



# **BENJAMIN R. CIVILETTI, ESQUIRE**

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

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District of Columbia Circuit**

**United States Courts  
District of Columbia Circuit**



# **BENJAMIN R. CIVILETTI, ESQUIRE**

**Interviews conducted by:  
Patricia Shakow, Esquire  
August 21, September 27, October 16,  
November 13, December 13, 2001**

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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 Courts of the District of Columbia Circuit and lawyers, court staff, and others who played important roles in the history of the Circuit. The Project began in 1991. Interviews are conducted by volunteers, trained by the Society, who are members of the Bar of the District of Columbia.

Indexed transcripts of these interviews and related documents are available in the Judges' Library in the E. Barrett Prettyman United States Courthouse, 333 Constitution Avenue, N.W., Washington, D.C., the Library of Congress, and the library of the Historical Society of the District of Columbia. With the permission of the person being interviewed, oral histories are also available on the internet through the Society's web site, [www.dcchs.org](http://www.dcchs.org).

Such original audio tapes of the interviews as exist, as well as the original diskettes of the transcripts (in WordPerfect format) are in the custody of the Society.

**ORAL HISTORY OF BENJAMIN R. CIVILETTI**  
**FIRST INTERVIEW**  
**AUGUST 21, 2001**

This interview is being conducted on behalf of the Oral History Project of the District of Columbia Circuit. The interviewee is Benjamin R. Civiletti, former Attorney General of the United States, and the interviewer is Patricia Shakow. The interview took place at the Venable law firm at 1201 New York Avenue, in the District of Columbia, on Tuesday, August 21, 2001, at 10:00 a.m.

Ms. Shakow: Mr. Civiletti, let's start at the very beginning and go to your family's beginning in the United States. Can you tell me when and from where your ancestors first arrived here?

Mr. Civiletti: Yes. I can tell you approximately. My great-grandfather was named Stephano.

Ms. Shakow: His first name or his last name?

Mr. Civiletti: First name, and last name Civiletti, of course. He migrated to the United States in about 1875 or so with his wife. He was from Palermo, Sicily, and she was from Genoa.

Ms. Shakow: He was from Palermo and she was from Genoa. How did they meet? On the boat?

Mr. Civiletti: No. Apparently she was in a convent —

Ms. Shakow: As a nun or as a student?

Mr. Civiletti: As a student. And then they apparently met when she finished her schooling. They were married in Italy and came to the United States and my grandfather, Benjamin, was born in the United States. It's interesting. The family of my great-grandfather had seven brothers, and it must have been that they were on the opposite side of Garibaldi when

he united the Italian states, because two brothers came to the United States, my great-grandfather on the East Coast and his brother on the West Coast, two brothers went to Egypt, two brothers went to Great Britain, and one brother stayed in Italy. I know of the Civiletti clan that went to the West Coast, but not well, and I know of the brother who stayed in Italy because that family became museum curators. He toured the United States with an art exhibit when I was at Hopkins. And later he did a family tree, which was terrific for us. It went back to the invasion of Sicily by the Normans in about 1100-something. And one of my boys took the family tree to school for genealogy studies and that was the last I saw of it.

Ms. Shakow: Oh, how terrible.

Mr. Civiletti: (Laughter) It was the last we saw of it. So, someday I'll have to go to Italy and look up the family and reconstruct the family tree.

Ms. Shakow: You have not been to Italy, to either Genoa or Palermo?

Mr. Civiletti: Oh, I've been to Italy a lot, but I've not been either to Genoa or to Palermo.

Ms. Shakow: You should speak to Justice Scalia about the welcome he got when he went back to Sicily. He said he felt like Mussolini. He'd come out to the window and crowds of people would cheer him in the small town of Scalia.

Mr. Civiletti: I think he may feel like Mussolini more frequently than that.

Ms. Shakow: (Laughter) He said his nine children always disabuse him of any pride.

Mr. Civiletti: In any event, my great-grandfather came to New York and he had a number of different businesses. One was, naturally, fruits and vegetables. Another one was

barber shops. He was quite successful. My grandfather had one brother, Harry, who became a lawyer in New York. My grandfather became a marble mason and traveled the country when marble facades on buildings and skyscrapers were popular. He met my grandmother in Chicago. She was a Walsh, and her family had come from Valpariso, Indiana. They were farmers. My grandparents got married and moved back to the East Coast in New York in the Bronx, I think, where my father, his younger brother, older brother, and two sisters (five children) were born. My father was born in 1913.

On my maternal side, my grandfather, Julian Alexander Muller, was born to German parents in Charleston, South Carolina, in about 1885 or so. I don't know anything about those great-grandparents. My grandfather was a six-day bike racer and so he was on a racing circuit in New York. My grandmother was raised in New York. Her mother died early and she raised her brothers and sisters, about five or six of them. She was a hairdresser, and a very venturesome woman. She went to San Francisco with her companion, a girlfriend, just before the San Francisco earthquake. They went by train, the two of them, and had a great time. She related the trip to me years later. When she came back from San Francisco she met my grandfather. They married. They had two daughters, my mother, Virginia, and her sister, Louise, who is still living. My grandfather became ill and my grandparents moved to the country where she opened a beauty shop. She also owned a diner, and she had a marina business, so she was a good business woman.

Ms. Shakow: Out of necessity.

Mr. Civiletti: Yes, out of necessity. And then my grandfather recovered and was in the grocery business as a manager for A&P.

Ms. Shakow: Enterprising people. You have a wonderful, all-American mix of the immigrant groups from that period.

Mr. Civiletti: Right. Two Irish grandmothers, and one German and one Italian grandfather.

Ms. Shakow: That's wonderful. You mentioned one of your aunts who is still alive?

Mr. Civiletti: Yes. I have two aunts that are still alive. One is Louise Flood, who was my mother's older sister by about two years, and she was probably born in 1915. My mother was born in 1917. My Aunt Melissa, who is my father's younger sister, was probably born about 1918, 1920 maybe.

Ms. Shakow: Did you grow up knowing them?

Mr. Civiletti: Yes.

Ms. Shakow: And others I assume of your parents' large families.

Mr. Civiletti: Yes.

Ms. Shakow: And therefore you had a lot of first cousins that you knew, too, as a child?

Mr. Civiletti: Not so many surprisingly. I guess the depression — you know, on my mother's side of the family, there were only two children, and on my father's side there were five. But the older brother had one child, my cousin Donald. My father's older sister died, while in college, of a diabetic seizure. My younger uncle, my father's brother, did not get married until very late so there were no children for me to associate with there. And then Melissa, the younger sister, had two daughters, but they were probably eight years younger than me. So I really had

two cousins who played an important part in my early life. One, Donald, who was a resident of the Chicago area and the other, Thomas Flood, who was my Aunt Louise's son and he was an East Coast cousin in the Jefferson Valley, Shrub Oak, and Somers area of Westchester and Putnam Counties.

