

ORAL HISTORY OF THE HONORABLE WILLIAM B. BRYANT

Chapter 9

U.S. District Court Judge: 1965 – 1995

Interview Date: January 24, 1995

Bill Schultz: Judge Bryant, I want to ask you about your appointment to the U.S. District Court in 1965. What were the circumstances of your appointment? How did you hear about it? If you know, how did the appointment come about?

Judge Bryant: Well, I was in the office one evening, late afternoon, and at the time I was on the Committee of Admissions and Grievances. I think there were nine members, and I was one of those who was responsible for conducting the bar examination on contracts and commercial paper. The bar had been given, and I was busy correcting papers in the office over on F Street, when I got a telephone call late in the afternoon from a guy named Reson. I think his name was Reson, R-e-s-o-n, who was an Assistant Attorney General. I had never heard of him, I didn't know him, and he called my office and asked could I come down to the office, to his place. And I went down there, and when I went down there I had no idea what he wanted to talk to me about.

There hadn't been any discussion of federal judgeship. I hadn't discussed it with anybody, and nobody had discussed it with me. He called me down there, and talked to me, and was very blunt, and asked me about myself. He asked me what organizations I belonged to, and I thought he was talking about subversive organizations.

I said, "I don't belong to any." He said, "I'm talking about bar associations." I said, "Well, I don't belong to any." I didn't.

At that time the D.C. Bar was all white, and there was a Washington Bar Association, which was Black; there was the National Bar Association, but I am not a joiner. I had been in the U.S. Attorney's Office for about four years, and I had just not affiliated myself with any

organizations. I told him I didn't belong to anything, and Reson said, "Jesus Christ, man, join something." I remember he said that. But when Frank Reeves was alive we were in the office one day and he called me, he was very active in the early Kennedy days.

Bill Schultz: Now who was Frank Reeves?

Judge Bryant: Frank Reeves was a young lawyer, a Black guy, a capable lawyer, politically active guy, and he worked in the Kennedy administration, as one of the assistants or something on somebody's staff during the campaign. When the campaign was over he, Frank had some job in the city. I don't remember exactly what it was, but he was influential with the administration, and he was relatively close to Bobby Kennedy in the Department of Justice. Frank called me one day. We had a lot of court reorganization, when I first came to the bar the United States District Court for the District of Columbia handled everything, probate, domestic relations, you name it, the common law crimes, the federal crimes, and a separate Domestic Relations Court had been created. I guess it had been created just before Kennedy came into office. It was a relatively new court, and they were trying to staff that court. It was a three-judge court and Frank Reeves was interested in putting somebody, a Black guy, on the court.

Frank called me one day in the office and said, "I would like for you to go, we've got a spot on that court, on that Domestic Relations Court, and I would like for you to go there."

In my office I handled a few of those domestic relations matters, and I didn't like them, and I couldn't possibly get involved in them, I mean divorces and stuff like that weren't my cup of tea. I spent four or five hours talking to a woman trying to convince her she ought not file for divorce, I mean I didn't like it.

And I told Frank, "Frank I can't live with that." I said, "I'm sorry, I avoid that in the practice, that would be a death sentence for me." I said, "I will do anything in the world for you, but I couldn't go for that."

And while I was talking to him, Joe Waddy was there standing over me, and he caught the drift of the conversation, and he said, "Let me talk to him." And Joe talked to Frank, and told Frank that he would go. And he did. He went on the Domestic Relations Court of the District of Columbia. He left the office and went over there. He left Bill Gardner and me in that office.

Bill Schultz: When was that, early sixties?

Judge Bryant: Early sixties. So I didn't hear anything about any judge thing. I remember when the Juvenile Court was set up, they had three Juvenile Court judges, and Aubrey Robinson saw me in the hallway downstairs and said, "Well who is going on the Juvenile, who is going to take that spot on the Juvenile Court?" The idea was that when you set up these new courts that they would get some minority on them. And I said to Aubrey, "Well who in the hell would want it — Juvenile Court?" And he said, "I do." And it made me feel bad because I didn't want to appear to be arrogant, and he went on there, he went on that court.

Bill Schultz: He was probably glad to hear that you didn't want it.

Judge Bryant: But anyway, I didn't know anything about any judgeship. Reson called me and he said, "Now get this questionnaire back to me soon as you can." He gave me a questionnaire that long, and that wide and that thick and I'm trying to get these grades in as fast as I could, and correcting bar papers is hell. So he gave it to me like today, and I corrected these papers, and the next day I was correcting these papers and a guy called me, Reson called me at about 3 or 4 o'clock in the afternoon, and said, "I haven't got that questionnaire back yet." I said, "Well, I'll get it to you tomorrow evening." He said, "I'll be here until 8."

Bill Schultz: You knew what this was about?

Judge Bryant: Yeah, I knew what it was about because he told me. But I didn't know it was kind of cut-and-dry, you know what I mean? It didn't dawn on me that that was so. It couldn't be because nobody had talked to me. I didn't talk to anybody. I hadn't sought it. We

didn't have the mechanism for political input, so I filled out that questionnaire and thereafter I got a call one evening, "The President would like you on the boat."

I told you that story didn't I? And I went down on the boat, I guess I was being targeted, now to this day, my hand to God, I don't know who my godfather was. There was a woman named Nancy Harrison who was an heiress to the McCormick fortune who was Gil Harrison's wife who headed up the *New Republic* magazine. She lived up on Macomb Street or someplace, she had us over to dinner with some people and thereafter she invited Astaire and myself to her house two or three times. She liked us. I don't know why. She was a nice woman, kind of active politically.

