard Law School was when they abolished Saturday classes." Most of us thought that Louie said that because he could consult more easily and teach class on Saturday, which he did, and then he could have other days during the week to do his outside consulting. First year, six classes at 9:00 in the morning and then we had an hour break and we had six classes at 11:00, and every day we would go over to the Harkness Cafeteria, sit down and have a cup of coffee and a doughnut and talk about either the last class or the next class, and then we all had lunch together six days a week. And three days a week we had classes at 12:00. And then we would go to the library in the afternoon, study at the library. I would try to go to the gym and play basketball at 4:30 or 5:00 so I could keep my sense or maybe touch football or something in the fall; and then I'd go home, I'd cook dinner, study for a few hours and go to bed. I worked hard but I didn't work incredibly hard. I realized that the job was, to understand what was going on, and I figured out that I pretty much understood what was going on. And I did very well on a couple of exams and in those days, all of the honor organizations were determined based on grades and so I was in the top, I don't know I was about 50<sup>th</sup> or something in the class and that they gave you actual numerical ranks of everybody and that meant I was on the—the first 25 are Law Review, the next 10 or 15 were the board of student advisors who ran the moot court, and then the last group of people was the Legal Aid, so I was on Legal Aid.

MR. MARCUS: So how did you sneak on the Law Review?

MR. MORRISON: They had a half a dozen, at the end of second year they put on, I think eight; four based on second-year grades and four based on your cumulative grades. And I think what happened was that I didn't get any smarter after my first year but that I figured out how to write answers to the exams, and starting in my second year my grades were just really high. I had been on the Legal Aid and I was elected president, but I think the prestige of the Law Review was just too much to turn down and so I walked away from Legal Aid, which I felt a little bad about but not bad enough about it not to do it. So, I went on the Law Review for the last year. When I was in law school, after my first year I worked in New York at the law firm of Stroock & Stroock & Lavan; an old friend of my father's was a senior partner there and he said, "Come down and work for us." And so I worked that summer—I think I made \$75.00 a week, and that was okay. I mean, some of the work was interesting but didn't particularly excite me.

MR. MARCUS: Was that after your first year?

MR. MORRISON: Yeah, the first year.

MR. MARCUS: Which is unusually hard I guess.

MR. MORRISON: Very. Well it was only because my father knew one of the senior partners and that this was a personal, not a business relationship. And that was fine, I did fine there and it was okay. My grandfather, who was then still alive, lived in the city and I stayed at his apartment, so I just took the subway down; he was most of the time up in the country, they still had a house up outside of Albany; and I took the subway down and lived in the city and that was kind of fun. I'd never lived in Manhattan before, my parents still lived in, well it was a different house by then but still lived within a mile or two of where they had lived in these other various places. And then after my second year I worked at the U.S. attorney's office in the Southern District because I thought I wanted to be a litigator and I went there; they paid me \$3.00 a day, which was not \$15.00 a week because I didn't get paid for the Fourth of July. That was enough; as I recall it paid for my subway fare and maybe washing a shirt but it didn't pay for my lunch even at the courthouse.

MR. MARCUS: But were you living with your grandfather at that time?

MR. MORRISON: With my grandfather and so I had a place I didn't have to pay rent, and my parents staked me to not very large sums of money so that I would have something to live on. And that was quite an interesting experience. I worked on some various criminal cases there and it was interesting and exciting and it sort of made me feel as though I probably wanted to go back there at some point; they didn't take people right out of law school. And then I'd gotten on the Law Review and so I went back for my last year at Harvard.

MR. MARCUS: By the way, just to interrupt—

MR. MORRISON: Of course.

MR. MARCUS: — as that when Morgenthau was the U.S. attorney?

MR. MORRISON: Yes, yes, it was the summer of 1965.

MR. MARCUS: Before you talked about the Law Review you talked a little about your experience with the Legal Aid, whatever it's called—

MR. MORRISON: Legal Aid Bureau.

MR. MARCUS: —Legal Aid Bureau, and did you actually serve as president or you were just elected president?

MR. MORRISON: No, I served as president for two or three months; the turnover was, I think, spring break. It was a very interesting experience. At that time Legal Aid was a very tentative organization because the Massachusetts Bar made all these noises about, "We know—we're allowing you to practice to do these cases." And they were divorce cases, adoptions and a few very simple things, nothing aggressive. A landlord/tenant case would have been very aggressive, and welfare, don't even think of doing those things, and they were, see it was sort of the beneficence that they were going to let you do this. And I remember after I became president I met with Erwin Griswold, who was then the dean, and he explained to me how important it was that we retain our relationship with the Massachusetts Bar and how kind they were to let us do this. And afterwards, at some point later and I can't remember when it was, thinking what a bunch of bullshit that was; that here we were doing work that none of their lawyers would ever think of doing, we weren't taking a dime from anybody; they had an obligation to see that these people got legal services and they were treating us as though they were doing us a favor, which was really quite insulting, but that was the milieu and Erwin was not a big boat rocker; and so I never got to the point of really what I would have done the next year, whether I would've tried to do anything more, probably not, but it was a situation in which you did what you could. You saw some people who really needed help. Divorce was very limited in terms of what you could do. I remember walking out of the courtroom one day with a woman and she had — everybody knew what you had to say to get a divorce, the irreconcilable differences and hadn't seen them, and—this woman said something like, "God forgive me." She didn't lie probably but she understood what she needed to do. And there was this other woman who I helped who had these terrible debt problems and you knew that the problem was not her inability to manage her own money; the problem was she didn't have any money and she had all these kids, and so forth and so on, and you just tried to help them out and talk to them. We tried to improve the system internally, get some better training; the lawyers who were in charge of us didn't really train us very well and we sort of muddled through. But I enjoyed working with a woman who was in charge of the—we had an administrative person, Betty—I'll think of her name in a second—anyway, we became very friendly and I would always see

