



**THE HONORABLE  
AUBREY E. ROBINSON, JR.**

**U.S. District Court for the District of Columbia**

**Oral History Project  
The Historical Society of the District of Columbia Circuit**

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The Historical Society of the  
District of Columbia Circuit**

**United States Courts  
District of Columbia Circuit**



# **The Honorable Aubrey E. Robinson, Jr.**

**U.S. District Court for the District of Columbia**

**Interviews conducted by:  
William F. Causey, Esquire**

**January 11 and January 20, 1992**

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## **NOTE**

The following pages record interviews conducted on the dates indicated. The interviews were electronically recorded, and the transcription was subsequently reviewed and edited by the interviewee.

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## **PREFACE**

The goal of the Oral History Project of the Historical Society of the District of Columbia Circuit is to preserve the recollections of the judges who sat on the U.S. Courts of the District of Columbia Circuit, and judges' spouses, lawyers and court staff who played important roles in the history of the Circuit. The Project began in 1991. Most interviews were conducted by volunteers who are members of the Bar of the District of Columbia.

Copies of the transcripts of these interviews, a copy of the transcript on 3.5" diskette (in WordPerfect format), and additional documents as available – some of which may have been prepared in conjunction with the oral history – are housed in the Judges' Library in the United States Courthouse, 333 Constitution Avenue, N.W., Washington, D.C. Inquiries may be made of the Circuit Librarian as to whether the transcript and diskette are available at other locations.

Such original audio tapes of the interviews as exist as well as the original 3.5" diskettes of the transcripts are in the custody of the Circuit Executive of the U. S. Courts for the District of Columbia Circuit.

My name is William Causey. Today's date is January 11, 1992. I am recording this interview with Chief Judge Aubrey Robinson of the United States District Court for the District of Columbia in his Chambers. This interview is being taken as part of a program for the Oral History Project for the Historical Society of the District of Columbia Circuit.

Q: Good morning Judge Robinson.

A: Good morning Mr. Causey.

Q: Let me begin by thanking you for sharing your time to participate in this interesting and valuable program. What I would like to do is just start with some background questions about your childhood and then we'll get into questions about your legal experience and your experience here on the Court. Judge, when were you born?

A: I was born March 30, 1922.

Q: And, where were you born?

A: In Madison, New Jersey.

Q: Did you live most of your childhood in New Jersey?

A: I did. I remained a resident of Madison up through college, and law school as a matter of fact.

Q: Do you remember the names of the schools you went to in New Jersey?

A: Yes, I do. As a matter of fact, the Elementary School at which I attended grades one through five was diagonally across the street from my home. That was the Central Avenue Public School of Madison, New Jersey. In the Sixth Grade I went across town to a school called Green Avenue School. It was a special group of advanced students that attended that particular class. From there we went into what we then had and called a Junior High School. And the Junior High School encompassed grades seven and eight. It was comparable to what is now called a Middle School, I guess. And that was located as an annex to the only High School building then in the town, and it was located on Main Street about six blocks south of the geographical center of the town. From the Junior High School which was part of the High School complex I went into the High School. I finished High School in 1939, and went to Cornell University.

Q: Do you remember any teachers that you had in grade school or high school that influenced you in the early years?

A: Oh yes. I remember several extremely well. Perhaps the most influential teacher that I had was in High School. She was the English teacher. Her name was Helen Jane Brewster. She was a spinster. Very stylish. Very articulate. I guess the epitome of what one would call a "school marm." A delightful person. I developed a very close relationship with her. Because in addition to taking English from her for three years, she was also the advisor and supervisor of the Student Council, of which I was the President during my Senior year in High School. And, she was a very good teacher, an

excellent teacher as well as a good friend. And, we corresponded for many years. I visited with her, of course, when I returned home during college and even law school. When I went into the Military Service I corresponded with her. She is now deceased. I don't remember when she passed. I think that she perhaps was the most influential teacher that I had.

Q: When you were young growing up did you know you wanted to be a lawyer?

A: No, not at that time. I didn't really determine to study law until I was in I guess my Junior year, third year of High School. We had a debate society. I had been selected by the school to represent it at our Memorial Day celebrations to give a speech. It was a tradition that on Memorial Day a student would deliver the Gettysburg Address. The town assembled. And, I was selected to do that. It was thought that I had some ability to articulate and after discussions with my teachers, my family and my own decision, I decided I would study law. I knew when I went to college that that was what I was going to do. I had contemplated for some time the possibility of studying medicine, but I determined that I didn't think I wanted to go through the years of drudgery because I didn't have that gut feeling that medicine was what I was really inclined toward.

Q: Who were your parents and what did they do?

A: My father's name was, as my own (I'm a Jr.), Aubrey E. Robinson.

He was a doctor of veterinary medicine. He was born in Harrisburg, Pennsylvania. Lived there and went to school there until he went to the University of Pennsylvania in Philadelphia for one year for pre-veterinary training and then went to the Veterinary College at Cornell University. After he graduated from college he married and immediately came to Madison. My recollection is that that was in 1921. And he established a veterinary practice and maintained that practice until his terminal illness forced retirement and ultimately he died in Madison.

Q: What year was that?

A: He died in 1963. My Mother was born and raised also in Harrisburg, Pennsylvania. Her maiden name was Anna Mabel Jackson. She lived in Harrisburg and ultimately the family moved to Washington, D.C. And as a matter of fact it was while she was in Washington that she met my Father. Because during his schooling he had to work to put himself through school and he worked on the Pennsylvania Railroad and one of the runs that he had was to Washington. It was at that time while here on a layover, whatever, that he met my Mother. She had gone to, had her schooling through what was then called "normal school" in Pennsylvania and for a short time taught school on the Eastern Shore of Maryland in Salisbury, Maryland, I believe it was. After my Mother and Father married, they left this part of the country and went to Madison, where they resided, where the family home was until she passed in last October at the age of 92.

Q: Do you have any brothers or sisters?

A: Yes. I had, there were four of us. Four children, of whom I was the eldest. I had a brother, Charles R. Robinson, who is fifteen months younger than myself. I had another brother, Spencer Monroe Robinson, who was three years younger than myself, and then my sister, Gloria Elaine Robinson, now Lowery, Lowery being her married name, who was eight years younger than myself. My brother Charles also attended Madison Public Schools, went to Cornell University and studied veterinary medicine. After he finished veterinary medicine he went to Tuskegee, Alabama and there taught in the newly established Veterinary College at Tuskegee Institute in Tuskegee, Alabama. I think he was there about six years. He then returned to Madison, New Jersey and took over my Father's veterinary practice because of my Father's declining health and he practiced, maintained a veterinary practice in Madison until his retirement in 1989. My younger brother, Spencer, also went to Cornell University, but he studied aeronautical engineering and after he finished the engineering school he taught for one year at the Cornell Aeronautical Lab in Buffalo, New York and then went to McDonnell Douglas in California as an aeronautical engineer. He was a forerunner of the aeronautical engineers involved in the space program. And, as a matter of fact, he headed the team of designers in connection with McDonnell Douglas' work on space exploration and space capsules.

Q: What year would that have been?

A: He would have been with McDonnell Douglas starting in about 19\_\_, oh, I left out a period. It would have been after the war. Let me back up. I forgot that after he finished aeronautical engineering, or was it before? Well, he went into the Air Force and trained as a fighter pilot. He did not see active service as a pilot because the war ended. And it was after the war ended that he went to California with McDonnell Douglas. And he developed quite a reputation at McDonnell and in the industry for his work in connection with the space program. Unfortunately, he was killed in an automobile accident on a California freeway almost at the peak of his career.

Q: Do you remember what year that was?

A: I don't remember the exact year. But, I'll have, it's been. I cannot remember. It's been quite awhile ago. He was still a young man.

Q: What about your sister?

A: My sister went to Williams Smith College. She finished the Madison Public School System. Went to Williams Smith College in upstate New York and after finishing college she worked for awhile in New York City and then moved to California. Worked as a buyer in a retail establishment in Los Angeles and then decided that she wanted to go into education and she became a public school teacher in the school system of Pasadena, California. She married, had no children. She retired from the Pasadena School System last year, and still lives in Pasadena.

Q: Going back to memories while you were in school as a teenager, did you play any sports in high school?

A: Oh, yes. My principal sport was track. I was a member of the high school track team for three years and enjoyed it very much. I ran the sprints and the hurdles and did some broad jumping. That's the only interscholastic sport that I participated in high school.

Q: Did you have any close friends in high school who you still see today?

A: None that I still see. I had a lot of close friends, but I don't think there is anyone that I see with any degree of regularity, although, no I don't think there is.

Q: Do you know if there was anybody else from your high school that became a judge?

A: No there was not. I know that.

Q: So you're the only one from your high school class that became a judge.

A: Yes. I'll take that back. I believe one of my classmates became a city judge in Morristown, New Jersey. I have not had any contact with him in these many years. But it's my recollection that I had read that he had become a city judge in Morristown, New Jersey. His father was a lawyer and was active politically in the area and I heard and read that he himself was. My classmate, whose name was Stephen,

Stephen Barrett, became a lawyer and I understood that he became a municipal judge. I don't know when and I don't know the exact name of the court on which he sat.

Q: Do you think you were a good student in high school?

A: Oh, I know I was.

Q: You got received grades?

A: Oh, yes. I did. Yes. That's why I had no difficulty in getting into Cornell University based on my grades and extracurricular activities. I think that had something to do with it too, because in addition to my participation as a member of the track teams through the years, I also was very active musically. I played both the violin and the clarinet. I played the violin starting at age ten or eleven and of course kept it up by participating in the school orchestra. I played the clarinet starting at about age twelve and played it in the high school band. Played the clarinet in the ROTC band at Cornell while I was there as an undergraduate. Haven't played much of either the violin or the clarinet since I left college or law school. I did play some informally while I was in the military service but that was just for my own pleasure.

Q: You graduated in 1939 from high school. Did you go right into college?

A: Went right into college.

Q: So you started college in the Fall of '39?

A: The Fall of '39.

Q: Now, of course the war came in late 1941. Did you finish school?

A: No. What happened was that I had enrolled in the combined arts/law program which meant that if I maintained decent grades as a student in the college of arts and sciences at the end of my third year at the college I could enter law school, and at the end of the first year of law school, if successfully completed, I could get my then they called it AB degree. I did that and I had just finished my first year of law school when the war broke out and I left for military service in March of what was it '42, I guess.

Q: What branch of the service were you in?

A: I received my basic training in the antiaircraft/artillery at Camp Wallace, Texas, and after basic training I was transferred to a field artillery outfit in Tennessee and stayed with that outfit until it was reconfigured and some of them, one part of the outfit was sent to Arizona and I was sent with the other part to Camp Gordon, Georgia. And in Camp Gordon, Georgia, trained with that outfit and then went into an engineer, combat engineer battalion. That was in Alabama. That battalion got ready to go overseas and was shipped to Vancouver, Washington. About that time the atom bomb had been dropped and they halted our sailing for the South Pacific because so many of the men in the outfit had had prior experience overseas. They had accumulated sufficient points. The Army had made a determination that they weren't sending those people back if they had. I got caught up in that. I didn't, I hadn't had overseas service. But while they were going through all that shuffling, I stayed at Vancouver until they decided that they

were going to disband that outfit. It was not going to go overseas and I was transferred from combat engineers to a quartermaster outfit in California.

Q: That would have been 1945?

A: Somewhere along in there, yes. And, I stayed with that quartermaster outfit until I had accumulated by virtue of service sufficient points to qualify for discharge. So I made application right away. Came back from Fort Ord, California was where I was stationed and came back to Fort Dix, New Jersey where I had gone into the Army and was mustered out. I got out of the Army just in time to go straight back to law school. Because the Dean had written to all of us and said that as soon as we got out of the service we, or we could come right straight back to school.

Q: So if I understand the chronology from what you describe, you were in the service for about three years?

A: About three years. That's correct. Just about three years. None of it overseas, all of it territorial. Oh I forget, there were some interim stations. I had been stationed awhile in Texas. I had gone from Texas to Tennessee to Georgia to Alabama to Mississippi, Vancouver, Washington and California and back to New Jersey to get mustered out.

Q: Do you stay in touch today with anybody that you met during the service?

A: Yes. As a matter of fact I just talked to this one couple. My, the G2 of our battalion when I was in the field artillery, the Major in charge, the Major who

was the G2, Major Steve Davis, one of the officers, one of my commanding officers, returned after the war to Washington. And, when I came down here we bumped into each other and he and his family and mine remained friends ever since. As a matter of fact he had a daughter who was a friend of one of our daughters. They're about the same age and they hung out occasionally together. Another one of the officers who was in one of the, one of the line officers in one of the line battalions was then a Lieutenant, I don't know what his rank was when he came out of the service but he was an officer in the Industrial Bank here. When I came back, when I came to Washington I did all my banking with the Industrial Bank, so I see him.

Q: Who is that person?

A: That is Mervin O. Parker. Mervin O. Parker is now retired from the Bank. But Mervin O. Parker was another person I met in the service and because of my coming back to Washington and my business with the Bank when I was in law practice. So I have seen him. I see him frequently over the years. Those are the two, those are two that I remember. I have run into others, but the bulk of the group that I served with were men from other portions of the country.

Q: Many people will say that they had experiences in the service that lasted their entire life. Did you have any experience or did you learn anything in the service that you have carried with you to this day?

A: Yes. I started learning from the day I went in to Camp Dix which was the rallying point, you know where they gathered all the soldiers to tell them where

they were going to be assigned. It was my first experience in being exposed to a large number of people who came from very different and very diverse backgrounds. And getting, and having to have daily contact with, to work with, and in some cases and eventually give leadership to these people, as I think one of them was a, one of the most fascinating experiences I have had. In some of these stations that I was assigned to, especially those in the deep South. I had never been south of Washington, D.C. until I went into the service. And, to go from Washington to Texas to Tennessee to Georgia to Alabama to Mississippi was a very enlightening experience in lots of ways for me. And to meet just any number of men who came from all kinds of backgrounds and to have to work with and to understand how despite their lack of formal education so many of them could adapt to military training, that is that they could learn. You could take a man who had known nothing but the south end of a northbound mule and bring him into an outfit and put him through training and ninety percent of the time you could turn him into a reliable person in a particular area where he was needed. You could make good gunners out of them. They could take apart machines and put them back together again. They made excellent people to work with. I know all of them. But there was always a possibility that they could do their job and I was never in an outfit where they didn't do their job. We went out and had something to do and they'd get it done.

Q: Most of us understand a much better appreciation today of what the racial barriers were like in the '30s and '40s. What experiences did you have in that

regard when you were in school and when you were in the service? When you were growing up in New Jersey did you experience any racial barriers that were roadblocks or problems for you and did that change when you went into the service?

A: Well, let me say that the part of New Jersey in which I was raised did not have legal segregation in public education facilities, but in many respects it was de facto. Our own public school system was not segregated. The population, the black population of Madison, which was a small town and still is a small town, Madison's population then was less than 9,000 as I recall and I was in the school system then. The black population may have numbered 400. At any given time therefore, there were not a large number of black students who were my classmates.

Q: So was roughly about ten percent?

A: Roughly ten percent of the population, yes. I experienced in the public school systems little or no overt discrimination. There were subtle things that went on but my parents were very attentive and very sensitive to that situation and they brooked no foolishness from the administrators or from the teachers. I enjoyed a very good relationship with students with whom I went to school and became fast friends with lots of them. We shared lots of things. In and out of each other's homes, trips together where it was possible. In college, Cornell University then on the Ithaca campus there may have been as many as 9,000 students. It was a large place. There were very few black students in Cornell University when I was there. Throughout the entire University of 9,000 my recollection is that during my years there, prior to the war at least, there

never was more than 25 students who were black. That included graduate, undergraduate, men and women. Very small population. But as far as the University itself is concerned, I never had any difficulties with the administration in terms of anything suggesting it was racially biased or prejudiced. Individual situations that you ran into with students and teachers you just dealt with. So my experience in that regard was, as far as the University is concerned, I don't have any negative impact. The same was true in law school.

Q: Was your experience different in the service?

A: Well, it was very different. In law school interestingly enough, you began to see a degree of subtle, well one thing for example that I was incensed about is that I could not belong to the legal fraternity in the law school. Though neither could at that time the Jewish students, and we protested that rather strenuously.