And there was Charlie Horsky whom I had worked with on the Board of the Federal City College, and on several other things. We founded the ACLU unit here in the District of Columbia. I was among the first group. We met over in his office at Covington. Also he and Robb and I were on that Committee for Arrest and Investigations in the District of Columbia.

We had come to work well and know each other, and have respect for each other. Now Charlie was in the White House at one time. Charlie never said anything to me. I have always said that I want to talk to Charlie about that, because I have got an idea that he was the guy, but nobody has ever taken the credit for me being a judge. I guess I'm the only guy in the world who doesn't know how he got to be a judge.

Bill Schultz: I read somewhere that Abe Fortas said that he had something to do with it. Does that ring a bell at all?

Judge Bryant: Abe Fortas? He might have, I don't know.

Bill Schultz: Would that make sense?

Judge Bryant: Well, I didn't know Abe Fortas personally. I knew him like I know Lloyd Cutler, "How do you do?" That's all. But I didn't know him otherwise. I wasn't any friend of his. You read that somewhere?

Bill Schultz: Yeah. I did. A long time ago.

Judge Bryant: I can't say he wasn't. Maybe he was. I don't know. I always attributed it to Charlie. It could have been between him and Abe. He and Abe were close. So I just don't know.

Bill Schultz: Now you went on a boat trip with President Johnson? Tell me about that.

Judge Bryant: I'm working in the office, and the phone rings about 4 o'clock. Mr. Valenti on the phone. Now the only Valenti I know is Jack Valenti. I think somebody is pulling my leg. I picked up the phone, and he said, "Mr. Bryant, Jack Valenti. The President would like to have dinner with you tonight on the *Sequoia* and it leaves at such & such a place to dock at 6 or 7 o'clock".

So, I said, "OK." There is no warning or nothing, I think somebody is pulling my leg, but I'm not certain to the point of making fun at it, you know. It sounded kind of official like, so I go down there.

Bill Schultz: Did you go with Mrs. Bryant or by yourself?

Judge Bryant: No, just me. And I left the office and went down there. I called Astaire, and the *Sequoia* was the yacht that went up and down the Potomac River, the president had for years and years and years. And I got on that boat. Well, I found out what the occasion was. There was a meeting of some diplomats from the Caribbean, the Caribbean area, all of these guys, and there may have been some from Africa. I don't know.

Anyway they were from these third-world countries I guess. And they were his guests. And also on the boat that night was Whitney Young who was the Executive Secretary of the Urban League, who was pretty close to Johnson. I think Roy Wilkins was on that boat, the boy from the NAACP. And I was on the boat.

And that was during the last days of the Vietnam thing, and the war was just carrying Johnson right down the drain. He looked bad. But I got on the boat, and we went down the river, and just before they served the meals or afterwards, they were sitting around and I got tired and I sat down on the rail. A guy comes over to me, a white guy comes over to me. I didn't know at that time that he was Bill Moyers, and he asked me — I told you that story — “And what's your country?” I told him Alabama. He damn near fell off of the boat. He almost fell off of the boat, and we laughed, I told him, Alabama. He said, “What?” I said, “Alabama.” I said, “I have been in the District of Columbia since I was eleven months old.” I said, “I have spent the rest of my life trying to forget the first eleven months.” And he laughed and it was a joke. It was really a funny joke.

That was quite an experience. We came back and the boat docked and Johnson reached down, picked up those two little beagle hounds he had, picked them up by the ears and took them off the boat and started away from the boat, and then he turned around and said, “When you all get home at 2:30 in the morning don't tell them no goddamn lies that you have been with me.” He was a funny man. But I felt so sorry for him because that war was tearing him down.

Bill Schultz: Did you actually talk to him on that trip?

Judge Bryant: Yeah, but I was just introduced to him, and so far as he knew I was from Guatemala or something, but he and Whitney Young had animated conversation. He was sitting in a chair, in the captain's seat or something in that boat, a swivel chair, and around him was a little space and during that time I think Whitney and somebody else was with him all of that time. Sitting up there in that little space. That was the only time that I was in his presence.

Bill Schultz: Now, how long after that did you hear that he wanted to nominate you?

Judge Bryant: I guess it was June. It was June or early July. And I don't remember. My memory is bad, I don't remember going to the Senate. I don't remember going to the committee hearings, but I know I did.

Bill Schultz: So it was June when you heard, and when was the boat trip?

Judge Bryant: I was sworn in August, the 16th of August 1965 I was sworn in so it went through. I was named like today, and in no time I was confirmed.

Bill Schultz: When you first had the conversation, and they gave you the forms to fill out, about when was that?

Judge Bryant: Bill, I guess it was about April or May. I don't know. I figured it was about April or May because I don't remember when, we were fighting to get the bar exam results out and we try to get them out. I thought at that time we got them out twice a year. They took them twice a year, and we were trying to get them out in June, I think. I think it was May when Ernest Friesen called me down there. But, anyway, it was a quick, it was a relatively quick thing.

Bill Schultz: And you don't remember the hearing?

Judge Bryant: I don't remember the hearing, I don't even remember who the chairman of the committee was. I went down to Danny Parker's hearing here recently. He goes before a committee and the woman from California, Feinstein, was there and that's all. She was there and no other member of the committee was there, and some people came in and spoke for him, you know, like Moynihan and what not. I didn't have that because I didn't have any representative, you know, no state representative. I'm sorry, I just don't remember. That's funny, but you would think that I would have vivid recollection of who was there, and what happened, but I really don't remember.

Bill Schultz: Now you were sworn in on the same day as Judge Gasch?

Judge Bryant: Yeah.

Bill Schultz: Did you have your hearing on the same day, do you know?

Judge Bryant: I don't know. But Gasch was sworn in the morning and I was sworn in the afternoon of the same day.