her when I would go back up there. And if you don't mind my getting ahead, it was, oh, in the late 1980s and the Legal Aid was having their 75<sup>th</sup> anniversary dinner, and I got a call from Betty Allbach her name was, and she said to me, "I need you to do me a big favor." And I said, "What's that?" She said, "Justice Brennan, who had been our speaker at our 50<sup>th</sup>, was supposed to come and speak but he has shingles." And he, his doctor said to him, "Do not travel—you need to..." this was in 19 what, 87 or 88, something like that, maybe '86 but, he said, they said, "And we've tried to get Thurgood Marshall to come and Blackmun and neither of them is able to make it." So she said, "Would you do it?" I said, "Will I do it? Of course I'll do it." So I got up and what I said there, I told the story about how I'd been asked to do it and I said, "It reminded me of the time that the New York Giants traded for Y. A. Tittle, and there was an offensive tackle named Lou Cordileone, and when Cordileone was told about the trade he said, 'Just me!' and that's how I felt today." So Legal Aid was significant in that it exposed me to what I had kind of known. One of the things I had done in the Navy, when you're out at sea you can go to the movies every night, which I didn't much want to do; you can play bridge, which I played a fair amount of, it's amazing how nobody plays bridge anymore. And you can sleep a lot; and I read books, and I read—probably 50, 60 books a year; I read a lot of law books about lawyers, I remember a book, Louie Nizer's book, I read one of Barrett Prettyman's first books, and that kind of got me going even a little more. And I understood a fair amount about our legal system and why it wasn't very good and Legal Aid certainly pushed me but not really hard because we were so marginalized in terms of that it was a noblesse oblige to allow us to do these cases. And so then I went back and went to Law Review and Law Review was very interesting and I think it was formative in one respect and that was you got plenty of opportunity to write and most important of all, rewrite; you rewrote other people's work and people rewrote yours and what you learned was that it's very hard to write good things yourself and that, therefore, you shouldn't feel defensive when people start to edit your work because if you care about really good quality it takes a lot of effort and we have defense mechanisms and mental blocks that preclude us from seeing what's wrong with our work, and you have to psychologically pull away from that and allow yourself to be edited by other people and not be bothered and humiliated by it and think that you're bad, lazy, stupid or anything else, and that you only get good writing when you learn to rewrite and that was the most important thing that I got out of the Law Review. At this point, I'm in my third year now and I was trying to decide what I was going to do. I applied for some District Court clerkships and I got a couple of offers. I did not apply for any Court of Appeals clerkships; it struck me as it would be kind of another year of Law Review and law school and I didn't want to do that.

MR. MARCUS: You're right.

MR. MORRISON: Even though, of course, they had many fewer clerks then than they have now, but you could apply for Supreme Court clerkships at that time and so I did and I got interviews with both Justice White and Justice Stewart. And I had been a research assistant to Derek Bok before he was the dean and the president, when he was at law school, he taught one of my classes and I became very friendly with him then and we've kept up our friendship ever since; he writes me and, I put his name on a committee when

they had the dinner for me when I left Public Citizen, and we have lunch occasionally when he's around and he's always been extremely nice to me, so I asked him to write a letter and he said to me, and I remember this, that he said, "I'm going to write you a letter and I will do a very strong letter, but there's somebody else who is a year ahead of you who has been out for a year who I'm going to tell you, I'm ranking him higher than you and I just want you to know that when I write it..." I said, "Of course." "...and it's Bert Rein"—whom I didn't know but he told me what his name was.

And so I didn't get the clerkship. It turned out that just right around the time when the clerkship thing was being completed—this would've been in December for the following summer, which is of course way after they do the clerkships now—I was at a wedding of an old friend from Larchmont and it turned out his father was a very close personal friend of Justice White and I knew this man very well and he offered to write a letter of recommendation for me to White. It turns out that by the time the wedding was over and he got back and he wrote the letter, it got to White after he had made his decision. So—maybe I would've gotten the clerkship with White and that would've put me in a different thing. Because you're going to see, we're about to get to the first one of these stories that I always tell students, about how serendipitous life is and how something happens that causes you to do something different than you would have done otherwise.

MR. MARCUS: Before we get there, Alan, say a word or two about whether there were particular professors at the law school, besides Bok, with whom you had worked who had a great influence on you, just as terrific professors or in terms of shaping your approach to being a lawyer.

MR. MORRISON: Well there were several. Paul Bator, with whom I philosophically disagreed later, more later on than then, taught me Civil Procedure. He was a wonderful teacher and I still hear his cadence in the class and I did very well in his class. And the irony is that the first year I ever taught at Harvard he was going to teach at Chicago that year and we rented his house. It was a very fancy and elegant house, much too nice for us. I don't think we properly took care of it though. We had two small kids and—we are not the world's most fastidious people, we're not slobs but we're not fastidious, and renting houses—what is it Shakespeare said, "Neither a landlord nor a tenant be."

So Paul Bator was eventually on the other side of the sentencing guidelines cases, where the big fight was whether these rules were substantive or procedural and I remember him saying to me, "Alan, didn't I tell you, teach you about the difference between substantive and procedural?" I said, "Yes, Paul, you did but you got it backwards!" Okay, and so this was back from our first year in law school, I had Lon Fuller for Contracts and I remember Fuller was such an interesting man and he taught me a bunch of things that I still remember. He would come into class and he'd say, "Now in the case of Smith against Jones the court said such and so and so, what do you think of that?" And I knew as soon as he said it that he thought that they had missed the boat entirely. And here I had thought about it and the court seemed so absolutely right, and as soon as he said you could understand what it was, and then in the end he came back to say, "Well they got it wrong this way but the result was about right for these other reasons." And he

empowered me to challenge authority in cases; he just said that was okay that you could do that. And so when I've taught from time to time I remember that one of my great moments is when the students say, "The Emperor has no clothes, the court is just wrong about this." Second thing Fuller would say, somebody gave this big, long answer and he said, "It's an awfully long windup for a very short pitch." But he had this twinkle in his eye and he used to sit on the corner of his desk and it was just wonderful what he did. He was supposed to be a great philosopher in jurisprudence, but I never took his Jurisprudence course, it didn't interest me, but he seemed to have a great sense about contracts and I really liked him and appreciated him.

I had W. Barton Leach for Property. He had an impact on me because of two things. One was that he practiced law outside and he was very aggressive with his clients in terms of—his job was to represent them and he didn't care what the government said. He also had what was known as ladies' day in those days. We had 25 ladies—women—in our class out of 500 something and they were evenly divided among the four sections so we probably had six. And he never called on the women except on ladies' day when he would sit them down in the front of the room and he would throw high hanging curve balls to them. And we had one woman who was then about 33 years old. We thought she was really ancient, and she had three children, and she didn't take very kindly to this whole thing, but the rest of us just sort of went along. The other thing I remember about him is somebody said something about justice and Leach said, "Justice? You want justice? Go across the street to the Divinity School. This is the Law School." And I remember thinking, "Oh, that's not quite right." It was very cute, but it was wrong.