Ms. Shakow: Somers, New York?

Mr. Civiletti: Before the age of ten I saw my cousin Donald all the time. After the age of ten I saw Tom Flood.

Ms. Shakow: What about siblings? Do you have siblings?

Mr. Civiletti: I have one sister. Her name is Pamela and she lives in California, near Los Angeles. She is 12 ½ years younger and she is a management nurse in a hospital in Pasadena. She has two children. I have a niece, Sarah, and a nephew, Joshua. And Sarah is at WSU, Washington State University. She is a great soccer player and goal tender. Joshua is trying to do things in the movie industry.

Ms. Shakow: A lot of young people, especially Californians, get very involved in that and a lot show great success. Are you the first lawyer in your family, or are you the only lawyer?

Mr. Civiletti: Well, I'm the first lawyer in my immediate family, but Uncle Harry, my grandfather's brother, was an estates and trusts lawyer, and I would see him from time to time and he asked me how I liked law school and I told him fine. And he'd say, "Well, you are going to be an estates and trusts lawyer I hope." Every time I saw him we would go through this. And I said, "Well, Uncle Harry, I don't know, I kind of like trial law." He said, "Oh, it's a terrible business." He said, "Your time is not your own. You get beat up all the time. The judges are

arrogant and nasty to you.” He said, “In estates and trusts you are helping people. You set your own hours and it is very, very rewarding and that's the only way to practice if you want to have a life.” So I said, “Well, I'll consider it Uncle Harry. I'll think about it.”

Ms. Shakow: But you never did.

Mr. Civiletti: I never became an estates and trusts lawyer, no.

Ms. Shakow: That, of course, is what older lawyers told all women lawyers.

Mr. Civiletti: Oh, did they?

Ms. Shakow: Yes. Estates and trusts, because then you can have a family and you can get out of the office at a certain time. But none of us took that advice. It's probably just as well.

Mr. Civiletti: So Uncle Harry was a little bit of a predecessor but since then, of course, I have a son who's a lawyer. I have a daughter-in-law who's a lawyer, and I have a son-in-law who's a lawyer. So we have more lawyers than we need.

Ms. Shakow: That's like my family, too. How did you come to be born in Peekskill?

Mr. Civiletti: My mother and father were raised near Peekskill. They were raised in little towns about eight miles from Peekskill and Peekskill was where the general hospital was. My mother went to Mahopac High School. My father went to Shrub Oak, the same school that I later went to until I was about midway in my sophomore year of high school. It was interesting. It was a tiny little school and maybe ten years or so ago they had a reunion and my parents got invited to the reunion and I went to the reunion although I didn't graduate from the Shrub Oak High School. The reunion was not for one class or for two classes, but for all classes.

Ms. Shakow: Oh, my, it was a small school.

Mr. Civiletti: I think the school opened in 1930 and its first graduating class was '31 or something near to it. It was a lot of fun. Gaile and I went to it and enjoyed it very much.

Ms. Shakow: What was Peekskill like? It is a Hudson River town, isn't it?

Mr. Civiletti: Yes. It was a river town, some grain business and some mills in the vicinity, some metal working business, not very affluent — a rather poor town.

Ms. Shakow: Kind of a blue collar town?

Mr. Civiletti: Yes a blue collar town. Peekskill was between eight and ten miles away. We went there for shopping or for movies or to play sports. Later on, my mother had a dress shop and my father ran a Grand Union grocery store there.

Ms. Shakow: And for a long time, you were an only child.

Mr. Civiletti: Right.

Ms. Shakow: Are you still in touch with any of your friends from that time in your life?

Mr. Civiletti: Oh, sure.

Ms. Shakow: Who are the memories? Have most of them stayed in that area?

Mr. Civiletti: No. I have stayed in touch with two sets of friends. I went to Irving School in Tarrytown, New York, at about 14. I had gone to Shrub Oak until then. And so two of my best friends — one is from the Shrub Oak area, a doctor in Easton, Pennsylvania, named George Joseph. And the second one is a retired shopping center leasing agent named Barrie Wood, whom I met in 1951 at Irving School. So we've been friends for 50 years. And

Dr. Joseph, we've been friends since 1945, so 56 years.

Ms. Shakow: Do you remember how you spent your time as a grade school kid?

What you did after school, what games you played?

Mr. Civiletti: Basketball and baseball.

Ms. Shakow: Baseball I would expect. Basketball is a bit of a surprise.

Mr. Civiletti: Yes. I played a lot of sports, but basketball was my favorite.

Ms. Shakow: And you're talking about organized basketball, school teams and other things, as opposed to just hanging around. Or you did that too?

Mr. Civiletti: I started playing organized basketball in about the sixth grade, maybe seventh grade. My father put a hoop up in our back yard. We lived on a hill and we were not close to anything recreational. I pounded that basketball in that hoop, continuously, two hours a day, rain or shine, cold weather or not.

Ms. Shakow: Kept you out of trouble.

Mr. Civiletti: And got pretty decent at it.

Ms. Shakow: Was your mother working or was she at home most of the time when you got home from school?

Mr. Civiletti: When I was younger, between nine and twelve, she was home. And then she had my sister when I was 12, so she was home for a little while, for a couple of years then. Before that, of course, it was the war, and she worked in the munitions factories in Indiana, outside of Chicago. I was on a farm in Michigan with my grandparents and my cousin, Donald.

Ms. Shakow: That's why you spent so much time with Donald?

Mr. Civiletti: Yes. We lived there for about two and a half years, from 1942 and a half to 1945, when my father came back from the merchant marine. He and my mother moved to the East Coast and I with them. For a couple of years while we settled in she did not work. Then when I went to Irving, shortly after that, she opened this dress business getting ready to pay, I guess, for college. She did that for ten years, roughly, all the time I was in college and through law school. Then she became a private secretary to a watch company executive in Croton-on-Hudson. She did that for about five years and then she quit and she became a real estate agent and got her broker's license. So she had an interesting — like her mother, she had an interesting set of careers.

Ms. Shakow: You didn't have then anybody from outside the family who came to take care of you?

Mr. Civiletti: No. Always with my mother and grandmothers, one or the other.

Ms. Shakow: What are your memories of World War II? You and I are the same age, and I have vivid memories of what it was like.

Mr. Civiletti: I have a memory of the “Day of Infamy” speech of President Roosevelt. Everyone was in a state of shock and trauma and it was very serious, and at the same time very exciting, of course. I remembered that quite well. I remember newsreels. Going to the movies was a dime. My grandmother Civiletti loved the movies and so she and I would go to the movies with my younger uncle, my father's younger brother, and would see the newsreels of people fighting or on the beaches or troops or ships or airplanes buzzing around that looked very dangerous to me.