Bill Schultz: Now, did you have an interest in being on the court, had that been an ambition of yours?

Judge Bryant: No, I really hadn't entertained that as an ambition. Let me put it this way, when Friesen talked to me, and he called me that second day and asked for that questionnaire, I was thoroughly thrilled by that. Now I lived in the district court, and I mean I practiced before the D.C. Circuit. And I realized that this was a serious piece of business and I was very happy about it. I had no yearning to just be a judge, because I think if I had I would have grabbed a hold of that judgeship on that Domestic Relations thing. So what I am saying is I don't think I had that yen, but when this became a possibility I was very excited about it.

Bill Schultz: What attracted you to the job?

Judge Bryant: Well, I just think that a district court judge is practicing law. I think he is practicing law. He is in the active business of dealing with the law, and case law, and I like that. I just liked it. I thought about that as something I would have some fun doing. I liked that.

Bill Schultz: You were already practicing law, so what about being a district court judge was more attractive?

Judge Bryant: Well, let me put it this way. If I had not wanted to be a judge, if I didn't like the job, I still couldn't turn it down because of the money aspect of it. I had gained some prominence, I guess, in the community, and had a reputation for being a hell of a trial lawyer. I'd been in some high-profile cases, some of them kind of spectacular. And I had been involved in the *Mallory* case, a Supreme Court case, a man was set free by virtue of the decision.

I was involved in the *Killough* case which was a very, very prominent case in here, and then I was involved in a month-long conspiracy case with eleven defendants. Everybody got convicted except my man, so you know I had a reputation.

So when the news was announced that I was nominated for the court, people said, “Can Bill Bryant afford to take that job?” Because I think the salary was thirty some thousand dollars, at that time. And I laughed, and I didn't make any bones about it. I said, “What are you talking about?” And they would say, “Can you afford to take that job?” And I would say, “I can't afford not to take it.”

Obviously I never made any money practicing law. I had a hell of a lot of fun, but I really didn't make any money practicing law. So the prominence, the independence and the money aspect of it was a godsend for me.

You know, come to think of it, maybe Dave Bazelon had something to do with it, I don't know. Maybe Dave did because he liked me as a lawyer, and I appeared before him many times. Maybe he did, because Dave was very close to — you know him and Mr. Kronheim — Dave was a political animal. And he could have been responsible for it. And he's the type of guy that never would have told me. Do you know what I mean? So I don't know, but I wish I did. I really wish I did. I wish I knew the real core of that, but I don't know.

And I haven't thought of Dave Bazelon before just now. But he might have because he loved me. He liked me very much. I appeared before him as a lawyer many times. And he liked the way I did things. So I don't know, I really don't know. I wonder, maybe Charlie knows, and I know Charlie well enough to ask him.

Bill Schultz: You will have to ask him.

Judge Bryant: I am going to ask him.

Bill Schultz: Now, what are your first memories on the court being a judge.

What were your first impressions?

Judge Bryant: Well, it was kind of hectic. When I first came on the court and for some years thereafter they didn't have the individual calendar system. You might get a civil case that had been in the hands of four or five or six other judges before it gets to you if you are going to try it. Or you might have a motion in a case that you had no previous experience in, and after you deal with the motion you are not going to have any more experience in. A kind of haphazard kind of business.

You go in a courtroom and the cases would be called, the criminal case you didn't know a damn thing about until they were unveiled in your courtroom.

You might have a motion to suppress in a case, you deal with the motion and then the case goes from you and some other judge tries it. So it used to be that a judge would hear a motion to suppress, deny the motion, and the case would go to trial before another judge. The guy got convicted and the judge who convicted him got reversed because the motion wasn't granted, that kind of thing.

It was kind of hectic. We had everything. As I said, we had probate, we had domestic relations, no we didn't have domestic relations, but we had the probate stuff in here. Domestic relations had been taken out of this court when Joe went on about two or three years before. But the common-law jurisdiction and the federal jurisdiction. We were busy and I tried cases every day. Every day from 9, 9:15 to 9:30 right straight through the day. Day after day, trying cases. You were in the courtroom all of the time, and predominately criminal stuff.

Bill Schultz: How did you like being a judge as opposed to a trial lawyer?

Judge Bryant: It wasn't too far removed. I mean I didn't have any withdrawal symptoms, so to speak. I knew how to keep my mouth shut in cases involving juries, and what not. But there's enough business transacted in the courtroom that doesn't involve a jury, which involves the lawyers to make you think you are still in the practice, so to speak. Do you know what I mean?

There's an exchange and give and take and what not and that's very interesting. Even today I like to hear motions because it's dealing with the lawyers and dealing with the legal principles. Now when the jury is in the box I keep my mouth shut, and I never had a problem with that.

But I liked it, I mean I really didn't feel like I was taken out of the practice, so to speak. You are pretty close to the practice when you are a trial judge. You are pretty close. I didn't realize how close until I really got into this job. It was kind of overwhelming. The civil stuff began to back up a little bit, and that bothered me to have that stuff hanging on my head.

Bill Schultz: What are the cases that you were involved in that stand out most in your mind?

Judge Bryant: As a judge?

Bill Schultz: Yes, as a judge.

Judge Bryant: Well, there was the Mine Worker's case, there was the *McSurely* case, *McSurely v. McClellan*, kind of fun. There was *Fitzgerald*, the whistleblower. There was *Dellums v. Powell*. You were with me then?

Bill Schultz: I was here.

Judge Bryant: You remember that?

Bill Schultz: All of those cases were active when I was here.

Judge Bryant: *Dellums v. Powell* was one. The FBI case, *Felt & Miller*, the Black bag job of the FBI, *U.S. v. Felt & Miller*, was interesting. That's the one where Nixon testified. The jail case, *Campbell v. McGruder*, is interesting, although the interest has worn thin now. I've had it since 1971, one aspect or another.