Q: So this would have been 1941?

A: 1941. In the Army it was entirely different of course. I went into a segregated Army and I never served with any other kind. And, that was a brutal experience. I have not been segregated like that before in my life and that, I spent most of my time on the Post for that reason. I spent little time visiting around. Although some areas, it was much better when I got to California than it was when I was in Mississippi or Georgia or Alabama. Although when I was in Georgia, Atlanta was not too far away and I made friends at Morehouse College, Clark, Spelman Colleges used to be institutions within that University complex so if I left the Post and went to Atlanta I went straight, spent my time with them.

Q: Well, when you returned to law school in 1945, how do you think you were a different person from when you left Cornell in 1941?

A: Oh, I was in a bigger hurry to get things done. We felt we had lost things and just buckled right down. As a matter of fact, I went, once I got back out of the service I went right straight through summer and, I came back in March is my recollection. I went through that semester, went through, studied through the summer until I got my, finished my work and got my degree. There was no fooling. When I came back out of the service and came back to law school, it was an entirely different atmosphere throughout the entire law school. I was joined by dozens of others who, coming back at various stages of completing their education and all of us were a much more mature group in approaching our studies. We had no time to waste. We felt we had to catch up. We felt we were lucky to be able to complete our military service and get on with what we wanted to do. The classes were larger but it worked out because with a more mature student body you had less foolishness. Everybody was pretty much in the same boat.

Q: What year did you graduate from law school?

A: I graduated from law school in '47.

Q: While you were in law school did you entertain the thought of becoming a judge?

A: No. I never entertained that thought. I had no thoughts of that at all.

Q: Did you want to practice law when you graduated, or go into government service?

A: No. I knew that I wanted to practice law, that I wanted to go into private practice. I was not interested in government service. I had wanted very much to remain in New Jersey. As a matter of fact, one of the things that impelled me to study law was an experience I had while I was in high school. In high school they had what was then called, and my guess is it still is, the "Hi Y Club." It's a relationship between the YMCA and the high school situation. And among the things that the "Hi Y" movement did was to annually have a weekend at the State Capitol. We conducted elections statewide throughout the state. Elections comparable to, for all the offices then held by the state senators and by the delegates, members of the house, and I was elected from my territory as one of the senators to represent, quote senators. And, we went to Trenton and for two days conducted mock legislative sessions. We introduced legislation, debated legislation at committee meetings and voted on legislation. Well, that experience just suggested to me that I wanted to get in local, that is New Jersey politics. One of the thoughts that I had in mind throughout my law school was to eventually go

back to New Jersey and practice law, get involved in local politics, see if I couldn't become New Jersey's first black state senator.

Q: What prevented you from doing that?

A: The major obstacle was the fact that New Jersey's Bar requirements insisted upon a one year clerkship with a practicing lawyer before you were eligible to take the New Jersey Bar Exam. My recollection is that at the time that I finished law school there may have been as many as ten black lawyers practicing in the state of New Jersey and I couldn't find one who was in a position to offer me a clerkship. Through the intervention of one of my professors, I did discover that there was a law firm in Newark, Hanoach & Lasser, that was willing to give me a clerkship. They had never given a black a clerkship but they were willing to take a chance. But I had married before I finished law school. The clerkship would have entailed the munificent sum of \$25.00 a week. I could not see how I could manage on \$25.00 a week and I did not think that New Jersey offered at that time what I had anticipated would be a decent climate in which to practice law.

Q: This was 1947?

A: Yes. So, while I was at Cornell I had an occasion to meet Belford V. Lawson, who was then a practicing lawyer here in Washington, D.C., and he talked with me and he said, "Well, if you want to practice law, and you don't want to go to New Jersey, when you finish law school come and you can practice in my office." And, I determined that that is what I would do.

Q: Were you married at the time?

A: I was married. My wife was then teaching at Tennessee State College in Nashville, Tennessee. She continued to teach there while I came here to Washington and first spent my time studying for the District of Columbia Bar. I took the D.C. Bar Examination, passed it and then began to work in the law office of Belford Lawson.

Q: So you took the D.C. Bar in 1947?

A: Yes.

Q: Where was Mr. Lawson's office located?

A: At 2001 Eleventh Street, right across the street from the Industrial Bank. And we were on that corner for a long time.

Q: Was it just the two of you?

A: No. There was Lawson, there was his wife, who was a lawyer, Marjorie Mackenzie. And, there was another lawyer by the name of George Windsor. There was Lawson, Mackenzie and Windsor when I entered the office. His wife left the active practice and took some additional studies, as a matter of fact I think she repeated and took a law degree at Columbia and never came back to the office. George Windsor left the office and went for awhile into government service and then resumed private practice with George Hayes' office, Cobb, Howard & Hayes on F Street.

Q: Before I ask you some questions about your experiences in your early career of law practice, let me go back to law school for a moment. I know that you have taught in law school. Do you think that your legal education adequately prepared you for the practice of law?

A: I don't, in one sense, no. Because one could not leave law school, take a Bar Examination and go out and hang up his or her shingle in my view and do anything but stumble and bumble. And, I'm not so sure that you can even do that today. But certainly the law school classes as they were structured were much more the conventional approach to legal education. We took the standard subjects. There were no clinical subjects available. The nearest thing to clinic might have been some of the seminars that I took. Small discussion-type classes. But, in terms of being well-versed in legal theory and covering the basic spectrum of what is expected, it was good. But, in terms of being able to go out and practice, no, which is why so many of the students became affiliated and associated with law firms as young associates and they learned. They were good students. I declined to go to New York to work in a law firm. The offer, I had an offer through one of my professors.

TAPE I, Side 2  
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C.J. Aubrey Robinson, Jr.

Arthur John Keeffe taught at Cornell University Law School while I was there. He became a very good friend and mentor. When he found out that I had nobody in particular in mind toward the end of my law school graduation, he thought that I should venture to New York. At that time it was unheard of for a firm in New York to have a black as an associate. He had had some experiences that indicated he could arrange that with one of the large firms in New York. I got an offer but I declined to go because I didn't think I wanted to be stuck on the 45th floor of some building in some back office working myself to death for peanuts in an atmosphere that I wasn't welcome. I don't think I would have tolerated. He was disappointed, of course, but I appreciated his efforts and told him, "No, I'll do it my way." Arthur John Keeffe taught at Cornell for a while, then taught in the South. Wound up his teaching career here at Catholic University. He died not too long ago. But he was a person who took an interest in what I wanted to do and I appreciated his interest. When I went on the Juvenile Court bench, he called me up and told me that I must have lost my mind. That it was the worst thing I could ever have done. And he ranted and raved. Well, I exaggerate this. But, I said, "Alright, I know how you feel about it Art. It's something I think I would like to do."

Q: What year would that have been?

A: That would have been in 1965, and I didn't stay there but fourteen months.

Q: So you came to Washington to start your legal career in 1947, and there were four of you in that office? Four lawyers? Describe your early practice. What kind of cases were you handling and did you enjoy it?

A: It was sort of a general, basically civil practice. We did a reasonable amount of court work. We had some small businesses that we represented. I was initially just as most young people are, I guess, the "go for." I did all kinds of things. Drafted pleadings, filed pleadings, motions. Among the people we represented, we represented one of the local unions. It got involved in a series of confrontations as a result of which a lot of the union members were, had criminal charges filed against them and I helped in some of the defense of those cases. I tried some of those cases. I was particularly interested in the area of probate law. And to the extent we represented small estates, I did a lot of that. I enjoyed that. And when I left Lawson's office I hooked up with Frank Reeves, or at first it was Charles T. Duncan and I then just decided to leave and establish our own little partnership. We then hooked up with Frank Reeves. The three of us practiced law for several years.

Q: What year would that have been, Judge?

A: Charlie Duncan and I started our partnership in 1953. We hooked up a year later with Frank Reeves and the three of us had fun in practicing law until 1961.

In 1961 we formed the relationship and the partnership with, let's see there was Frank Reeves, myself, Harvey Rosenberg, Dan Sherry and Al Hamlin. And when we did that we moved our offices downtown to 13th and H Streets. We practiced at that location, with that same group, until 1964 and then eventually Frank Reeves left. He entered into politics actively, and left. We took on Aaron M. Levine. And the group stayed together for a short while and was then completely disbanded in about 1965. Levine established his own practice. Dan Sherry established his private practice in Maryland. Al Hamlin returned to the federal government. Harvey Rosenberg went to Texas. I don't know what became of him. He had some difficulties with the Texas Bar, I understand. I don't know the details. I lost all contact.

Q: Let me ask you some questions about your early years in practice. You said you had an interest in probate law and you represented a union. Can you describe in a little more detail the type of practice you had in the early '60s? Do you have any memorable cases, or clients, or particular experiences that have stayed with you over the years?

A: Arising out of the practice?

Q: Yes.

A: Well, I think one of the most interesting clients that I personally had; arranged a number of relatively small matters but were significant to her was that I represented a woman who had inherited from her parents and grandparents who were

slaves a very valuable and strategically located piece of property near Dulles Airport. And I worked with her in connection with the importuning she underwent. Speculators were trying to get that property away from her because it had become so valuable. And she had had in her own life in terms of her husband some personal difficulties. He had had some accidents, illnesses. She was struggling to maintain her residence here in the city. She had to get the property straightened out to keep her going. Worked with her and her husband. I liked the one-on-one relationship. And I remember her very clearly. She is now deceased. She was an older person. We had a very interesting bit of litigation. When they were developing; some of the big developers in Northern Virginia bought a tract of land that had been owned by blacks for years and years and years. And they; we represented those folks in litigation to, which was basically I guess you would say an action to, defend title because the developer just took it upon himself to try to run roughshod over them and took land that they had not contracted with him to buy. He was just determined he was going to get it any way that he could. And it was an interesting sociological test because our clients were black; their lawyers were black and white; and it was in a court which everybody except the janitor was white. It was a jury trial. We were in trial, oh, I don't know for how many weeks. And it raised; we got some satisfaction – we got a lot of satisfaction. It was an interesting observation that that jury gave what was then a fairly decent award.

Q: What court was that in?

A: It was in a Virginia State court. At that time it raised some interest because of the circumstances that I just described but it was very interesting. We had to commute everyday, back and forth to the courthouse. We insisted that we were going to use the same facilities that everybody else used in the courthouse. It caused consternation but no disturbances.

Q: Do you remember your very first trial?

A: I'm afraid I do not. I don't know whether it was a civil case or a criminal case. It may well have been a criminal case. At that time we had no criminal justice act. There was no compensation paid to lawyers. If you were a member of the Bar of the court you could expect to be called up and assigned a criminal case and that was the end of it. You took the responsibility and maybe you got thanked and maybe you didn't.

Q: Do you think we should go back to those days?

A: No. Absolutely not.

Q: Do you remember your first appearance in the United States District Court for the District of Columbia?

A: I can't say it was my first appearance, but I can remember an early appearance that I had in a divorce case. At that time the District Court had divorce jurisdiction. That's another area of the law in which we did some work in private practice. But I can remember a divorce case that I was – and it was an uncontested divorce case in which I represented the plaintiff and had an experience before Judge

Alexander Holtzoff. That was in the building over on Indiana Avenue. And I can remember his rather brusque way of dealing with me because I did not have what he thought was an appropriate proof of the conviction of the – my client's husband – of the defendant. At that time conviction with two years sentence was a ground for divorce, as I remember – something like that. And we had a colloquy. He ran up one side of me and down the other. And I can remember that I succeeded in getting the divorce but I remember that very distinctly. And I don't remember any protracted trials. I don't remember who we tried those union cases before.

Q: During your practice in the early '60s, other than Judge Holtzoff, do you remember any judges that you were before where the case or the experience has stayed with you?

A: Yes. I tried a civil case. We represented a landowner. The owner of an apartment building in which a guest of a tenant had fallen down the stairs and was killed. And, of course, the decedent's family filed an action. And I represented along with; I represented the owners of the building, along with the managers of the building. And I remember how dramatic it was that we tried the case before Judge Luther Youngdahl and he was rather put out that we would not settle the case. But the demand then was, in our view, excessive. Although the exposure was large, it was not anything like it would be in this day and age. First of all the decedent was black. And the juries as they were then were composed were not going to go out of their way to compensate for the life of a black person.

Q: That case was in the District of Columbia?

A: Yes. Right upstairs on the 6th floor.

Q: Of the courthouse where we are now?

A: Right where we are right now. And I can remember how relieved I was and my clients were when the jury's verdict came back for the defendant, whom we represented. But I remember that experience very, very well.

Q: Do you think that verdict was the result of the excellent defense that you provided or do you think that there were other factors?

A: I think that there were other factors.

Q: Did that trouble you at the time?

A: No. I think the other factor is that we happened to highlight just the thing that the jury; well, if you want to put it that way, yes. I, what I remember was that in my cross-examination of the principal witness who witnessed this accident. The man fell from the top of the stairs down the flight of stairs. The principal witness had testified that the man was shaking hands with someone he was departing the apartment on the second floor; and that he backed out of the door and backed; and started to; and never turned around to go down the stairs, and that he fell with his back to the stairs. And I remember that in my summation that I had had the reporter give me a transcript of exactly what he had said. And I remember that in my summation I said, "Now, ladies and gentlemen lest your memory needs to be refreshed this is exactly what you heard from the principal witness in this accident." And I read the transcript. I thought I did a pretty good

job. So in that sense yes, but it was not an open and shut; the interesting thing about it is that the plaintiff was represented by a former congressman from Mississippi and he just knew that he was going to walk all over these black lawyers.

Q: And he didn't?

A: And he didn't.

Q: During your early years in practice, what were your work habits as a lawyer?

A: A regular day and a regular week. I rarely worked on weekends, and never on Sunday. I had a client who had a very successful business and I can remember very vividly one day I was going to court with him in connection with a matter. We represented him. (I was very young then.) I was driving him in my car. And he said, he wanted to know more about me. He knew the other people in the office much better than me. And he said, "Well, you know I have been around awhile. I've built a very good business. But let me tell you I know you are ambitious and you want to work hard and you want to build a law practice and make money. But I also understand that you have a wife and you have two children." I said, "Yes, I do." He said, "Well, let me tell you. You establish your office hours during the week when you are going to be there and be there. Do not stay there all night and don't be there all weekend." And he said, "The clients that are worth having will come during the regular business day. And you can take care of their affairs." And he said, "More importantly, it will give you time to

discharge your obligation to your family.” He said, “And I have six children. And that's what I have done with respect to every one. I'm here; our office hours are 8:00 o'clock and we close at 5:00 o'clock. And all of us have been in this situation as you well know, and some of them have worked with me all these years.” I thought that made a lot of sense to me. One, because I was very interested in some other extra-curricular activities. Shortly after I came to Washington I identified myself with one of the churches in the area through a friend of my Father's. My Father had gone to Cornell as I indicated to you. While there he had met a woman who was a schoolteacher from Washington. She was there working on an advanced degree in my recollection. They maintained a friendship and when she found out that I was in Washington she says, “Well, you must come with me to my church some Sunday. We'll come and pick you up.” And I say, “Fine.” They were very fine people, both of them, she and her husband. He was an administrator in the D. C. Public School System then and she was one of the senior teachers. Very highly respected. And he was a Latin scholar too, by the way. And quite a professorial type. They were fine people. But anyhow, as a result of that contact through my Father, I established contact and became a member, and a very active member of the Plymouth Congregational Church; then located at Seventeenth and R, not located at Missouri Avenue and Riggs Road, or North Capitol and Riggs Road – where that intersects. But I became very involved in church matters; and stayed involved all through my law practice. Up until about the time I came on the bench. I held office in

the church. I was a trustee, Chairman of the Trustee Board. I sang, believe it or not, in the church choir for about ten years. I chaired their campaign to establish funds to relocate the church. I spent a lot of time on church affairs. All through the connection with this couple who my Father had known back in the '20s.

Q: Do you think the advice that was given to you when you were a young practicing lawyer was good advice for young lawyers today?