Ms. Shakow: You were in Michigan by then? And your father was already in the

merchant marine?

Mr. Civiletti: Well, no. In 1941 I was six, I was probably still in Indiana Harbor, where my father at the time was working at the Inland Steel Company. My grandfather and grandmother Civiletti lived with us, and my Uncle Mickey lived with us, and my Aunt Melissa lived with us, my mother and father lived there. My Uncle Steve had just gotten married, Donald's father, and so I was probably still there at the time the war began. I don't think my grandmother and grandfather had the farm yet and I probably stayed in Indiana Harbor until the house that my mother and father were building was finished. My father and my grandfather and both my uncles all worked on the house. They finally got it built and so we moved from Indiana Harbor to Hammond, Indiana, which was a more rural area. I switched schools, one of my many switches of grade schools, to a little public school named Parish Grade School and I had a wonderful teacher named Miss Jorgenson. I took a strong liking to her, and she took a liking to me, and I can remember stuttering while reading and not being able to read very well. And she worked with me and encouraged me. And by the end of the year, I could read very well. She was just terrific.

Ms. Shakow: I hope she lived to see you become Attorney General.

Mr. Civiletti: She did. And I invited her to Washington but she wasn't able to come and she wrote me a nice letter and I wrote her back. Anyway, probably about 1942, we moved to the house in Hammond but I didn't live there very long. We moved to a different house. I'm sorry. It was the Indiana Harbor house. That was a bigger, more roomy house, because we had a lot of people living in this little house that I first described. The bigger house was probably in Indiana Harbor. It was a lovely house. It had great big porches all around it,

but it caught fire a couple of times because of a defective chimney. It never burned down. We were able to put the fires out. I was in a different school there, and after that we went to Hammond, to the new house that my parents built and everybody piled in there. And after about six months there, my father went into the merchant marine. He had lost his index finger in a rail car accident in the steel mill, so he was not eligible for the armed services, but he didn't want to sit home, so he volunteered for the merchant marine in about 1943 or so, and my mother was working in the munitions factory in Kankakee. I got shipped up to — by that time, my grandparents had bought this little farm in Michigan, in Colon, Michigan, so my cousin and I got shipped up to my grandparents.

Ms. Shakow: Were your uncles in the service?

Mr. Civiletti: My Uncle Mickey was. My Uncle Steve was not, and I don't know whether it was some kind of a physical condition or his age, but he wasn't. Uncle Mickey was in for the full 4 ½ years. He was with Patton's tank group.

Ms. Shakow: Do you remember V-J Day or V-E Day?

Mr. Civiletti: I remember. Big celebrations. I think on one of those two, I think V-J Day, I was down in, as I recall, I was in Long Beach, Long Island, where my maternal grandmother and her sister had a little summer cottage. And my grandmother would take me down for two or four weeks every summer and I was there. I think it was in the summertime. And everybody had balloons and were shooting off firecrackers and it was just great fun and exciting. I was excited because I thought my father would come home, out of the service and be reunited with my mother and me. It was pretty thrilling.

Ms. Shakow: And all that happened. Your father came back.

Mr. Civiletti: And my mother quit the munitions business and we moved to the East Coast.

Ms. Shakow: What, came back to Peekskill?

Mr. Civiletti: To Jefferson Valley.

Ms. Shakow: Did your family move to Baltimore at some point, or did you know Baltimore only when you went to college at Johns Hopkins.

Mr. Civiletti: Only when I went to college.

Ms. Shakow: They stayed in Peekskill?

Mr. Civiletti: They stayed in Peekskill. I was going to go to Cornell. I had sent in my initial \$100 acceptance and I had visited Cornell the year before and liked it, but my parents liked Hopkins. We had a great family physician who had gone to Hopkins and he loved it. He had gone to both undergraduate and graduate school there, so he was always advocating Hopkins. And since I had applied to Hopkins, and I also had scholarships, but they were for athletics, and my parents were not terribly enthused about me going to Oklahoma, for example. So it came down to Cornell and Hopkins and I was favoring Cornell because I had a lovely girlfriend who was going to Syracuse. And I was going to try to play football and basketball. I had talked to the coaches there and I had a chance.

(Interruption.)

Ms. Shakow: You were discussing your choices — Johns Hopkins or Cornell.

Mr. Civiletti: Yes. After discussing it with my parents through the spring of 1953, I decided that Hopkins was the better choice for me. Then I came to Baltimore that fall. My first visit to Baltimore.

Ms. Shakow: You had never seen the campus before.

Mr. Civiletti: No. It was with some trepidation because at the time I thought that anything south of Philadelphia was troublesome. The society was biased and prejudiced and full of hypocrites who said smooth and gracious things and did and thought other things. It was with some reservations that I came. And I came, of course, from boarding school, which was a very rigid environment, to Hopkins, which was a very open environment. So I had a hard adjustment.

Ms. Shakow: Were you disabused of all your concerns about Baltimore when you got there?

Mr. Civiletti: Not entirely. Before I got there I think Hopkins, for example, was still segregated. At the undergraduate school it was. And the year after I got there a friend of mine from Peekskill, Ernie Bates, came and was admitted as a student. I'm not positive he was the first black student, but he was certainly the first black student that was at the university while I was there. And then others followed. We played W&L, Hampton Sidney and a number of others, Randolph-Macon College, a number of other schools, and had quite a time with accommodations and nastiness and all, with Ernie Bates on the football team.

Ms. Shakow: This was basketball?

Mr. Civiletti: This was football.

Ms. Shakow: One hears those stories from that era. Even Jackie Robinson went through that.

Mr. Civiletti: Oh, sure. I got to know a great many young men from Baltimore, and formed good friendships that lasted all these years, and found them to be like everybody else. You know, good ones and not so good ones.

Ms. Shakow: Johns Hopkins was an all-male school at the time?

Mr. Civiletti: Yes. That wasn't strange to me, because Irving had been all male.

Ms. Shakow: What was campus life like there?

Mr. Civiletti: It was fun.

Ms. Shakow: Was it full of politics which would have been ahead of its time I guess?

Mr. Civiletti: No. It was two or three things. It was very serious studying by 80 percent of the students, very serious laboratory work and research.

Ms. Shakow: All the premeds.

Mr. Civiletti: Among others. Then there were the athletes, some of whom were also very serious students, some weren't. Then the other part of it was the fraternity life — about 20 fraternities — and that was the social life largely on the campus.

Ms. Shakow: Did you belong to a fraternity?

Mr. Civiletti: Yes.

Ms. Shakow: And you were happy about that, you enjoyed it?