Bill Schultz: That's a pretty good list.

Judge Bryant: And also one case you know. These various memorandum opinions you write. I don't send my stuff to West unless it's something I think is kind of unique

or hasn't been combed out, because usually when a guy gets an opinion that he sends to West Publishing Co., it's on a matter that has been thoroughly resolved at the appellate level so I don't think it is making any contribution. Occasionally that's not so.

The Indian case, *Harjo*, I think is an example. I liked that case. And that was a kind of unique case, and I was flying blind, so to speak, in there, operating on very little precedent, and hammered out an opinion that was affirmed and to this day they cite it in various circuit cases. They cite that *Harjo* case. I know that was kind of unique.

Bill Schultz: But you also had the 18-year-old vote case?

Judge Bryant: What?

Bill Schultz: Didn't you have a three-judge court case involving the voting age?

Judge Bryant: Eighteen what?

Bill Schultz: Eighteen-year-old vote. Whether the voting age could legally be over 18, no?

Judge Bryant: I don't remember it. I don't remember that.

Bill Schultz: Which was the hardest case, the most difficult?

Judge Bryant: I guess the most worrisome case, it wasn't so difficult, but it went up and down the line a lot of times, was *Dellums v. Powell*. I guess because Nixon was fighting the tapes.

Bill Schultz: What was that case about?

Judge Bryant: It was an anti-war demonstration led by some activists who gathered here at the foot of the Capitol, and Ron Dellums, who is still in the Congress from California, was with them and he was sort of leading them. He was one of the prominent people. So they were arrested at the foot of the Capitol, hundreds of them were herded together and locked up for violating some sort of law, so they say, and they filed suit. After the criminal aspect was over they filed suit against Powell, who was a former policeman over here in the

Metropolitan Police Department, who had retired and gone to the Capitol. He was the chief of the Capitol Police, and a more decent human being never existed. He was a hell of a nice guy, a decent person. But the case took on the name of *Dellums, et al. v. Powell, et al.* And Powell really wasn't the authoritative figure there because Nixon had worked around Powell through Wilson, who was the Chief of Police of the Metropolitan Police Department. So they relegated Powell to a fifth-wheel job that Powell was held responsible because it was on his grounds that these people were corralled. So they sued alleging violations of certain civil rights, and they prevailed.

Bill Schultz: Was it a jury trial?

Judge Bryant: Yeah, yeah.

Bill Schultz: And do you remember the outcome?

Judge Bryant: They were awarded certain damages and for a long time thereafter I had a problem with allocating various amounts of money, that aspect of it. The sweep-up aspect of it, was kind of tedious. That's no fun when you try a case, the housekeeping aspect of it. The ACLU, that was one of the feathers in their cap. I think it was a good case for them.

Bill Schultz: But for a judge, what were the challenging aspects of the case?

Judge Bryant: Well, Nixon raised some questions. Particularly about the tapes. He raised all sorts of defenses, you name it, and he had it. We went through all of them, and I wasn't sympathetic to him, and it would go to the Court of Appeals, and the Court of Appeals at that time would back me out, and it would go back and go back again.

Bill Schultz: These were questions about whether the plaintiffs would get discovery of the tapes in order to establish responsibility?

Judge Bryant: Yeah, responsibility. Mitchell and Wilson and Powell, and what orders came out. It was kind of tedious and I just didn't see any real reason why this shouldn't happen. Now that was a tedious case because they set up various procedures to sanitize these

tapes, and we would go through the *Vaughn* index, you know, you would examine each one of them in camera, you would go in the courtroom all day and come back here and sit up half of the night, but it was kind of fun.

Bill Schultz: Which do you think was the most important case?

Judge Bryant: That's hard, I don't know. I had various cases involving the White House sidewalk and the Lafayette Park and I can't name them now, but I had two or three of them involving that. For the most part I have come down on the right side, but sometimes the orders have been modified because I always kind of likened Lafayette Square to Hyde Park, so to speak.

You know you go over to Britain any time of the day or night and some guy is on a soapbox talking, you know over in Hyde Park? I thought that the sidewalk in front of the White House was purposely made as wide as it was not so much for tourists as for other people. I mean, I think these people can come there and display their signs and what not and it ought to be. That's my theory about it. These questions about displaying a sign that is larger than the regulations called for and all of that sort of business I thought was nitpicking, and sometimes I would rule against them. And then they would say, "Well it's reasonable to cut down the size of it. But a sign 12 feet long?" I would say, "That's not too big." They would say, "No, it can't be over 10 feet." And, of course, these people who made the signs wanted to know what the regulations were so that could exceed it and come to court and get the victory. Those are fun things, I guess.

Bill Schultz: Probably your longest-running case is *Campbell*. What was at stake there?

Judge Bryant: Well, it is still running. I've got an order to sign right now. *Campbell* arose out of conditions at the old jail. Even before, you know that's very interesting, even before the so-called war on drugs and the crime situation as it is now, in 1972 when

Campbell arose we didn't have anything like we have now in terms of crime in the streets. But we had an old, antiquated jail, and it was overcrowded. Some people were serving time for misdemeanor offenses that were committed, and it was a holding place for people awaiting trial in felony cases. I think it was built for maybe seven or eight hundred and they had 1600 people in it.

Conditions became very intolerable, and one night they had a riot over there. They took the superintendent of the Department of Corrections, a boy named Kenneth Hardy, there as hostage. I got involved in the case on account of emergency basis. One evening I was getting ready to go home, and somebody came over here with some papers, emergency papers seeking some relief over at the jail. I don't know exactly how I got into it, but whatever the paper was, it came to me and I had a hearing. I remember it was way into the night and that was when I was married to the *Campbell* case.

