ORAL HISTORY OF THE HONORABLE DAVID B. SENTELLE
Second Interview
July 8, 2003

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewee is the Honorable David B. Sentelle, Judge of the United States Court of Appeals for the District of Columbia Circuit. The interviewer is David Frederick. The interview took place on July 8, 2003. This is the second interview.

MR. FREDERICK: Good morning, Judge Sentelle.

JUDGE SENTELLE: Good morning, David.

MR. FREDERICK: We are here on Tuesday, July 8 to continue your oral history. When we left off yesterday, you had been speaking about your appointment as an Assistant U.S. Attorney and I wanted to ask you more about that experience. Can you tell me what kinds of dealings you had with Main Justice and Washington while you were an Assistant U.S. Attorney?

JUDGE SENTELLE: We had perhaps surprisingly little dealing with Main Justice. There were certain kinds of cases – civil damages cases, tax cases, some of the civil rights cases – where we had to report. They had the final say. But on the criminal side, which was the biggest part of our work in the trial court, other than some general statements of policy, they didn't have much to do with us. I mentioned a while ago that I was borrowed by the District of New Hampshire. They went through Justice to borrow me, but they asked for me specifically. I remember very early on we had a case where the Red Hornet Mayday Tribe members – they were a hippie group and a protest group – had the ACLU on their side. They sued Haldeman and

Ehrlichman, the Secret Service, and the Charlotte Police Department for excluding them from the coliseum when Richard Nixon was down there with Billy Graham. I was representing Haldeman and Ehrlichman and the Secret Service originally. Justice was very much in the scene and at the time something came out in the Watergate hearings about a memo from Haldeman or Ehrlichman to Haldeman, between the two of my clients. It said, "We can get some good publicity if we keep the hippies out of the coliseum in Charlotte. Charlotte Police Department's tough, they'll help us, but don't tell Secret Service because they won't go along." So there were two of my clients implicating themselves and exculpating the third and I called Justice and went through about six levels before somebody would finally tell me what I wanted to hear, which was, "No, we can't represent them. We've got a conflict. They'll have to find outside counsel."

It seems like in the civil rights cases, we were in not daily, but frequent, contact with Justice. Rarely, if ever, was I physically up here. I came up for an orientation session when I was first on. I met with some people in Fraud at Justice once when we were working credit card frauds, but we had fairly little contact with big Justice on the criminal side. Memo and telephone contact on the civil side. They would send somebody down – both criminal and civil – for a tax trial. Generally, they would try the case in the civil side and they would second-chair me on the criminal side. That's typical of the contact.

The Antitrust Division had a fairly sizeable civil action, but I have to say that I didn't and don't agree with our position personally, but professionally I was in the position of having to take the position the government said to, that big Justice said to. They were opposing the acquisition of American Credit by Wachovia Bank. We won the preliminary injunction. I got them the TRO. They came down for the preliminary injunction phase. The fellow they sent – the head of the team who I don't think tried a case in his life – couldn't get some expert testimony in. The judge finally told him, "Look, if you'll turn around and talk to the guy behind you during lunch, I think he can explain to you how to get that opinion and a lot of other evidence on." From then on I sat next to him and told him what to do.

Swann v. Mecklenburg was the Charlotte busing case. HEW, as it was called then, was appearing as amicus. They again sent experts down and for whatever reason abandoned the ship before the final arguments so that I was about two months into my career and suddenly had to make a final argument in a case I had done nothing but watch. And Judge McMillan was a very proactive judge. Over the years, there was a lot of interaction, but it was not by any means a daily thing. The U.S. Attorney's office is, in a lot of ways, a pretty independent shop.

MR. FREDERICK: How were decisions made within your district as to what prosecutive priorities to emphasize with such a small office? I would think you'd have to make some decisions about what cases to bring.

JUDGE SENTELLE: Oh, you always do. You were in the Solicitor General's office, but in the field prosecutions, with some exceptions, the general rule is they can't bring a prosecution without the approval of the U.S. Attorney's office. And our district was so small that the assistants were permitted to make our own authorization decisions instead of having, like they would here, a tier of assistants who could make the decisions. We didn't have room for tiers. We weren't but three assistants, so each of us had to be able to make authorization decisions.

Keith was a great boss in that he gave me a very free rein and yet I always knew that he was there. I think maybe twice ever he overruled me on prosecuting decisions. Each time he thought I was overreaching or taking on a case that, while the person might be guilty, we were not likely to prove it beyond a reasonable doubt and it wasn't good policy to go after a particular case without a really tight case. He gave us general guidelines and we always knew what his sense was, but he gave us very free rein and he was always the boss. And that's the way we referred to him.

MR. FREDERICK: What was his background?

JUDGE SENTELLE: He had been a state district judge immediately before becoming a U.S. attorney. He'd been a practicing trial lawyer and generalist. He did a lot of trial work in Lenoir, North Carolina. He was a political lieutenant of Jim Broyhill, who was the long-time Congressman from that district. He was a Carolina law graduate about eleven years ahead of me. He moved

to Asheville to take the U.S. Attorney position. He was also from a mountain Republican family like I was.

MR. FREDERICK: Tell me about your colleagues in the U.S. Attorney's office.

JUDGE SENTELLE: There was a terrible period when Keith and I were the only ones in the district. We actually had to borrow somebody for a little while then from another district, but Bob McClure came in after me and was my associate there in Charlotte. Bob had been a year ahead of me in law school and about three or four years ahead of me before that. Bob was a few years older. I said a while ago that Jan Crawford and I were the second and third people to graduate from our high school to graduate from UNC Law School. Bob was the first. He had graduated from Enka High School the year I finished eighth grade and then he went to Mars Hill Junior College for two years and then went into the Army. When he came out, he finished college and worked for a bank and then went to law school on a hurry-up program – one of those finish-in-two-years-programs. He finished a year ahead of me.

Bob was obviously from the same community I was. His father worked at the mill with my father. He lived in one of the village houses. He married a girl from my high school, although they split up later. They were married at the time he was working with me in the U.S. Attorney's office. He was a volatile sort of person and we had a lot of run-ins and a lot of good times. We were good friends who put up with each other from time-to-time, but we did a good job together most of the time. After Bob left,

he only stayed a couple of years. He saw himself in a hurry, I think, and he did die young. When Bob left, we hired a young man named Joe Beard who had clerked for one of the Middle District judges and had been an active Young Republican. I knew him and Keith knew him from Young Republicans.

MR. FREDERICK: About when was that?

JUDGE SENTELLE: That would have been about second or third year that I was there when Joe came in. Again, Joe stayed on a fairly short time. He really wanted to be politically active. He only stayed a year, then decided he wanted to get out and work in politics. And he was in politics all his life. He also died young – a curse on the office, I think. We had two secretaries, Jane Seacrest Floyd and Judy Barbie. Jane was my secretary later in the district judgeship and died of cancer at 49. Judy lost her husband when he was 49.

After Joe left, Mike Scofield came in who had been practicing law in Asheville. A Duke Law graduate, very bright guy and an excellent pianist by chance. He was a really, really good musician. I had known Mike. He went to Asheville High School for the last two years of high school. He's from Iowa, but he finished at Asheville High when I was at Enka High. We had debated against each other in high school. He was a football star, also, of Asheville High. I had known him since we were teenagers. He succeeded me as the chief assistant in charge of the Charlotte office. I

later, when I was a state judge, persuaded him to become our first public defender and he did a great job there.

Mike had the interesting habit of being a procrastinator and I would have to really ride him to get his briefs and stuff in on time. Judy told me that as soon as I left and he was in charge, he was the guy riding everybody else to get it in on time. When he had the responsibility, he rose to the occasion. He was a very good trial lawyer. He looked like Clark Kent in the old Superman TV shows. He had an all-American face, plastic glasses.

MR. FREDERICK: Did the U.S. Attorney himself try cases often?

JUDGE SENTELLE: He did. With that few attorneys, he has to. We had five seats of court. Keith mostly tried cases in Asheville and Bryson City. He would occasionally ask me to come up and try one with him, but he had an assistant in the office with him. First Bruce Briggs, who left to run for state judge. Bruce was succeeded by Jimmie Proctor, who had been a practicing lawyer in the eastern part of the state and then an assistant U.S. Attorney. He got transferred up to Asheville.

Keith tried cases in Asheville and Bryson City, occasionally borrowing me to come up and try one for him up there. We sort of split the Statesville and Rutherfordton seats. He would take some and divide it with me. He would come and try cases with us in Charlotte when we had a heavy docket and he would let me assign cases. A super guy to work for, but he tried probably a third as many cases as I did. I tried more cases than the

other assistants. They probably tried a few more than him – some more than him and some less.

MR. FREDERICK: It sounds like the U.S. Attorney's office there had people of very intense political interests. Am I capturing that right?

JUDGE SENTELLE: For the most part, I think that's true. I'm just thinking why Proctor wanted out of the east was they had an embarrassing situation in that his father-in-law was a judge down there and he needed to transfer to avoid a recusal. See in those days, before the decision there was no civil service or any similar kind of protection for Assistant U.S. Attorneys. So outside the big districts, it was pretty much the case that within a couple of years after the presidents changed parties, so did the assistants. So nobody went in expecting to stay. They went in mostly with ambition. It was a good place to practice trying lawsuits if you wanted to be a trial lawyer and it was a good place to get some contacts for your political future if you wanted politics.

Somebody asked me up here one time from Washington when I was up here for an orientation, "Is it true that out in the field, they ask you your political affiliation before you're hired as an assistant?" I said, "No way. If they have to ask, you don't get the job. They have to know before they ask." So, yes, the U.S. Attorney's offices in the country districts were staffed up. And it was a smooth transition because the people going out would tell the guy coming in, "Look, I'll stay as long as you need me and then I'll get on with life and you can get on." So they would hand in

resignations and then you would ask them to stay. It was a very formal kind of procedure that we went through.