Mr. Civiletti: Yes.

Ms. Shakow: What teams were you on? Sports teams?

Mr. Civiletti: The freshman year I was on basketball and lacrosse.

Ms. Shakow: Lacrosse was a very important sport at Johns Hopkins.

Mr. Civiletti: Yes. I did fairly well having never touched a lacrosse stick before I got to Hopkins. I started on the freshman — they had a separate freshman team — and I started on that team as a defenseman. So I did those two sports the first year. The second year I did

basketball and baseball. I was a pitcher in baseball so I switched from lacrosse to baseball. And the third year I did football, basketball and baseball. I did that in my senior year, too.

Ms. Shakow: And in between you studied.

Mr. Civiletti: Right. And in between I studied and I decided in my sophomore year that I didn't want to be a doctor.

Ms. Shakow: You had started as a premed?

Mr. Civiletti: I didn't like comparative anatomy. I didn't like organic chemistry, so I switched to psychology.

Ms. Shakow: And that became your major?

Mr. Civiletti: That became my major. And as a result of switching, I had a lot of courses to pick up, so my junior and senior years I had a very heavy schedule, except maybe for the senior year, last semester. It lightened some, but it was up to — what do they call those, points or credits? I was taking 21 credits my junior year and then another 19 credits the first semester of my senior year.

Ms. Shakow: And you still managed to graduate in four years?

Mr. Civiletti: Right. And it was very healthy. Between the athletics and the scholastics, I really kept my nose out of trouble and to the grindstone my last two years.

Ms. Shakow: Did you have any favorite professors there or mentors who directed you toward law school or were just important to you?

Mr. Civiletti: There was a man named Dean Shaffer who was Dean of Students and a leading professor in the psychology department. He was also an avid athletic team supporter. So he became — he taught abnormal psychology, which was very interesting — and

so I became friendly with him and admired him and visited Sheppard Pratt on a number of occasions where we would have seminars and programs. He was a good influence at Hopkins. There was another man named William Morrell who was a great lacrosse player and he was a math teacher. He was someone I admired too.

Ms. Shakow: Was Johns Hopkins the kind of place where faculty members would invite you home to get to know their families?

Mr. Civiletti: They didn't invite me. I think in some of the smaller, liberal arts disciplines or history or political science or French, they may have done that. In the sciences, they didn't do it very much.

Ms. Shakow: And you didn't have much time for it anyway, considering all of the other things you were doing.

Mr. Civiletti: Or disposition.

Ms. Shakow: What part did the Vietnam War play at this point? I guess it was a little bit early, you were class of '58 or '57. It would have been a bit too early.

Mr. Civiletti: The Korean War, I was too young for. It finished about the time I graduated high school and was in my first year in college. And then the Vietnam War came after I was out of law school. I graduated from law school in '61, and the Vietnam War heated up later, so I was way too old.

Ms. Shakow: You had student deferments as most people did in the early part of that, and then you were married and I suppose you had children.

Mr. Civiletti: Yes. I was never in the service. I came close when I graduated from law school. I can't remember if I was solicited or I volunteered, but Gaile and I visited the

Air Force and I had an opportunity to become a first lieutenant in the Air Force and that was tempting because we didn't have much money at all, and uniforms were provided, but I pursued a clerkship instead.

Ms. Shakow: Tell me about your wife. Where did you meet?

Mr. Civiletti: I met her my junior year at Hopkins.

Ms. Shakow: Was she a student at another college nearby?

Mr. Civiletti: Yes. She was a student at Villa Julie, which at that time was a two-year comfortable little college in the Green Spring Valley of Baltimore, and now it's a bigger school, a full-time four-year college. But at that time it wasn't. And she came to a fraternity party where I didn't have a date, I was in khakis and just reading a newspaper and watching —

Ms. Shakow: To see who came in the door.

Mr. Civiletti: To see which face came in. I put the paper up and down just to check everything out. And so I saw this beautiful girl with this jobo guy, and I inquired about her and then one of my good friends was dating a woman who was a good friend of Gaile's. And so they fixed us up, and we got along fairly well.

Ms. Shakow: And that was it.

Mr. Civiletti: No. And then we had a kind of a falling out because she had been to Princeton a good bit and she was full of Princeton this and Princeton that. And when we went to Hopkins June Week, which was the end of the year for the seniors — I invited her to June Week — and we had about four dates right in a row, and by that Sunday at a Jazz Festival, I had had enough of Princeton. So I went to buy more beer for our group and came back about three hours later, much later than I had anticipated, and everybody was gone except a red-hot, stone

face, sitting on our blanket. That was the end of the relationship then. She was absolutely furious, and rightfully so. But I came back for a football game the following fall, to make a long story short, and she was there and she looked beautiful. So I went over and cut in on her date and danced with her and she said, "I can't dance with you, you are too rude." So then we started dating again and became engaged and married the next year.

Ms. Shakow: Almost everybody I know has that kind of experience, where there is a break at some point, then you realize no, you really want to go back to this.

Mr. Civiletti: Yes. That's the person.

Ms. Shakow: That's very nice. And she grew up in Baltimore?

Mr. Civiletti: She did. In West —

Ms. Shakow: And what was her name?

Mr. Civiletti: Her name was Lundgren. And she grew up, she was raised, interestingly, a little similar to me. She was raised a lot by her grandmother, her maternal grandmother. And she went to a private boarding school, too. Hannah More Academy. Her parents were divorced and her father was a builder up in Pennsylvania when I got to know her. Her mother never really worked very much, she was not well and her grandmother was a very good businesswoman and cared for Gaile and her mother.

Ms. Shakow: Did your family like your wife and did her family like you? Were there any problems? Were there any problems along those lines in the beginning?

Mr. Civiletti: There were no problems with Gaile's family. Her grandmother liked me and I liked her grandmother very much.

Ms. Shakow: And she was the one you had to deal with really.

Mr. Civiletti: Right. And then later, soon after we were married or soon before we were married I got to know her father and we get along very well, too. My father loved Gaile from the beginning. My mother was a little hesitant. She thought Gaile was a little frail. She asked me, she said, "She's not sickly, is she?" And of course Gaile is a slight person, thin by nature. But over time, they got closer and closer and by the time my parents moved to Baltimore, which was about 1976, somewhere around there — My father retired when he was 62, so 1913 — it would have been '75. Stayed a year in Jefferson Valley and then came down to Baltimore in '76. By the time she moved to Baltimore, they were pretty close.

Ms. Shakow: And of course, once children come, I think that the older generation gets very involved.

Mr. Civiletti: Oh, yes. She loved her grandchildren.

Ms. Shakow: Tell me about your wedding. What was that like?