I diffused that situation some sort of way and set it up so that I would have an early hearing on a lot of things and we did. And I found that there was a direct correlation between the things these people were complaining about and the population. They entered into a consent order and put a cap on the jail. I couldn't impose that cap right now but they entered into a consent order that is still intact, where they can't house over a certain number of people in the jail.

Then the other things came about involving the Corrections Department and the jail, and every time they hit the courthouse, boom Bryant, related case, boom Bryant, related case. So now I am currently signing an order regarding the delivery of health services to the jail as a result of that 1971 case. And I have been at it since that time, and I think Pat Hickey, who was with the Public Defender Service at that time, he is now with Patton, Boggs & Blow, and he is still with it, so that's the longest-running case in the courthouse. The oldest case in the

courthouse, so far as I know. And it's still live, it still has live issues in it, and very difficult sometimes.

Bill Schultz: You have visited the jail as part of the case?

Judge Bryant: Yeah.

Bill Schultz: That's an unusual thing for a judge to do, to actually go visit a jail, I think.

Judge Bryant: I don't know if it was unusual. I don't know whether it was or not, but I just went over there unannounced.

Bill Schultz: What was your recollection of that?

Judge Bryant: My recollection was that it was crowded, and hot, the conditions were not as bad as they have depicted to me now, you know about some of the incidents coming through here now. It wasn't a filthy and terribly dirty and repulsive place. It wasn't that way. It was crowded as hell, but I didn't get the feeling that I get now, and I haven't been there. But from the reports that I get it's a rat-infested, roach-infested, terrible place, in disrepair, and people are committing suicide, and people are over there suffering from various physical disorders and mental disorders and getting low-grade or no-grade attention. It's not a good place, not a good place.

Bill Schultz: Did you have any apprehension about going into the jail?

Judge Bryant: No, I really didn't. Maybe I should have.

Bill Schultz: Did the inmates recognize you?

Judge Bryant: I'm certain some of them did, but I don't remember anybody yelling at me. I don't remember anybody recognizing me, or indicating they recognized me. I don't remember, they might have. But I didn't feel any real apprehension. Because when I went in there things were under control completely.

Bill Schultz: I will just say I remember, because I went with you.

Judge Bryant: Were you with me at that time?

Bill Schultz: I was with you.

Judge Bryant: We went over there unannounced, didn't we?

Bill Schultz: Yes.

Judge Bryant: Did you feel any apprehension?

Bill Schultz: No. No, but I remember some of them did recognize you.

Judge Bryant: Is that right?

Bill Schultz: Yeah, it was sort of a sense of respect. But you are right, there was no jeering or anything.

Judge Bryant: But am I right when I say that it was crowded, but it wasn't terribly filthy?

Bill Schultz: Yes, I don't remember it being terribly filthy.

Judge Bryant: That's right. It was a strange thing. That's why when I have been holding hearings about the current conditions at the jail, rats, rodents and food on the floor and dirty, the walls in disrepair, and what not, and I got to thinking about it and I asked, "Who is the superintendent?" In fact, Mr. Hickey said, it is Mr. So & So, who he was, and he felt pretty highly of him, and thought he was a decent guy.

So I said, "I wonder what in the hell he does?" I said, "Could somebody get ahold of him?" They said, "Yeah."

So they got ahold of him on the phone and I said, "Come over here right away." I knew it was a mean thing to do, but I asked him to come over here right away. He came over here from the jail right straight to the courthouse. I'm in the middle of a hearing, you know with the Corporation Counsel, and what not, left-jabbing and trying to defend craziness.

From what these people told me, I felt some of their gripes had nothing to do with personnel, the shortage of personnel or anything like that. Some of their gripes had to do with

just plain supervision, you know. So the guy came over, a nice looking guy. He came in the courtroom and looked all strange, and I said, "Are you Mr. Stewart? Come on up here." I said, "I want to ask you some questions. Swear him in."

He got on the witness stand, and I said, "I understand you are superintendent over at that jail." He said, "Yeah."

I said, "How long have you been over there?" He told me how long he had been over there.

I said, "Well things are not working out too well over there are they?" He said, "I think they are improving."

I said, "Let me ask you something. What's your typical day?" And I asked him to tell me how his typical day ran. And when he got through telling me what his typical day was I asked him, I said, "Do you ever just walk out of the office and just walk around the jail?" I said, "It's not the biggest place in the world." I said, "You could make a tour of the jail in at least a couple of hours, couldn't you, just tour the jail physically?" He said, "Yeah."

I said, "Do you ever do that?" Both of his eyes went behind his nose he said, "Oh yeah". And I said, "How often?" Now the reason I asked him that question was I had been to the jail before, I was at the jail to interview Mallory. You know there was a time you had to go to the jail to interview these prisoners, and I had been to the jail when the jail was run by a guy named Peake, Col. Peake they called him. The whole force was organized on a military basis. The superintendent was a colonel, and then the deputy superintendent was a major, you know military ranking, and Peake, I remember I found out that every day Peake inspected the jail.

Bill Schultz: Is that right?

Judge Bryant: Every single day Peake started his day evidently

Bill Schultz: Like a doctor on rounds.

Judge Bryant: Yeah. Peake wasn't a paper shuffler. You know evidently he wasn't academically inclined, and maybe he didn't have to make the reports and what not. So that every day he took an inspection tour of the jail. And you could damn near eat off of the floor in the jail in the old days, in the late forties and the early fifties. And that's why I asked this guy, "What's your typical day?" And when he got through telling me I said, "Gee he doesn't inspect the jail." And of course maybe Peake had more authority than they do now. There was a time when people said either you do this or ... if I come in tomorrow and I find these conditions you can go. We can't do that with these people now. I'm sorry you can't sometimes.