At the time that I was there in Charlotte in the Middle District, Bill Osteen was a U.S. Attorney. Bill is a district judge now in the Middle District. Woody Tilley was his assistant and successor. Woody is his colleague in the Middle District now. Howard Coble was one of his assistants. Howard is a longtime member of the House of Representatives from Greensboro in the U.S. Congress. He's the big chair of one of the judiciary subcommittees. Mac Howard was an assistant in the east. Malcolm Howard is a judge in the Eastern District of North Carolina. It was a very good ground for all of us to move along from.

MR. FREDERICK: Tell me about what you liked and disliked about being a trial lawyer.

JUDGE SENTELLE: Can we stay with the U.S. Attorney's office just a little while? There are a couple of things about it that I think were important to me. One was the close contact with the federal agents. Again, in a small district – the FBI had maybe 30, 35 people in Charlotte, Secret Service had 4 or 5, ATF had a handful – you worked very closely with those people and you became part of their professional family. We went to their parties and their retirements. And the one case that sticks with me the most is when one of our agents was killed in the line of duty. We had a young first office agent. He and his wife and child moved into our apartment when we moved to a house. His wife was pregnant at the time that Greg was killed. A bank robber shot him in the head. She had one child and another one on

the way. We all closed ranks around them and persuaded them to stay in Charlotte. She met another agent, John McElhatten. He retired out of the Washington field office just a few years ago. I've stayed close friends with a lot of those agents from that time. You worked together, you played together, you had tragedies together. You were very much a family in a way that I don't think people can experience in most offices now because there's too many people there. The time that I spent with those brave people who would call me at midnight for authorization and apologize for waking me up had a profound effect, I think, on my life. I'd say to them, "I'll go back to sleep. You're still out there in the field doing this job."

MR. FREDERICK: So FBI and ATF were the principal federal investigative agencies?

JUDGE SENTELLE: Well FBI was by far the most. There were the different Treasury agencies – Secret Service and ATF. They had a block of cases that they worked also. ATF, for reasons lost in history, didn't have to get authorization which was a bad thing because they brought in some cases that we wouldn't have authorized. We'd have to lose or dismiss sometimes. The Secret Service worked closely with the Postal Inspectors. Still does because they have a lot of cross-defendants – people who steal Treasury checks or use the mail to defraud. The Postal Inspectors were a very good outfit. The FBI was by far the biggest.

MR. FREDERICK: What were your relations like with the state and local law enforcement officials?

JUDGE SENTELLE: We had excellent relations. And I know you hear stories about federal and state being crosswise some places. Charlotte P.D. was a very good department. I mentioned yesterday their fraud squad worked very closely with us and the postal inspectors. They were a very professional police department. They liked to get our people's help and we liked to get their help. They had more manpower than we did and we had better labs and more expertise than they did. We did a lot of work closely with the local prosecutors. The same people were committing the crimes, whether they're stealing from an interstate shipment or an intrastate shipment. We could help each other out and everybody realized it.

One time there was a leak in an investigation of the sheriff's department that we were running jointly with the state on allegations that the sheriff was embezzling federal funds that were supposed to go to the jail. It leaked that the investigation was going on. The investigation revealed no wrongdoing. The state DA and I held a joint press conference to open up what exactly had happened in the complaint about the leak that came out about the Charlotte P.D.

Another time, Joe Europa, who was the head of the vice, internal affairs, and one or two other things at the Charlotte police department, came to my office with some files. He said, "These are the files on the Summerford gambling ring. Every time we raid, they know before we go in. There must be a leak in my office. Here's everything I've got. I don't ever want to see it again. You call up Leon Andrews at the FBI." He was the FBI

guy who worked gambling and criminal intelligence. He and Europa were both great criminal intelligence people. He said, "Tell Leon what I've told you and tell Leon not to call me. I'm not going to talk to him." We took it over and worked it and eventually got nine indictments and then a tenth one of the cop when we got somebody to turn on the cop who'd been leaking to him in return for bribes. We cleaned up their messes and sometimes they cleaned up our messes. It was a very good relationship. A good social relationship.

Bill Austin, a sergeant who headed up the fraud squad, and Joanie were very good friends of Jane and me. We had an annual tradition that we went to a big holiday party that was hosted between Hanukkah and Christmas by one of the law firms in town. And that was the night that Jane and Joan said that Bill and I had to drive because all year long we'd been drinking and they drove and on that night, they drank and we had to drive. And we didn't drink a thing because, as Bill said, "There are 99 cops out there who would not write a drunk driving ticket on a federal prosecutor or a detective sergeant. There is one cop that would rather write us than anybody else in the world and he's the one who would get us." So Bill and I didn't drink anything that one night of the year, but looked after the girls. We were very good friends.

A fellow who served immediately under him, Bill Roland, was a Lodge brother of mine. We were also close. It was a very good relationship. We used them for manpower, they used us for expertise. When I see these TV

shows where they have the FBI cutting the local police, it doesn't ring true to me at all. It was not my experience.

MR. FREDERICK: How about relations among the federal and state law enforcement agencies. You often hear stories of conflict about Feds stepping on the state guys' toes.

JUDGE SENTELLE: We didn't have any of that problem. They liked to have our help. They would call us – not my people, but the FBI and the Postal Inspector in particular. They liked to bring those people to assist. Leon and Joe shared intelligence all the time between the FBI and the local P.D. Each of them had what the other one needed. They were, I think, very personally responsible for having so little mafia/mob involvement. They were so good, so expert, and shared their information and used it so well with other agencies. Meyer Lansky tried to move into garbage down there. Lansky didn't get anywhere. Similar things other times.

One of the really good state narcotics undercover operatives was a black man named Albert Stout. Albert did an undercover for our DEA people. The defendants put a bomb in his car, blew him up, but didn't kill him. He lost an eye, a leg, and a hand. I took leave to go over and work with the state DA and some of the ATF agents did the same thing to coordinate until we got the men who blew him up. Then we prosecuted them federally and they prosecuted them at the state level. One of them died in the process of gunshot wounds, but the one that lived went away for the rest of his life. Very close cooperation between the locals and the Feds on

that operation. Then I worked later with the state A.G.'s office to get Albert some federal compensation for the injuries that he'd suffered.

MR. FREDERICK: As a Republican in a Republican administration with a state government controlled by the Democrats, were there any issues that gave rise to special problems?

JUDGE SENTELLE: I really don't recall anything with the state. There were local officials that at times we got crosswise of. I don't know to what extent there was any political underlaying on anybody's psychology on that. You can't even speak for yourself fully. There were some local political officials with whom we had some problems. Nothing that got in the way of all of us of being able to do a good job. But the mayor, who later became a very good friend of mine, was a longtime Democrat and I think, at times, he was concerned that we were in his way on things like our HUD requirements. Sometimes our federal regulations would get in the way of what they would like to do. And he thought that we were the enforcement people at the ultimate level, so perhaps at times there was some resentment. Again, I think we all got over it.

MR. FREDERICK: Was there much corruption in the state government in North Carolina?

JUDGE SENTELLE: There was corruption within the Department of Transportation. When the Republicans took the governorship in 1972 and came in at 1973, in Holshouser's inaugural speech he pointed over to the Department of Transportation and said, "We're going to clean up state government starting right there." But it didn't happen then. Well, it did to a minor

extent. Many years later, when I was practicing law in the late 1970's and early 1980's when Lauch Faircloth – who was later a Republican Senator for North Carolina – was the Democratic Secretary of Transportation, he got a lot of undeserved credit for cleaning it up when I think what really happened was that when the Antitrust Division came down to prosecute people for rigging bids, they found a lot of other corruption that they really pushed for the cleanup. Now I'm not taking anything away from Lauch because he certainly cooperated, if just by staying out of the way and letting them do it. But he billed that to help build his political reputation. Yes, there was corruption, but it wasn't as bad as it might have been feared. But particularly in transportation where there's so much money changing hands for highway contracts, there were more people getting involved. I did mention the local P.D. having the problem with the vice squad office where it was on the take, but I'm sure there were others. We had a couple of files on local politicians that never got prosecuted where both Keith and I were utterly convinced there were a couple of local politicians on the take, but we never got quite enough. You don't take that on unless you're sure. Unless you know you can get an indictment and you know you've got a very good chance of getting a conviction. We weren't that certain. We were convinced in our own minds by the greater weight of evidence, but beyond a reasonable doubt I couldn't say we were. So those files were still open when we left and they were never prosecuted.

MR. FREDERICK: You were an AUSA, weren't you, with FBI agents right at the end of J. Edgar Hoover being the director of the FBI. Do you have any reflections on his influences and reminiscences of how agents might have related to Hoover?

JUDGE SENTELLE: There was a saying in the days before Hoover died, "If you've seen one director, you've seen them all," because he was the only director. He served a long, long time. I read of someone who said, "Great men make great mistakes," and I think Hoover was of that mold. He was a great man who made some great mistakes. He took a little politically ridden bureau in the Department of Justice and made it a freestanding law enforcement agency – the finest in the world. At the same time, he kept secret files on politicians to squeeze them in ways that law enforcement could not legally or properly have done. He locked himself in the past in a lot of ways, so he made great mistakes but was a great man. The agents loved him and hated him for the same kind of reasons. They knew that: a) the old man stood behind you if you were right, and b) the old man's definition of right was very narrow and if you embarrassed him in any fashion, even if it wasn't your fault, you were going to be transferred to Butte, Montana, the next day even though your family was in the middle of finishing school or whatever. So there was a fear, there was a respect, the kind of feelings that a great man who made great mistakes would generate.