And then I had David Herwitz. I had him for Accounting and then for Business Planning. And he was a wonderful teacher. He taught in a practical way. Everybody thought Accounting, why do we have to take Accounting? It turns out to be an extraordinarily valuable course no matter what you're doing, and I tell people this who go into nonprofits or whatever they're going to do, the government.

MR. MARCUS: I'll bet it's not still required.

MR. MORRISON: It is not. It's not required anyplace. Required courses are bad. Students don't like required courses and they like to be nice to the students. And somebody said something to Herwitz about, "You can't do this." And he said, "Well why not?" He said, "Am I going to go to jail? Is it going to take my wife and children away?" Somebody said, "Well you have watered stock." He says, "Oh, now you're talking about something." And I always remember that day, the why it matters. And then he taught this Business Planning course in which he would talk about what the objectives are and how these legal things didn't matter except insofar as they told you what you could and couldn't do and they shaped your thinking. And he was a wonderful teacher. Derek Bok was a wonderful teacher too. I would say that they were—almost none of them was pushing to have redeeming social value in what you did. There was nobody that pushed me to my eventual career. They taught me how to be a good lawyer and that was very important, but they didn't teach me how to do what I wanted to do and didn't make me want to do it in particular any more than anything else.

MR. MARCUS: So when you came out of law school, it wasn't with the vision of a public interest career?

MR. MORRISON: No. Well there were really only two public interest organizations: the NAACP and ACLU. That was it.

MR. MARCUS: Charlie Halpern.

MR. MORRISON: Charlie Halpern, oh he was two or three years away. Anyway, I had always been in New York, but I decided to come down and take a look at Washington. I had a friend who was a college roommate for a couple years named Jeff Bauman who now teaches at Georgetown. And I came down and spent time with him and he was, at that time, at the SEC and said how much he liked Washington, how much he was a real New Yorker and always lived in New York, what a great place it was to live. And so I came down and I interviewed. I did talk to Wilmer, Covington, and Arnold & Porter. This was in the fall of 1965. I got an offer from Covington. I think I did not accept a callback to Wilmer. I don't quite know why. I think I wanted to do litigation and as you said before, the firm was not doing much litigation in those days.

MR. MARCUS: It was very small.

MR. MORRISON: It was 35.

MR. MARCUS: Less than that. I started at Wilmer in '66 and there were only 28 lawyers.

MR. MORRISON: Okay, so it was 25. And Arnold & Porter was about 35 or 40 and Covington was a huge firm, it had 100.

MR. MARCUS: 80 or 100, right?

MR. MORRISON: Yeah. Interestingly, it didn't grow anywhere near in relation to where the others have grown. So I was offered a job at Covington and I came to Arnold & Porter and I really liked the place. I liked it because people did a whole variety of different things. I liked it because they had a lot of pro bono stuff they were doing and they were—seemed to be in the middle of a whole bunch of stuff. It was the right size, the people I really liked there.

MR. MARCUS: And they had a nice house.

MR. MORRISON: Yeah, yeah, right on 19th Street. And so I liked them and they said they liked me but then there was this problem. Abe Fortas had just been made a Supreme Court Justice and this was a couple years after *Gideon* and they had all these law clerks, people who they had made offers to before they had gone to clerk on the Supreme Court, who had worked for them in the summer, and they were worried that they wouldn't have

enough business. And so they said to me, “We have to sort of see how we’re doing with our business and who’s going to come back and who’s not.” And, of course, nobody pressures Supreme Court law clerks to come back right away. So this was in December. And then every week Bob Herzstein and I would have a conversation and he would say, “I really want to”— And it’s going on and on and now we’re getting into February. I had, meanwhile, an offer in New York at Cleary Gottlieb, which I also really liked, but I liked Arnold & Porter more, at least I thought I did. And in those days, people would take a pre-bar review practice course on Saturdays in Cambridge. And this guy came up and it was just sort of a way of easing into it, and it wasn’t very expensive, as I recall. And it did it—of course it was lousy weather so you couldn’t go outside anyway—and we did it for a half a dozen Saturdays so it made it easier. And so I was doing that. And I was about to do that. And I was not about to do that if I was going to go to Washington. And finally I said to Herzstein, “You’ve got to tell me—this week—besides, I want to know where I’m going to go.” And he said, “Give me one more week.” And I call them back and they said to me, “We need one more week,” and I said, “No.”

And so I went to New York, I went to Cleary. And I really liked the people at Cleary; they were really nice. I started there in the fall of 1966. It was considered a big firm in New York. We had 55 lawyers. People tell me that was a big firm. We had half a dozen people who came in with me. A couple of them had been out two years. Some had been out one year and a couple of them in my class. And they let me do all sorts of different things. I did some litigation and I did some tax work. I really didn’t know—I sort of thought I wanted to do litigation but I didn’t really know what I wanted to do. And then the single most significant thing at Cleary that happened was one of the associates—actually two of them—said to me that they knew I wasn’t married; they said, “We have a woman we want you to meet.” And it was one of the associate’s first-year roommates at Smith, who was Anne. “And we think you’d like each other.” And so we met and we’ve been married over 40 years now. So I always tell students your first job is really important but not necessarily in ways you’re going to expect.

I think I did a whole bunch of things at Cleary, and they were fun. I liked the people. They gave me a lot of responsibility. I remember, I couldn’t have been there a month and somebody came in and said to me, “One of our clients, *Scientific American*, wants to do a joint venture with an Italian publisher in Italy for an Italian edition of *Scientific American* and so we’ve agreed to draw up the papers for them.” So I said to them, “You have something like this?” He said, “No.” I said, “So what am I supposed to do?” He said, “Try it.” So I sat down and literally, what I figured out was if you think hard enough, you can think hard enough, you don’t need so many forms, you don’t need to do it. And it was really intellectually challenging work. Some of the other business-side work I saw was not so interesting, marking up loan agreements, and so forth and so on. We were not assigned to particular partners or assigned departments. You just did everything, which was perfect. If you had a very strong preference, either positive or negative, they would honor that, but otherwise, they just wanted you to rotate around and see a bunch of different people.

MR. MARCUS: It was the age of the generalist.