A: Well, I don't know because I haven't practiced law in the present atmosphere. I doubt that it would work, because I don't know that many of them; although I have had some interesting clerks: I had a law clerk who had an interesting experience, and that's the way he determined what he was going to do – even though he's now a partner in a well established law firm. He just told them that, “These are my hours. I've got a family.” And they told him he couldn't do it. The partners finally said, “Let him try.” And now they think they've invented the idea. But it can be done but you have to just be determined that that's the way that you're going to do it. So that's what I did. Now there's a price to pay for it, I guess. I never ate high off the hog, but I can tell you that I participated actively in the raising of my family and I also found the time and energy to participate in some of the community affairs which you see listed on my resume.

Q: Did you do any appellate work when you were practicing law?

A: No.

Q: None at all? Did you ever argue an appellate case?

A: I doubt. I doubt. I may have argued an appellate case but I have no specific recollection. I don't think so. I may have sat; well, I sat in on the argument and participated actively in the briefing of a case in the Supreme Court of the United States.

Q: Do you remember the case?

A: Yes. I remember the case. Henderson v. The Southern Railway. We have a friend and client who was Legislative Assistant to Congressman Dawson, I believe. His duties required him to travel and he was headed on Southern Railway through the South and they wouldn't feed him in the dining car. He was incensed. And he came back and we undertook that litigation and the litigation went to the Supreme Court.

Q: Do you remember the year?

A: Yes. I believe it was 1949. Belford Lawson argued the case. We won the case and as a result the practices on interstate railways had to change. And the railways in interstate commerce could not fail to refuse to serve any black dining car passenger who presented himself or herself. Now this was obviously years before the Civil Rights Act. But it was under the Interstate Commerce clause.

Q: Do you know off hand whether the Henderson case was cited in Brown v. Board of Education?

A: Oh no, it would not be, I think. I don't think it was cited in Brown v. Board of Education.

Q: But it certainly would have been one of the building blocks leading to Brown, would it not?

A: Well, a building block in the sense that there were any number of pieces of litigation that were trying to chip away in every direction that they could. And we determined that we thought we had the best out if we focused on those specific provisions of the Interstate Commerce Act.

Q: Judge, you were in private practice for eighteen years, is that right?

A: Something like that, yes.

Q: 1947 to 1965?

A: Yes.

Q: You went on the bench in 1965?

A: '65.

Q: During your eighteen years of practice, how did the practice of law change? Not necessarily your personal practice with the firms that you were with, but the practice in general. Did you notice any changes over the years?

A: Well, I think the principal way in which the practice changed was the increasing size of the Bar. With greater frequency you had contact with lawyers that you just didn't know. When I first started practicing the lawyers who were practicing in whatever court – black or white – was a smaller group, and you knew many of them. But as the legal population increased and litigation increased it would be with less frequency that you had contact with somebody that you had previously dealt with. I think that that's probably one impression that I have; that I experienced.

Q: One of the complaints that we hear today in the practice is that it seems to be losing the sense of civility. It seems that aggressive and zealous representation of a client has in some cases gone to the extreme and that we don't act as professional as perhaps we used to in earlier times. Can you describe for me what the level of civility was in practice when you were practicing? And do you think it's different today from what it was then?

A: I think the level of civility was fairly high except in isolated incidents. You always had lawyers who, for want of a better term at the moment I would call, abrasive. Some by just personality. One in particular, whose name I will not mention or repeat, was the most abrasive person I think you'd ever meet in life. But he was that way; he would have been abrasive if he would have been a scientist. It was a personality thing as over against a professional thing. I think. Although coupled with the adversary process it just accentuated his abrasiveness. And there would be isolated instances of that. As far as what goes on today, or has been going on the last 25 years I

can only reflect on it from the other side because I've not participated in it. I do believe that lawyers are far less congenial. I think the aggressiveness that we anticipate has gone beyond normal standards of civility in many instances. Zealous representation of a client, I think has exceeded the limits that are accepted professionally. They may be limits that can be viewed as good business, if one considers law a business – as many lawyers obviously do now – but they would not be accepted in good, hard professional circumstances. And I think one can represent a client zealously, without being abrasive, and unbending and unyielding as I sense so many are. Where winning at all costs is the absolutely sine qua non. It's the very essence; and that every defeat is a major defeat.

Q: You mentioned law as a business. When you were in the private practice of law did you actively participate in the management of your firms?

A: Yes. But we didn't have managing partners; yes, but we did it more collectively in the sense that we were smaller groups to deal with. But we had to participate because we had to assure that we were having enough revenue and that cases were moving in some rational fashion so that we could exist. But the size of the organizations in which I participated, legal firms, partnerships doesn't begin to approximate with what's going on now.

Q: What was the largest number of people that you practiced with at any one time?

A: Five.

Q: Five?

A: With some associates. We'd always had two or three younger. So I would say that the largest aggregation I can remember we had were, we had some there may have been; one time there were eight of us. Five were actually partners and three with whom we had arrangements with in specific pieces of litigation that was ongoing.

Q: So that wasn't in the days of managing partners?

A: No, it was not. That's why I say we would call an office meeting and sit around every week and talk about what was going on and where we were financially; what had to be done; what personnel problems we had; and how we could keep things moving. No, that's why I say it doesn't begin to approximate what seems to be almost standard now. Unless a person is a sole practitioner. And even sole practitioners now have staffs to enable them to be sole practitioners.

Q: Did you participate in any Bar activities when you were practicing?

A: I was active for awhile with the Washington Bar Association. And that was the time, of course, when the District of Columbia Bar Association would not accept blacks. As a matter of fact, one of the interesting experiences I had was that I could not understand why in this courthouse the Bar Association was allowed to have a library from which it could exclude blacks, and did. And I could not understand why as long as that existed I didn't have the right, as did every black lawyer, to be a member of

that Bar Association since it not only maintained the library but did so out of relationship with the court; that it was the avenue and contact between the court and many of the things that went on in the practice of law.

Q: Do you remember what year that changed?

A: I don't remember the change. I don't remember the year of change. But I know I filed a lawsuit. That lawsuit was settled and dismissed because at that time the president and generally Bar officials talked with me and said they were going to make changes. They did make changes. They opened up the library and then there came a time when there was additional pressure as far as the Bar Association itself was concerned – to open up its membership – and, I don't know when they did.

Q: You were the named plaintiff in that suit?

A: Yes. And I don't remember the year.

Q: Were you the only plaintiff?

A: My recollection is that I was.

Q: Did you represent yourself?

A: No. I was represented by, of all people, James Laughlin. Laughlin was an iconoclast. I guess that is what you would call him. He was an active practitioner in this court. But this one thing seemed to incense him. He was discussing it with Lawson and they said we've got to find somebody who will bell this cat. And I said, "I'll bell it." So I said, "I don't care, I just think it's wrong." So I submitted my name to be

used. When it hit the fan, I don't know what consternation it caused here. But things began to change. And I don't know the chronology of change.

Q: So the resolution of that suit was a settlement that resulted in the Bar library becoming available to blacks?

A: Well, I don't know whether it was quite that. There was a firm commitment that there would be a change. I don't think I insisted to see the change. Because I made it clear that I wasn't interested in litigating for any thing other than to see that there was movement. And talking with the people, they indicated there would be. And there was a commitment; changes were effected. I do not have a recollection of what the sequence of specific events were.

Q: Other than perhaps the case we just talked about, can you remember a case that you participated in during your private practice that you think had the most influence on changing social policy in the city? Is there one particular case that stands out?

A: That changed social policy in the city? No, I don't think so.

Q: How about any case that resulted in a significant judicial decision that changed judicial policy?

A: I don't know that I participated in anything that was significant in changing any particular policy. No, I can't claim any fame like that.

Q: What did you enjoy the most and least about private practice? And do you miss it today in any respect?

A: Well, I've been out of it so long, I guess. I miss it only because it was an experience that I enjoyed. Basically, I enjoyed private practice because the nature of things that I did meant that I had a one-on-one relationship with the client – in a situation in which the client would rely on my, had to rely upon, me as an individual as over against a team; where I could develop a personal relationship that would give me the information and everything else that I needed. I guess it was the one-on-one contact and the satisfaction of knowing sometimes – many times – that the resolution was a fair resolution. It was a resolution that did not destroy; that was never vindictive.

Q: What did you like least about private practice?

A: The uncertainty of income. I couldn't have stayed in private practice if my wife hadn't taught school. She knew that I liked it. She liked what she was doing. She was an excellent teacher; and had decent jobs in the District of Columbia Public School System. She liked her job; I liked mine. But because of the certainty of her job we knew there would be at least a floor on our income. But, I never made any money in private practice.

Q: Let me ask you just a few personal questions about your life at this point in your career. What year did you get married?

A: I got married in 1947.

Q: You have two children, is that correct?

A: I have two girls.

Q: What are their names, and when were they born?

A: Let's see. I have; there's the elder daughter, is Paula Elaine. And Paula Elaine was born in 1949. And then I have, the youngest daughter is Cheryl Louise. Paula is now Paula Collins, her married name. Then I have Cheryl Louise the younger daughter – unmarried – who was born in, let's see, five years later in '54.

Q: Where did you live when you came to Washington?

A: When I first came to Washington I lived in the home of a friend of my parents. And his mother, a very fine person, lived on Thirteenth Street, N.W. And I stayed with her until I found accommodations – on Quebec Place, N.W. We lived on Quebec for a brief period of time and then I moved to – finally found an apartment, which was very difficult to get because then the real estate market was strictly segregated. You lived in very well-defined areas in the District of Columbia if you were black. And, lived there for awhile and then moved to a very nice apartment on R Street, N.W. – Sixteenth and R – lived there until we bought a home on Seventeenth Place, N.E. Lived there for a number of years until we moved to Sycamore Street, N.W. and then from Sycamore I moved to where we're living now in Unicorn Lane.

Q: Who are the one or two closest professional associates in your career as a private lawyer?

A: Who are lawyers? I've maintained the longest professional relationship I guess with; well, Aaron Levine, for example. From the time he came in as a young lawyer I've maintained a steady relationship with him professionally and socially.

I have – Charlie Duncan. Those are the two who come to mind immediately over the years.

Q: Now during your years in private practice, were you active politically or was your practice your primary activity?

A: There are no politics here unless you come here with a political background, I think. People who are politicians in Washington don't become politicians after they get to Washington. They're politicians before they ever came here. So that I participated in – once we got some partial right to – you know the early seeds of home rule, I went out and campaigned when, you remember – what was it in the '50s that we had elected, began to elect the Commissioners. I was not involved in any political activity; there was just no politics to be active in. You couldn't vote for a damned thing. And by the time we could vote, home rule and all that kind of business, I was on the bench and circumscribed.

TAPE II, Side 1  
Oral History Project  
Historical Society for the D.C. Circuit  
C.J. Aubrey Robinson, Jr.

This is the continuation of the Oral History Interview with Chief Judge Aubrey Robinson. My name is William Causey. We are doing this for the Oral History Project for the Historical Society for the District of Columbia Circuit. We are taping this interview with Judge Robinson in his Chambers on January 11, 1992.

Q: Judge, if I may continue, looking back on your experiences as a young person going through school, your service in the military, and in your early career as a private practitioner here in Washington, was there any one particular book that was influential for you that you remember?

A: I can't remember any single book. I can say that from an early age I was an avid reader. We had a separate children's library as part of the public library of the town of Madison. And, from about the age of ten I think I read every book in that library other than books for children younger than the age of ten. I always was involved in reading. I enjoyed it. I continued that even through high school. I enjoyed not only the reading in connection with the assignments but there was always reading material at home. One of the things that our parents insisted upon was that in addition to whatever books we had for our schoolwork there was always other reading material. Current magazines, always at least one daily newspaper and on snowy days, rainy days, cold days

when we couldn't be out engaging in the games and play of children or teenagers, we would stay home and read.

Q: You told me earlier when you were a young person you played the violin and the clarinet. Did you continue to play those instruments when you were a young man?

A: No. I pretty much gave up the violin by the time I went to college. And I continued with the clarinet through college and perhaps through my military service. Not in the military band. I played in the ROTC band at Cornell University for the entire time I was an undergraduate there. As a matter of fact, for one year I was assistant student director of that band. Among the things that I did in high school when I was coming along, I was the student director of both the orchestra and the band in the absence of the band director or orchestra leader. We would have regular school programs and it was my responsibility to see that the groups were assembled, determine what they were to play and direct them. And, I did that through high school and, as I say, for one year in college I was the student, assistant student leader of the ROTC band. We were required to take ROTC for one year. As undergraduates at Cornell, I elected to take my ROTC in the band, and did so. Played with it, traveled with it. We went to some football games, all of the home games of course. Some of the away games. They would take us on, I think it was one major trip per year. I remember going to Harvard. I remember going to Dartmouth to play Dartmouth. I remember going with the band to the University

of Pennsylvania. The Penn/Cornell game was a traditional game for years. I remember playing at that.

Q: Did Cornell have a good football team at that time?

A: The year I came was the year that Brud Holland graduated. And, if you remember, Brud Holland played on a good football team. It was ivy league champ. That year we played Ohio State. They beat us in Ohio. They came to Ithaca and we beat them, which was a major accomplishment for an ivy league team then. Because Ohio State and the big ten was still in its heyday. It was a good football team then, yes. It had its up's and down's later on, of course. But at that particular time, it was a good team. And, as a matter of fact, I got a particular kick out of Cornell football because my brother, Charles, played on the team, up until the time he went into the service. And, he was a good football player. At that time many of the players played both ways. He played defensive back as well as halfback on the offense. He was on the same team and at the same time that Sam Pierce was on the team. Sam came to Cornell with a football scholarship from Glen Cove, Long Island, because he was an accomplished high school player. My brother was a walk-on. He had played and captained, no, he didn't captain, but he had played, yes, he had captained his final year. He had played high school football and was a good high school football player. And he decided he wanted to work, wanted to play college ball, and did. And, I got a real charge out of it. As did my Father. Our Father had not played college football; he had played high school football. As a

matter of fact, played guard. But at that time you didn't have to be 6' 8" and 300 pounds to play football in the line, and he was a solidly built, but short person.

Q: Again, focusing on the period of your adolescence, your experience in the military, and in your years of private practice, is there one or two historical events that you remember the most that you think were the most influential for you? Events that maybe changed your life, or the direction of your life the most?

A: I don't know that it focused so much on any single event as it did on the totality of the experiences that I had in each of those periods. I thought that I had a very fine high school experience, public school experience. My public school experience overall was very good. It was a very good public school. We had excellent teachers. I think I came out of public school well rounded. I enjoyed the experiences that I had in public school. And about a relationship that you talk about continuing, the Principal of the high school that I attended up through my graduation is still living. He is a vigorous, active man in his late 80's. But I see him every time that I go back to New Jersey and he keeps in touch with me. He knew my whole family very well. He was an unusual person. He came to the high school from the mid-west. He came from Minnesota as a matter of fact. And, brought a different, fresh view about education. Many of us didn't understand his approach but he was a kind, gentle, fair, vigorous person who commanded the respect of people. And he was a good friend. And of course he knew my parents, he knew all of us and has followed all of his students. Some of us with greater particularity than others. I can remember when I went back to receive a honorary degree from Drew University,

how enthusiastic he was. He was right there in the audience. He sat right behind my parents during the ceremony. He was, he along with Helen Jane Brewster whom I have already mentioned were very fine individuals so that my high school experience, I thought, was excellent. As for my college experience, I thought that the College of Arts and Sciences at Cornell then and now was an excellent school. I thought I was well-rounded, I did not enjoy it in the sense because I had to work all the way through college and, because I worked, it was very difficult to participate in some of the things I would have liked to have participated in. I did, however, manage to get on the debate team while I was an undergraduate. I managed to work and do that. I also managed to work and earn my letter in track, that was a great deal of satisfaction to me. I, for awhile, played on the University tennis team, but I didn't, couldn't carry that out. But I had to work the entire time that I was an undergraduate. And I had to do that because when I graduated from high school, through the help of Laura Parks, one of my teachers, and her husband, a professor at New York University, I was awarded a four-year, full tuition scholarship to New York University. I chose to decline this scholarship because I much preferred going to Cornell. There was some consternation as far as my Mother was concerned because she thought that it would have made much more sense for me to do so. But my commitment was that if I did not go to New York University then I

would work to compensate for the loss of the scholarship, so that's why I worked. I don't complain about that commitment because that was what they permitted me to do. What I wanted to do.