There was something I kept telling the agents that they pooh-poohed and that was, "There are going to be women FBI agents. We need them,

they're capable of doing the job." They said, "Well, they don't meet the physical requirements." I said, "That's because they set the physical requirements to keep them out." Charlie Williams, my accounting agent, had to get a doctor to cheat to get him to pass the physicals every year. And he doesn't have to do anything that really demands the physical factors being met. Secret Service was beginning to hire women, and I said "You're going to see it." And they said, "Not as long as Hoover lives," but Hoover died and they started getting female agents.

We had been on a raid for the gambling case I was talking about. Louyn Summerford ran a gambling house totally illegally in southwest Charlotte. Had an iron fence around it, looked like an estate of some kind, but inside of there he had a bookie operation going that was a huge business. It met all of the baseline criteria for federal prosecution under the racketeering acts. The local police couldn't get him. We got wiretaps and managed to get the evidence to take him down. The way we finally took him was he would always go out and make a phone call from a payphone in the mornings to Vegas to get the line for that day's baseball game. Baseball was the biggest sport for that. He wouldn't call from his home phone because he thought there would be a chance of a tap and that was an interstate call. He didn't realize we'd use the local calls we were also tapping as evidence. But in any event, because we knew precisely what he was doing, we put a tap on the Vegas phone he was calling to. It was a

legal gambling operation out there, but we got an illegal call on the wiretap.

To take him down, it was made pretty, but it was an iron wall outside and he'd open that iron gate, drive out, and if we had had to go through the iron gate, we knew that he would destroy all the evidence. Flash powder or put it down a disposal while we were trying to get in. He had two big German Shepherds patrolling in there. I say "we", like I was going to be the one doing it. I didn't normally go along on the raids. At any rate, we waited a bit more and I went with them that day. When he went out to make his call, while the door was still open, we jumped out and said, "Okay, Louyn, hands up and if the dogs give any trouble, the dogs' are going to get shot." We had him escort us back. He hadn't planned. But we got him while he was out and there was nobody in the house but his bimbo of the month, the girl that he was keeping there changed frequently. We went in the house and she was standing in the kitchen in this little baby doll thing feeding gambling records down the disposal just as hard as she could go, but we got most of the records that were intact. We had to secure the premises and in a few minutes she said, "I need to go to the bathroom." Well we know damn well that she's going to go in there and flush something else if she goes to the bathroom and we don't have another female along. If we had had a female agent along, we'd have been fine. Somebody went with her anyway, but it would have been a lot better if we'd had a female that could have done it. We were always facing that

she'd raise a false claim of sexual advances or something. But we couldn't let her go alone. A female agent would have been perfect. We had two men on the stakeout at night. They'd attract a lot of attention in their car. A girl might have attracted a lot less attention. There was no reason in the world why women couldn't do the accounting duty. I grant you that there were some pickups where you wanted the biggest man along you could have, but some of the guys couldn't do that so I told them, "You're going to have women agents." And they did very soon. The women agents were just as good as the men. I digressed pretty far on that.

MR. FREDERICK: Tell me about the judges on the bench when you were in the U.S. Attorney's office and your interactions with them.

JUDGE SENTELLE: This is not going to be released for quite a while, so. . . . We had three in the Western District of North Carolina – two active judges and one senior judge. I'll start with the senior judge. He was the first federal judge I ever appeared in front of. I have a picture of him out in the other office out there. Wilson Warlick, he was known as "Coot." Coot was a name that his nanny had given him when he was a little boy and she said he crawled like a cooter, which is a tortoise. Coot was, I think, at least 80 or pushing 80 when I came in. He had been a judge of some sort or other for over half his life. He was a state superior court judge before he became a U.S. District Judge. A very colorful character. A Truman appointee.

The first time I appeared in front of him, during the year-and-a-half I was in Asheville, I was representing a moonshiner who was on probation. He had violated the probation by making more moonshine. I went down and talked to the probation officers who told me pretty much what the walk-through would be on it. That he had two-and-a-half years of active time that was hanging over his head while he was on probation. They said, "You'll go in and represent him and then the judge will tell him, 'the lawyer has done a good job,' so good he's going to cut his time. He'll take six months off it and send him up for two years," which ultimately is precisely what happened.

I went in and Coot lets me get started with my speech. And I'm, like I said, maybe a year out of law school. I'd been to court a few times, but never spoken in federal court except to say, "I will" or "I do" when I was sworn in as a member of the federal bar. Coot lets me get started and then he stops me and says, "Mr. Sentelle, what kin are you of Ennis Sentelle? He used to try lawsuits in front of me in the '30's when I was a Superior Court judge." "Well, your Honor, Ennis Sentelle was my great-uncle." "Ennis was a very fine man, a very unusual fellow. He was one of the few men to serve in the legislature in two counties. He had been a school teacher and the superintendent of schools down in Edgecombe County in the eastern part of the state. He went to the legislature from there, then went to law school and came back up to Haywood County and practiced law. And he went to the legislature in Haywood County. A very singular

man, your Uncle Ennis. Go ahead, Mr. Sentelle," as if I'd interrupted him or something. I started back again. I got about two minutes into it and he stopped me again and said, "Straighten up there, young man. Your Uncle Ennis didn't slouch like that when he was trying the law." I never got my train of thought back after that, I don't think. But then he gave Dockery two years, talking about what a great job I'd done, and sent him on off. That began a relationship with Coot that lasted until he died, in or around 1977 at the age of 87. He held a lot of court in Charlotte. There was a lot more mixing in that country district than general, I guess, but that's the one I knew the best, between the judiciary and the bar than you may find in a lot of urban locations. Particularly in the federal courts where there were only a few of us involved. I had a lot of meals with Coot. We stayed in the same motel when we were in Bryson City for the court out there. We stayed on the Cherokee reservation. The Indians usually had a festival of some sort for all of us. We'd go fishing, we'd eat barbeque. When Coot came to Charlotte, he didn't have much staff at all as a senior judge in those days. My secretary typed letters for him. I'm sure this is all not the most proper thing in the world, but it was done and everybody knew it, so there wasn't anyone being fooled about anything. He also had good friends in the defense bar that he went out to eat with as well.

Coot was very much a prosecutor's judge. We used to say, truthfully, if we had an armed bank robber in front of Coot Warlick, if he pled or went to trial, we would get just about fifteen years' active time. Jim McMillan,

whom I'll get to later, would get five to seven. Woodrow Jones gave an individualized sentence based on the facts of the defendant in front of him. But Coot was pretty predictable. If you had a draft dodger, he got two years. Now if he was a real conscientious objector like the Jehovah's Witnesses, who could have qualified for C.O. status but wouldn't apply because that violated their religion, Warlick would give them two years' probation in alternative service. He'd suspend their prison time and they'd go work in a hospital. But they were going to do something for two years. If they missed two years of the military, they are going to go to prison for two years or they're going to be in alternative service for two years. He was very predictable.

As time went on, he got more and more active on the record and became harder and harder to defend in the Fourth Circuit. I learned from court personnel in Richmond that Haynsworth used to refer to me as Judge Warlick's defense attorney because I had to come up there so often and try to clear up Coot's records. I would try to keep him straight – we all would – in court. There was no holding him in line. He was going to do what he was going to do. We actually didn't get reversed too many times. We got a lot of cases where there were reversals based on active error and there were some based on his unwise statements in the record. In the very later years, after I was gone, Chief Judge Jones would not let him hold trial. He would let him take motions and pleas and sentences, but he cut him out of open trials in the last few years that he lived. But he was still active in his

late 80's and still doing fine, except he just couldn't keep his mouth out of the record.

Woodrow Jones was the chief judge. Woodrow was a former Democratic congressman from Rutherfordton, North Carolina. He had also been a very fine small market trial lawyer. He had been state chairman of the Democratic Party. He was one of the members who you may have heard recently at Strom's death with recollections of the *Southern Manifesto*, state records signed by a lot of southern members of Congress. The *Post* incorrectly referred to Thurmond as having written it. He did not. I think Richard Russell, from Georgia, actually wrote it. Judge Jones told me that, as a matter of fact. He was one of the congressman who signed it. He was a Johnson appointee to the bench. He retired undefeated from Congress. North Carolina lost a seat in the redistricting of 1960, I guess it would have been. And they put two congressmen in the same district and he did not really like Washington anyway, and he told Basil Whitener, "You take it. I'll come home and practice law." After that, he became state chairman of the Democratic Party. He and Dan Moore – Dan was a state judge – divided up between them who was going to run for Governor. And he convinced Dan that he should run and he stayed with his law practice in Rutherfordton.

Woodrow was a very eloquent man. He looked like the judge in central casting. Silver white hair and square, ruddy Celtic face, long, expressive arms and hands. Watching him instruct a jury was like watching a really

good preacher or an orator of some kind in action. Woodrow would tell the jury at the beginning of the trial, "You must be like the wife of a Caesar, above and beyond suspicion," in his stentorian voice. Sadly, he lost his larynx to cancer and could not speak that way within his last several years. He died within the last couple of years.

Woodrow was regarded as a pro-prosecution judge and I so regarded him when I was defending. But he was closer to the middle than Coot could steer. He tried very hard, I think, to follow the law. They were both very good by their own lights. Woodrow was, generally speaking, a well-regarded judge. He tried some significant cases and did a very significant thing that was written up in a lot of nice articles. I don't know where you'd find it today, but there was an air crash at Asheville just before I finished law school. One defendant was Piedmont Airlines, which was a North Carolina corporation that is now part of US Air. But there were a lot of non-diverse claims, so unlike most plane crashes, you had a lot of litigation in state court. There was a very fine state superior court judge who was assigned all of those cases, Harry Martin, who was later a state Supreme Court justice. He and Woodrow held joint discovery and procedural hearings. They had federal and state lawyers in one place to keep everything consistent all of the time. They were very creative and very effective and efficient. It was a good judiciary, I think.