Mr. Civiletti: It was a lot of fun. It was at the Church of the Sacred Heart in Mt. Washington, located in Baltimore, a beautiful little church. We had a very nice reception. We honeymooned in — my father was a fine singer, and so he sang at the wedding. Barrie Wood was there. Tom Flood was there. All my friends were there. Gaile's friends were there. Standard kind of wedding. A rehearsal dinner and then the reception after the wedding.

Ms. Shakow: And of course in those days no one thought you were too young to get married.

Mr. Civiletti: My mother might have thought I was a little young.

Ms. Shakow: Mothers always think their sons are too young to get married.

(Laughter)

Mr. Civiletti: I was, I guess, 22 and Gaile was 20.

Ms. Shakow: Which nowadays seems very young.

Mr. Civiletti: Like babies today, it seems. Then we didn't think anything of it.

Ms. Shakow: That's right. Everybody else was getting married, too. Why did you go to Columbia to law school? Let me go back a second. Did you graduate with honors from Johns Hopkins.?

Mr. Civiletti: No. I graduated probably in the middle of the class, maybe the upper quarter. If my entire career had been the last two years, I would have graduated with honors, but the first two years were a little rocky.

Ms. Shakow: And you had decided during your senior year to go to law school? Or before that?

Mr. Civiletti: Before that.

Ms. Shakow: And took the LSATs?

Mr. Civiletti: I did very well on the LSATs.

Ms. Shakow: Applied to many places?

Mr. Civiletti: I applied to Brooklyn Law School. I applied to Maryland. I applied to NYU and I applied to Columbia. I think four or five.

Ms. Shakow: That's a mixed bag, isn't it? I mean Brooklyn. Why did you apply to Brooklyn?

Mr. Civiletti: It was a New York school. It had a good reputation.

Ms. Shakow: You wanted to go to New York. You wanted to live in the city.

Mr. Civiletti: Right. And it had a good reputation. It was somewhat smaller and

not as selective as NYU or Columbia.

Ms. Shakow: And not as expensive I would guess.

Mr. Civiletti: Not as expensive. But Columbia was quite expensive, but I had been working summers and had good jobs and worked two jobs. I worked a construction job in the daytime, and stocking shelves in a supermarket at night. One year I had two great jobs. I was a lifeguard in the daytime and I was an usher at a drive-in movie with one of those red spears at an outdoor movie at night. So as soon as all the cars got in, I'd go into the booth and sleep unless somebody had a flat tire or busted the window out because they didn't take the speaker off.

Ms. Shakow: Well, that sounds like a better summer than stocking the shelves.

Mr. Civiletti: Right.

Ms. Shakow: Essentially those were the kind of summer jobs you had as a teenager?

Mr. Civiletti: Right.

Ms. Shakow: I never had very interesting summer jobs either. Nothing that led me to the law.

Mr. Civiletti: The construction job was interesting. I learned masonry and how to lay cement blocks and bricks and slate patios.

Ms. Shakow: Has that become a hobby of sorts?

Mr. Civiletti: I've done some of it, not an awful lot.

Ms. Shakow: It's a very good thing to know. My husband is very handy, too. It's wonderful. How did you like Columbia and living in the city?

Mr. Civiletti: I liked Columbia and I loved living in New York.

Ms. Shakow: Where did you live?

Mr. Civiletti: I lived on about 110<sup>th</sup> Street, right off Broadway on 110<sup>th</sup> Street in a fraternity house. My old fraternity had one floor for graduates.

Ms. Shakow: Isn't that wonderful. That was very nice. Who were the great professors at Columbia in those days?

Mr. Civiletti: One I enjoyed very much and then came back to know because he came into the Department of Justice when I was, I guess, Deputy Attorney General. That was Maury Rosenberg, who was the professor of civil procedure and trial practice.

Ms. Shakow: It must have been interesting having an old professor work for you.

Mr. Civiletti: It was terrific. It was great and he was great.

Ms. Shakow: Meanwhile, you are courting your wife at a distance.

Mr. Civiletti: Back and forth. She would come up and it was one of my more prolific letter-writing periods.

Ms. Shakow: I hope she saved the letters. I've just finished reading John Adams' biography and of course those letters were actually terrific. She probably has them.

Mr. Civiletti: How about Harlan's — have you read that?

Ms. Shakow: Yes. I read what was in the paper about Justice Ginsburg — such interesting people. Well, someday when someone does a more thorough biography of you, you'll have to go and find those letters.

Who were your close friends at Columbia? Do you have any that you still see?

Mr. Civiletti: No. I don't have any. At the time I had a couple of good friends in

the fraternity that were not in law school and I had a couple of acquaintances in the law school, but I have not kept in touch. A couple of them came to — about four people — came to the wedding, came down for the wedding, but I haven't kept in touch with any of them since then.

Ms. Shakow: What were your favorite subjects that first year?

Mr. Civiletti: I liked criminal law. I liked contracts. I liked trial practice. I liked evidence, although we didn't have — I think evidence was the second year. But I think we had introduction to evidence or something.

Ms. Shakow: Did you have torts?

Mr. Civiletti: We had torts. Sure. Real property. The standard five.

Ms. Shakow: Con law?

Mr. Civiletti: Not the first year. I didn't like real property really that much. I didn't mind torts. I liked criminal law.

Ms. Shakow: I liked the ones with stories. Did you have enough money, if you'll forgive my asking, to have a social life in New York, to enjoy New York? Did you go to the theater or to the opera? Even ball games?

Mr. Civiletti: No.

Ms. Shakow: You were pretty much with your nose to the grindstone.

Mr. Civiletti: Pretty much.

Ms. Shakow: Did you have a job while in law school?

Mr. Civiletti: No.

Ms. Shakow: It went very quickly then I guess, once you decided to get married and go back to Baltimore.

Mr. Civiletti: Yes, it did. We made that decision probably in the spring of 1958, made the decision in December to get married in June after the end of the school year. And then later in the spring, evaluating everything, Gaile's mother had continuing illnesses. And the tuition was — I can't remember exactly, but it was more than ten times I think, the Maryland tuition. I visited the dean of the Maryland law school and talked to him about school and about the transfer. That went very well. Gaile's grandmother was desirous to have her back. And I found to my surprise when I got there, an old friend from Hopkins who transferred from the University of Indiana to Maryland, Herb Belgrad, who is now still a close friend. We started a car pool with about three or four people and those people plus Herb plus one other man became a group of five who have celebrated New Year's Eve together for almost 40 years. All still married to the same ladies.

Ms. Shakow: That's wonderful. A triumph. That's very nice. Was the school in Baltimore City?

Mr. Civiletti: Yes.

Ms. Shakow: Is it called UMBC? That's the undergraduate.

Mr. Civiletti: No, no.

Ms. Shakow: It's the University of Maryland School of Law.