MR. MORRISON: Yes, yes, at least at the associate level. And I was there four months and I remember being called in and Fowler Hamilton was one of the senior partners and he said to me, "You're doing very nice work. We are very pleased with your work and I want to tell you something. We have a lot of smart people here. We do good work. But," he said, "we want you to have another life. And when you're done with your work at 5:30, if you don't have some reason to stay, go home. Go do something else. We don't count the hours. We don't work that way. You know and we'll know when you have to stay to do something, but otherwise we expect you to go home. And you know nobody's sitting around counting the number of hours." And that was the way that law was practiced, at least at Cleary Gottlieb.

I'd been there probably a little over a year and a partner called in and asked me if I'd come talk to—the client was coming in, "would you sit in the meeting?" I said yes. And the client was a French company that was, wanted to lease some space, and we were going to do the negotiations for the lease of space in New York. And he didn't even know this when he called me in. He said, "Do you speak French?" And I said, "Yes, I speak passable French." It had gotten better from my time in the Navy. Yes, yes, yes. Although the principal vocabulary I needed there was different from the vocabulary that I needed here. And so we did that and it wasn't a very big transaction, complicated thing. And, meanwhile, Anne and I met and we had gotten married about 6 or 8 months later in the fall of 1967. And Anne had spent her Junior year in Paris and she had taught French for a year after college—she went to Smith—and then stopped, realized that's not what she wanted to do. So they called me in, a partner called me in and said, "We have an opening in our Paris office and we would like you to go." So I came home that night. I didn't tell Anne before I got home. I said to her—she said something about what happened during the day and I said, "Well I have an interesting proposition. How would you like to go to Paris for three or four years?" She said, "What?" and I said, "Yeah." So it sounded like a terrific idea. She was enchanted, of course, by it, and would have loved to do it. And we gave it really serious thought and I said to them—by this time I had sort of decided that I thought that I really wanted to do litigation. I was doing some litigation there, but not all of it. And—but also equally important, I thought that I needed to try to do some litigation to find out whether I really liked it or I thought I was any good at it or whether I was better at something else. And they said, "Well when you come back from Paris, it'll be three years, you can do litigation when you come back."

And I guess I sort of half believed them and half didn't. Not that they were deceiving me, but that I knew what the likelihood was of, "Well, you were doing this already and you want to take a couple steps back and do litigation?" And the more I got to think about it, the more I realized that I didn't want to mark up loan agreements, whether they were in French, Italian, German or English. That's not really what I wanted to do. And that I really needed to see whether I wanted to do litigation. And I had always had in the back of my mind, or not so far in the back of my mind, that I would leave Cleary and go to the U.S. attorney's office for a couple of years at some point and then see what happens. But they were looking principally for people who had been out two years or more and I was happy at Cleary. I liked it and I wasn't thinking this was the time. But I

figured out that if I was not going to go to Paris, I should go to the U.S. attorney's office. Or put the other way, if I wasn't going to go to the U.S. attorney's office, then maybe I'd go to Paris. And I was sort of at a crossroads in the beginning of 1968 and had to make a choice as to what I was going to do. And so I called up somebody there who I knew pretty well in the U.S. attorney's office and he said, "Come down and talk to us." So I came down and I talked to them. As I said before, I'd done all Criminal Division work before and at this point they said to me, "When you get down there, we want you to interview with the Civil Division as well. That's part of the process, you talk to them." So I said, "Okay." I literally had no idea what the Civil Division did. Literally, no idea. It had never come across my plate, my mind, the summer I was there or any other time. So I walk in to see the chief of the Civil Division and the U.S. attorney's office in New York was different from most U.S. attorney's offices in that they retain much more control over their civil cases than all the other U.S. attorneys' offices. And the second thing is, they had a very active Tax Division, unlike most places where the U.S. attorney's office was simply local counsel and the main tax work was done by the Tax Division in Washington. But we had our own tax unit. So I go in and I meet the chief of the Civil Division whose name was Larry Vogel, who had been the chief of the Tax Unit before he was chief of the division. Larry was half a dozen years older than I was, very able, charming litigator who was the chief of the division. And he said to me, "I want to talk to you about coming to the Civil Division. We have this little tax case against U.S. Steel. And I'm in charge and I want you to come and be my second person on the case. It will probably go to trial in a year or so and the amount of controversy's about \$250 million," which in those days was a lot of money. It turned out to have been at that time the largest tax case in the history of the United States. It involved excess profits from the Korean War and it ended up being litigated rather like an antitrust case. And I thought about it, and I thought that I liked him and I liked the idea of doing this case and it was something completely different. I don't think I fully appreciated how much more one can do after one leaves the U.S. attorney's office if you go to the civil side than the criminal side, that you've learned to do something besides present things to a grand jury and indict people and try them. And particularly in this office, you were both playing offense and defense, and when you were playing defense you saw how the offense was working.

MR. MARCUS: You were playing defense defending suits against the government?

MR. MORRISON: Yes. But there was a fair amount of offense. And in this tax case, the line between offense and defense was very unclear because you had to prove your case and the same was true in other situations as well. And so I thought about it and I decided to take the job. Now the other thing that was happening at this time was—this was January of 1968—Cravath had then done the outrage of outrages and they had increased starting salaries to \$15,000 and Cleary followed close behind. Fifteen was the starting salary but it was also the salary for the first couple of years. So I went from, I think, maybe by that time I was making \$9,000, then Cleary bumped me up to \$15,000, and then I went to the U.S. attorney's office and I went back to \$10,400, starting my downward mobility. So I talked to Anne and I talked to my parents, talked to my friends

and I decided I should do this. And so I did, and started in May of 1968, started working on this case immediately.

MR. MARCUS: Do you think you would have taken—I assume you would have taken the job even if you had foreseen that Nixon was going to win the election and Morgenthau would be out.

MR. MORRISON: Yeah it turned out Morgenthau was not out until—Morgenthau stayed in. He—

MR. MARCUS: Wanted to stay, but he kidded himself into thinking he could stay.

MR. MORRISON: Well the statute says four years and he said that's what it's for, and they ended up starving the office by not giving, not letting him hire any new assistants and not giving him any pencils and paper and things like that and finally Morgenthau thought, quit for the good of the office, but he stayed there for a full year after. And then Seymour came in, and Mike was fine. And I would never—most of the stuff that the office did was apolitical.

MR. MARCUS: Right, of course.