I came to know Woodrow very, very well. In fact, I'll get later to the details of it, I guess, but he told me in advance when he was taking senior

status. He told me to make sure that I was in close contact with Jesse Helms and that I had myself in a good place if I could. So Woodrow thought a lot of me and I thought a lot of him.

Jim McMillan, I had a good personal relationship with, but lots of other judges think he should have been in some other line of work. Jim got life tenure and decided that he knew more about running schools and prisons and everything else that came in front of him than anybody else and he thought jurisdiction meant that somebody brought a case in his court. I defended a lot of federal agencies against him on injunctive actions telling them where to build new roads or buildings or how to spend their money. And lots of times we had to go to Richmond to get the Fourth Circuit to say that the district court did not have jurisdiction over this action. But he was reversed an awful lot.

He was very pro-defendant on the criminal cases. And the practice in those days, at least in the early part of my time, was that the suppression hearing was heard as part of the trial rather than in advance so that if we lost the suppression, we lost the case. We could not appeal it. That was the practice. The rules did not provide, as they do now, for the automatic severance and no one in our district started doing it that way until we did about two years after I got there. But Jim threw out a lot of our cases that shouldn't have been thrown out. He meant well, he was a very good man, but I wish he had been a preacher instead of a judge.

We got along well personally. In fact, I don't know why he let me say some things I said to him over the years. He was the judge in *Swann v. Charlotte-Mecklenburg*. I went to lunch with him and his clerk after it was over. His clerk was a good friend and later a law partner of mine. And I was saying that I thought the Supreme Court was wrong and I didn't think he had jurisdiction to do that remedy in the school busing case. He said, "Well, what could I have done? They obviously were violating the principles around *Brown v. Board of Education*. You saw the evidence, you put on some of it that they were gerrymandering school districts to maintain segregation. What could I have done?" I said, "You could have ordered them to write their own plan that would have ended the segregation." He said, "What would happen if they violated my order." I said, "You'd put them in jail." He said, "You'd have me put school board members in jail?" I said, "Yes, sir. I think you've got jurisdiction to do that." I don't know why he let a 29-year-old Assistant U.S. Attorney say that to him. That was typical of the conversations we had.

We had a high regard for each other and respect but, as I say, I wish he'd been in some other line of work. The Clerk of Court went down and counted forty motions in a row that I lost in front of him. George Daley was the ACLU in Charlotte at the time and we argued a couple of *en bancs* against each other. George and I used to say that the only difference in having Warlick and McMillan was whatever McMillan did, I was going to take to the Fourth Circuit. Whatever Warlick did, he was

going to take to the Fourth Circuit. We knew that each of them was very prone to err on the side that they wanted to win. Jones steered to the middle, of course.

MR. FREDERICK: How about their law clerks? As an AUSA, did you get to know the judges' law clerks?

JUDGE SENTELLE: I knew McMillan's clerks very well. They were right in the building with us, so I knew them very well. The other judges I knew less well because Warlick's chambers was up in Newton and a lot of the time he didn't have a law clerk as a senior judge. He worked off the research that the lawyers did and his own once-great memory that wasn't as great anymore. Jones' chambers were in Rutherfordton and Asheville and his law clerks were not down there with us. So I got to know some of them, but not all. Zoro Guice, who was later a state judge, was a good friend of mine. Caroline Burnett and another woman whose name is escaping my old memory – I've got Coot's memory now – became good friends. Caroline married a lawyer in the eastern part of the state and practices down there now. He was one of the first judges that I ever knew who had female clerks. It was not the common thing in the early seventies, but Woodrow hired women out of the box. The woman whose name is escaping me told me that very early on some lawyer in a conference asked if she could take some notes. Woodrow slammed his hand on the table and said, "My law clerks are not here to take your notes." And that was the end of that. But there was a prevalent sexism of attitude that somehow Woodrow escaped.

I knew some of his clerks, but, again, I did not know them as well as McMillan's.

Fred Hicks, who was my classmate, was Jim's clerk when I got down there. Fred clerked with him for two years. We were later law partners. Sandy Levinson, who teaches at UT, was one of his clerks. We used to play poker together. He had some very good people. He had a Harvard bias, but he hired a lot of Carolina clerks, too. Jim was a Harvard man.

MR. FREDERICK: What are your memories of the defense bar when you were a prosecutor?

JUDGE SENTELLE: We got mostly the better defense attorneys in federal court. A lot of the less skilled defense attorneys just didn't come down there. Whereas they had to do it in volume, you had to do it one case at a time in federal court. We had some good friends and good opposite numbers out of the defense bar around western North Carolina. James E. Walker, known as "Bill," is one who stands out in my mind as one of the best criminal defense attorneys I ever saw. He understood that you really aren't supposed to be flashy. You're not supposed to be taking the jury's attention away from the case. You're supposed to let them follow you where you want to take them. And he was very good. He also did civil defense work.

One of his associates and Bob McClure kept getting into a row over a case one time. I took it away from Bob and Bill took it away from the associate. We went to court and had a very heated argument. We went to the anteroom off the court and Bob said, "See, you and Bill are getting into it now." I said, "No, we're not. Bill and I are going to go have lunch

together. That's what you two have got to understand." They learned a lot from that, I think.

There were a lot of others who we traveled with some. We'd travel some and we'd go out of town and head to Richmond. There were several lawyers who were good friends. Now we had our sleazy side, too. We had some defense attorneys that I wouldn't have wanted my daughter to marry or my son, in the case of one of the female lawyers who really reminded me of a gun moll. She was one of the weakest lawyers in the defense bar there, but she was colorful and spoke nasty and a lot of the local criminal element would hire her, not appreciating the fact that whatever evidence we didn't get out, she would. She would always get an armful of evidence against her side out. But, for the most part, we had a good relationship with the defense bar and I knew them the rest of my career in Charlotte. We'd get together when I went back on the other side. We had out-of-town lawyers at times, of course. One of the first cases I had down there involved four Mafia street soldiers who were running an interstate car theft ring who were caught there in Charlotte and there were New York lawyers who came down to represent two of them. I tried some cases with and against lawyers from New York and other places in some of the fraud cases, in particular. I found the ones who traveled that far generally were good lawyers.

We had one case. ATF didn't make as good a case in general as the other agencies, but there was an ATF agent out of South Carolina, Leonard

Cicero Strength, known as Bud Strength. He was one of the best investigators I ever knew. He put together a multi-state investigation of a gun running ring that today would probably be fairly small potatoes. It was the biggest interstate gun running ring that had ever been prosecuted at that time. They were buying the guns in an illegal fashion in South Carolina and bringing them to Charlotte where they would load them on textile trucks that were running to New York. They would take them to New York where they were selling them through a network of South Bronx Puerto Ricans up there. Bud put an undercover in the store that was selling the guns in South Carolina. New York P.D. put a Puerto Rican NYPD cop undercover with the criminal organization in the Bronx. He had bank records on every money transfer that was involved by any of the people involved, either making deposits or withdrawals, and could match them up to show the track of the guns. He would show the purchases. He would show the bills of lading for the legitimate cargo that the truckers carry in from Spartanburg Charlotte and then the other trucks' time of arrival and bill of lading in New York. And then, before we had the undercover, we had the records where some of the guns had turned up on receipt, showing criminal activity in New York. In that case, the New York defendants were represented by New York counsel. We actually got to be good friends with them. There were a couple of them that came down to represent two of the New York defendants and question the existence of a conspiracy in Charlotte. The agents asked for us to have

venue. The U.S. Attorneys were fighting for venue to try that case and Bud Strength backed me up to have the venue in Charlotte.

We got to be good friends with the New York lawyers. We traveled with them to Richmond. The convictions for three of the defendants were reversed and I had to try it again, but not the New York defendants. They pleaded guilty the second time. They did reverse everybody who had not pleaded the first time because Coot made some unfortunate remarks on the record. The second time, Woodrow Wilson Jones took the case and we got a clean record at the same time. The lawyers who came down that far for that many dollars were quite good lawyers and New Yorkers. We enjoyed trying the case against them – the first go round.

MR. FREDERICK: Now you mentioned arguing in the Fourth Circuit. Tell me what that was like as an AUSA.

JUDGE SENTELLE: The first time it was scary. I was not much over a year-and-a-half out of law school. I had not tried the case. We tried to argue our own cases, but Keith assigned this one to me. Whoever had prosecuted it had left. I had been to court very, very little. I had tried a few cases that I mentioned before. I had never seen an appellate court act on the federal side. I had seen an appellate court in state, but I had never argued in one. I went in front of the judges I didn't know, one was a visiting judge from another circuit. We had a record that was bad. There was an error in the record in the jury instruction and they ate me alive. And I went back to old Keith and said, "You need to try this case over again." The opinion came out as

harmless error. We got our affirmation. They ate me alive and then they did that wonderful thing that the Fourth Circuit does. They came out and shook hands with counsel afterwards. They said that you had done a good job and that they were glad to have you in the circuit. It made you feel better as a new lawyer who had just gotten eaten up to have that happen. I didn't know it was unique to the Fourth for years.

As time went by, I became very comfortable in the Fourth Circuit. I enjoyed the change from trial law. I loved trying cases. It was nice to have a break where we were doing law instead of the mixture of law and facts that you do in a trial action. It was a nice break. I liked Richmond. If I were traveling with a good friend on the other side, we'd go out and eat dinner together the night before. Drank at the airport until we flew back. George Daley and I had a number of cases against each other and George would recommend wines to me at dinner. He was a wine connoisseur. We had quite a good time.