Mr. Civiletti: At the time, the University of Maryland had but two campuses, College Park, where almost all the undergraduate schools were, and some graduate schools. And then the University of Maryland graduate campus, right in Baltimore City, right on the west side of the city. The School of Pharmacy, the School of Nursing, Dental School, Medical School, School of Social Work, School of Public Health, and the Law School were all — all seven or

eight of them were in Baltimore City. Since then, that dichotomy still exists, and the hospital is there, University of Maryland Hospital, and shock trauma unit and additions to that. But the higher education system in Maryland has become just that. The units within that system are 17 or so. The University of Maryland is one. And then in order to serve the Baltimore community better for undergraduate education, UMBC was developed, which is University of Maryland, Baltimore County. And it's just outside the Beltway and it has developed into a very prosperous and fairly large school. But the system now also includes Towson University and —

Ms. Shakow: Some of the ones out on the Eastern Shore?

Mr. Civiletti: The Eastern Shore universities.

Ms. Shakow: Speaking of race, what was it like at law school? Was it fairly integrated at that time? In fact at Columbia for that matter?

Mr. Civiletti: Columbia might have had a few blacks, I do not recall. I do recall it had a few women. And at the University of Maryland, there were definitely a half a dozen black students in my class. One, Charlie Dorsey, became a friend and he became Director of the Maryland Legal Aid society for many years. There was one woman in my class at the University of Maryland. Harriet Cohen became her name, a very nice lady.

Ms. Shakow: How large was your class?

Mr. Civiletti: About 60.

**[Tape Ends]**

**ORAL HISTORY OF BENJAMIN R. CIVILETTI  
SECOND INTERVIEW  
SEPTEMBER 27, 2001**

This interview is being conducted on behalf of the Oral History Project for the District of Columbia Circuit. It is the second interview of Benjamin R. Civiletti, former Attorney General of the United States. The interviewer is Patricia Shakow. The interview took place at the Venable law firm at 1201 New York Avenue, in the District of Columbia, on Thursday, September 27, 2001, at 10:00 a.m.

Ms. Shakow: Ben, our last interview ended rather abruptly. We were at the point where you were in law school at Baltimore. We talked about your friends there, the courses you liked and didn't like. Is there anything more you'd like to say about your law school years in Baltimore before we go on to the dread bar exam and other things?

Mr. Civiletti: No.

Ms. Shakow: You took the bar in Baltimore?

Mr. Civiletti: Yes.

Ms. Shakow: Do you remember it as the worst six weeks of your life as I do?

Mr. Civiletti: No. I had taken a bar review course, one of the bar review courses, and had worked fairly diligently at passing the bar. And I didn't really have grave concerns about it.

Ms. Shakow: Good.

Mr. Civiletti: It was given in the Old War Memorial building right on the downtown square which had no air conditioning, so I remember it was hot as the dickens.

Ms. Shakow: I remember that, too. Really hot.

Mr. Civiletti: It was right across from City Hall. It was uneventful really.

Ms. Shakow: Good. You began your career clerking for Judge W. Calvin

Chestnut. How did that job opportunity come about and what was the judge like as an individual and as a jurist?

Mr. Civiletti: The dean recommended me to Judge Chestnut and I interviewed with him. At that time he was about 84 or so. He was a Republican appointee appointed to the bench, probably by Hoover. He was a tiny man who was very precise and who was known as a fair judge but one who was quite demanding regarding decorum and formal conduct in the courtroom. He was at that time having difficulty seeing and hearing, so he had his law clerk aid him with both: be in the courtroom during the course of trials and read all of the citations and references that were made in briefs and memorandums or motions in the proceedings. So, it was quite a good experience and education clerking for him, unlike being stuck in a library for some judges. By comparison, a terrific clerkship because of these infirmities of Judge Chestnut, but he was a great judge. Very bright. He had the distinction of being appointed by Chief Justice Hughes to be the trial judge in the *Manton* prosecution when Second Circuit Judge Manton was accused of having been corrupted in a case and was convicted, and Judge Chestnut tried that case in New York. And he said it was a terrible experience because it was a criminal trial of a judge, but also because when he was in the robing chamber and went on the bench, he had left his gold watch in the robing chamber and when he came off the bench it was gone. (Laughter) So he was not very fond of New York.

Ms. Shakow: At least our old image of New York. How old was he when he took on that challenge? Was he in his eighties?

Mr. Civiletti: No. I think Manton was prosecuted — I want to say the '40s — so he may have been maybe sixties, something like that.

Ms. Shakow: Vigorous like us, right?

Mr. Civiletti: Right.

Ms. Shakow: Was he an easy person to get along with? Did you know his family? Did you have that kind of personal relationship?

Mr. Civiletti: No. No, I did not know his family well. I knew them roughly. He had two daughters. He had a son-in-law who also became a judge, and was on the Court of Appeals of Maryland, the high court of Maryland, Wilson K. Barnes, who had been a pretty good trial lawyer. And I knew him. And the judge lived in Roland Park. In fact, later on I bought a home that was about a block away from where he had lived on the corner. But he was a very private man and rather — I won't say cold, but cool.

Ms. Shakow: Were you the only clerk, or were there two of you practicing?

Mr. Civiletti: No. I was the only clerk, but there was a second person who was the crier who would call the court to order — “Oyez, oyez, oyez, all people having business before — ”

Ms. Shakow: Like the marshal, but not someone who could help him in the legal aspects.

Mr. Civiletti: Well, he did though. That person did help a bit.

Ms. Shakow: I assume he was a senior judge by the age of eighty-seven, and elected to keep working.

Mr. Civiletti: I think he was, but his choice of senior status came quite late, because I don't think at that time they had the rule that they now have that it's 70. And so I think he took senior status either the year before I was there or the year I was there, because a new

judge was sworn in, whose name was Edward S. Northrop, who later became Chief Judge, and I'll never forget it, because I was in the courtroom when he was sworn in. And his introducer at the very end said after he had given this long recitation of State Senator Northrop's qualifications, said, "And so I present to Your Honors the Honorable Edward S. Nervous." (Laughter) It was one of the great slips.

Ms. Shakow: A family story of ours when we were told not to comment on the size of the person's nose who was coming to dinner and of course, someone said, "Mr. Nose, it's nice to see you." With children it is to be expected. (Laughter) It must have been very difficult for a man with those infirmities to run a trial. One thing to be an appellate judge, but I should think it would have been very hard.

Mr. Civiletti: Well he took mainly jury cases in which he didn't have to make many decisions nor the ultimate decision. He only had to make decisions on evidence and he was very well schooled in evidence and he only had to make decisions on motions for directed verdict, etc.

Ms. Shakow: But he could hear well enough to hear the witnesses, for instance?