Bill Schultz: Now the *Mine Workers* case is probably the longest-running case, not the longest-running but the longest trial?

Judge Bryant: It was probably the longest civil case, I think. Maybe so, I had a long criminal case involving seven or eight people in a drug conspiracy, it was a long case. So far as I am concerned several weeks is a long case.

Bill Schultz: What was the *Mine Workers* case about?

Judge Bryant: The Mine Workers had been dominated or headed up by a boy named Tony Boyle; he was the president of the Mine Workers Union, and he and his cohorts, I guess you might say, had run the union for a long time and apparently they exploited it very well. And they got some opposition to the stewardship of the union, and this fellow Yablonski, who is up in Pennsylvania, offered them opposition. I think at the union election or prior to the election during the campaign, sometime during the strike. Yablonski, his wife and I think his daughter, I think there were three of them in the family, were killed in their home up in Pennsylvania during the night. They attributed their murders to some people in this Mine Workers; strike, and I guess the Mafia to some extent. So the Department of Justice came in, I guess it was the solicitor of the Department of Labor, and filed this action to unseat that union. And that's when Joe Rauh sought to intervene and I wouldn't let him intervene and it went to the

Court of Appeals. The Court of Appeals s affirmed, and they shouldn't have, and it went to the Supreme Court, which reversed all of us and let him come in as intervenor.

Bill Schultz: Who was he representing?

Judge Bryant: He represented Chip Yablonski.

Bill Schultz: And he was the son of ...

Judge Bryant: Chip Yablonski was the son of the guy who was killed. And Chip Yablonski was active in the union, too.

Bill Schultz: Was that the only time you got reversed by the Supreme Court?

Judge Bryant: I think so. I really don't know, but I think so. So Joe really tried the case, and it revealed all sorts of shenanigans and forbidden practices, and these people had virtually no defense.

Bill Schultz: Who represented the Mine Workers? Was it somebody from Williams & Connolly, is that right?

Judge Bryant: Somebody from Williams & Connolly and somebody, oh the name is on the tip of my tongue I was talking about it the other day. It was a boy named ... Bill, I just can't think of it. But anyway, I hate to think about it because it was a bench trial and I was relatively young, and just going in court all day long, from 9 to 5, 9 to 6 was all right with me. We got involved in the case, and there came a time when the defendants sort of dragged their feet a little bit, and I wanted to try the case, and it shaped up so that we could try it.

So something was supposed to happen on a Monday, and the defendants asked for a continuance, and I said no, and it was a question of discovery and they wanted to depose a witness. And I said well you can depose him on a weekend, and they went up there and deposed him on a weekend, or tried to, and on Monday morning when we came back, the guy dropped dead. The guy died over the weekend, he had a heart attack and died.

And I felt like a damn fool, and in all probability the same thing could have happened to him, but I felt that I had driven the case too hard. You know it made me feel so bad. That's one of the few times in my life I just didn't think much of myself. Because I'm sitting up there on the bench, and I am trying this case. I am trying it, and I am close on it, I've read my stuff, and I was prepared. I knew what the law was, and I was pouring in the evidence. But to show you how much I was involved in the case, the case ended on, let's say a Thursday or Friday, and I came in here off of the bench and I started writing my own findings right then and there. And there was a judicial conference down in Williamsburg and I didn't go, because I didn't want to interrupt that. The case had just been tried, I had just come off the bench, and I was ready to write, and I did. I filed those findings within a week after, before a week was out after that trial. It was hot, fresh in my mind.

Bill Schultz: What about Joe Rauh. What are your recollections of him?

Judge Bryant: Joe was extraordinary. In that case, he knew more about that case than the Department of Labor knew. He knew more about that case than any defense lawyer knew. He just knew the case backwards and forwards, and I never saw him refer to a piece of paper in the course of that trial. He examined witnesses, and cross-examined witnesses and I never saw Joe look at a piece of paper. It was just oozing out of him. He had such an extraordinary sense of the relevant, I mean he wasted no time. Joe was a hell of a lawyer. I had heard about him, I had never seen him work before, but as a trial lawyer, I haven't seen any better. He tried that case, he took over that case, he tried it.

Bill Schultz: And what was the outcome?

Judge Bryant: I divested them of their power. I don't remember precisely what happened, had a neighbor who went in the hospital during the Christmas holidays and I went down to the house to carry them a little present, we exchange gifts on Christmas day, and his wife said he was in the hospital with pneumonia, but he wanted me to have this. And she had a

little clipping out of the *New York Times* for Christmas, and in that edition there was a guy named Usery who was assigned to mediate the baseball strike and he was formerly with the Department of Labor, and apparently somebody had written a piece in the editorial part of the *Times* extolling the virtue and the skills of this guy Usery as a negotiator. He had been mentioned in that article as having been instrumental in settling and handling the election and what not of the United Mine Workers after the Boyle people were thrown out. Chip Yablonski had written a letter to the *Times*, and they had published it on Christmas day where he took issue with it, and said, he was a good negotiator, and a fine guy, but he didn't deserve any credit for what they told him about the Mine Workers. He said the Labor Department was dragging their feet with the Mine Workers and the man who straightened the Mine Workers out was Judge Bryant. And I had forgotten all about it. But I set the terms of the election, the process and so forth and so on, and supervised, and it worked out okay.

Bill Schultz: There was a new election and Boyle got thrown out?