The circuit itself, as I said, I became very comfortable with. I enjoyed the arguments in the Fourth Circuit. I argued in front of Justice Clark there once. After he retired from the Supreme Court, he sat by designation on every circuit. And he came down and shook hands and made an honest man out of a friend of mine in Asheville. Paul Teel was a deputy marshal. He had read law and passed the bar and practiced in the same firm I was in. He was later a U.S. magistrate there. I swore him back in as an emergency U.S. magistrate judge. Anyhow, Paul had always said when he

was a deputy in D.C. that he babysat for Ramsey Clark and his sister for Justice Clark. Well I had taken that with a grain of salt. Clark came down with the judges to shake my hand and he said, "Now you're from the Western District of North Carolina. You must know my old friend, Paul Teel. I said, "Yes, sir. I practiced law with him." He said, "Paul used to babysit with Ramsey and his sister." I went back and told Paul that he'd made an honest man out of him after all those years.

MR. FREDERICK: You mentioned yesterday that you had argued several cases in the *en banc* court in the Fourth Circuit. Tell me about those experiences.

JUDGE SENTELLE: Well, without trying to go back into the cases, I think both of them involved selective service law of one sort or another. It's a pretty hard experience to have that many judges. I never argued before the U.S. Supreme Court. I argued before the State Supreme Court of North Carolina three times. But the Fourth Circuit were very active judges who knew the record and I told George it was like being the only worm in the hen yard. They really peck away at you while you're up there. That was much harder than arguing to a three-judge panel. I had a high comfort level with three judges. With the array of ten of them up there, I was not nearly so comfortable. They peck away at you. You don't know where it's coming from next. You sort of get a feel for the flow of a three-judge panel, but there's not the same flow with a whole bench full of them up there.

I had a couple of panel experiences with the Fourth Circuit that stand out in my mind, although one of them came later when I was a private practitioner. One of the best and one of the worst moments I ever had in court. One of the best was when I was an assistant U.S. attorney and the two appointed counsel on the other side had just gotten beat up awfully. (And, by the way, you also asked me about the bar. Some of the appointed counsel were not that good. One of these was that way.) They really had nothing, but they had taken the obligatory appeal on the appointed case. When they finished and it was my turn to get up – and the way the Fourth Circuit courtroom is laid out, you had to get up from behind the table and walk a little bit – Braxton Craven was sitting on the right of the presiding judge; Harrison Winter was presiding. While I was walking up, Craven leaned over to Winter and said in a stage whisper that you could hear to the back of the courtroom, "Tell him we don't need to hear him." Winter grinned a little and, as I laid my papers down said, "Uh, you will be brief, won't you, Mr. Sentelle?" I looked at the bench and said, "May it please the Court, I was about to say that if your Honors have no questions, the United States will rest on our brief." They had no questions and I folded my papers and felt eight feet tall walking back to the table. That was one of the best moments.

One of the worst involved Harrison Winter also. When I was a defense attorney years later, I did very little appellate work. But this was one I couldn't talk the client into letting my partner handle it. Then I went to

argue on a sentencing appeal, which are not like the guidelines-based. In those days, a sentencing appeal was a loser. This one was. When I got there and was making my first argument, Harrison Winter paused me and said, "Mr. Sentelle, as long as you have been coming up here, do you expect us to pay any attention to an argument like that?" I said, "Well, Your Honor, perhaps I'd better move on to my second argument," thinking, as I did, so you know, that was one of my strong arguments. That was one of the worst moments I ever had in court.

MR. FREDERICK: But the Fourth Circuit is generally regarded as a civil court to the bar. Was it that way?

JUDGE SENTELLE: Yes, I think they were generally a very genteel bar. But that didn't mean that they never ate you up. And, as I said, the first time I argued they ate me alive. I saw them eat some defense attorneys alive when I was up other times. And the *en banc* court was a very hot bench to argue in front of. They were a very genteel court then. Perhaps more so than they were later. You had some gentle people who could eat you alive without hurting you. John Butzner and Albert Bryant and Clement Haynsworth, who could be tough, but you never got any sense of meanness in his toughness. Haynsworth stuttered. I don't think people realized that, that he had a pronounced stutter.

One time I was arguing a case that involved a confession that we improperly obtained and my agent, Joe Kenny, a very close friend of mine had given the man his rights. The man said, "I want a lawyer." Well Joe

proceeded to process him, which you can do. He was getting his grants and his background information. While doing so, the man said, "What happens to me if I confess or if I don't confess?" Instead of Joe saying, "If you want a lawyer, you'll have to ask your lawyer," Joe said, "Well, if you don't confess they're probably going to come around to you anyway and you might be able to help yourself if you told us about it." Well we introduced the confession over objection. They took us to Richmond and rightly reversed us on it, I think. Anyhow, Haynsworth was questioning me and I kept saying, "But, Your Honor, Mr. Kenny had advised him of his rights." And Haynsworth says, "W-w-w-w-well, M-m-m-Mr. S-s-Sentelle, if Agent Kenny had shouted his rights in his ear while he beat him with a rubber house, could you get that in?" He'd get mad at himself and overcome his stutter. We tried it the second time without the confession. Scofield tried it that time and got the conviction anyway. Be that as it may, it was an interesting moment in the Fourth Circuit there. Later, when Proctor went up to argue a case that I had tried, a visiting judge called him Mr. Sentelle. My name was on the brief, but I had left the office. Haynsworth was sitting in the middle when the visiting judge called Proctor "Mr. Sentelle." Proctor said, "No, sir, your Honor. I've replaced Mr. Sentelle as Judge Warlick's defense attorney." He said Haynsworth laughed the rest of the argument and he couldn't ask a question for laughing.

MR. FREDERICK: Are there any other reflections you have on service as an AUSA?

JUDGE SENTELLE: I could use up all your tape if we went on about that forever, David. But I would say that it was almost sinful to take money for having that much fun. Willie Mays said he was always afraid the Giants would find out how much he loved playing and quit paying him and I almost felt that way in the U.S. Attorney's office. I can't imagine a better experience professionally than to be an assistant U.S. Attorney. Particularly in a small office, but even in the big offices it's a great place to practice law.

MR. FREDERICK: But it's 1974 and time to move on. Tell me where your career took you next.

JUDGE SENTELLE: Well, for a little while there I had been staying in the U.S. Attorney's office at my great pleasure, but against some advice from some older people. Nick Nicholson who was a great old Democrat assistant in the old days told me he stayed too long. He said, "It's tough to stay much past four years." Though I could see Nick had a great career after it anyway, so I wasn't sure he was right. In any event, I knew that a Republican was not likely to be reelected, so we knew we'd be looking for work in a few years.

About that time, a state district court judge resigned with some time to go on his term. There was a Republican governor, but under the law of the state on that bench only – on any other bench, the governor could appoint anyone he wished to replace a court of appeals or superior court judge or Supreme Court judge – but at the district court, the lower tier of the two-tier trial court, the governor was required by statute to appoint from names

sent to him by the bar of the district. Of course, the bars in most districts in the state were heavily Democrat. And the few vacancies that Holshouser had gotten to fill, he had to fill from names of Democrats. And they did a very political, but very understandable, thing. When there was a Democrat governor, they had always sent three names from the bar. Charlotte-Mecklenburg voted to send two names because they thought the fewer names they had, the less likely of a Republican making it in. A Republican might run third if the bar voted. They ran a secret ballot. You got a mailed ballot for every member of the bar to vote for the names to send to the governor. And we had an ordered ballot, so you could vote for second and third choices. Some of the Republican members of the bar came to me and said, "You're the only Republican who can run in the top two who can afford to take the job. The other Republicans who could run that high can't take the pay cut. They are very successful practitioners. There are some who could run first. But they're making too much money to go be a state judge." A district judge was a four-year office; this one was an unexpired term. You're making a government salary. Frankly, it was a little bit of a cut for me to go from the U.S. Attorney's office to the state district court, but they said, "You know you're going to be leaving fairly soon anyway. You can run in the top two."

So I got persuaded by both the Republicans and a lot of the defense bar came to me and said, "Look, you know criminal law better than anybody that's likely to get this job that can take the cut. How about coming down

and doing it for us." I got flattered or whatever – it sounded like a good idea – so I did allow my name to be put up on the ballot. There were, I think, nineteen names on the ballot and I ran first by a substantial margin. And somebody in the counting committee of the bar said, "Well, knowing what the politics are in Raleigh, we expect to see you with your robe on the next time you come to this building."

Holshouser and I were not friends at that time – the governor. We had been on opposite sides of the party split in North Carolina. Like most of the Republican Party, there was a so-called moderate wing and a so-called conservative wing, the Holshouser wing and the Helms's wing and I was identified with the other wing. Even though he didn't like me very much – although we did become pretty friendly later – I knew Jim had to appoint me. He couldn't give up a chance to appoint a Republican. If I'd been second, it might have been possible that he would have appointed Fred. Fred Hicks was McMillan's former law clerk and was later my partner. He was the guy who ran second. Fred was practicing for Julius Chambers' firm. Fred was a very good lawyer. He was later a judge. He won the next time there was a vacancy. In any event, I became a state judge and left the U.S. Attorney's office for the time that I spent on the state bench.

MR. FREDERICK: What was it like to go from being a trial lawyer to a trial judge?

JUDGE SENTELLE: It was an interesting transition. I think maybe in a way it was easier than it would have been to go from the prosecution table directly to the defense table. As a federal prosecutor, I'd been accustomed to weighing and

making decisions at the prosecutorial stage, so I had some practice in what I was doing. What I was not accustomed to was the volume that you get on the lower tier of a state trial bench. If you ever watch the TV show, "Night Court," the only difference between them and us is we did it in the daytime. We had one court, 61, that was one of our courtrooms. That was where we had the vice cases and the bond hearings and overnights. We used to say that we didn't know why anybody would pay good money to go to the circus when they could come sit in 61 for nothing.