Mr. Civiletti: Mostly.

Ms. Shakow: Well, at least the jury was listening.

Mr. Civiletti: That's right. The jury was there. And it was not an accident that he had mostly jury cases.

Ms. Shakow: Do you remember any particular cases from that period that were interesting or important to you personally?

Mr. Civiletti: No. I remember cases and incidents that happened that I was able

to use later on in talks or whatever, that were hilarious.

Ms. Shakow: Tell us about some of those.

Mr. Civiletti: This is '61, '62. There were a lot of revenue cases where Maryland and the Eastern Shore of Maryland and southern Maryland, Anne Arundel County were hot beds for making illegal whiskey — moonshine — and so without fail the revenue officer would testify that he was able to follow and stop the car because it was weighted down and it was obvious from where it was traveling and the route the person had taken that he had probable cause to believe that they was carrying illegal moonshine. So, that was a familiar pattern of testimony. The ATF — Alcohol, Tobacco and Firearms — agents and then on this one occasion the agent was on the stand and he said, “Yes, and I was following this vehicle on the Ritchie Road to Annapolis which was heavily loaded.” And the judge said, “Wait a minute. Wait a minute. What were you doing on the Dixie Road to Dallas?” (Laughter)

Ms. Shakow: You see? I asked about his hearing.

Mr. Civiletti: (Laughter) And then on another occasion he had a case in which there was a French witness, Mr. Beauchamp. And so he got on the stand and the clerk said, “Would you please state your name?” And the man said, “My name is Monsieur Beauchamp.” Well the judge leaned forward and he said, “Could you spell that please?” And so the man said, “B-e-a-u-c-h-a-m-p.” The judge said, “That's right.” We had motions day on Fridays, so he'd come on the bench and there would be 20 or 30 lawyers in the courtroom for all kinds of arraignments and motions in criminal and civil cases. So, there was this one criminal defense lawyer. I think his name was Kaplan. He smoked cigars, and so he had a cigar in the courtroom and the bailiff came in and was about to call the court in, so he put the cigar on the clerk's desk

front. And so the judge came in on the bench and he sat down and he said, “Who's cigar is that?” — I don't know whether he could see it; or been able to smell it — and he said, “Who's cigar is that?” And so Mr. Kaplan said, “It must be yours, Your Honor, you saw it first.”

(Laughter)

Ms. Shakow: I can tell people had as much fun with him as anyone. (Laughter)

Mr. Civiletti: That's right.

Ms. Shakow: Well, we all remember those wonderful stories when we were young and in a courtroom filled with the kind of people we hadn't seen before. I think that was certainly true of me. What was the most important thing you learned during your clerkship?

Mr. Civiletti: Advocacy, I think. The difference between good advocacy, style, the variety of ways to convince, dealing with witnesses effectively.

Ms. Shakow: Did it give you confidence that you could do this as well or perhaps better than most of the people doing it at the time?

Mr. Civiletti: Well I thought so at the time. (Laughter) I thought so at the time. Until I had to do it myself, then it wasn't as easy as I thought it was.

Ms. Shakow: I remember my first visit to the Supreme Court when I was in law school thinking to myself, now I'm fairly confident I can do this because there was some really terrible advocates there.

Were you politically active during that period at all? Kennedy, of course, had just been elected. Were you affected by his election?

Mr. Civiletti: I was a Kennedy supporter in a modest way. I was a supporter, an advocate, and might have gone to some political rallies for President Kennedy. I had met Joe

Tydings, who was the campaign manager in two or three states for Kennedy. But having come from New York, I was not a born and bred Marylander and had no political connections in Maryland.

Ms. Shakow: I led into that in order to ask you how you came to move to the U.S. Attorney's Office. When you completed your clerkship — always that it is a very difficult job to get. I know federal clerks have a leg up on other people.

Mr. Civiletti: I was very fortunate in that at that time; unlike today, you did not have to have two or three years of practice experience, or more, before getting considered for the U.S. Attorney's Office. I applied to the City Solicitor's Office, the State's Attorney's Office, and the U.S. Attorney's Office and I got offers from all three.

Ms. Shakow: You never thought of private practice at that point in your life?

Mr. Civiletti: No. Because I wanted to be a trial lawyer and I thought that the best and fastest way to get into court most often was in a public trial office. And I was fortunate in that the office for Maryland was expanding and it got two more vacancies in addition to its complement of eight, it went to ten.

Ms. Shakow: Attorneys?

Mr. Civiletti: Yes. Assistants. Ten assistants. And so there was a spot and I was recommended by the Chief Judge and by Judge Chestnut. And I had an acquaintance who was in the office too. And the various Assistant U.S. Attorneys had seen and talked to me so they knew me. I was not a stranger. And so I was fortunate to get the offer.

Ms. Shakow: So it wasn't Joe Tydings who had anything to do with your getting the offer?

Mr. Civiletti: Well, he's the one who selected, I guess, the nominee, but he didn't know me from Adam.

Ms. Shakow: Did you have any opinion of him as an effective —

Mr. Civiletti: Tydings?

Ms. Shakow: Yeah.

Mr. Civiletti: I liked him. He was straight. He was, I thought, very hard working, courageous because very shortly the savings and loan scandals broke and we investigated, Steve Sachs and I. Steve later became Attorney General of Maryland for a couple of terms, investigated the Speaker of the House of Maryland and a couple of the senators in Maryland, a trio of prominent lawyers, and prosecuted all of them. And Tydings prosecuted a congressman from the Eastern Shore for obstruction of justice, and so he was a very courageous prosecutor.

Ms. Shakow: Yes. I'm glad to hear you mention Steve, because he and I were at law school together. I was a year behind him and he is a great favorite of mine. And I was going to ask you whether there were others in your office at that time who later went on to public careers. People you might know about or who became judges?

Mr. Civiletti: Joe Kaplan, who was there at the time and stayed, had been appointed by Joe Tydings too. He had come from Venable to that office and then in due course he returned to Venable and right after I went to Justice, he went on the circuit court for Baltimore City and became the Chief Judge there and has served with great distinction. The second person is Dan Moylan, who was the younger brother of Judge Moylan from the Court of Special Appeals. He became a state trial court judge in Hagerstown, and served with distinction

until his recent retirement.

Ms. Shakow: That's an impressive group, eight people.

Mr. Civiletti: Yes. Four out of eight earned their keep. Two died relatively young.

Ms. Shakow: Well, we won't even count them. Then your percentage goes higher. What political figures and well-known members of the bar did you get to know during that period, if any? You certainly knew those who became defendants.