Q: Why did you choose Cornell?

A: Oh, because my Father was an alumnus of Cornell and when I was twelve and my younger brother Charles was eleven, he put us in the car and drove us up to Cornell one Spring day to spend the weekend and show us around to see where he had gone to school; to meet some of the people who might still be around that he knew and once you take a twelve year old kid and bring him up to Ithaca on a fine day and stand him up on that hill and look over the lake and see the campus which was then very different than it is now, more open space – it was green, it was beautiful – I just thought it was fantastic. And, I thought that's it.

A: So, your Father went there. You went there. Your brother followed you there a year later. Is there anybody in your family that goes to Cornell now?

A: No. My nephew went to Cornell. As I say, my wife went to Cornell. My sister-in-law, the widow of my deceased brother, was at Cornell – as were her family. Both of her parents went there. But there is no one now in Cornell. I am hoping that my granddaughter will want to go. I've got to take her up and show her around next year. But, I don't know whether she will go. Neither one of my daughters wanted to go to Cornell.

Q: And you've kept close ties with Cornell? I believe you were recently on the Board of Trustees?

A: Yes. For a long time when I was in practice I didn't do a whole lot. I bounced around once in a while with the Cornell Club here, but I wasn't very active as an alumnus. And then there came a time when they asked me to offer myself as a candidate for alumni trustee. I said, "It's alright with me." I ran, was not elected. They came back that we still want you to be a trustee, and I said, "alright," without any particular objection. My name was submitted. This time I was elected for a five year term as alumni trustee. Then at the end of that five year term, the Board itself has the right to elect trustees, I was elected for four years as a Board elected trustee. So, I served nine years as a trustee. At the end of the nine years, which was up last year, they made me trustee emeritus. So, I am a trustee emeritus of Cornell University.

Q: Judge, let me now ask you some questions about your experience on the federal bench. You were nominated to the court in 1965 by President Johnson?

A: No, nominated to this court in '66. The President was then nominating for all courts in the District of Columbia, and still does, but I was nominated specifically to sit on Juvenile Court in 1965. And that was to fill the vacancy, oddly enough, that was created by Marjorie Mackenzie Lawson who was on the Juvenile Court. She resigned from the court and I filled her vacancy by Presidential appointment. And

she's the same Marjorie Mackenzie that I started out practicing with; and her husband when I came to Washington.

Q: And that was in 1965?

A: 1965.

Q: And you were nominated by President Johnson?

A: Yes.

Q: What do you think were the professional and political factors that led to your appointment to the Juvenile Court?

A: I don't know. Except that at that time the President had as his advisor on District of Columbia Affairs, among others, Charles Horsky. Now, I had met Charles Horsky along the way in connection with a variety of things that I was doing and I don't know with particularity which one. I think that one of the things that may have caught the attention of somebody was that for a number of years I had been on the Public Welfare Advisory Board. That was a citizens advisory board that concerns itself with trying to help the District with some of the problems that were going on. One of the areas of that concern obviously was the whole area of juveniles. How the system was impacting on them and that kind of business. And, I was active with that group. We used to meet right down the street here as a matter of fact in the building that is now torn down where the Canadian Embassy now stands. I can't remember now who else was on that

group but it was considered a fairly representative and diverse group of very fine people.

Q: How did you come to sit on that Board?

A: I don't know how it happened. I had been doing a lot of things. It was a Board appointed by the Commissioners is my recollection. And, I don't know how it happened but somebody. I don't know who it was that said, "Hey, what about this guy Robinson?" But, I did work with that group. But the group that I worked with the longest and most intensely was the Family and Child Services Agency, formerly situated at Thirteenth and L. Did I say Thirteenth?

Q: Thirteenth and L.

A: No. It was Eleventh and L, and now located on L Street between Ninth and Tenth. But, that was a Board that was very active; it was the largest private casework agency then, I believe, in the District of Columbia. And somehow or other, I was asked to serve on that Board, and did. I served with them for a number of years. That was a Board, again, that was rather large and it contained among its membership some people who were well-known and very active in the Washington community.

Q: How did you first hear that President Johnson had nominated you to sit on the Juvenile Court?

A: On the Juvenile Court? I don't know. I imagine it was a call from the Department of Justice. There wasn't any big hullabaloo about it. I was quite pleased. I don't know how I first learned.

Q: Were you surprised when you were contacted?

A: No, I wasn't surprised when I was contacted about that because I had let it be known that I would be interested. And my recollection is that it was somebody from the local Democratic Committee, Group, that was looking around trying to submit names to the White House and they came to me and said, "You've been plowing around with some of these things around town and you're a lawyer, and blah, blah, blah, would you be interested in being considered?" I said, "I would not decline it. Yes, I would be interested."

Q: Now, do you remember the date that you began service on the Juvenile Court?

A: The exact date? I don't remember the exact date, no.

Q: But it was 1965?

A: 1965.

Q: And you sat on that court for approximately one year?

A: Yes. Fourteen months to be exact.

Q: What are your recollections of your experience on the Juvenile Court?

A: Unending work. I don't think I have ever in any single period of time, like a year, dealt with so many individuals and individual files and individual cases. Again, because it was the opportunity for one-on-one in most of these cases felt that it was worth my effort. Because I thought that sometimes I was getting across to some of these kids and their parents and their guardians about their problems. We had a good social work staff and I had good rapport with them. I appreciated and understood their approach to trying to deal with these problems. I felt then as I strongly feel now that you have to understand something about the environment from which these kids come and the way they're raised, and what their parents go through before you can begin to do anything with the problems that develop. And, that we ought to make all the effort we can to see what we can get out of them that's good and not just toss them on a heap because they've done all kinds of things that are illegal.

Q: Do you think that your service as a Juvenile judge better prepared you for your service on the District Court?

A: Well, I think this. Yes, because we had many, of course, hearings and it is an adversary process. So I had in court experience; we had jury trials. So I knew before I ever came over here how to impanel juries, how to handle juries, how to charge juries. It was a collegial body in theory at least in the sense we had two other judges on the court. So I had the experience of working with other judges and because it was a small court I knew how important the administration of the court was, as well as the work of the court. I could sense that; although the Chief Judge, who was Morris

Miller, he administered the court. We didn't divide the responsibility up. To a large extent we had many discussions. At least he and I did about policy matters; about changes, that kind of thing. So I had a sense from that experience about some of the things that go along with being a judge. Having to recruit. Work with your own personal staff. Although all that I had was a secretary.

Q: Where did the Juvenile Court sit in 1965?

A: The court sat in the Juvenile Court Building, which is a special building over here on Indiana Avenue. It was built as the Juvenile Court Building, had three courtrooms.

Q: Do you remember who swore you in?

A: I was sworn in by, I believe, I think the Chief Judge swore me in, Morris Miller.

Q: Now, how did you learn that you were being nominated to serve on the District Court?

A: I was in trial in the Juvenile Court and about 10:00 in the morning, in the midst of the trial, my secretary sent word that I had somebody in Chambers that had to see me right away. I sent word back that I was in the midst of a hearing. They would have to wait. The word came back saying that, "Judge, you are advised strongly to recess the trial and come to Chambers." The message was being relayed by Doris. Doris was my secretary while I was on the Juvenile Court.

Q: Doris is now your wife, correct?

A: That's right. So I told the lawyers, "I apologize, I have a matter that I have to take care of in Chambers. I'll get back to you as soon as I can." And I said, "I'll take a short recess." The courtroom had a little; there's the courtroom, there's a little hallway and then you walk into my Chambers. And when I left the Chambers, got into the little hallway, who's standing right up alongside just talking casually with my secretary is Ernie Friesen from the Department of Justice. I had met Ernie, I don't know how, but I had met Ernie. I knew him, I know him well. He said, "Hi, Judge." I said, "Hi, Ernie, what's the problem?" He says, "Come on in, close the door." And he says, "I'm here to advise you that tomorrow morning at 9:30 the President of the United States, my boss, is going to nominate you for the United States District Court for the District of Columbia." I said, "Ernie, I'm in the midst of a trial, I don't have time, and I'm in no mood for jokes." He said, "Judge, I'm not joking." I damned near flipped backwards in my chair. And he reached into his pocket and pulled out a sheaf of papers. He says, "I want you to sit down and fill these papers out for me and I will send a messenger back at 1:30 to pick them up." I leafed through it. There were 19 pages on both sides of questions. Wanting to know all kinds of things; kinds of cases; how much of this and how much of that; dated information. I said, "Ernie, there's no way that I can have all this by 1:30." I said, "Some of the information you want is in the law, in the files of the partners of the law firm that I left a year or so ago. Others is at home, and I don't know, some is here."

He says, "Well Judge, I'll tell what you do." Now he says, "Can you trust your secretary?" I said, "I certainly can." "Well, first of all, this must not go beyond you and your secretary." He says, "You can take your wife into confidence tonight, but if the old man hears that this has gotten out, he's going to raise hell."

Q: The old man, meaning President Johnson?

A: Yes. I said, "Ernie, I understand." I said, "Ernie, I can assure you that not a soul will know beyond my secretary and myself." So, he says, "Alright, I'll see ya at 1:30. My messenger will be here at 1:30."

I went back in the courtroom and told the lawyers that I was very sorry; that I cannot continue this hearing. I expect it will be able to continue at 2:00 this afternoon, so I am recessing it until 2:00. Mumble. Mumble. Mumble. I said, "I apologize." I came back in, took off my robe, called my secretary in and told her what was going on. I said now here's what we've got to do. The only way I know to do it in the time we have left is you put the papers in the typewriter and I'll stand behind you and dictate as best I can. So I started. So now I think I'm going to need these files; get these files out. So that's how I got that 19 page questionnaire. The messenger came at 1:30 and it was still in the typewriter because I was still making telephone calls; just casually, you know, by the way do you remember so and so? Or trying to find stuff in the file that might refresh my recollection; calling on my own recollection. And the messenger came promptly at 1:30. The stuff was still in the typewriter, I had three pages to go. I told the messenger, "I'm sorry. You're going to have to wait." Mumble. Mumble. Mumble. I got it out of the

typewriter; hardly; there was no proofreading; there was no verification. It was just the best I could do from memory and from what files I had to respond to those questions. So I, at a quarter of I guess we got it out of the typewriter. I signed it, put it in the envelope and gave it to the messenger. I don't remember whether I ate lunch or not, but I know I stumbled back into the courtroom about 2:00 and went through the rest of the day.

Q: And you were nominated the next morning?

A: The next morning at 9:30. I go back and resumed, because the trial went that afternoon and it went back in the court about 9:00 the next morning because I was trying to make up some time that I had lost. And in the midst of the trial that morning, about 20 minutes of 10, you hear this BUZZ all through the courthouse and people start coming in. I know what's going on. Nobody down here, the court reporter doesn't know; the court deputy doesn't know. Doris knows. Here comes the Chief Judge, "What is this I hear? Why didn't you tell me? We didn't know." I said, "Chick." We called him Chick. "I was sworn to secrecy." "You knew all about this?" I said, "Chick, I didn't know a darned thing until yesterday." So he says, "Oh, I don't know." Orman Ketcham was the other judge. He came in. "Why didn't you? Congratulations! Blah! Blah! Blah!" And it was just buzz, buzz, buzz. So, that's how it went. Then at 9:30, of course, the President did announce it at 9:30.

Q: Were you the only person who was nominated that day?

A: For this Court?

Q: For this Court.

A: No. Jack Smith was.

Q: At the same time?

A: At the same time. Jack Smith came over here. I came over here.

The same day. Because I know that the next day we had to all meet and go to the Justice Department and Jack; Harold Greene was nominated to be the Chief Judge of the Superior Court, and he went with us; and there were some other people that went with us to the Justice Department. We had to meet with the folks down there. We also had to go to the White House. We were supposed to meet with the President but he got tied up. We met with some other people at the White House.

Q: Had you ever met President Johnson before you were appointed to the Court?

A: Before that? I think not. I don't know. I can only speculate and believe that because I had had the experience on the Juvenile Court that was known to people who were working with the Justice Department in getting these names together. And in particular the advisor to the President on District affairs. That's how my name came up.

Q: How old were you when you were nominated for the District Court?

A: I was 42.

Q: To your knowledge, had there ever been a younger member appointed to the court at that time?

A: Oh, I don't know. No, I don't know about that. I don't know the ages of the other appointees.

Q: How many judges sat on the District Court in '69?

A: There were a dozen of us then.

Q: Including yourself?

A: Yes. That was the complement. I think the vacancy that I believe that I took was created by; I always assumed it was, Matt McGuire.

Q: Do you have any specific recollections of your confirmation process?

A: Yes. The first thing you know you have to do is you have to go down and meet with the Senate Staff. And I went down and had a brief meeting one day and then a couple days later they said come on back; there's some more stuff we want to talk with you about. They were very informal. Neither meeting was lengthy.

Q: I believe Senator Eastland was Chairman of the Judiciary Committee. Was that correct?

A: Yes. And, it was his; it was the staff of his committee with whom I met. On two occasions is my recollection. And then, I don't know, there may have been additional information and data that had to be furnished. I have no recollection of having to dig through a lot of stuff. Then the next thing I know there were; there was word that

the hearings were set for; I would have to go back and pull out the file as to the exact date that I went down. And, I went down to the hearing and only the Chairman was there. There were several of us who had hearings that day. There weren't a handful of people there. I remember it with particularity; somebody was being; somebody was there, not from our court I don't think; or was it? No. It wasn't Jack. I don't think we had a hearing the same day. Who had an objection, but it was obviously a person, a stumped litigant.

Q: There was an objection to your confirmation?

A: Not for my confirmation. For somebody else's. I can't remember who. By that time there was just a handful of us there, and when I get called and go up I had with me at that time as my principle the one I remember was George E.C. Hayes. George Hayes was a black practicing lawyer around town who had an excellent reputation with the lawyers. A good lawyer. Well known to this Court. Spent a lot of time. All the judges of this Court knew him very well. And he was highly respected in the community. He went with me to the hearing.

Q: Did he present you to the Committee?

A: Yes. That's my recollection. I have copies of the hearing somewhere. And, he made a statement. I don't remember being asked anything. I may have been asked some relatively benign questions. And, the Chairman says, "Well, looks alright to me."

Q: The confirmation process is certainly different today.

A: It was very different. Very brief. Very informal. I was on pins and needles, not knowing what to anticipate except that being related to me as to what could occur. There would be opportunities for questioning. I didn't know how many committee members would be there. I didn't know; the committee staff is supposed to advise you in advance if there are any particular areas of inquiry. I had gotten no such advice from the committee staff. So, I didn't know what to expect. Didn't know who would be there to say anything one way or the other. Other than the persons who came with me.

Q: If you remember, what was the period of time between the date you learned you were being nominated and your swearing in?

A: A couple of weeks.

Q: And who swore you in for the Court?

A: Bill Bryant.

Q: Was he the Chief Judge at that time?

A: No, but I asked him to do it. I knew him. He was on the court. I had known him for years and years.

Q: So you requested that Judge Bryant swear you in, and he did so?

A: Yes. That's my recollection. You know; I believe I'm right.

Q: Judge, this may be an appropriate time for us to recess.

A: Yes.

For the record, let me just indicate that this is the Oral History Interview with Chief Judge Aubrey Robinson. It is January 11, 1992 and we're going to recess the interview to continue at a later date. Thank you Judge.

TAPE II, Side 2  
Oral History Project  
Historical Society for the D.C. Circuit  
C.J. Aubrey Robinson, Jr.

My name is William Causey. This is January 20, 1992 and we are continuing our Oral History Interview with Chief Judge Aubrey Robinson in his Chambers. Judge, good morning.

Good morning, Mr. Causey.

Thank you for agreeing to give us more of your time to continue and hopefully complete our Oral History Interview with you today.

You're quite welcome.

Q: When we left off we were talking about your nomination and appointment to the Court. Can you give me the date that you first became a sitting judge on the United States District Court for the District of Columbia?

A: My commission reads November 3, 1966, and I was sworn in, I think, about the 16th of the month.

Q: Do you recall some of your earliest experiences as a judge on the District Court?