Judge Bryant: Yeah, yeah, yeah. And I had forgotten about that but Yablonski said that I was the one who whipped that one into shape, and I was, because the Department of Labor bothered me. I don't know whether they got irritated because Joe Rauh was allowed to intervene, and took over the lead role and conduct of the case, or what it was, but they didn't. I didn't like their level of diligence.

Bill Schultz: Was your decision appealed?

Judge Bryant: I don't think it was appealed. It may have been, but I don't think it was appealed.

Bill Schultz: Now what about *McSurely v. McClellan*?

Judge Bryant: Oh my God. That involved some workers down near ... McClellan was from Kentucky wasn't he? Senator McClellan.

Bill Schultz: Yeah, I think so.

Judge Bryant: And he was a prominent senator. He had been there a long time. He had a lot of power, and it was during almost the McCarthy-like days everybody who protested against the status quo was a Communist. And the McSurelys were some of these do-gooders, trouble makers. I don't remember the details, but somebody, I have forgotten the guy who wrote for McClellan's committee, McClellan's agents ransacked these people's house and searched through it, and took some property and some letters and some photographs and what not. I am not certain if there wasn't a letter addressed to this girl from Drew Pearson or somebody. I think it was.

Anyway, these people sued, and they sued the committee, the committee investigator, and McClellan and a whole lot of other people. And I let them stay in the hopper. I wouldn't cut anybody loose, but it went to the Court of Appeals and the senator was cut loose on account of some immunity or something of the sort. I thought he should have been, but I thought there might have been some theory to keep him in there, so I just kept him in there and let the Court of Appeals cut him out. But ultimately they prevailed to an extent that they were victorious.

Bill Schultz: This was the case in which I think the D.C. Circuit split evenly and the Supreme Court split evenly?

Judge Bryant: The Supreme Court did what?

Bill Schultz: I may be wrong, but I think both the D.C. Circuit and the Supreme Court affirmed.

Judge Bryant: I don't remember. But it kind of had some close immunity questions. It had some close questions, but I always figured in situations such as that if it is real close and I am not certain and I know they are going on appeal, I'm not throwing anybody out of court. I don't think that that's my function. If it's real close and I am kind of doubtful, let three guys and a whole lot of law clerks get involved in it and look at it.

Oh I'll tell you the case I enjoyed. I had the case of Yazoo Smith, the football case, he is a boy who played for the Redskins, I believe. He filed a lawsuit. It was antitrust, a question of whether or not the football league was subject to antitrust laws. Now was that a first-time starter. I was in the land of the blind then, I thought I was king. And I ruled against the league.

Bill Schultz: In favor of

Judge Bryant: In favor of Smith and I indicated that I thought that the antitrust provision applied to them and that was a groundbreaker so to speak. The case went to the Court of Appeals. Two judges I remember on the panel, Wilkey and MacKinnon, and the other one I don't remember. But Wilkey wrote the opinion, affirming me and at one point not on the grounds that I had chosen but on some other ground that I had not had the advantage of. In other words, some case law that had developed. I hadn't had the advantage of Wilkey who was very complimentary to me in the damn case. As a matter of fact, it was one of the few opinions where my name was mentioned two or three times.

But that was an interesting case. You know, that's new ground, so I'm out there, just like the Indian case, there's new ground.

Bill Schultz: Well, what about the Indian case, *Harjo*, what was that about?

Judge Bryant: Oh that was about the authority of the Indians, and I am not too clear about this, but about the authority of the Indians to govern themselves on their reservation and the authority of the chief or something of the sort and I wrote that opinion, when this boy Todd Joseph clerked. We wrote that opinion primarily out of a couple of treatises on Indian life, and the history of Indians. Some woman had written a very concise history on the relationship between the Indian tribe and the federal government. We wrote it from scratch. Somebody dissented in that, I think. I don't remember.

Bill Schultz: What about Fitzgerald?

Judge Bryant: Fitzgerald was employed by the Defense Department and he was a whistleblower. And I think after he blew the whistle on some of these activities, that were in the procurement they took old Fitzgerald out from where he was and gave him a closet to sit in, or something of the sort, a virtual cell. I don't remember all of the aspects of it. I ruled in his favor, and that stood up. Bill, I really don't, I have had so many cases, but I am right about that, he was a whistleblower.

Bill Schultz: Yes, he was being retaliated against because he went and testified before Congress about Defense Department excess.

Judge Bryant: Yeah, and they gave him hell. And I went right straight to his relief. They went to the Court of Appeals too. But he was a litigator, he had several cases from time to time. I think that he had dealings with me, and he won, and it got good to him. I think he had four or five cases.

Bill Schultz: Now what about the *Felt* and *Miller* case?

Judge Bryant: The underground, you know, Abbie Hoffman and Kathy Boudin and that crowd. Who was the girl who was pardoned or something not too long ago?

Bill Schultz: Oh, it wasn't Kathy Boudin, but somebody else who was involved in that same bombing.

Judge Bryant: But she was charged with the Black Panthers in some kind of killing or something. Anyway, they gave Mr. Hoover and his gendarme a fit. They went underground, and they couldn't catch them. And they were trying to. They were on the most-wanted list, and they were trying to find them. And they resorted to every conceivable way of trying to get a line on them.

So what they did in the cases of their homes and their parents' homes, and what not, was that the FBI conducted so-called Black-bag jobs, and I had never heard of a Black-bag job. But a Black-bag job is where somebody can come in your house and search it from stem to stern,

photograph anything they want in the house, leave the house, you go in it and you never know that anybody's been in the house. I mean, it is undisturbed, everything is where it was, so you don't have any idea that anybody has burglarized your house. No authority, no warrant, no nothing.

And they did that, and it came to light. I don't know how it came to light to tell you the truth, so many details I don't know, but they did that.

Bill Schultz: Was this without a warrant?