Traffic court, misdemeanor court, you got stoned to death with pebbles. It was one thing after another coming at you just as fast as they could come. We had civil jurisdiction that was of a very odd and interesting sort. For cases under $10,000, we had both non-jury and jury jurisdiction. But it's one of the very few waivable jurisdictional statutes I ever saw. And if both sides waived it, we could take cases above our limitation. And it did happen in Charlotte because if, for whatever reason, both sides wanted the case tried, our docket was more current than the superior court docket. So if you had a business transaction that was being held up and both sides legitimately wanted a trial, we got a lot of the business trials. Way in excess of our jurisdiction because they wanted a trial. We were quicker than the superior court.

The hardest part of our docket was the domestic cases. It was juvenile and domestic under our jurisdiction. I think the hardest thing I ever had to do as a judge was handle child custody cases. I used to have what I call my

child custody headache. In fact, in a contested child custody case, I would take a headache that would stay with me until I finished that case. It was somewhat responsive to BC Powder, but it wouldn't go away. It would hover with me. It's awesome, the sense that you are making that kind of difference in the life of a child. You're making it on the information that is brought to you in the courtroom. We wanted experts, we quizzed the children, we did everything we could possibly do, but you still didn't feel like you had enough information to rule on.

It was a lot different than being a prosecutor. Even though we didn't have felony sentencing jurisdiction, we could put people away up to two years on general misdemeanors in North Carolina. For four-and-a-half years, I'd walked in courtrooms and asked judges to put somebody away for twenty or forty or life. But the first time you have to speak the words that actually put somebody in jail, it's pretty cold for you. The first one I sent off was for six months and when I said the words, "be confined to the custody of the State of North Carolina Department of Corrections for a period of six months," I really knew that the guy would be leaving between two deputies, that he was going off. You felt a lot of weight falling on you the first time you had to speak.

Now let me say it gets easier as it goes along. Child custody cases may not have gotten easier, but sentencing people gets easier and you begin to accept the fact that I didn't put him in this position and I didn't put me in this position and I've got to do what the situation requires. I don't think I

ever enjoyed sending people to prison, although sometimes I got a lot of satisfaction in sending a particular drunk driver off who was there for the fourth time or something. But it was hard.

MR. FREDERICK: Substantively, it must have been quite a change to go from dealing with sophisticated, interstate criminals, doing cases with the FBI, traveling around and arguing in the Fourth Circuit court of appeals to dealing with the kinds of everyday disputes that all of us encounter.

JUDGE SENTELLE: Yes, it was quite a change. One of my colleagues here, a former professor, asked me that question. What was the satisfaction of holding that job where you deal with rarely sophisticated legal questions and a plethora of daily questions? And I said, "Well, it was a hard job that you did your best at, and at the end of the day you affected a lot of human lives and you had the satisfaction of having done your best to affect them in the right way in a hard job." And he said he still didn't understand why I would have taken the job. Yes, it was quite a change and it was difficult and it was satisfying in that way. It didn't have the intellectual stimulation or the intellectual satisfaction of the federal job, but it was a case in which you affected a lot of human lives and that is its own reward. There were a lot of detriments to it, as well. I said before, I would like to have done everything I did in my career longer if I could have timed it out, except being an associate at somebody else's firm. I would have been satisfied with being a state judge longer if things had been different, but I would not have wanted to be one the fifteen years I have been on this bench. I

would not have stayed on that one for fifteen. Four, maybe even six, but – four I would have stayed, maybe six, maybe eight, but not any longer than that. It wears you out after a while.

One day in courtroom 61, I had a rash of bond hearings to hear one after another, I was waiting on the next load of prisoners to be brought over from jail. I called the assistant D.A. to the bench – no, he asked to come to the bench – and he said, "Judge, how much of what we have done today has anything to do with anything that you studied in law school." And neither of us could think of a single thing we'd done that day that had anything to do with what we'd studied in law school.

MR. FREDERICK: I want to return to the child custody cases because, from your reaction, I know they affected you very much and I want to know if you can articulate some of the kinds of considerations that you weighed that gave you the BC Powder headaches and obviously caused you to wrestle very hard with those cases, probably harder than any of the other cases that you had as a state judge.

JUDGE SENTELLE: I believed and believe that the way a child is brought up and the traumas of childhood and the guidance of childhood is going to affect that person the rest of their lives. I believe that children feel things a lot more deeply than we may sometimes realize. And I believed that the breakup of a home was already an enormous trauma for the child and that the person who had custody of that child from then on had an awesome affect. At the same time, I also believed that the child needed a place that was their

primary place. The idea of this back-and-forth once a week, every week, between parents is not one that I thought benefits the child. I thought the stability of a primary parent – the presence of the other parent in a visiting and a part-time role is important, but there had to be the stability of a primary parent. And I believed that I had to try to find that parent who would be the most beneficial influence in forming that child's life, and the most comfort to that child, and put the proper restrictions on the relationship between the two parents to keep them from traumatizing that child in every way that I could. I had more control over the formation of the human being than I wanted to have.

I tried to look at the relationship between the child and the parent. It was my hope in each case that if the child were of the years to make it possible, to be able to talk to the child – by the consent of the parties – privately without anybody else present. If I couldn't do that, I wanted to talk to the child in chambers with just the attorneys present. Rarely, if ever, did I want the parents present while I talked to that child. If only to find out all I could about the relationship between the child and the parent. I wanted, at the same time, to find out everything I could find out about the morals and stability of the parents and the parents' likelihood of forming a stable home for the child to grow up in. Very often, the parent had some other significant other by that time. And what was their relationship going to be? Were they going to be stable? Was the new husband or wife going to be a problem to the child or the child to that

person in a way that would negatively affect the child? Was the parent abusing substances in a way that would cause a traumatic home life for the child to grow up in? Did the parent have an extended family who could be a support network for the child and for the parent trying to raise the child without a spouse? Those were among the things that I tried to find out and weigh and act upon in putting the child in a primary place.

MR. FREDERICK: Did you ever have any experiences after you left the state bench with any of the children whose custody you had determined?

JUDGE SENTELLE: There are a couple that really stood out in my mind. One of them was, I don't know if you remember Don Hood or not? He was a pitcher for the Orioles. He played for several teams. Don had a daughter in Charlotte that he and his first wife had when they were just kids and had dumped on his grandmother's porch. I mean, not literally on her porch. They took her and gave her to his grandmother, but they left town and then they split up. Don went around playing baseball and marrying other women. The mother drifted off into drugs and la-la-land. The grandmother, without benefit of a custody order, was raising that child for the next seven or eight years. And then the mother remarried a German immigrant and decided she wanted the child back. She came to court and demanded her child. Don, to his everlasting credit, hired a very good lawyer for his grandmother and came down and supported her.

After many days of hearings and talking with everybody involved that I could, hearing from all the witnesses, talking to the child, reading

psychological reports, I found that the grandmother was doing a very good job of raising that child. Incredibly good. Don was involved in her life. Not as much as he should have been, but he did bring her up sometimes for a week or two at a time to Baltimore. He sent money directly and financially supported the grandmother and the child. I became convinced, also, that this was not a stable relationship between the mother and the new husband. I did not think that they would be there for that child when she needed them. I awarded custody to the grandmother. I awarded visitation to both parents – more to Don than to the mother because he'd been involved before. And I said you can come back and ask for more visitation if you've established that you are keeping what you've got. I suggested to the attorney for the grandmother that she might keep a log for how much exercise of the visitation was actually had. In fact, the marriage to the German broke up in a violent fashion within a few months thereafter and I think the mother pretty much disappeared from the child's life in the end. So my prediction on that side had been correct.

Shortly after that, we changed churches. And in the new church, Virginia Turner, the grandmother, and Ray Hood, the child, were members of the church where we moved to. And my daughter and Ray became friends and she grew up in an incredibly stable home for a woman who was a great-grandmother to be bringing her up in. This child did a fine job and I saw her grow up to be a reasonably adorable child. I won't try to say she was perfect or even what I would have wanted, but she was a reasonably

normal adult before Ms. Turner died at an advanced age. I felt rather good about that one.

There was another one where the last custody case I heard, I had always said that I would see the case someday when I couldn't give the child to either parent or either family. Of course, there were several cases where it was not literally a parent, but to either side of the case. This particular case was not even supposed to be my case. Somebody else's docket got overloaded. I had finished my docket and it got reassigned as one of the last things I did. And, as the case developed, the mother was a recovering junkie. I wasn't convinced that she was recovering very well. In fact, I had her sent for a drug test. She was not positive, but the person who administered the test at the drug center confirmed my belief that this was still an addictive personality. The father was a mean drunk and I don't mean he got drunk and got mean, but he was a mean S.O.B. who was also a drunk. And after hearing several days of evidence, I just decided I wasn't going to give this child to either one of them. I brought the attorneys back into chambers and said, "I'm going to call welfare on this child unless the uncle and aunt who testified (the mother's uncle and aunt) will take custody. But I'm not going to give either one of these parents custody of that child. If there's not a consent to the uncle and aunt, I'm going to give her to welfare." Both attorneys were good lawyers and went back and beat their clients into submitting. I grant you that's not the sort of thing judges commonly do in federal courts, but in state domestic court

it happens often. We beat submission out of them and I don't apologize, particularly in the custody cases. I think somebody had to do it.