A: Yes. It was the practice at that time that when a new judge came on he was advised to spend some time arranging for his staff and getting his Chambers in order; getting the books that you wanted; and we were allowed, oh, roughly two or three weeks to do that. And it was also customary that a new judge, no matter where he came

from, was assigned non-jury cases to start with. So the first cases that I tried were non-jury cases. And, I think I stayed in that non-jury assignment about six months.

Q: Do you remember where your Chambers were located?

A: Yes. My Chambers were 2309 on the second floor, on the rear of the building. They were Chambers that had been inhabited by Judge Spottswood Robinson. He was elevated to the Court of Appeals at the same time that I came on the District Court. And I took the Chambers that he had occupied as a district judge and he, of course, took Chambers on the fifth floor.

Q: Do you remember your first case?

A: Yes. My first case was a case involving a suit against the District of Columbia Government. It had to do with an alleged drainage problem that was causing damage to some property in southeast Washington. And allegedly the damage was caused by negligent action of the District of Columbia Government. And it, the kind of damage involved was with flooding of residents' home and they were seeking to recover damage from the District of Columbia.

Q: You're referring to a book. Is that your bench book that you keep?

A: For a number of years, I don't know exactly how long, I kept my trial notes in a large, permanently bound volume. And every time I went on the bench, I would have this book. And it was in this book that I kept my trial notes, of all the matters

that I either tried or motions that I heard. I don't remember when I discontinued that, but I have those books starting with November 28, 1966. That's the date of that first hearing. First trial. And I have them going up through approximately 1975.

Q: Do you have a vivid recollection of some of the early lawyers that came before you when you first came on the bench?

A: No, I don't have a vivid recollection of them. If I were to go through this book, of course, I could tell you who they were because the names of the litigants and the lawyers who represented them are all noted here, but no I don't have any particular recollections that go back 25 years.

Q: What are your recollections of your association with your fellow judges during the first few years and how was it different, if any, from today?

A: Well, I received a very cordial welcome. Among those that I guess I remember most vividly, were Judges Curran and McGuire; both of them were very outgoing people personally and Judge McGuire was taking senior status and he took it upon himself to chat with me from time to time; give me advice; and I developed a very friendly, easy relationship with him. And the same was true with Judge Curran. He was then the Chief Judge of the Court at that time. But some of the other judges were not as accessible to me. Not for any particular reason; but they were busy people and they were just different personalities. Judge Holtzoff was very formal; and he was also in his

declining years and I had very little contact with him. Among the judges that I did have a lot of early associations with were Judge Gesell who came on the Court not too long after I did; Judge Oliver Gasch who was already here; Judge William Bryant who was here; and, of course, there was Judge Hart and Judge Corcoran. Those are the ones that I remember. We had committees, etc. that we worked on and they were very active in the affairs of the Court.

Q: During the first several years you were on the Court, did the judges meet regularly, either formally or informally?

A: Yes. Originally the schedule of meetings was left to the judgment of the Chief Judge.

Q: Who was the Chief Judge when you came on the Court?

A: My recollection is that it was Judge Curran. But not too long after I came on the Court it was decided to have a regular scheduled monthly executive session of the court. And it was then scheduled, my recollection is, on the second Monday in each month. And from time to time we did have special meetings called to deal with particular problems in the interim. And that I think started in about 1968 and ever since then it has been customary and it has been our practice to have monthly meetings of the Court in executive session. Except for the summer months. And it has never been our practice to hold meetings in July and August. Sometimes we did not hold them in September until late in the month because very frequently in the early days there wasn't much activity until after Labor Day.

Q: How long would these monthly sessions last, and generally, what things would you talk about?

A: The sessions would usually last about an hour. And we talked about a variety of things. We talked about problems arranging for the disposition of the cases, calendaring problems. We talked about how we were going to deal with the juries. We talked about the supervision of the jury commission and the membership of the jury commission. In those early days we also had a responsibility to appoint members to the District of Columbia Public School Board. And occasionally those sessions would take up our time. We talked about changes that needed to be made in connection with the admissions standard of the Bar of the District of Columbia. In those early days we also had a lot of discussion about law students and court programs and actually we had some court rule changes that permitted those programs to operate. Those were the kinds of things. Relationship with the Court of Appeals. We dealt with the perennial of parking. Just the general things in the total operation of the Court. Rule changes were always a subject of discussion, as things came along.

Q: Lawyers who regularly practice in the District Court know that some, if not most, of your colleagues get together at lunch time. Was that a practice back in the late '60s when you first came on the Court as well?

A: Yes it was. As a matter of fact the judges' dining room, when I first came on the Court, was frequented in the outer part of it by the secretaries to the court, the judges of the Court of Appeals had a table where they used to eat in that larger

outer room and there were some members of the Court of Appeals who met there regularly. Judges who wished to entertain guests, which was rather frequently, did so at the tables. And we had an arrangement then where we required the people who ran the cafeteria to provide a person to serve the food that was brought up from the cafeteria. And then of course, there was the private dining room. And that was in existence where judges only could go and sit and have lunch.

Q: During your early years on the Court, did judges of the District Court eat lunch and mingle with the judges of the Court of Appeals on a daily basis?

A: There were several judges of the Court of Appeals who ate with us regularly. One who was for years a regular attendant at the luncheon table was Circuit Judge Edward Tamm. He was there every day. Another person who, when he was on the Circuit Court of Appeals, met with us very frequently was now retired Chief Justice Warren Burger. When he was a member of the Court of Appeals I have vivid recollections of many discussions, informal, that we had at the luncheon table when he was present.

Q: Were these opportunities to meet and talk to Court of Appeals judges on an informal basis? And was it beneficial to you as a trial judge?

A: Well, we tried very hard to make it a relaxed social occasion, rather than a working business occasion, working business lunch. Of course, cases and incidents involving cases would come up from time to time but most of us felt rather strongly that it was much more important that we be able to relax and just get to know

each other as individuals. And just discuss a variety of things that did not involve the cases. We weren't always successful. It was not our aim to do any more than provide a place, that was convenient, where we could get a lunch and where we would have the opportunity to get to know our own colleagues better as well as those in the Court of Appeals who chose to have lunch with us.

Q: Again talking about your early years as a District Court judge, were there, for lack of a better expression, certain rules of the game that you had to follow as a freshman judge? Some do's and don't's that you had to adhere to during these first few years?

A: Well, there was a tradition for example, that the newest judge on the Court was the secretary for the executive session. And would take and distribute the executive session minutes. Because for a number of years, nobody was permitted to be at those meetings except judges, unless there was a special person invited from the outside who had some specific information. But in terms of our deliberation and discussion they were completely within the members of the court. Until Judge Gesell came on the Court, I was the secretary of the executive session for quite some time. And that meant, as I say, taking the notes, having my own personal secretary type them up and see that they got distributed properly. One other tradition that we had was that in the dining room during the luncheon recesses when we were sitting around the table, the youngest, the newest judge in terms of tenure was expected to see that everybody had his or her coffee.

Q: Is that a practice that still exists?

A: It does not. But those were two things that one I guess was administrative, the other was just a way they operated. A new judge was not expected to have a whole lot to say but not excluded in participating in the meetings and discussions. Seniority was king of the hill.

Q: How much time went by before you felt comfortable that you could comment and contribute freely as an equal colleague?

A: I would say about two years. By that time I had gotten to know the people. I had gotten to understand some of the things that were going on in the operation of the court. I had been on the bench long enough to handle a fairly decent range of case responsibility. Motions, assignments and that kind of thing.

Q: What do you recall as being the easiest thing and the hardest thing to learn as a new District Court judge?

A: Well, I think the easiest thing for me was just to try a case. And the most difficult, was to develop an understanding of what it took to set priorities. The kind of work it took off the bench to get the cases lined up for trial, motions disposed of – that kind of thing.

Q: You had worn judicial robes for a short period of time.

A: Yes.

Q: Did you find that a benefit?

A: It was, yes, because, for example, I had handled juries so it was not a new experience. I had dealt with lawyers in the courtroom setting so that was not a new experience. It was a matter of embarking upon it in a different context, different kind of cases, but it was a continuation of what I had had some opportunity to do in the Juvenile Court.

Q: Do you recall the first time when you were reversed by the Court of Appeals?

A: No, not the first time. There have been so many. No, I don't.

Q: As a new judge did that concern you? Were you worried about that?

A: No. Each court has its own responsibilities. No. I felt and still feel that if that is your concern then you can't get your work done.

Q: Do some District Court judges who do have that concern?

A: I suspect so by the way they react to reversal. Some of them go apoplectic when they're reversed. I never felt that that was necessary. I tried to learn from every reversal that I got and see what the mistake was and try not to repeat it. They have the right to, an obligation to review the cases. There have been times when they reviewed my work and the case has gone on to the Supreme Court and the Supreme Court has sustained my position. That's happened I think twice during my tenure. That, of course, is very satisfying.

Q: During your first years on the bench, what size staff did you have and how did you go about selecting your staff?

A: We had a secretary and a law clerk. That was it. In the courtroom, the Clerk's Office assigned us a courtroom deputy and the court reporters group assigned us a court reporter, who spent most of his or her time just recording our work. My secretary came with me from Juvenile Court. I had hired her when I was on that bench and she came over here with me. And that was the complement we had when I came on the court.

Q: What is your staff size today?

A: My staff size is one secretary, one law clerk, a clerk and a bailiff. I do not use a court reporter except on unusual occasions because I use electronic recording and have for several years in my courtroom. So, therefore, in addition to the courtroom deputy who's in the courtroom, I have an operator trained to operate the electronic recording machine.

Q: So your staff size is about the same today as it was 25 years ago?

A: Yes. I am entitled now, of course as the Chief Judge to have additional staff people. I have, in fact, a second secretary. But that second secretary I have basically assigned as a secretary to my administrative assistant. So, in addition to my Chamber staff, I have Mrs. Hall who is the Administrative Assistant. And my second secretary is in fact her secretary. I use the second secretary as a substitute when my secretary is unavailable for some reason. But that is the complement that we've had.

Now the normal complement now for a District Judge is a secretary and two law clerks. And if I chose not to have a clerk bailiff, I could have two law clerks. But I choose to have a bailiff and the one law clerk.

Q: Judge, let me ask you some questions about the performance of your duties as a District Court Judge. And as we go through these items if you could tell me how they may have changed over the years. Can you describe for me briefly how you see your job? What is your job? We know how it's defined in the U.S. Code and what we expect as lawyers, but from your perspective over the past 25 years, how do you see your job and has it changed over the years?

A: I think the job of a United States District Court judge is to dispose of the litigation for which he or she is responsible as fairly and expeditiously as is reasonable, consistent with all the things that he or she is involved in.

Q: So is it solely a function of dispute resolution?

A: That is the whole idea of litigation. The court system exists because people have problems. They either have problems with each other that they can't resolve; or, think they can't resolve. Or they have problems with the government. That basically is what it's all about.

Q: So, you see it as resolving individual disputes as opposed to the resolution of societal problems through the eyes of individual people?

A: Well, with the advent of or proliferation of class actions of course, there are a lot of people who seize that as a vehicle for solving a myriad of problems that

involve groups of people. Sometimes very large groups of people. But I don't envision the court system as existing for that purpose. I envision the court system basically as solving the individual problems of people, businesses, institutions.

Q: Are you conscious of your role as a participant in either resolving or deciding social, economic, political issues as well?

A: You only deal with them in the context of specific litigation. The law is applied at a given time. We don't reach out and ask people to bring us some social problem we want to solve because we think we can do it.

Q: But when cases are brought to you that raise social, economic or political questions, are you conscious of your role?

A: Oh, you have to be. Well the role is in resolving the problem. You know that in the problem is an impact. In these areas you're dealing with social problems of individuals, or groups. You're dealing with economic problems of an individual or groups. You're conscious of that because sometimes that's why they instituted the litigation. Most times that's why they instituted the litigation. So you're conscious of it.

Q: Is it hard for you to divorce your own personal economic, social or political philosophies when deciding cases? We all know judges read the newspapers. Judges watch the news. Do you have to be conscious of separating your personal feelings from the cases that you decide?

A: You have to be aware of what your feelings are and what your positions are, yes. And in the particular situation, you have to; I believe that you have to take concrete steps. You have to think very carefully about separating out what's in the litigation as over against what's in your own mind and experience. But you can't block out what has been the totality of your experience. As a matter of fact, part of that experience had gotten us on the court in the first place. Because absent some kind of a background, there wouldn't have been any qualifications for it. That was all in the mixture. And it's perfectly evident. Now, as courts change it's very important.

Q: Do you think that the consideration of political, social or economic philosophies has become more important in the judicial selection process? Or less important?

A: I don't know that it's become more important. It's just become focused differently as to what the criteria are. I think it's always been a consideration. And a major consideration.

Q: For example, we've read reports during the past ten years of people who were being considered for federal judgeships who were questioned about their social, economic and political philosophies. The phrase that the press uses is "litmus test." When you came on the District Court, were you specifically asked questions about your background?

A: No, not in that connection. Not about how I thought; well not my political bent or any economic theories that I had or any social theories that I had. No, I never was.

Q: Do you think that that's a bad trend?

A: Oh, I certainly do.

Q: What do you think has caused that trend?

A: The trend has been caused because the proliferation of cases that have been thrown into the federal system which has given the federal judicial system more power to affect things going on in the country than it was ever anticipated that it would have. And with the exercise of that power, it has become perfectly apparent to many people that to change the direction in which that power is exercised means changing the people who exercise the power.

Q: Again, going back to discussing your feelings about your job and the role of the District Court judge, do you think that the job has changed over the past 25 years in any significant way from when you first came on the court? Is there something that you are doing now that you did not do when you first came on the court? How has the job changed over 25 years? And I don't necessarily mean your role as Chief Judge and the administrative duties that come with that; I want to stay with the issue of judging. I'll ask you some questions in awhile about your administrative functions. But just in the role of judging, has it changed significantly over 25 years?

A: I think it has in the sense that when I first came on the court there were a large number of cases in a pool and, through the Assignment Commissioner's Office you sat and waited until you got an assignment and then discharged it. In the early stages of my tenure, I do not have a recollection if there was any serious consideration given to the techniques that were available, or should be made available, to expedite, accelerate, the disposition of the cases. I don't think that there was nearly the present emphasis. I have no sense that there was nearly the emphasis on judges controlling litigation. As a matter of fact my recollections are very different. A considerable group of my colleagues believe that it was not a judge's function to get a case ready for trial. That the case should be gotten ready by the lawyers involved in the case. And when they said they were ready they would try the case or decide the motion. There was no effort, as I can recall, to stimulate the lawyers into expediting matters. And being considerate about the time that they were utilizing.

Q: But we have ten times the litigation now. Is it possible or is it desirable to let lawyers continue to control the court's docket with the increasing case load?

A: Absolutely not. That was the tradition of the Bar and the tradition of the court when I came on. Many of the judges who were on this court when I came on the court came out of the leading law firms in the city; or came out of responsible positions in the Department of Justice where they determined the pace at which things moved. And that was the tradition of the practicing Bar. Obviously it was the press of

the increasing case load; increasing litigation that began to focus the attention of lawyers and of the judges on a new role and new responsibility that judges had to be willing to assume. Namely, looking at court rules, looking at their own individual ways that they handle their cases, and working with the lawyers to change the ways in which the Bar operated. And early on we had judges who were also very active in the American Bar Association. And through the Bar Association, the practicing Bar was beginning to get interested in these things. And as a matter of fact one of the stalwarts of this court that I didn't mention before when I came on was William B. Jones who was very active in the Bar Association – the American Bar Association. He was in the forefront when the Judicial Administration Division of the American Bar Association was created. So they began to focus the attention of lawyers and judges on case management and began to focus to some extent on court management.

Q: Has the quality of lawyering changed over the past 25 years as you see it from the bench?