Judge Bryant: Of course, no warrant. And they did that, and the Department of Justice indicted Felt and Miller, who were the number two and three men in the FBI. And there was a lot of testimony about how they ran and what happened. The guy who represented one of them died the other day, Brian Gettings. He was a former U.S. Attorney over in the Eastern District, and he died within the last month. There were two highs in that case. A lot of people testified, very prominent people. Nixon testified for the defendants, and Nixon testified to the effect that if something is illegal, and the president says you can do it, you should do it. That took out the illegality.

Bill Schultz: This is after he was president that he testified?

Judge Bryant: Yeah. He testified, and I almost had to clap my hand over my mouth, but anyway he testified in that case. I am looking right straight ahead at the sign above the door, and then Ramsey Clark testified. Ramsey was being cross-examined by Gettings. Gettings was on that whiskey at the time. Ramsey is on the witness stand, the jury is over here, and Gettings is cross-examining him.

At one time Gettings didn't have any meaningful questions to ask him, and Ramsey was testifying straightforwardly. Gettings said, "Don't look at me, what are you looking at me for, why don't you look at the jury when you testify?" And without any break in cadence or anything else, Ramsey said, "Well, that's just a bad habit that I have of looking people in the eye when I

talk to them.” I remember that like it happened this morning. I remember that, and I remember Nixon testifying that that takes the illegality out.

Bill Schultz: I guess that's the last time Gettings used that one.

Judge Bryant: I hope so. But Ramsey got him, and the jury came back and found them guilty. I charged one of them \$10,000, and charged the other one \$7,500. The lead man \$10,000, it wasn't a bad penalty at all. I didn't impose any jail time, I wanted to do that really, but I thought the convictions in that case were important. I think that was the first official act Mr. Reagan performed after he took the oath of office.

Bill Schultz: Pardoning these people?

Judge Bryant: He pardoned both of them, no kidding. And I think that record was clean. I get a case like that, I kind of shepherd it pretty well, I don't want any air to hit it. I don't want anything to happen to it, so they had a fair trial.

Bill Schultz: They had no appeal?

Judge Bryant: They didn't have any basis for any appeal, really. I don't think there was any error. I gave them everything they wanted, everything they asked for I gave them. Damn near every request they made, I gave it to them. I may be exaggerating, but I mean I leaned over backwards to accommodate them, so when they went to the Court of Appeals they had damn little. The case that killed them, the old man, the father of one of the girls, I believe, I am not certain, but I believe old Leonard Boudin testified in that case. I believe he did. You know he is a legend. I think he did, but I am not certain.

But I know the father of one of those people who was victimized came in there and testified about this house, and so forth and so on. Now he wasn't a complainant, he wasn't an instigator of this case, but he testified, and he was such a straightforward, fine old man. When he got up off the witness stand, I said, “Thank you very much, you are excused.” He got up off the witness stand and started out of the courtroom, and halfway to the door, turned and said to the

defendants, "All you had to do is ask, I would have let you in." Spontaneously that old man said that, and he would have. He was the kind of guy, the kind of American, he said all he had to do was ask me. That was the most dramatic, you know, every now and then you have some drama in the courtroom.

Bill Schultz: Now he really shouldn't have done that though.

Judge Bryant: No, he shouldn't have done it, but it wasn't any gimmick with him.

Bill Schultz: You don't think so?

Judge Bryant: It was spontaneous with him. Nobody put him up to it. If he had known that it was an improper thing to do, I'm satisfied that he never would have done it. He was an unassuming man, a nice old man. He looked like he was in his early seventies or something.

But he said it, and there was nothing I could do then. What admonition do you give the jury? I'm looking out the window, I don't know what to say but, "Call your next witness." The best prophylactic to that situation is, "Call your next witness." There was nothing I could say. I remember that, sometimes, you got band-aids for almost anything that happens in a courtroom, but sometimes there's really nothing you can do.

Like I had a lawyer in a case where a man, a very silly case, where the government prosecuted a man for using a copy machine. And he was defended by a fool. The government had struck all of the Black people off of the jury except one person, but he did it, and I saw him do it. And the lawyer who was representing this man was crazy. When he went to the final arguments he told the jury, he said, "You saw what they did, they eliminated all of the Black people off of the jury." And I said to myself what the hell am I supposed to say, I can't tell the jury, "Pay no attention to this, don't listen to what he says."

I can't do that. I can't tell them that, so what can I say? Right away quick I realize, you know I reach in the emergency kit and I don't have anything there. Nothing I can say, I just look out the window, anything I say is going to make it worse. I can't say don't pay any attention to

him, don't listen to him, I can't do that because that's error, you have got a right to talk to them. I can't tell them don't listen to him. I can't tell them don't pay any attention to what he said, it was the most embarrassing, it's the only time I've been in the courtroom, really, when I was caught bare-handed, I knew of no remedy. But I had sense enough to know this, anything I said was wrong. Absolutely anything I could say would be wrong.

I can finesse a lot of stuff. You try a case and some lawyer will jump up and holler, "Object," and I'll say put your next question. I don't ever rule on his objection. "Put your next question."

Bill Schultz: Why don't you rule on the objection?

Judge Bryant: I don't know, I don't have a real answer for him. I know his objection ...

Bill Schultz: You sustain the objection?

Judge Bryant: Yeah, I should sustain the objection or overrule the objection, or I should strike the testimony, but I finesse it that way, "Put your next question." The record doesn't ever show that I did one thing or the other, but questions that I know really don't amount to anything, I mean the objections that I know, really when a lawyer objects to something that I know has some real importance, you kind of sense it, you know what I mean? But when this guy told the jury, you saw what they did, they eliminated all the Black people from the jury. I said, "Oh my God."