MR. MORRISON: And certainly at my level. So I started and I worked on that case and I worked on some others as well. I got to argue a couple of cases in the Court of Appeals and a bunch of stuff in the District Court and we moved and we took some discovery and we made motions for summary judgment. And then one day we get called into the office meeting. We're getting ready to go to trial and Larry calls everybody into the division meeting and says, "I have an announcement I want to make. I'm leaving the office and going into private practice." Well I said to him, "Well who's going to argue, who's going to try this case?" He said to me, "You." I said, "Wait a second. I am three years out of law school." I said, "I've never tried any case for more than a couple of days. This is going to go on for five or six weeks. You can't be serious." He says, "Yes, you can do it." And we had this guy we'd been working with in the refund section of the Tax Division, Dave Wilson. "Dave will come up and he'll sit with you. I've talked to them about it and they're perfectly comfortable with you handling this." So I almost didn't know what to say. When you think about the serendipity of the combination of the Paris thing, the Civil Division, this case, all coming together at one moment and shaped— So we went and tried this case and I think the case went on five or six weeks.

MR. MARCUS: Bench trial?

MR. MORRISON: Bench trial. They had all their lawyers. They had lots of lawyers there all the time. It was—the case had been narrowed down but it was still a long trial. White & Case was on the other side and they had lots of people in the courtroom and I don't know how many people they had outside. They had all U.S. Steel's resources. I was the only lawyer who examined, cross-examined a single witness, made any statements at all. And they tried to get in some business records and we had this big

motion that I had filed why they were not admissible under the hearsay rule. And it wasn't that they weren't business records but what they were offering them for was conclusions as to the effect of a strike on their business which was the explanation as to why the profits should not be considered common. I'm not sure today I could remember all the details, but the point was we weren't complaining about the numbers, but they wanted to offer these records for all their conclusions about the impact of the strike on their businesses. And the judge was quite inclined to deny them the opportunity.

And then they discovered a whole pile of records in a limestone mine, someplace. And they came in with boxes and boxes of records in the second week of trial and they said these substantiate what was going to happen. And I said, "These are clearly business records." And I said to the judge, "It's not fair, they can't do this." And the judge said, and he was right, "It is unfair, but I'm going to adjourn the trial for a month," or whatever period, "so you can review them and if you wanted to do any discovery," which I turned out not to need to do, I just needed to look at these records. Maybe it was two weeks we adjourned the trial for. So we came back and we tried the rest of the case and then we wrote briefs in sections on different parts of the case. I wrote them for, I don't know, four, five, six weeks, just turning out a hundred pages a week or two, every two weeks. And the thing got in and finally the judge issued his opinion and we won this big case. Meanwhile, this was now in the beginning of 1970.

MR. MARCUS: Let me just interrupt, just a footnote. Who was the judge who tried the case?

MR. MORRISON: Richard Levet. He was, I think, a quite pro-government judge. They allowed him to do most of the tax cases because he liked tax cases, he understood them and a lot of the other judges didn't want to do them. He didn't have all of them, but he had a good hunk of them. And by this time I think he was a senior judge. And he was quite favorable to the government. But he did a very good job, wrote a very good opinion. We got a summary judgment on two parts of the case and this was the third part of the case. And eventually the case went to the Court of Appeals and it was ultimately reversed in part and affirmed in part, and the case ended up being settled for a very substantial amount of money while *cert.* petitions were pending.

MR. MARCUS: Did you get to argue the case in the Court of Appeals?

MR. MORRISON: I did, I did. Yeah, in those days, well nobody else knew anything about the case and even though we had an appellate section and they sometimes did it, nobody wanted to touch this. So the second thing that happened was while Seymour replaced Morgenthau at the end of 1969 and the trial was going on at the beginning of 1970, yeah. That's what it would have been. And Seymour came in and he made Mike Hess— Do you know Mike?

MR. MARCUS: Yes. I met him because he became Giuliani's corporation counsel and when I was at the Justice Department he came down with Giuliani a couple of times to see us.

MR. MORRISON: Mike was in the division at the time. He was the head of Civil Appeals at the time. He and I had worked together on a couple of briefs. He was a year ahead of me at Harvard, but he was a couple of years younger than I was because he hadn't been in the Navy or anyplace else. He was made the chief and he decided that he wanted me to be the assistant chief. There were 20 lawyers in the division and my first reaction was sort of the same thing I said to Larry Vogel: "You've got to be kidding me." Because there were people there that had been there five, ten years and the assistant chief's job is to supervise everybody else's work.

MR. MARCUS: The Chief Operating Officer.

MR. MORRISON: That's right. Everything went through the assistant chief. I looked down and the chief looked up at broader, bigger questions. And that had always been the relationship. I said to Mike, "I don't know that I"— He said, "You can do this job." So I said, "Sure." So I found myself supervising all these lawyers and everything they wrote came through me. And this was fine. Some of them would come to me at the last minute and I had to say to them, "Look, you've got to do this again," or, "It's not right," or, "You've got to get this thing to me early enough." So that was my first real managing job certainly with lawyers. And I was three and a half years out of law school at the time.

And I got involved with a whole bunch of things including a whole bunch of bankruptcies. This was before the '78 amendment to the bankruptcy code. But these were mostly corporate reorganizations. And the government became involved because the government was always involved in bankruptcy because the one thing that every company does is they don't pay their taxes. Not their income taxes, they withhold the money from the employees, and so we had some of those in the Tax Unit there, but the other things, then there were taxes. There were a couple of shipping companies and they had loans from various parts of the government and there were all these circularity of lien problems in these bankruptcies. And there was this one case in which there was an antitrust claim. The company's only asset they had was an antitrust claim and they wanted to settle it and we had to come in. We came in and we said that they had not gotten enough money in this antitrust settlement. We persuaded Judge Lasker to reject the settlement and we got a much bigger settlement.

And so I was doing all of these cases against big firms and doing all this stuff and I was supervising all these people and argued this big trial and argued this big tax case and argued a few other cases in the Courts of Appeals and had this enormous portfolio of things that I was doing and supervising. I'd been there about three years or so at the time and I was thinking about what I was going to do, and there was no immediate pressure to leave. My salary had gone, by this time, oh I was making, by the time I finally left I think I was making \$22,000. I think it was \$10,400 and then sort of \$13,000, maybe \$15,000, and when I got promoted it was \$19,000. And by this time we had our first child, born in June of 1970. So I was thinking about leaving. People in those days

tended to stay only three or four years, though a lot of people stayed only two years and three or four years was pretty much the norm. Very few people stay longer.