A: It has in this court because we have a far greater number of lawyers to deal with. Lawyers who meet the qualifications for membership of the Bar of this court and who litigate here. We really have to think about it in two stages. When we first came on the court of course we had not had the Court Reorganization Act of 1970 which realigned the District Court vis a vis the then Court of General Sessions and constituted the reorganization of the Superior Court in the District of Columbia. And we still were

responsible for probate. We still were responsible for conservatorships. And it wasn't until then that we got rid of divorce jurisdiction. And there was a lot of miscellaneous things that were involved in that practice. And you saw a wide variety of lawyers. Many of whom were not engaged in the kind of litigation that came along later. The criminal cases, we had the felony jurisdiction of the common law crimes. And, of course, we had then as we have now the problem as a court dealing with adequate representation of the criminal defendants who could not afford to retain counsel. For a long period of time, just through the Assignment Office of the court, just pick up the phone and call a lawyer downtown and say you're assigning him or her a criminal case. Mostly "him" because there weren't that many women lawyers practicing. And, certainly there were not that many women lawyers who were doing criminal defense work. Then there came a time when the Criminal Justice Act came along and that gave us the first opportunity to structure and set up some rational system for the appointment of defense counsel in criminal cases and allow for some compensation. Prior to that time when we were just assigning lawyers to cases, what happened very frequently was you'd get assigned a criminal case and then they'd keep a record of that and then if a probate matter came along or conservatorship came along, or something like that, they would give you that so out of that you could make a little bit of money to compensate for the fact that you had donated your services in the criminal case. It went along like that for quite some time.

Q: What do you as a trial judge look for from lawyers who appear before you? What are the qualities of a good trial lawyer in your court?

A: First of all a good trial lawyer knows his or her case. They have developed the facts. They marshal the evidence to sustain their theory of the case or their theory of the prosecution or defense of a claim. They know courtroom procedure. Basic courtroom procedure – which is the cart and which is the horse – which comes first. A good trial lawyer has also the ability to understand people that he has to deal with in the context of a particular case. First of all, a good trial lawyer ought to know something about the judge before whom the case is being tried. What are the judge's “no, no's,” idiosyncracies, level of patience, if you will. What is the judge's judicial temper in fact in a courtroom situation. How does it change? What makes it change? How can you eliminate changes that adversely affect you and obviously your client? The second thing a good trial lawyer knows is in a jury case he has some sense of understanding what makes jurors tick; especially when they are randomly selected from a very diverse population. How to be clear. How to be direct without being condescending. How to walk that chalk line between establishing a record in the fashion that the trial judge understands so that the application of the legal principles are made more easily and at the same time, establish a record that the jury understands. The development of the case. What you're really contending. So a good trial judge is really a person who understands people and knows how to deal with people in the context of adversarial litigation.

Q: Good trial judge or good trial lawyer?

A: Trial lawyer. Also, a good trial lawyer knows how to be firm and fair when it comes to dealing with his adversary.

Q: Now with all these qualities that you've just described, over the years what percent of the trials that you've handled do you think reflect that kind of lawyering?

A: About 40, I'd say.

Q: As a trial judge, what is more difficult for you to handle – a lawyer who overtries a case or undertries a case?

A: I think the more difficult case is a lawyer who undertries in the sense that you know by the way he or she is proceeding that either they are not prepared or they are not marshalling the evidence to do justification to the client's position. Yet, there is very little you can do about it. You can't be their mentor in the context of litigation.

Q: You don't feel compelled to play a more active role?

A: From time to time I would, I have felt compelled to do that. Certainly in some of the criminal cases. And I have had occasion to bring lawyers to the bench and make some suggestions to them, and make some suggestions that maybe they need to take a recess and think about what they're doing, what they haven't done, what they need to do. And if they think about it and come back and continue then there is nothing I can do about that. There have been times when there, during the course of an

examination of a witness, when I think that the lawyer is not focusing on what the witness' testimony really could bring to the case, I will ask first.

Q: In describing your beliefs as to the qualities of a good trial lawyer, the word that certainly comes across to me is “preparation.”

A: Yes.

Q: Do you think that the pre-trial process as we have it now adequately serves the function of preparing cases for trial and preparing lawyers for trial? And, how has the pre-trial process changed over the past 25 years?

A: The pre-trial process has expanded greatly over the last 25 years and has been more and more subject to the control of the court. Early pre-trial was left pretty much up to the lawyers. They would start their discovery at the pace they determined, or negotiated between themselves. And, as I indicated, for the most part we just let them go. When they said they were ready we would deal with it.

TAPE III, Side 1  
Oral History Project  
Historical Society for the D.C. Circuit  
C.J. Aubrey Robinson, Jr.

This is the continuation of the Oral History Interview with Chief Judge Aubrey Robinson on January 20, 1992.

Q: Judge, to repeat, how has the pre-trial process changed over the years and do you think the pre-trial process has improved the quality of civil trials in the court?

A: Well, the pre-trial process has become much more complicated. Much more under the control of the court. Both as a result of rule changes in the Federal Rules of Procedure as well as local rules of court and the idiosyncracies of individual trial judges driven by rising case loads. To say that pre-trial necessarily because it is involved or extended would result in better trials I think is not borne out by the facts. Pre-trials that are well thought out – that is, lawyers who think about what they need to do and do what they need to do within reasonable limitations are in a position to try a better case than lawyers who believe that they need to have discovery that is unending, when they have so much material to deal with that they find it impossible to focus that material in a fashion to really throw out the many many things that are not relevant – not helpful in the case – even if they are technically relevant means that many times we get lawyers who have done extended discovery but never focused it in a usable fashion. That enables the trier of fact to understand what the case is all about and how the trier of fact is to approach it.

And that's especially true with jury cases. I have a feeling that many of these cases; there's such an overwhelming mass of evidence that is sought to be introduced – and often is introduced – that is technically within the rules of evidence but introduced in such volume and in such a fashion that very frequently the triers of the fact don't have the slightest idea as to how to deal with that.

Q: Well, in civil cases, do we have too much discovery today?

A: Yes, absolutely. Yes.

Q: What can we do to alleviate that problem?

A: Well I'm not so sure what we might do. I have to go back and rethink what existed under the discovery rules when I first, when I was in practice and when I first came on the bench. And, that is, there had to be some suggestion that the discovery was relevant to the issues in the case. We threw out any irrelevancy with respect to discovery. Now it's everything you've got.

Q: What do you think has caused that trend?

A: One, when you have a deep pocket and it takes a long time there's compensation for it. There has been, until recently, little thought given to the expense that is involved in discovery when that discovery has been undertaken in a blunderbuss fashion. That's one aspect of it. Another aspect of it is that so many lawyers are so sensitive to malpractice actions and so sensitive to criticism from their colleagues; and even from the court, that out of an abundance of caution they will over discover just as

they over try a case. There are trial lawyers – in many areas – who are being made to “run scared.”

Q: Do we have too many expert witnesses in civil litigation today?

A: There seems to be quite a concern about how many there are out here and what it takes really to be an expert. And, if somebody has two or three experiences in some area and has gone to college they seem to be able to qualify them as experts. I suspect that you might say that there's too many. But I don't know what is going to come of the concerns being expressed throughout the trial Bar about the number of the various kinds of experts. We've always had a certain category of people who by virtue of their training and experience we looked upon as being helpful in certain types of litigation. But now you can get an expert on reading the daily newspaper.

Q: We've talked about possibly too many experts in civil trials and too much discovery. To what extent, if any, do you think the bench has contributed to that trend or is the bench really trying to respond to that trend?

A: I think the bench has gone along with what the lawyers thought that they wanted as the changes were made in the rules of procedure. The American Bar Association in particular is a powerful influence on what happens with procedures, especially in the federal courts. And, as the trends develop judges will respond to them. And there again, judges bring their own trial experience with them in the court. Some of them have the trial experience, training in trial preparation. Extensive discovery was just

par for the course. That's the way their firms operated. That's the way as individual practitioners they operated. So I don't think the bench – at least the federal bench – is ever in a position of real leadership as to what happens. They're responding to the pressures of the hundreds of thousands of lawyers and, of course, the people on the Hill, many of them are lawyers. And the pressures of their constituencies as they grapple with laws and rule changes. But, we tend, by the very nature of what we do, to be responsive. We don't seek out litigation or litigants. We respond to what is brought to us. And I think the same thing is true with respect to how cases are prepared and how they're tried. We respond to changes. And then there's been a revolutionary approach to legal education. And the advent of the clinics. And the advent of trial practice courses. And the advent of focusing more and more law graduates on the litigation of cases as soon as they can get out of law school. We just have an entirely different attitude on the part of the broad legal profession.

Q: Do you think it is desirable or necessary for a District Court judge to have been a trial lawyer?

A: I would almost have to say not necessary but it certainly is desirable. I think some experience, understanding of what goes on on the other side of the bench is crucial, to a good trial judge.

Q: Equally so, do you think it is desirable or necessary for an Appellate Court judge to have been a District Court judge?

A: Highly desirable. I've known some who presumably have made out fairly well without District Court experience. But, it is highly desirable. Principally because what the appellate judge has to work with is a whole record. And in my judgment, there can be no real understanding of that record merely by reading the printed word. Assuming the accuracy of the printed word, the context in which the testimony develops, the context in which the ruling was made, the whole, the landscape of that case is important. I think a good appellate judge has to be able to conjure up image mentally to have a real understanding of the impact of a ruling. For example, as to whether or not it's over the line. Whether it is in fact reversible error. Whether there has been a rational exercise in discretion, where that discretion is left to the trial judge.

Q: Have there been times in your career when you have been reviewed by the Court of Appeals and you have felt after reading the Appellate Court decision that the Appellate judges did not have a real appreciation of your role and function?

A: I have felt that, yes, on occasion. But never to the point that I didn't have some understanding of how they arrived at their conclusion. What I have been saying is that I don't think the conclusion would have been the same with respect to some panels if there had been a realistic appraisal based on some experience as to what goes on in a trial in court. But don't forget we've had any number of appellate judges who have had trial experiences, District Court judges, and who were very good trial lawyers

before they ever came on the bench. I think that that is a progression. It is very healthy. I think it adds a lot more to each bench to have experience as a trial lawyer before you become a trial judge; and experience as a trial judge before you become a Circuit judge.

Q: What is your approach to trying a case? How do you prepare for trial and do you try and read as much of the record that you have, the pre-trial record before you? Conversely, do you prefer to go in a trial cold, so that you can see how much you learn about the case from the lawyers? Is there a particular approach that you take to preparing for trial?

A: Every case that has been assigned to me, and every motion that is assigned to me; I read everything in my file before I ever go into the courtroom.

Q: Do you think that is the practice of most or all of your colleagues?

A: I have no way of knowing. I just don't know. For me that's the only way that I can; one, intelligently spend the time of the lawyers if it's a motion where I can focus on what I need to focus on in terms of questioning and where I can really hear them articulate their views of the laws as applied to what they contend are the facts. That's my approach to motions. The same is true with the trial of a case. I don't see how I can really make the kinds of instantaneous rulings that have to be made on evidence, for example, without understanding the context in which a witness' testimony is offered. And how relevant it is to what I understand to be the principal issues that are going to have to be presented to a jury. So my own practice has been never go in cold on

anything. I hold my own pre-trials, for the most part. Rarely have I ever let somebody pre-trial a case. I read every complaint, every answer, every motion, every response to a motion and every reply to every case for which I am responsible. I read the memoranda just like the law clerks do.

Q: Do you find pleadings and papers more or less helpful to you in making decisions?

A: What, the memoranda of law?

Q: The quality of the papers from lawyers.

A: Many of them. Most of it is very helpful, very good. That's especially true with the better lawyers because they don't waste time with junk. They focus. Some of the best memoranda of law I've ever had have only been ten or fifteen pages long. These are how they are applied to the situation we have. That's what I try to instill in my law clerks; is if they write memos to me don't write a whole lot. Tell me what; outline what the facts are, what the legal issue is, what is the law that applies to that. And most of the bench memos that I get from my law clerks are relatively brief.

Q: We've been hearing quite a bit lately of the criticism of the jury system. For example, some commentators say the modern day jury is not able to comprehend some of the complex litigation that we have in our courts. Others criticize the jury process for injecting too much emotion into a case and jurors are not able to follow instructions from the trial judge and decide cases based on the law. During your

experience on the bench, what has been your perception of the jury process? And how good or bad has it worked in the cases that you have tried?

A: By and large it's worked well. But I have had the distinct impression from time to time that the jury did not understand basically what the case was all about.

Q: Is that the fault of the lawyers or you as the trial judge?

A: I guess it's a combination. I guess it's a combination. If you are willing to take on the lawyers you can focus it for them. If you hope that the lawyers do it and you try to guide them and let them do it you're more apt to run into a situation in which you don't feel confident that a jury understands what is going on. Then sometimes it depends upon the jury. Juries differ widely. And there are cases that have an emotional appeal that it's very difficult for the lawyers to overcome as that case is being presented.

Q: Can you think of cases that you've tried over the past 25 years where the jury has reached, in your opinion, an incorrect result?

A: Yes. Yes.

Q: How compelled or constrained are you as the trial judge to act on that?

A: I am not constrained to act on it. I act on it and put it to the appellate court. It's difficult sometimes, I have directed verdicts; I've set aside verdicts that I've thought the evidence was enough to go to the jury and I thought my instructions were proper; hoping that the jury would follow them rather closely. Surprisingly enough

there are a number of instances in which that happens. Where the jury came down where I thought they ought to come down.

Q: Have you had cases where you think the jury is simply incapable of understanding the complexity of the case and that it would be inappropriate to decide that particular dispute with a jury?

A: I can't think of any at the moment. I'm not saying that there might not be some. I haven't focused on that. No, I can't think of any. I've had some cases that I was glad that we didn't have to go to a jury.

Q: Because of the complexity of the case?

A: Oh, yes.

Q: What has been your practice in instructing juries? Do you permit them to take notes? Do you tape record your instructions and give the tape to the jury? Do you print your instructions and give them a copy of the instructions?

A: My practice has been to give them orally. And except when we had condemnation jurisdiction, I have never had a jury to take notes. Although there have been times when I've had jurors request to take notes. But I never thought that it was necessary for jurors to take notes. All the evidence relative to the case – the physical evidence – they're going to be able to sit down and talk about in their deliberation. I'm not so sure that there are enough people on the average jury who could take accurate

notes that would not make one or two of them substitute court reporters so they thought.

Q: In the same vein, do you think lawyers and doctors should be excluded from jury panels for fear that they will dominate or control a jury?

A: No. It depends upon what kind of case it is. We've had lawyers serve fairly frequently. I've not had a feeling that happens; I have had no sense from anything that I know about the deliberations – and I know very little – but there's been no suggestion that they walked in and dominated. Many of the lawyers are lawyers by profession but they're not trial lawyers. They may be tax lawyers. You know there may be lawyers who don't practice law, but they have the ability to utilize their training and understand the law. If they attempted to dominate, I suspect on the present day juries, some of those jurors would take care of them very quickly. I just have that feeling. Although there again, it's no way that I can tell because I've never sat in on a jury.

Q: Getting back to the issue of instructions. Some commentators have said that the whole problem today with the jury trial process is that we expect jurors to understand and follow the court's instructions when they hear it one time when the lawyers might fight for days over what the instructions should say. Do you think we need a new look at the whole issue of jury instructions and how to deal with jury instructions?

A: I have on occasion given a jury written copies of my instructions if I thought it was a complicated issue of law, yes. I think you can't expect something that's out of their realm completely. So with the word processors being what they are you can give them a copy of your instructions. Although many times I don't give them a copy of what we call boilerplate stuff. Just a copy of those portions of the instructions that have to do with definitions of the legal principles that they have to apply. I have never given a jury a tape recording of my instructions. If they know that all they have to do is wait and sooner or later there is going to be something all laid out for them in writing, I don't know what will focus their attention on the oral instructions. And I don't read instructions, as such, as much as try to give the instructions in a fashion for them to understand. Many of my instructions, especially when I get technical things the Court of Appeals has said have to be worded in a certain way, I just paraphrase, rephrase. I try to be fairly extemporaneous without being inaccurate. It's a theory that I have. Of course, it's much easier to do in a routine criminal case than it is in some civil cases. Although in a routine civil case it's not difficult to just sit and look the jury in the eye, have an outline of your instructions, sit there and explain what the law is and what are the areas of testimony that they have to focus on, the issues that they have to resolve. More and more, in both criminal and civil cases, I have written verdicts. And the form of the verdict depends

upon the kind of case that I have. But more and more I give them written verdicts so that they will approach a verdict step-by-step; where there are multiple parties for example . I try to set out the verdict form so they will focus on what comes first. Where they have to go, depending on how they answer the first question and then how next to proceed.