A couple of years later I was in a shopping mall in Charlotte and somebody called "Judge." And, of course, even after you've left the bench, everybody calls you "Judge." I looked around and the uncle and aunt were there with the child and they filled me in that she was thriving. She was about five. Her mother had gotten her act together, had stayed clean, was keeping her visitations regularly, was involved in the child's life, and they were preparing to go back to the court with a proposition that she would move in with them and the child for a time and see if they could get the child back to her mother. That one was very satisfying.

Another time, I had had a case that hadn't stood out particularly in my mind. I remembered it, but it wasn't one of the ones I remembered best. It was about a family from a very comfortable upper-middle class southeast Charlotte section. Allegations included that the father drank too much, which I think he did. But I had had the two little boys back in chambers and talked with them and ultimately made an award to the mother with very careful visitation with the father, but plenty enough for them to be happy with. Years later, I was lecturing at Campbell Law School, a little Baptist school in Eastern North Carolina. The woman teaching family law came up and said she had been the attorney for the mother in that case and she said that she had been so impressed. They couldn't get a stipulation for me to talk to the boys alone, but said that the attorneys would stand

silent while I talked to the boys in chambers. She said the way that I had taken those boys back there and had never asked them to say anything bad about their father, but had just asked them to describe what happened when they were visiting with their father and did he seem like he had energy to go out or was he sleeping a lot? She said, "You got the information you wanted, but they came out so proud that they hadn't said anything bad about their Daddy." And that was another one that I took a lot of *ex post facto* satisfaction out of. Those stand out in my mind, David.

MR. FREDERICK: What life experiences helped to prepare you to take on that role?

JUDGE SENTELLE: You know, that was part of the scary part. I didn't feel like I was well-prepared to take on that role. I came from a very stable family with a stable extended family. I had some friends who were from broken homes, but it was not something that I had a lot of experience with. I grew up in the church. I grew up praying. I grew up with the belief that you took your most difficult problems to the Lord. I ran across the Book of Ecclesiastes when I was teaching adult Sunday school, which I think is the compendium of more wisdom than anything else ever. And it grows out of, I think, Solomon's contract with the Lord when he became King. When the Lord said, "What shall I give you?" and he asked not for riches, not for death of his enemies, not for power, but asked rather for wisdom that he might rule over the people of Israel, he didn't ask the Lord for answers, he asked him for the wisdom to find the answers. I would read

Ecclesiastes whenever I had one of those tough child custody cases and just try to absorb as much wisdom as I could.

Nonetheless, I never felt equal to the task. I suppose the better practice would have been if somebody had had that bench who was older than me and had had some domestic practice, but I was the one who had the job and I had to do it. Woodrow Jones said to me one time later, "You were way too young when you went on the bench." I was the youngest judge in North Carolina for a day. A younger judge was appointed the next day in a different district, a small-town district. But he said, "You were way too young when you took that job. You were older than most people are at 31." I don't know that I was prepared for it, but I did the best I could with what I had.

MR. FREDERICK: What were the relations like among the state judges in your district? Did they interact and help each other on these kinds of difficult cases?

JUDGE SENTELLE: There is just a certain amount you can do in a non-collegial court. When a judge sits alone, you can bounce things off of a colleague, but it's not like being on a collegial court where judges are acting in concert. When I came on the district court, the outgoing chief had been a subject of great controversy. He had resigned. I had taken his seat not as chief, but as a judge and Clifton Johnson had become the chief judge. Clifton was, I think, the first black chief judge of any North Carolina district, certainly the first one of Mecklenburg. He was the first black judge in Mecklenburg. There were eight or nine of us on the state district bench,

ranging from my age at 31 – Jim Lanning, who was sworn in about the same time I was and practiced with Julius in chambers along with my later partner, Fred Hicks. Jim was about four years older than me, but only a couple years senior to me at the bar. Clifton was in his mid-thirties, had been a state prosecutor, was a graduate of North Carolina Central. We ranged from there on up to a retired FBI agent and an old-time criminal lawyer who were in their late sixties. It looked a lot older then than it does now to me.

So we had a wide range of ages and backgrounds in a court that had been pretty stormy. The outgoing chief had not done a very good job at all of keeping things smoothly running. There was a lot of resentment about docket assignments and such. Clifton came in, laid out the outline of how he was going to assign dockets. Under the state guidelines, he was allowed to take the preferences of judges who wanted to be specialists, so the old FBI agent and the old criminal lawyer both wanted just the criminal dockets and that's all he gave them. The rest of us rotated through the whole dockets, but he and I and Manning held an overload of jury court because the others didn't want to do jury court. We did, we liked it. Larry Black wanted the juvenile docket. So Larry didn't rotate through the regular courts either, although he would spell us if we needed him. We took his conflicts and he took ours.

We had three of us – Cliff and Jim and I, and later Fred when he came on the bench, but particularly Jim and Cliff and I were prone to have lunch

together, play chess as there was time, and talk about what was bothering us right then. There was nobody else we could talk to and it meant a lot to each of us, I think, to be able to unload the problems of the case on somebody else who knew exactly what you were talking about. Jim had been a judge about as long as I had and Cliff had been there a few years before we came in. We valued each other's perspective and each other's wisdom. I don't hear from Jim anymore. We sort of lost touch with each other, but Cliff and I have kept up over the years fairly well. He went from there to the superior court and from there to the court of appeals. He is now retired and looking after an invalid wife in Charlotte. We had a very good relationship among the three of us.

The old FBI agent – I say old, but it was differently defined for me then than it is now – P.B. was a good friend. We didn't really interact that much professionally. When I had traffic dockets sometimes, he would come down and say, "Can you get through early?" I'd say, "Well, I'm nearly done." He'd say, "Well let's go run the dogs." He had some very fine bird dogs. We'd go down to Union County and if it was in season, we'd shoot some quail; if it was out season, we'd run the dogs and practice. So we were very good friends but didn't have the kind of professional relationship with each other that Cliff and Jim and later Fred and I had.

MR. FREDERICK: Were you able to interact much with members of the bar or was there a feeling that you needed to stay separate?

JUDGE SENTELLE: You were able to interact. You had to be somewhat careful, but you were able to interact. More maybe than happens here. I had a more relaxed attitude. You had to be careful. You couldn't be seen as being in the pocket of a particular law firm, but as long as you were reasonably evenhanded about it, you could have friends at the bar and have interactions.

MR. FREDERICK: What other activities were you involved in during this period in your life?

JUDGE SENTELLE: I was moderately active. I taught Sunday school, first at St. John's Baptist and later at Providence Baptist, so I was active in the church. I served on the board of deacons and I taught Sunday school. I was a little bit active in the Masonic Lodge and the Scottish Rite. We were elected state judges, so we were not only permitted, but in some sense impelled towards some involvement with the political side. We were a bit limited. We could attend political functions, but we could not endorse candidates except for judicial office. We could attend political functions, but we couldn't speak at a function for non-judicial candidates. So I was still involved with Republican politics, but in a truncated, although active, fashion. But you had to be. If you were going to be on a partisan ballot, you had to be a member of a party. You didn't run as an independent. It was a straight-up partisan election. We would, at times, publicly endorse each other across party lines. And even after I left the bench, I endorsed Lanning for reelection and Bill Scarborough and other Democrats for judgeships. I

was hunting a little, I was fishing, but not much. That was fading. It was mostly the church and a little bit of the lodge and some politics. Rebecca was a baby at the time I went on the state bench and she was about three by the time I left. Reagan was about three years older and Sharon two-and-a-half years older than that, so the kids were important to me. We moved to a new house around that time while I was on the state bench and I had a lot of things to do involved with that.

MR. FREDERICK: You could have sought reelection as a state judge.

JUDGE SENTELLE: I was elected at the end of the unexpired term, but I resigned mid-term and went back to private practice. For a collection of reasons, many of them with pictures of dead presidents on them. State judges were not paid very well. We didn't get a pay raise that we had a real hope of getting. My girls were not getting any younger and I could see college and weddings stretching out there in front of me and Jane really liked being a stay-at-home mom. I decided to go back to private practice and make some money. Fred Hicks, who was a colleague by then, decided the same thing. He and I and another lawyer about our same age who spun off from one of the local law firms put together a little three-man partnership and went to practice law and make some money for a change.

MR. FREDERICK: Who were your first clients?

JUDGE SENTELLE: Well, Jamie Bryant, who was our partner, brought some business with him and if we had litigation business, I began to book some of that for him. I got, to my mild surprise, an awful lot of referrals right off of criminal

clients from lawyers who either were not criminal lawyers but their client had gotten into criminal trouble, or they were criminal lawyers who had a conflict or an excess. So I had a lot of criminal cases come in very soon. Because of my reputation as a domestic judge and Fred had the same reputation, so we brought a lot of domestic work. He brought some criminal in, too. So criminal and domestic clients were mainly what we had coming in our door. Jamie had a piece of a bank operation and some realtors, so we had a variety and continued to have a variety right on. But I got a lot of referrals over the years for federal work from lawyers who just didn't go to federal court even if they were criminal lawyers.

I got a lot of criminal referrals. The firms generally did not have in-house criminalists, except for Bill Walker's firm. So if they had a corporate client who was in antitrust or fraud or other federal criminal trouble, I got the corporate or corporate executive clients from a lot of the larger firms in Charlotte referred to me.

MR. FREDERICK: How did your firm make decisions?

JUDGE SENTELLE: In a stormy fashion that ultimately resulted in us splitting up. Fred and I took an associate and went and formed a slightly larger partnership with three fellows who had a three-man partnership upstairs from us. We never really adapted to the three of us working together.

MR. FREDERICK: Were there disputes over clients or number of hours worked or how to split the pie?

JUDGE SENTELLE: Well, there was one dispute over a split as to how much of what somebody brought in with them was firm money and how much was his. Mostly, it was personnel items. There was some question as to whether or not somebody should have taken some work, as to whether or not there was conflict. We felt that perhaps the conflict question should have been run past us before the partner resolved it himself. We resolved it differently.