And the first thing I realized was that I could never go back to a big firm. And there were two reasons. One is I knew that they would never give me the kind of responsibility that I'd had. I'd just done too much and I could not carry briefcases for people who had been on the other side of me and I'd generally beaten. Not beaten, given them the fight. That was the first thing. The second thing: I thought about other firms and smaller firms, they were doing mainly commercial kind of work and they were moving money back and forth from one client to another. And I didn't care about that. And what I realized that, working for the government, what I cared about was all these public policy issues that the government was involved in. We haven't talked so much about them, but there were a lot of issues in which the government programs were at stake and where I felt representing the government, I was involved in important issues and doing the right things and not always on the right side. And I saw how lots of people who had the government as their adversaries did not have very good counsel and could have done better.

And about this time I picked up a book by Morton Mintz called *America, Inc.* and I read this book and I said, "You know, this is kind of always what I've thought that I want to do. I want to try to help the people who are doing this." And Ralph Nader was very much a part of the book. And I said, "This is really what I want to do," that at this time I don't think Charlie Halpern had yet left. But a couple of guys in our office in New York had left to form NRDC, John Adams and Dick Hall and then a couple other people who were not at our office. Environmental Defense Fund was just getting started. The Ford Foundation was just starting to make grants. I think Charlie Halpern was just getting started with the Center for Law and Social Policy. This was in the summer of 1971. And I was having lunch one day with my then-summer student from Harvard who was working in the U.S. attorney's office, as I had worked there that comparable summer. We were having lunch one day and he said to me, "What are you going to do when you grow up and leave the U.S. attorney's office?" He may not have said "grow up." I thought of it. And I said, "Well," I explained to him what I was not going to do and then I said, "I've been giving it a lot of thought lately and I really think that I'd want to find some way to do a public interest job. That's what I think I want to do. And I think I want to mostly work on consumer kind of issues. I don't have any particular interest in the environment, no knowledge about it, and I've never been involved in race relations or anything like that. But this seems like something I know enough about to be able to be helpful and I really want to do it."

MR. MARCUS: Let me interrupt only to ask why, what attracted you to consumer issues? Your work in the U.S. attorney's office probably didn't involve consumer issues very much.

MR. MORRISON: Well they're regulatory. For example, we had cases with the Food and Drug Administration, the Agriculture Department, just general programs against the government, against—I think *America, Inc.* sort of pushed me—

It wasn't only the FDA. It was antitrust laws and other kinds of things and, although I was not a mathematician, economic interests were the things that I understood and the tax case was more like an antitrust case than a tax case, the U.S. Steel case. And I just thought that that was where I—there was nobody doing these things and I could do them and I could make a difference on rate regulation and other kinds of things like that. I really didn't have a particularly well-formed idea, but it seemed to me that that was an area that I could do something about. And I guess if somebody had said to me, "You can do something else," I might have done something else. The idea was that I wanted to do something in the public service arena.

MR. MARCUS: I see. And did you—You know, it's interesting. You told us earlier about your flirtation with Arnold & Porter and Washington law firms before you went to New York after law school. But you haven't mentioned Washington law firms as something that I would have thought maybe you would have sort of looked at again in 1971. Why not?

MR. MORRISON: It never crossed my mind.

MR. MARCUS: Isn't that interesting?

MR. MORRISON: That is, I wasn't thinking about moving. We were in New York. My parents were in New York.

MR. MARCUS: Oh, so when you started thinking of public interest, you were thinking of New York?

MR. MORRISON: Thinking of New York; I was going to do something in New York. I didn't know anything else. So Jerry Neugarten, the summer student, says to me, "Oh," as I knew, "I worked for Ralph last summer. I'll call him up and maybe he'll offer you a job." I said, "That's ridiculous." He said, "No, no, I want to call him up." I said, "Of course I couldn't stop you from doing it." I think he wrote him a letter actually. And so I said okay. He said, "I think it's really a good idea." So I said it myself, okay. You know what's going to happen in the best of all possible worlds: Ralph will come to New York sometime, I'll meet with him, and he'll tell me how to raise some money. Because I didn't have any money and I didn't know how to go about starting an organization or raising any money. This was in the middle of July.

MR. MARCUS: When you say, "He'll talk to me about raising money to start an organization," was this already a thought in your mind because of your conversation with this kid that it would be a litigation organization to work with Nader?

MR. MORRISON: No, he would give us some ideas about how to get started because I didn't know how to get in the front door of anything. I had never done anything.

MR. MARCUS: You were thinking of Nader at that point as an advisor.

MR. MORRISON: As an advisor, yeah, yeah. We went on vacation in August and I got back from my vacation and there's a note, a phone message for me: please call Ted Jacobs in Ralph Nader's office. So a couple days later I call and Ted says, "Ralph has just founded Public Citizen." It was literally incorporated in March of 1971. And they had just started advertising, newspaper ads for money, contributions. And he said, "We have a health group and we have some other parts of the organization. We would like to have an internal capability to do litigation. And Ralph would like you to come down to Washington to talk to him about setting up the litigation group." So my first thought is, well, I don't have to raise any money. Second thought was, Washington's probably a good place to do this. Third, I liked—the thought of living in Washington was okay. But I said to Ted, "I've been reading in the paper that Ralph pays people \$5,000 a year. I'm making \$21,000 or \$22,000 at this time." I said, "I have a wife and a daughter who is a little over a year. I cannot live on \$5,000." He said, "How about \$15,000?" I knew Washington was cheaper than New York. I said, "I can discuss \$15,000." And this was early September. I said, "I'm not sure what my schedule is. I'll try to arrange—I know that I have to be in Washington at some point in the next few weeks, month. Can I do that? Can I come down and see you then?" And he said, "Sure." Ralph, subsequently, was very pleased to know that the government was paying for my flight to Washington, legitimately for other business.

MR. MARCUS: A spendthrift he wasn't.

MR. MORRISON: And so fast forward, I took the job. I'll be glad to say something more about it but I took the job. So this is serendipity number two, three. First is clearly meeting Anne, second is the U.S. attorney's office and what that led to, third is the connection with Ralph.

MR. MARCUS: Yeah, which is through this young guy.

MR. MORRISON: Yeah, which if I had any other student working for me that summer, would never have happened.

MR. MARCUS: Yeah. Tell me about your being interviewed by Ralph Nader for this job. This is late 1971.

MR. MORRISON: Late October. I can't believe this is—I show up there and Ted says to me—

MR. MARCUS: Where was there?