Q: When you first came on the bench federal juries were composed of twelve people.

A: That is the civil jury.

Q: Correct. And, of course, now we have six. Do you think that was a good change? As a trial judge do you prefer to have six or twelve?

A: Well I prefer to have six.

Q: Why is that?

A: Six people are easier to deal with than twelve. I don't think it takes twelve people to decide a malpractice action. I don't think we need twelve people on a criminal jury except constitutionally it's required. I don't think it takes twelve people. That's just some number that has been used historically. I've seen no verdict from a six person jury that I thought would have been any different if we would have twelve or fifteen or twenty people. I think six people can sit and discuss the evidence rationally. I think they can, I don't know. Then this is the question of logistics. When we have nineteen or twenty judges on the trial court, and get six, seven or eight of them starting a trial on the same day, to just get the number of jurors you need, logistically, begins to

create problems. I think we can reduce that with civil juries that I see – of six – are just as good as twelve.

Q: Well, that raises a question that I know some lawyers have raised and that is that in the modern world we are tailoring our judicial system to respond to administrative problems. And, that we are losing the ability to dispense justice because of that. To what extent do you think that is the case? Does that criticism come from within the bench as well?

A: Oh, yes. But when you say dispense justice it depends on how you define justice.

Q: Let me give an example. Some lawyers will say that a jury of twelve brings approximately 150 years of collective judgment and experience to a case as opposed to a jury of six – which would bring half that amount – and that the whole purpose of the jury system is to encourage and permit a group of citizens to make judgments in cases instead of leaving that power to some government or judicial authority. Isn't that an example of the traditional system of justice bending to contemporary administrative problems and that a movement to juries of six in civil cases has removed the benefit that the jury process brings to civil litigation?

A: Well I don't think so because I don't think the assumption is a valid one to start with. Namely, it's 120 years of experience. You have no way of knowing what that experience is like when you look at the pool from which you draw juries. You're making an assumption. But that's a philosophical argument. The fact of the

matter is with 250,000,000 people in this country we have to accommodate through a judicial system that wasn't established to deal with 250,000,000 people. Something has got to give.

Q: Let me ask you some questions about some of the cases you've tried in your career. Do you have a present recollection of your most difficult cases over the years? And, can you tell us something about those cases? I'll let you define what difficult means. Hardest to decide. Most difficult to try from a judicial or administrative perspective. Most difficult decision that you had to reach. However you want to define difficult. What have been some of the most difficult cases you've had over the years?

A: One case that I found difficult because it was so protracted and because it required some unusual security arrangements was that involving a criminal narcotics conspiracy in which some of the defendants were New York members of the Mafia charged along with one or more of the drug kingpins of the District of Columbia. And that was my first major criminal case. And it was difficult because of the number of charges that were involved. The number of defendants. We tried ten people at one time. Some of whom had two lawyers. One of the defendants had been convicted in federal court with jury tampering several years before the trial of this case. We had sequestered juries. We had to utilize the ceremonial courtroom because there were so many lawyers and defendants that I needed the room. And keeping all of that going for an extended

period of time was quite an experience. One other case that I found particularly difficult. One because of the number of defendants involved and the number of charges to the indictment was the so-called Black Hebrew case. Which again was a protracted case with a sequestered jury. What made the case most difficult for me, aside from the number of counsel involved, and the number of defendants and the number of witnesses, was the fact that midway through the trial the defendants all discharged their lawyers and went pro se. That created quite a problem. And adjusting to that change; having the jury adjust to it and trying to keep control on the actions of the pro se defendants in such a fashion that I did not unduly prejudice either the government's case or their case was an interesting experience. Along that same line another very difficult case, although it involved just a relevantly small number of charges was the case of a defendant who was tried for stealing valued manuscripts and documents from the Library of Congress and from Archives; who had been convicted in Massachusetts for theft of manuscripts and artworks; and he too retained counsel then dismissed counsel. And midway through the trial insisted upon representing himself. And he was one of the most difficult people in the courtroom that I've ever had.

Q: Disruptive you mean?

A: Yes, he was disruptive because he obeyed no instruction as to how he could conduct the case that he was giving. Even though I required his dismissed counsel to sit there and be his advisor if he needed advice with respect to procedure and

law. But he was and is an articulate egomaniac. It was just an extremely difficult case.

Q: What are your recollections of the Watergate years? This courthouse and this court played a significant role in that historical event. What are your recollections of those years?

A: My recollections of the Watergate years is that there was a lot of activity around here but I was involved in very little of it. Judge Sirica was in charge. He determined that he was going to try the principle cases. Or it was his idea, and obviously the idea of some of the others that the general business of the court had to go on and there would be just a few judges involved in the Watergate business. So I did not have any real involvement in any of that. Except that we used to talk about it all the time at the luncheon table. About all of the things that were going on. Read about it in the newspapers. Saw the people coming in and out.

Q: What were some of the concerns expressed by your colleagues about Watergate and those years?

A: I guess one of the biggest concerns they had was how can you try those cases with the Press being all over the place. It was a fair trial problem many of them were concerned about because the newspapers; well all the media were very much interested in everything that went on; and the presence of the media and that kind of business was a matter of concern that we talked about.

Q: Of course, one of the things that Watergate dealt with was a very distinct clash between the judicial branch and the executive branch of government. Did you and your colleagues as members of the judicial branch feel that strain and was it a conscious factor in how decisions were made in this courthouse?

A: I suspect it was. We probably discussed it. I have no specific recollection of any – we did not have any formal conferences about it. The cases were individually assigned. But I do know that the judges to whom the cases were assigned consulted with each other and, yes there was a full awareness of the tensions between the executive branch and the judicial branch arising out of the very nature of the litigation. But there was also no hesitancy on the part of any of the judges to shirk their responsibility of dealing with it. We had ideas individually, I guess; they may have differed from the judges to whom the case was assigned but it was like any other opinion you have with what's going on.

Q: You mentioned that one of the concerns was how to deal with the press during Watergate. Your position on cameras in the courtroom is well known. Do you think the court and the country at large would have been better served if the Watergate proceedings had been televised?

A: I think so.

Q: Why do you think there is still such resistance in the judiciary to cameras in the courtroom?

A: Because of mistrial. Because the court has no control over what is televised; how much of it is televised; has no control over the editorializing and the TV media has a much greater impact on people's minds than do newspapers. Now newspapers don't print everything that goes on in the court. They interpret witnesses testimony or if ill-quoted in their stories. But that impact nationwide doesn't begin to match the impact of televising portions of the trial, select portions. Like a documentary, for example, which can be accurate or it can be so "hoked" up that you don't know what's really going on. I think that's the thing that bothers the average trial judge. And with the amount of litigation that's going on there's no way that we could expect extensive coverage. Certainly you're not going to get commercial people to invest their money in televising these things. Secondly, the public television stations – the length of some of these trials – it's impossible. So, you're only going to get the sensational Smith-type legislation or this Leggett thing that's going on over here in Montgomery County. Well we can't do anything about it in the state system. That's what they want, that's what they get. But in the federal system we don't think that we're ready for that. Who's going to decide on any given day how much of the CNN news ought to be focused on a case in New York or California or Florida where they're trying mega narcotics cases. The Eastern District of New York. Okay, what do you flip to? New York, you give 'em 3 minutes, 10 minutes; then you switch down to Florida – 5 minutes; California up to Chicago here to Washington. I don't know. And, then our courtrooms are not equipped

to pay for all this. And a lot of judges just don't, they had no expectation, anticipation of it. No warning, should I say? A lot of lawyers the same.

Q: Would you approach your job as a trial judge differently if your trials were being televised?

A: Oh, I suspect I would. Although I can't say because I've never had a televised trial. But I know just being in front of a camera that you go before a camera your tie has got to be such a way, right shirt on, and you have to give an appearance of X, Y or Z. I can't think of anybody who wouldn't react a little differently. No, you'd probably get used to it and after a while, you know, wouldn't pay any attention to it.

Q: As a judge on this court for 25 years you have come to know and work with many U.S. Attorneys. What should be the relationship between the court and the Office of the U.S. Attorney? And has it changed over the years since you've been on the bench?

A: Well it has changed since I've been on the bench because it was always, I thought, an easy going relationship. In other words, the U.S. Attorneys that I was familiar with when I first came on the court – first of all they were in the building – the U.S. Attorney's Office was right here. From the U.S. Attorney on down, all the assistants were right here. They took up a considerable portion of the building itself. And I guess that made for more frequent contact.

Q: For the better, you're suggesting?

A: Not necessarily for the better, except that I guess if you see people and have a chance to have contact you have a better understanding of what kind of people they are. Maybe in that sense, yes.

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And if there were policy decisions that were made, the executive branch makes its own policy decision as does the judicial. The role of the United States Attorney with respect to decisions made in his office and by the Department of Justice is one of interpreting where they're going and how they want to work to discharge their responsibility. I think the thing that has happened is that more recently it's become a combative thing where this grim determination that there's only one way and that's the way it's going to be done and not much effort to consider the long haul or the real impact of the procedure. One thing of course that has made a difference on this court is that we have several former U.S. Attorneys who are members of the court. There has always been somebody who came out of the U.S. Attorney's Office and if they weren't the United States Attorney they were some of his better assistants. So over the years there has been an understanding of the job, having been in the office. So far as I know I don't have any recollection of there being any conflict as such until fairly recently.

Q: Has the quality of lawyering by the Assistant U.S. Attorneys improved over the years?

A: When the Office of the United States Attorney was able to maintain a cadre of experienced lawyers I think it was at its peak. By that I mean these

were not assistants who were there just for the minimum 3 years requirement; but those who had some view of making a career in the prosecutor's office. That has changed and we don't have very many people that I view as career types. So that means that there have been a large number of well trained, that is they were well schooled in law school, people in the U.S. Attorney's Office who work hard but just have for the most part not accumulated the experience that begins to compare with a seasoned veteran that some of us dealt with for years in that Office. But intellectually they're all very capable. They're all very hard working and rarely do I hear adverse comments. I've not run into an Assistant U.S. Attorney that I've thought was inept or just had no business discharging that responsibility. For a variety of reasons they have to switch around and sometimes they're not as well prepared as one would want them to be, but that's an exception rather than the rule.

Q: During your tenure on the court the Federal Public Defender's Office was created. Do you think that that Office has improved the quality of representation of criminal defendants in your court and do you think it has changed the level of criminal justice that is dispensed by the U.S. District Court?

A: I think it has. I think it has had a significant impact on the way that the criminal justice attorney, that is the attorneys on the criminal justice list, practice in defense of their clients. That office itself has some extremely capable people and the quality of their work, I have found to be very good. They have operated the way that any good, private defense firm would operate. And with rare exception they're on a par with

the average privately retained defense lawyer from any of the major law firms. Now of course we do have privately retained defense lawyers who, for a variety of reasons, are good but I think the court has benefitted; I think the community has benefitted. I think that the people they represent have been well represented and the tensions that exist between a court and a good criminal defense Bar are healthy tensions. They will litigate what some judges would rather not have litigated. They have no hesitation to appeal things as they think they need an appellate determination in light of what's going on in the Court of Appeals, in light of what is happening with the sentencing format and they are positioned to do just that.

Q: You came on the court in 1966, which was the year Miranda v. Arizona was decided. In your 25 years as a trial judge what criminal trial decisions from the Supreme Court have most affected the criminal justice process in this courthouse?

A: I don't know that there's any one. But, the whole area of search and seizure I think as the court has worked through that has had the greatest impact on criminal procedures – and that as you well know has gone up and down. It looks like it continues in the direction it's going, anything goes.

Q: On that point, has there been too much of a seesaw approach to how the criminal justice system works during your tenure on the bench?

A: I don't know that one can say too much. But that's the way life is structured. Life never runs on a smooth, even pace. Anything – there are ups and downs,

and cycles and especially when you're dealing with changing economics, changing social problems, changing populations, changing institutions. So there's going to be ups and downs. As you look back over the history of our federal judicial system it has been the same way.

Q: But if the foundation of the judicial process is stability, do you think we've had stability in the last 25 years?

A: Who says it's stability? I disagree with your premise that the foundation is stability. If we had stability who's going to stabilize it at what level and maintain it there? We had stability with Plessy v. Ferguson for example. It wasn't any question about it but there are changes. You can stabilize things. You can draw hard lines and you can maintain armies to keep those lines. But that's not what it's all about. How can you stabilize anything as vast as the application of a law to the problems that are multiplying with 250,000,000 people when you have as many ingenious lawyers out here as we have? If law was a stable thing one wouldn't even have to go to a first rate law school, you could go to a trade school.

Q: Well, your answer leads me to my next question, which is whether society is moving so fast in today's world that the law can't keep pace?

A: Law never did keep up with society. There has always been a lag. And there has to be a lag. It's built in to be a lag. Now I'm talking about law as judges made law. And even in the legislatures in the country. The legislatures are never out in

front. Always lagging behind. They've got to get the feel, a consensus. They've got to protect their own sinecures.

Q: Do you think the gap is widening?

A: Between what and what?

Q: Between modern techno-society and the ability of the law either through the legislatures or through the courts to keep up with society.

A: I don't know whether the gap is widening. I suspect it may be. But I don't know.

Q: Do you remember the date that you became Chief Judge of this court?

A: I don't remember the exact date.

Q: Spring of 1982?

A: Yes.

Q: How has the role of the Chief Judge of this court changed over the years?

A: Well I think that the role has always related itself directly to the personality of the Chief Judge. And what a particular Chief Judge did was more dependent upon that judge's view of the role of a Chief Judge. And we've had some who felt that it was more than a passive role and was a leadership role. And we have had others who thought there was not the need nor the desirability for a Chief Judge to

involve himself in many of the things that go on in the operation of the court. It should be done by staff people. Possibly delegated to other judges. Or, not done at all.

Q: How do you regard the role?

A: I feel the role has an active leadership responsibility.

Q: If you could cite one thing that you would have done differently as Chief Judge, looking back now over the past 10 years, what would the one thing be?

A: I would have undertaken to restructure the relationship between the court reporters and the court.

Q: How so?

A: The court reporters have operated in this court fairly independently of the usual scheme of management, independent of the Clerk's Office. They have been responsible only to the judges of the court through their organization of court reporters. I would have, I think, on reflection taken more decisive steps to bring that whole operation under the control of one of the paid staff of the court.

Q: Chief Justice Warren once said that the Chief Justice is first among equals on the Supreme Court. Is that true for the Chief Judge of this court as well?

A: Oh yes. There's no authority that I have that's any greater than the authority of any other judge. Except as in some areas they delegate to me; or have delegated in the past. There's nothing that lays out any more authority for a Chief Judge.

Q: In looking back over your 10 years of experience as Chief Judge, are there certain areas where you wish you had more authority to deal with your colleagues? What would those areas be?

A: No, I don't think that I need any more authority because even if you have legal authority or authority that's mandated by some controlling structure you can't really exercise it except by your ability to deal with the people over whom it's to be exercised. So that I don't think that I needed any more authority. I think it would have created unnecessary tensions; it would have isolated me in a fashion that would not have been healthy. So that having to understand where the various members of the court, whether support staff, are coming from, what their problems are and having to position yourself at all times to keep informed and discuss and persuade I think is a healthy exercise.

Q: You just used a word that I was going to ask you about. Do you feel that you have been isolated as Chief Judge from your colleagues and from the judicial process?

A: No, because I've been here. I'm here. By here I mean the courthouse. I have frequent contact either by telephone or in person with most of the members of the bench. I eat lunch with them almost every day. Work with them. No I don't feel isolated. I'm as isolated as I want to be on a given day if I've got too much to do. They will come in. My colleagues will call or drop by. I don't feel isolated – any more isolated than any trial judge feels isolated.

Q: Judge, there's one area I do want to ask you about and that is the increasing role that women have played in the legal profession in this city and in litigating before this court. When you first came on the bench there were not many women litigating cases in this court. And I believe there had been only one woman who was a member of this court.

A: Burnita Shelton Matthews.

Q: Correct. How has all that changed over the years and what impact do you think that growth of women in the law has made on the judicial process and your colleagues?