MR. FREDERICK: How long did that first firm stay together?

JUDGE SENTELLE: Just a couple of years and then Fred and I fairly seamlessly moved in with Tucker, Moon, and Hodge. We put our names in with them and became Tucker, Hicks, Sentelle, Moon and Hodge. We fairly seamlessly moved in. We were a small firm with five partners initially and then a couple of associates and then a sixth partner. We never got very big. We were about twelve when I left.

MR. FREDERICK: What was the nature of your practice at that time?

JUDGE SENTELLE: We were a full-service firm. Although we were not very big, Tucker did tax and corporate work. Moon had an interesting cross-specialty. He did real estate work and he did bankruptcy work thinking that he could work both ends of the economic cycle. However, he became so well-regarded in bankruptcy that he became and remains a bankruptcy lawyer in a much-larger firm now where he does corporate bankruptcies. He does some very good work. Hodge was a trial lawyer. As a litigator, Hodge was better at appellate work than trial work.

I continued to do a lot of criminal work with a greater emphasis on white collar crime and federal than I had had before, although I tried a lot of drunk driving cases. I won 25 in a row. We should probably define "victory" and that was anything short of guilty of drunk driving that would keep your client's license. I won 25 in a row before the passage of the MADD Mothers Act and I won about 50 percent after that. So I think it was a good Act. It got some drunk drivers convicted who weren't before. I continued to do some domestic work, although I tried hard to push it over to Fred, who became and remains a domestic specialist. But, by the last year I was in practice, I still handled three domestic cases in that last two-year period I was there, although I was trying to get out of it. But there was a developer who developed Carowinds, the big theme park down there. His daughter was in the throes of a bad marriage and he insisted that I was the person who could get her through that. He didn't want my partner, he wanted me. Same way with a corporate executive in one of the textile companies. His regular corporate attorney was in Raleigh, but he was headquartered near Charlotte. He called me and said they wanted me to handle getting him out of this, that he had a gold-digging wife who was trying to take him for everything. She got a little. She didn't get much, but they wanted me, they didn't want someone else. The final one, I mentioned Jane Seacrest Floyd who had been my secretary at the U.S. Attorney's Office. Jane became our paralegal. I hired her away from the government at the law firm. We paid her like an

associate because she was so valuable to us. She came in one day and said, "There's a woman out here who has been sent by such-and-such lawyer. She thinks she is pregnant. Her husband has thrown her out. You're going to take this case." I said, "Where's Fred?" She said, "He's out of town and that's why you're going to take this case. You can give it to him when he comes back." Well, by the time he got back, she and I had bonded and she didn't want anyone else. I went through those three cases as my last three domestic cases.

I also did civil trial work. I don't want to give the impression that I did just criminal work because I didn't. Like Brendan Sullivan says, "You can't always get the criminal case you want. You may have to take the case that comes along." I defended medical malpractice cases. I defended at least one medical malpractice case at the trial stage. My partners, at times, would have cases, John Hodge in particular – he didn't feel like he could try by himself. He needed me to come try it with him. We had some civil plaintiffs' cases that I tried for John. John would take them back over on appeal. I did very little appellate work. I was more valuable to the firm talking to clients and talking to juries. John was more valuable talking to judges in Richmond or Raleigh.

MR. FREDERICK: What were your likes and dislikes about private practice?

JUDGE SENTELLE: I never liked the business side of practicing. I didn't like billing, I didn't like collections, I didn't like the meetings on how you divide things up. I never really liked the business, but I loved trying cases. I liked clients – I

liked dealing with clients. Whether I personally liked them or not, I liked the dealings that you had with clients, the personal interaction. But I especially liked trying cases. And it had a different kind of thrill than prosecuting in that you were working with a lot less asset base. You didn't have the FBI on your side, so you were fighting an uphill battle. When you fight your battle and win it, it's a hell of a feeling.

I had a bank fraud, wire fraud, mail fraud, stock fraud case for a guy who was the president of the Mercantile Bank and Trust Company of Kingston and St. Vincent in the Virgin Islands. On the papers that my client had been circulating, they had an asset base of something like $13.8 million. Not a huge bank. In fact, they had Raymond and a chair. I think that was the assets, my client and a chair. Before it came to us, four defendants who were the board of directors had pleaded guilty. One of them was Philip Kitzer, the guy who the FBI got out of prison to be their advisor on how to run a successful scam. Phil was called the "King of the Con Artists." Phil was not the king of the con artists, my client was the king of the con artists. Because Phil went to prison while my guy walked. We had a co-defendant, a Chicago lawyer, and we tried the case together in front of Jim McMillan. The Chicago lawyer had called me and said, "Can't we get a continuance?" I said, "The last thing you want is a continuance. Woodrow Jones has reassigned this case temporarily because he's going to be having surgery. If it gets put over to the next term of court, Woodrow Jones is going to take it back." He said, "I'm following you completely.

We'll be down there to try the case." Jim was a pro-defense judge and Woodrow was pro-prosecution. We tried the case for three weeks and walked on the jury verdict. My partners said they could hear me and my client just laughing because it was so funny that we had walked on that case where the government thought it was a slam dunk and brought these guys back from prison to testify against their confederates. And we managed to blame all of it on the guys who were testifying against us. Raymond was just a dupe and I don't think anyone believed it, but the jury wasn't convinced beyond a reasonable doubt. That was an example of a time when they think they've got you by the short hair, but you get somewhere with them.

Now a lot of times you don't want to go to trial. Pleading was an art in those days, much more than it is now with the guidelines on sentencing. It's very hard to deal with pleading today. But in those days, you could still get help at sentencing sometimes. A lot of people in the clerk's office told me later after I was a judge, "You know, we used to allow twice as much time for your plea at sentencing as for any other defense attorney because you always had so much you were going to show the judge about your client." I used to put together sentencing notebooks with all kinds of personal history of my client – pictures, graduations, anything that would give a favorable impression of my client to the judge. Scofield, whom I mentioned earlier, had been with me in the U.S. Attorney's office and was later a public defender and later went into private defense work. He said

he was sitting in a restaurant one time and he followed my pattern. And he was telling another lawyer, "I really don't know whether it's worthwhile to do all that work on sentencing notebooks or not." In the next booth behind him, Judge Frank Snepp, a superior court judge, leaned over and said, "Mike, it's worth it. Whether you're there or Sentelle is there, we know who we're sentencing. It's not near as scary as sentencing somebody that you don't know about. You keep doing it." And it did benefit. It did help our clients. We got a lot of probations of people that expected to go to prison.

But "Maximum Bob" Potter was by that time on the federal bench. He was the fellow who gave Jim Bakker that 42-year sentence that was set aside by the Fourth Circuit and remanded to another judge. I had the only drug defendant, I believe, ever to walk out of Bob's court with probation and I had laid out a picture of this guy that he was really a very good guy who just got involved in a bad thing. Bob went with us. I don't think there's any way in the world you can do that without many hours of work. So even the sentences were interesting.

MR. FREDERICK: What do you think your particular strengths were as a trial lawyer?

JUDGE SENTELLE: Some of them were small things before that I notice now. I am very good at multitasking, so I was able to tell exactly what the witnesses were saying without taking a lot of notes and be preparing the next thing that I was going to do. I could pick up clues about what was going on at the other table better than most lawyers. I'd fill in co-counsel lots of times on

what it was they were doing over there. I was good at talking to jurors. Like you, I was a debater. I'd learned to be good on my feet. I'd learned the art of persuasion. And there was something that you, having not been a trial lawyer and not being the same kind of lawyer I was, would not have done and that is, I was a fairly colorful jury orator. I worked very hard, David, on not losing my mountain accent because it permitted me to say things to juries that other lawyers would have had a hard time saying. In the Raymond Storns case, I said to the jury something like, "Now ladies and gentlemen of the jury, the U.S. Attorney has been telling you what a great organization the FBI is. He's been trying to show you what a great organization the FBI is. Ladies and gentlemen, the FBI *is* a great organization, but my ole Daddy used to tell me that the greatest guitar player in the world breaks his pick every now and then and the FBI has broken its pick on this case." You couldn't have said that to a jury. I could say that to a jury. I could say to a jury, "The U.S. Attorney has made our witness out to be a liar. Well maybe he is a liar, but my ole Daddy used to tell me a blind hog finds an acorn every now and then. And this blind hog has found an acorn on this and let me tell you why." And it would set things up in a way you couldn't do if you were speaking like you just got out of Harvard or something. So I was good at relating to the ordinary round of jurors and I'd had a broad background and the state bench had benefitted me when I was defending.

But I did the same thing, with not quite as broad a background, when I was an assistant U.S. Attorney. You've got to make the jury think that you are the United States. Not the government, not the tax collector, but you're the cavalry riding over the hill. You're the President. You're the flag. So you've got to have a different element of dignity there. You can still use all of your background, all of the reading that you have done, all of your command of persuasive language to make your jury speeches important. Now the thing that you've got to do is, and this is something that Harry DuMont, the head of that law firm, told me when I was an associate. He said, "You've got to remember that what you're doing in the courtroom is the top of the iceberg. The other nine-tenths is floating under the water and if you didn't put it there, it's not there and your top's going to sink." So you've got to do your preparation ahead of time, and I was willing to do that. I was willing to spend the hours preparing the case and outlining what you're going to do. If you're going to make a good jury speech, you've got to build the case that leads to that good jury speech. That means you've got to start with the first opening to the jury and the first witness in developing the themes that you want to put together. Now that falls apart at times, you can't help it, but if you do your preparation, much of the time you can build toward the climax that you want at the end of that book.