MR. MORRISON: There was 19th Street. It was between L and M in a little town house. It had very narrow stairs, I walked up to the second floor. There were papers strewn all around the place. They had had another place which got bought out from under them by the Metro, the entrance to the Dupont, the north entrance to the Dupont Circle Metro. And they ended up following a series of places. Ralph actually figured out that when a

place was planned for destruction you could get lower rents in the year before destruction if you didn't mind moving. So Ralph then had—this was the Center for Study of Responsive Law. Public Citizen did not yet have any physical spaces. So we get there, I get there. Ted says to me, “Do you have a resume?” And literally, I didn't have a resume and had not prepared one. Don't ask me why. I just didn't. This was a job. I mean, they wanted to talk to me. They presumably knew enough about me, they want to talk to me, and why should I have a resume? I don't know what I was thinking, if anything, but I didn't have a resume. So I wrote one out and just gave them the basic information and a few things and that was fine. Ralph was, as usual, running late. And he said, “I have to go give a speech over at George Washington Law School. How about coming over with me and then we'll talk afterwards?” I didn't have any choice, but it seemed like a good idea.

And this was the fall of 1971 and just this last year he was at Stanford when I was there and I gave an introduction for him and I said to the students, “The first time I ever met him was in 1971, this is now, 35, 36 years” — I said, “When you think about Ralph, just ask yourself, who is it that could pack an audience at a university in 1971, could pack one in 2007? Who could do it without having been elected to a single office, without ever taking a penny from the federal government, done it solely by dint of his own perseverance and ideas and personality?” And he was quite electrifying that day. And we walked from GW back up to Dupont Circle and he said to me, “Well what would you want to do when you come here?” And I'd actually thought about it and I said to him, “Well I have this little list of things I've already made up mind that I wanted to do.”

MR. MARCUS: When you say things, do you—

MR. MORRISON: Cases, litigation.

MR. MARCUS: Actual cases, lawsuits, actual projects?

MR. MORRISON: So what were they? I said, “The first thing, well, I want to go after minimum fee schedules in the Bar Association. Second, I want to go after the prohibition on advertising for legal profession. Third, I want to challenge the constitutionality of the antilobbying restrictions on 501(c)(3)s.” I'm trying to think what else I had on the list. I had a few other things on the list, all of which, most of which we ended up doing and winning. And he subsequently told me that that was one of the things that sold him on me, that I had ideas, that I knew what I wanted to do and that he could understand what we were going to do. And so we talked and then he poked around and talked to some people and a few weeks later he made me an offer and the number was still \$15,000 and I didn't fight it because by that time I wanted the job. I remember coming back from that time in Washington, the day I spent with him, not even a day, it was three or four hours— he was telling me what he was going to do and what Public Citizen was going to do and it was that night—I've always been very good at falling asleep at night—and just like the day I went to the U.S. attorney's office, I couldn't get to sleep, thinking about what an exciting job this was going to be. And I've always used that as kind of my

litmus test as to whether I should do this or not. And both of them proved absolutely correct.

But, you know, there were things to think first about moving. It was not the same as when my grandfather moved from outside of Kiev, knowing that they would never see their families again, or when my father and mother almost went to Palestine. Washington was not completely out of sight. We had friends here. I had an aunt and uncle who lived out in Bethesda. My parents were able to come down and visit us. But it was different, picking up and moving and we had most of our friends in New York and I lived around there most of my life.

MR. MARCUS: What did it involve in terms of Anne's—

MR. MORRISON: Well she had an interesting job at that time. She had just taken a job for about a year working part-time as a foundation program assistant at the Carnegie Foundation in New York and she was very happy. The job was three days a week and it was interesting. She was working for a wonderful person whom she'd keep staying in touch with for many years until she passed away recently. And the thing that I remember about that, and I'm glad you raised it, was—and this is a real reflection of the time and not, I think, just me and her—is that there was never a question raised about we shouldn't do it because your job will be—you won't have this job, you won't be able to do it. No person that you or I would know would do that today, that that would not be the way that we would think about the move. We might have done exactly the same thing anyway, but it would have been different. And I think she was a little unhappy.

And for a while it was difficult when she didn't have as many friends and we had a young child. She ended up getting a part-time job at the Office of Child Development and that worked out to be fine. But the fact that it worked out all right was not, doesn't change what the basic proposition is about.

MR. MARCUS: Let me ask you one little question about the process of your being hired. Who was Ted Jacobs? What was his role in the Center or the nascent Public Citizen?

MR. MORRISON: Ted Jacobs was, he was Ralph's top person at the time. They ultimately had a falling out and Ted left very precipitously. I've always been led to understand it had something to do with finances. Ralph would never talk about it, but they had been very close friends at law school and Ralph had known him ever since and he brought Ted in to help him out. Ted was his right-hand man, did all sorts of things for him, did some of the managing and other things, not so much substance, but he was Ralph's confidant and advisor. And then about four or five years after I got there, they had this enormous breakup and Ted was here one day and gone the next and Ralph would not talk about it to anybody. And Ted eventually got very sick and Ralph tried to make amends and go see him, but his wife, who I think was quite unhappy about it all, would not let Ralph go. I don't think Ted was in good enough health to be able to make the decision. And I think Ralph felt very badly about not being able to close with Ted and

Ted eventually died. This is probably six, eight, ten years ago. I don't remember for sure. So Ted was the first person I talked to, but the decision was really Ralph's.

MR. MARCUS: Was Ralph the only person you talked to there besides Ted about this? Were there other people there?

MR. MORRISON: Yes, there were other people there but they were not at Public Citizen. No, Mark Green was there. Harrison Wellford was there. Reuben Robertson was there, but I did not talk to them. I did not talk to them.

MR. MARCUS: And they didn't factor into your decision about whether—

MR. MORRISON: Actually, it was just Ralph.

MR. MARCUS: It was Nader.

MR. MORRISON: And what made—it was Ralph. Oh the other thing was I had—maybe the details are wrong, I've forgotten them—but the day I flew down to see Ralph, the *New York Times* had three stories that mentioned Ralph in the paper. I said, "First is, he's got an organization. I don't have to worry about raising any money." And for many years, I didn't have anything; I was relieved of the burden of management and raising money. The second is, his name opened countless doors. Third, he knew what he was doing and had great ideas and great advice and sources, all sorts of sources. And so I sort of fell into this job.

MR. MARCUS: Nader is himself a lawyer, right?