A: Well, it didn't happen suddenly. It was a gradual increase. As the law schools began admitting more women and graduating more women. More and more women seemed to be attracted to the law so that they could not be ignored. And not only were they attracted to the law but more and more women were gaining positions of prominence and activity in organized bars. And, more and more were being appointed to the bench. This court is a different place because Judge Matthews was succeeded by the two judges Green and Norma Holloway Johnson. Women bring a totality of an experience that's different in some respects than men's experience, generally. And, certainly certain types of men. It takes all of that leveling, I think, to assist the males on the bench to really understand part of society that's out here. And what their view is and how they react to things that sometimes men never think of the way that women think of.

Q: Do you think the approach to trying cases has changed with the increase of women litigating cases?

A: Because of women? No, I don't think so. Women litigate just like men. Some are good some are bad. Some men are good some are bad, depending upon their training and their particular skills. I don't think that we've accommodated ourselves to anything but getting used to the idea. Now I can remember very vividly that we had a lot of chauvinistic attitudes on this court – even in the support staff – about the “place of women” and fun was made of women who were lawyers. If they happened to come up short they came up short because they were a woman not because they just were up short. But then more and more of the very able lawyers who came to court were women. And more and more you see when you sit around and have informal discussions about the shortcomings of people you can focus people's attention beyond their race, beyond their sex and talk about it in terms of their performance. And more and more you can discuss why it is, or why you think it may be that they're very good, average, come up short. But we tend to, everybody does, generalize you know out of one or two experiences. Just like the hiring of law clerks. It was unheard of when I came on the court for there to be woman law clerks. They didn't get the applications so they weren't in the schools. Women began to be hired as law clerks here because obviously Judges Green and Green are going to reach out and try to make up for the fact that women have not been here, and Judge Johnson. But I don't think that any of them have said they will, no they don't. You look back over who they've hired over the years – men, women, black, white – but that's

only because the pool has gotten to the point now to include women. No, they measure up; they pull their oar. But the biggest problem that we have basically male/female is that the residue of chauvinism that exists and that is a direct correlation of the age of some of us.

Q: And you believe some of that still exists?

A: I know it still exists. I know it. Just like racism still exists. For the same reason. Just some of us who don't outgrow some things and never will.

Q: This city has had its fair share if not abundance of notable and famous trial lawyers. Can you share with us your recollections of some of the more famous trial lawyers who have appeared before you over the years?

A: I think one of the best grown defense lawyers who has appeared before me when he was in his heyday before he got into difficulty was John Shorter. When it comes to having some of those things I talked about – the ability to zero in on what was important, the ability to relate to a jury, be able to sympathize and to know his case. John Shorter I think was one of the best. Nothing flamboyant about him. It was unfortunate that he was ultimately disbarred. But in terms of ability he will always stick in my mind as being a very good defense lawyer. I remember very clearly the ability of Shorter – and hooked up with Albert Krieger. Albert Krieger is now representing John Gotti in the Eastern District of New York in a multi-count conspiracy involving organized crime. Al Krieger has specialized in organized crime cases for 25 or 30 years but he was a fantastic lawyer. Hard fighting. But he impressed me as knowing exactly

what he was doing and never out of place. He gave his client everything that his client was entitled to. He knew the law. The two of them were representing different defendants in a case. He came to me later on and said John Shorter was as fine a defense lawyer as he ever worked with.

Q: Let me mention some names if I can and tell me if you have specific recollections of these people. William Bittman?

A: Yes, Bittman has appeared. I have some recollection but not a clear one. I don't remember trying any cases with him. Bittman was in the Justice Department wasn't he, and then in the U.S. Attorney's Office? Or am I thinking of someone else?

Q: I think he was largely in private practice.

A: Well, no, then I don't have a recollection.

Q: How about Lloyd Cutler?

A: Lloyd Cutler has appeared before me from time to time. He never tried any cases but he has argued before me. Well, he is obviously a very good lawyer. I don't remember the specific instances and I suspect that it has been within the last 10 years. But he's just a very suave, smooth "lawyer's" lawyer.

Q: Jake Stein?

A: Oh, yes. Jake's a good lawyer. I can't remember how many cases Jake may have tried before me. But I know that he's appeared before me over the years. Always knew his case well. He was a good lawyer.

Q: Edward Bennett Williams?

A: I don't remember Edward Bennett ever being before me. He may have been on some motions. I know I never tried any of his cases.

Q: Earl Silbert?

A: Oh, yes. I knew him when he was the United States Attorney, of course. He did some arguing of matters. Earl is quiet, intelligent and he never gets offbase and my experience with him is that he zeros right in on what has to be done. I've always had a very good impression of his legal ability and my relationships with him have always been very pleasant, very easy going.

Q: How about Joe Rauh?

A: Joe, I think, back in the early years when I was on the bench Joe may have argued some motions before me. I don't remember trying any cases in which he was the lawyer. Joe is, you know, talk, talk, talk; a lot of – he's a good lawyer – he can aggravate you at times because he's so persistent. Saying the same thing two or three different times. But I've known Joe before I went on this bench. Local political figure.

Q: Judge can you think of any cases that you have decided during your career that you think will have more lasting impact than other cases?

A: Yes, I think one case is this, it's already had as far as the District of Columbia's concerned and that is the case involving St. Elizabeth's Hospital.

Q: Do you remember the name of that case?

A: It's now called Dixon v. Sullivan – it's a class action involving the hospitalization of mentally ill. I principally decided that we couldn't warehouse people because of mental illness. They were entitled to the greatest amount of freedom consistent with what was determined to be their mental ability. Now that has had a tremendous impact because of what it would take to implement that decision. Congress determined to give the St. Elizabeth's Hospital to the District of Columbia government and the District of Columbia government I think appropriated money to do it and review all the patients' status – the status of all patients at St. Elizabeth's – and providing for care in the community or the kind of facility that the various kinds of patients needed. That community network has never been constructed. We've been working with it since 1974 or '5.

Q: Are there other cases you can think of that you have handled that you believe had a lasting impact on society?

A: Yes. I think that Laffey v. Northwest Airlines case did just that because that was one of the early sex discrimination cases. And it changed a whole pattern of hiring and promotion in the airline industry once it was determined that they were treating those stewardesses one way and men that were doing the same damned thing another way; for no reason other than the fact that they were men and women. And

I think that had quite an impact on the whole hiring process. Another case similar to that was a case that we had with the Drug Enforcement Administration, which involved racial discrimination against black agents.

Q: Do you remember the name of that case?

A: Yes. There was another very interesting case that I tried. United States v. Kember, et al., in which the Church of Scientology and some of the top people in the Church of Scientology were charged and convicted of stealing government documents out of this courthouse and out of the Department of Justice. It was a very interesting piece of litigation. The case that I was talking about was Segar, involving the Drug Enforcement Administration. That was back in 1974. And of course the case that I find extremely interesting was the Korean Airline case where the Russians shot down that Korean Airline plane that invaded their Soviet airspace and killed 269 people.

Q: What was the issue before you in that case?

A: The issue before me on that case was liability. Who was responsible for the shutdown. It was a private action and these plaintiffs all over the country had sued everybody. They sued the U.S. government, they sued the Boeing air people, they sued the people who made the guidance system, they sued Korean Airlines. I disposed of the government as a defendant. Disposed of Boeing. Disposed of the

Litton Industries who made the guidance system and disposed of – what did I say, government?

Q: You said government, Boeing, Litton.

A: And that left KAL. And the suit against KAL was tried. We took just the issue of liability. And that went to the Supreme Court. Our Court of Appeals sustained the liability issue under the Warsaw Pact which had to do with international aircraft liability. I put to the jury the question of punitive damages. The defendant KAL appealed and there was a cross-appeal because of something that the plaintiffs wanted me to do that I refused to do. Our Court of Appeals sustained the liability issue as to the Korean Airline and reversed the issue of punitive damages. It then went to the Supreme Court and the Supreme Court denied cert. So those cases are in the process of being transferred back to the district from which they came because it was a multidistrict case that I received because there were 32 cases originally filed here right away and all the cases across the country were sent here. But since all the people had died we had the plaintiffs select five lawyers as plaintiffs' committee who would try the liability issue for all the plaintiffs. Now the liability issue has been determined the cases will have to go back. Except there are now 23 left here. So I will have to have 23 civil damage claims for damage claims for each of the decedents. Some of them may settle. But that's what I've got to arrange.

Q: Are there other decisions over your career that you believe had a significant impact on the judicial process?

A: On the judicial process?

Q: On the litigants, or on society in general.

A: I was just a journeyman judge, that's all.

Q: What do you believe is the best point in a lawyer's career to become a judge?

A: About mid-40's. I think at that age you have the energy, the zeal, the drive to get in and go to work. And if you come on the bench too late I don't think you have all the drive and zip that it takes to jump into this work.

Q: There was an article in The Washington Post this morning about the increasing number of federal judges who are leaving the bench for various reasons. What are your thoughts about that trend and has the job of being a federal judge become harder over the years?

A: I think it has become harder. It becomes harder for some as you grow older. That's just the point I was making. The pace at which we had to litigate in 1968 is entirely different from the pace we had to build up to and at which we now litigate. They closed the court on Memorial Day and you came back Labor Day.

Q: Was that good or bad?

A: Well, I don't know if that was good or bad but at least you. . . Well it was bad I guess because I guess that's one of the reasons that they never paid them anything. They figured they weren't doing enough work. But the pace is entirely different. I think the job is more difficult because the cases are more difficult. And that's

understandable because we have new and different problems everyday that people believe that the court system ought to address. Or that Congress extends jurisdiction to this court. You must remember, every session of Congress you can depend upon them grinding out laws that ultimately will result in litigation in a federal court. There were no environmental cases when I came on the bench. There were no freedom of information cases where you build up large files, arguing over paper.

Q: Of course, federal judges have life tenure under the Constitution.

Is that a good thing?

A: I think so by and large.

Q: During your career as a judge, have you had an experience where it has been a good thing that you've had life tenure?

A: I suspect so. But I can't think of any particular. I just think that. Would I have done something differently if I didn't have life tenure is what you're really asking?

Q: What if you were to be held accountable in some other way, such as an electoral process as some state judges are, or some kind of review process?

A: Well we have an informal review process in terms of what the Bar thinks of us and what the other courts say. So that's an on-going thing. You develop a reputation whether you like it or not. So that's some kind of a review. Because the press, as you have seen recently, can be very hard in its review of the way you do what you do.

Q: Do you and your colleagues take review of your job by the Bar and press seriously? And, does it impact on your decision making?

A: I don't know that it impacts on decision making as much as it may impact on the way you do your work – not the particular decision, no. How you go about your work. I suspect that that has a real impact. No. You have to understand that everything you do in a criminal case, I'm sorry, in a case – somebody wins and somebody loses, unless the case is dismissed. And, even then somebody might win and somebody might lose.

Q: You are about to take senior status as a federal judge. At this point in time, what do you think is the most difficult problem facing this court?

A: How to deal with the criminal case load. It's rising. And how to find time with that rising caseload, to do something with the civil calendar. Especially in the face of what I anticipate is going to be a rather hard hitting report from the Civil Justice Reform Act. I think there will be an expectation that we will have the time and energy to severely reduce the amount of time it takes for some of these civil cases to be disposed of. And the expectation at the same time will be try all these criminal cases. I think there's tension building up here. The practicing Bar by and large is not interested in criminal litigation that goes on in this court. The practicing Bar is most vocal about – they want to know, what about my civil case; what about my tort case, my antitrust case, my whatever. They want it disposed of.

Q: Are you unhappy about the fact that the law requires you to step down now as Chief Judge?

A: No, I think it's a good idea.

Q: Why is that?

A: Because I might be tempted to stay and I don't think I should stay.

This way, you know. There's no maybe. I don't have to make any decision about it. I don't have to wrestle with it. You know when it's going to be. You can be prepared for it. Nothing can ever change that. All that you have to do is live. And if you don't live, it doesn't make any difference anyhow. No, I think that age may even be stretching it. Although some of us age differently than others. But I think that the change is good. It will be good for me personally, my family. But I think it will also be good for the court.

Q: It's interesting that you mention that in your answer because my next questions deal with some very personal questions about your experience and your life today. Do you feel that your personal friendships have been affected by your tenure as a judge?

A: Some have, yes. More in the earlier stages than later. Now people have sort of gotten used to the idea – after 25 years.

Q: Do you feel you have to treat personal friends differently when you are a judge?

A: Rarely. Sometimes I've had to remind them that there are things that they were suggesting I could help them out with and I could not. But that's a rarity. No.

Q: Are you able to cultivate new friendships as a judge while you are on the court?

A: Yes.

Q: Since becoming a federal judge, who have been some of your closest friends?

A: I imagine Carl Rowan and his wife. Charlie Ireland and Evelyn. Charlie is now deceased. He was my personal physician and very close friend. Aaron Levine, my former law partner.

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This is the continuation of the Oral History Interview with Chief Judge Aubrey Robinson. Today's date is January 20, 1992. Judge, I think where we left off I was asking you who were some of your personal friends – that have become personal friends while you have been on the bench – and you were listing a number of individuals.

A: Oh, Bill Bryant all the way. He was a personal friend. I knew Bill and Astaire before I came on the bench. Charles T. Duncan, always been a friend.

Q: What have been some of your outside activities? Are you able to have another life besides being a federal judge?

A: Well, I have. One of the things that I have done is to serve on the Board of Trustees at Cornell University for nine years; and I am Trustee Emeritus now. I have served on the Board of Directors of the Federal Judicial Center – that's a four year term. I have served on the Judicial Conference of the United States and of course that's been since I've been the Chief Judge; and been on the Executive Committee of that Conference; and on several of the Conference committees. What is the question?

Q: Outside affiliations?

A: I remained on the Board of Directors of the Eugene and Agnes Meyer Foundation. I was on that Board for about 12 years. I was on the Board of Directors of the Family Association of America.

Q: Do you wish that you could have had more outside activities or did it take too much of your time?

A: No. I didn't need any more because you see you have to find time for your court work, the outside activities and your family. And I had a wife and two children so I wanted to spend time with them. And then I enjoy playing golf. I enjoy travel. I enjoy playing tennis. So that I tried to find time to do a reasonable amount of the things that I enjoy.

Q: Judge, I have just one or two more questions. If the President of the United States were to come to you and say, "what should I look for in nominating someone to be a federal judge; what qualities should I look for; what things should I avoid?" What would you tell him?

A: Look for somebody who obviously has a good formal education. Who's had the kind of experience in public or private life that leads him to have some sensitivity and understanding about how people live in this world, in these United States. And I think the person should be somebody who likes people as people; can get along with people; who is not doctrinaire and rigid in thought; who is willing to accept new

ideas; explore new thoughts. I think that that's the kind of thing that I would suggest to the President.

Q: And should we appoint federal judges in a different way than we do today? Or do you think the process that we use is appropriate, adequate and best serves the judiciary and the public at large?

A: Now I don't see why there couldn't be devised some kind of a federal nominating commission in which there could be the political input as well as the executive. Through the executive there could be a congressional input, or there could be input from public people who would consider all of the qualifications.

Q: Doesn't the ABA process handle that by and large?

A: I think it does. But I'm not so sure it does in a fashion that satisfies me, that all the things that need to be considered are brought to the attention of the executive.

Q: And my final question. Looking back over the past 25 years of your judicial career, how has your judicial, social and political philosophy changed – if at all – as a result of your experience as a federal judge?

A: That's a difficult question for me to answer. I think fundamentally it hasn't changed as much as it has had to accommodate itself – my philosophies and experiences have had to accommodate themselves to a wider range of problems the longer I've been on the bench. Basically, I think about how the political structure should operate the same way I thought before. I think I still have the same desire to try to

understand how people have to live out there and what the impact of their living has to do with the problems that I see. We try to resolve them in the judicial process. I think I'm probably less inclined to believe that things can go on at a pace that somebody else determines. I'm more inclined to believe that there has to be action. I don't know how else to say that. I don't think I've changed that much. As a matter of fact I don't think really many of us really change. Because as I indicated if the people who are being considered for many of these positions were expected to change they never would be nominated.

Q: Judge, thank you very much. On behalf of the Historical Society for the District of Columbia Circuit, this has been a very valuable experience and we very much appreciate time from your busy schedule to contribute to this project.

A: Mr. Causey, you are quite welcome and I hope that I have made some contribution that will benefit the whole project.

Thank you, Judge.