MR. MORRISON: Yes, yes, Harvard Law School Class of 1958. And he understood a lot of these things. Not a litigator, but a lawyer. And he—I didn't know it at the time because we didn't even discuss it very much—but it turned out that he ended up letting me do virtually whatever I wanted to do.

MR. MARCUS: He didn't set the agenda as you might have thought going in.

MR. MORRISON: Oh no. One of his geniuses, and you see it with Sid Wolfe, who started in November—he had come from NIH and Ralph—he had done some stuff helping Ralph, and then he came to set up the health group. Sid started in November and I came in the beginning of February. And he did the same thing with Sid. He said, "You're in charge of the Health Group," and let him run it. Not that he didn't have ideas and wasn't helpful, but Ralph understood that you pick really good people, or people you think are really good people because you never for sure know until they get there, and you let them run with the ball, you give them advice and help and if they don't do it, then you get rid of them. But you can't run their programs.

MR. MARCUS: Yeah, that's very important.

MR. MORRISON: And we had, there were many things on which we had—I discussed everything with him. I would never do anything without telling him what we were going to do. I had a monthly report that I gave him with all the cases, with everything that was going on. And we'd talk on a regular basis and he would have a lot of ideas and many of them we did and some of them I told him they're not doable, we can't win, we have no standing, we have none of this. We're getting ahead of ourselves, but for example, right after the Saturday Night Massacre, Ralph said, Sunday morning, he said to call around and said, "We're meeting at the office of Public Citizen on Sunday morning and figure out what we're going to do." So he knew we had to do something and that's the way he's always been. I was quite impressed with both what he had done in the past and with him. And it just seemed like it was a great thing to do. And I figured we could make do on the money.

MR. MARCUS: What were you told in the way of your ability to—obviously if you're going to start this litigation operation, you needed to be able to hire some lawyers. You didn't talk about that?

MR. MORRISON: Well he said, "There's this guy named Tommy Jacks, who worked for us one summer who's clerking for a judge in Baltimore. You'll be fine with him." And I said, "Okay." And then we didn't have any idea how many people I was going to be allowed to hire. I said, "Where are we going to work?" He said, "Well, you'll work in our place for a while," and then we moved around. And I was probably irrationally overconfident that things would work out. But everything worked out.

MR. MARCUS: Yeah. And you didn't feel the need to nail down understandings about your role and how many people you could bring in—

MR. MORRISON: And what do I have in terms of secretaries.

MR. MARCUS: Yeah, and it wouldn't have worked anyway.

MR. MORRISON: So I got it, I agreed to take the job in November, and I had been, my right shoulder had been bothering me for some time and I went to see a surgeon who a friend had been to see, and he ultimately decided that they needed, what it looked like was it was impinging my motion and I could barely reach up on a shelf to get a book down, and he said, "I think what it is, is that you have some scar tissue in there." And playing touch football in Central Park...without pads...

MR. MARCUS: Bang!

MR. MORRISON: ...bang, and it had gotten worse. And so I decided to have the operation in New York before we moved and it would give us a little more time to get ready. And so I had the operation in late November and I was out of work only a couple of days. And I started going to work a little bit later because I had a sling and hassling it on the subway with a sling was not—this is all becoming relevant in a second—and I showed up for work one morning and I get in there and Mike says, "Come into the office

right away.” This is Hess, and I said, “Fine.” And he said to me, “We just got a report from the Park Service people out at the Statue of Liberty that protesters have seized the Statue of Liberty and they want us to go out and arrest them.” And I said, “That’s insane! That’s exactly what they want us to do, that we don’t want to arrest these people!” And I said, “That would be the worse possible thing.” He said, “Of course that’s right.” He said, “I want you to take charge of this.” So I said, “Here’s what I want to do. I want to draw up a civil complaint. I’ve got to get an order to show cause and a temporary restraining order, then go out and serve it on them and get them all out of there.” “Fine.” So we start to do this and I sit down and I just write up this temporary, the papers, and he looks it over, fine, all fine, and we go up to see the judge. The judge is Judge Lasker and this was, he had just been appointed, maybe it wasn’t Lasker. I’m sorry, it wasn’t Lasker. I’ll tell you who it was, it was Samuel Pierce, not the one, not the Pierce who became the—

MR. MARCUS: Secretary of HUD.

MR. MORRISON: Right, but it was another Pierce, another African-American. He had been appointed about two weeks before, it was his first—I think it was Lawrence Pierce. He had just been on the bench, I mean, literally. So I show up there with this affidavit and for the temporary, an order to show cause why they should not be held in contempt unless you get out and so forth and so on. And the judge says, “I don’t want to sign the order to show cause yet.” He said, “Serve the copy of the complaint on them out there and come back to me tomorrow morning and we’ll see what happens.” So I say, “Okay.” So I get the complaint, we get a Coast Guard vessel to go out there and we have 50 reporters on the vessel with us. I’m in my sling. I go out there to—because it’s cold and rainy, we’re going out there, there was a French, I mean, there was a Canadian reporter and I gave an interview in French and I was stuttering and stammering a little bit but, so we get out there. We get off the, we’re about to get off and somebody approaches me from the Park Service and they said, “L. Patrick Gray of the Civil Division, Justice Department, has just called and he asked three questions. Do you have enough people to take the statue? Can you get the press off the island before, and can we avoid any damage?” So I said to him, “You tell him we’re in charge here.” He was probably my boss. I said, “Tell him we’re not doing any of those things.”

So we go there, I get somebody to come down, we start with, “This is the complaint and we’re going to be back with an order to show cause in the morning, you’d better be out of here.” I go back and the next morning we go out, and then we go to the judge, he says, “Now I’ll sign the order to show cause.” I go back, we have somebody deliver it and they all came out of the statue; they stayed overnight there, they got all the publicity they wanted, nobody pressed any charges.

MR. MARCUS: Oh, but you show up with this show cause order and they all leave?

MR. MORRISON: —and they left.

MR. MARCUS: Yes, were these anti-Vietnam protesters?

MR. MORRISON: Yes, of course, of course.

MR. MARCUS: Yeah.

MR. MORRISON: And that was my final thing that I did before I went and after I got my arm fixed so that I was able to help with the move.

MR. MARCUS: And you moved in February of—

MR. MORRISON: We moved, left the end of January and came down here, got here on a Thursday or Friday...

MR. MARCUS: We're, so we are going to close this interview on a February, 1972, day as Alan Morrison moves to Washington.