Mr. Civiletti: Yeah, I knew the defendants. We were in the — Senator Sarbanes I came to know then because he clerked for Judge Soper on the Fourth Circuit who had his offices in the same post office building in Baltimore, and Soper and Chestnut had been state's attorneys together early in their careers. So they saw each other frequently, and I got to know Senator Sarbanes then as a fellow law clerk, although he was in an elevated status being clerk for an appellate judge.

Ms. Shakow: So, two of the people you met in that time became United States senators.

Mr. Civiletti: Yes.

Ms. Shakow: And fairly early in their careers, too.

Mr. Civiletti: Yes. And of course Sarbanes later on came to Venable.

Ms. Shakow: I didn't know that.

Mr. Civiletti: Yes. After he finished his clerkship, he went to Walter Heller as an aide to Heller in the Kennedy years. After serving a couple years in that, he was hired by one of my senior partners, Francis Murnaghan, who later became a fourth circuit judge, who was at

Venable. He was president of the Baltimore City Charter Commission to rewrite the Constitution of the City. He hired Sarbanes as the editor for the charter. In any event, Paul did that and then when he finished that he came to Venable about a year after I came to Venable. I came to Venable in about October or November of '64 and he came about the same time in '65, and so we were associates together.

Ms. Shakow: Did he run for the Senate from that office? Was he still at Venable when he ran?

Mr. Civiletti: No. He stayed at Venable from about '65 through '70. Five years. He ran for the House of Delegates in Maryland in '66. I was his campaign manager and treasurer. He won that election and then he ran against Fallon in '70 for the House of Representatives. And when he won that race, he left Venable because he felt there might be a conflict and that it was a full-time job being a congressman. And then he was redistricted because he had gone against the party, challenging a fellow Democrat, Fallon, the sitting chairman of the Public Works Committee, so they considered him to be a —

Ms. Shakow: A spoiler.

Mr. Civiletti: A spoiler or a rebel, and so redistricted him and put him in Rep. Garmatz' district, who was the chairman of Oceans and Fisheries. Fortunately there was an investigation of Garmatz and he withdrew his active campaign and Paul beat him in '72 and — and I was treasurer of those campaigns. And then he ran for the Senate in '76.

Ms. Shakow: I'm trying to remember whom he beat. Was it Butler?

Mr. Civiletti: Beall.

Ms. Shakow: Beall.

Mr. Civiletti: Butler was also in Venable much earlier.

Ms. Shakow: Was he? You really have a lock on —

Mr. Civiletti: Butler. And the rumor is that he came around to see people and asked if it was a good idea that he run for the Senate and they said it was a wonderful thing — .

Ms. Shakow: (Laughter) I bet I know why. Well, in those days, at least, many attorneys kept their positions in their firms when they were elected to higher office.

Mr. Civiletti: Right, they did. Paul decided not to do that.

Ms. Shakow: I think that is very wise, because it is very entangled.

Mr. Civiletti: I don't think he liked practice much either. So it was not only his good sense in judgment, but I think part of it was relief from the practice of law.

Ms. Shakow: Senator Javits, for whom I worked, kept an affiliation with his law firm. It got complicated. He tried very hard to keep them separate. He only did New York real estate law but, you know, the federal government is into everything and it was very difficult.

Mr. Civiletti: Anyway, the assistant's position was terrific at that time because you did both civil law and criminal law. Today they separate them and you only get a taste of one. I made it a point to try as many cases as I could in the years that I was in the office, so I did civil cases and I did condemnation cases. Ramsey Clark was the head of the Lands Division in the Department of Justice in '63 and '64 and we had a backlog of tracts of land that had been taken for Nike sites all over the country.

Ms. Shakow: And we're not talking sneakers.

Mr. Civiletti: Right. No, we are talking about missiles. And so people had withdrawn the initial deposit, but the ultimate fair market value of the land hadn't been

determined. So I came to the Department of Justice and got trained as to how to try condemnation cases and I tried a half a dozen or so as the only assistant in the office to do that. Then later on in private practice I got the property owner's side of trying condemnation cases, which was a lot of fun. But during the same time, I had two other kinds of cases. One, this very, very involved and long-running investigation of savings and loan scandals. D. Spencer Grow, who was a big financier from Utah, and C. Oran Mensik, who was an alleged bad guy from Chicago, had set up these phony savings and loans with old charters that had been defunct from the 1840s, and so they'd open a Bohemian Savings and Loan established in 1840. Then what we really got them on was they set up a phony insurance company which was modeled on the Federal Deposit Insurance Corporation, and they had the same shield and everything and a suggestion that all deposits were insured for \$100,000 and that the insured institutions had been reviewed and audited, and therefore were qualified to receive this insurance. We found a record of a temporary secretary who was used on one Sunday by the insurance company. So we tracked her down to Chestertown. We went and interviewed her and she was a nice woman, very pleasant. And she said, "I remember that because it was very peculiar." She said there was a whole series of papers and savings and loans and applications for insurance and audits and I had to backdate all of them. And so we'd say, well were they all done the same day? That Sunday? She said, "Yeah." She said, "I typed furiously. I had to do it all in one day."

Ms. Shakow: You really found the right person.

Mr. Civiletti: Oh, boy. That was the killer. In addition to that major case, which involved two trials and successful prosecutions of all the people involved, I did stolen car cases, bank robbery cases, interstate transportation of forged security cases. One case I remember

particularly prosecuting was a great big man, maybe 300 pounds or so, who had a check kiting team of maybe 50 people, and he never touched a check. And he never passed a bad check, and he never used any false identification himself. It was always the second- and third-tier people. But we got a snitch in there and then we found his fingerprints all over the machines, and the locker that he kept with various false identifications in it, and we tried him and convicted him. The sad part of that story is he was murdered in jail. He got ten years and he was murdered about two years later.

Ms. Shakow: I would think it would be hard to murder a 300 pound man, but I guess they ganged up on him.

Mr. Civiletti: I guess if you can get to his carotid arteries, it's pretty easy.

Ms. Shakow: Oh, dear. So he was one of your memorable defendants.

Mr. Civiletti: Right.

Ms. Shakow: It sounds as if the savings and loan cases were very long-term. I mean, it must have taken at least a year to prepare —

Mr. Civiletti: It took the full time I was in the U.S. Attorney's Office to investigate the cases, indict them, have the trial. We had the first trial in Richmond on a change of venue. A federal judge from here went to Richmond and Steve and I went down there and lived in the — can't remember the hotel now — but anyway, then we came back and tried A. Gordon Boone here in Maryland. He thought that he could do better in Maryland, since he was Speaker of the House. That took a long time, and then, of course, Joe Tydings left the office to run for the Senate.

Ms. Shakow: Who became the U.S. Attorney after Joe Tydings?

Mr. Civiletti: I think Kenney became the U.S. Attorney. A man named Tom Kenney, who later became a judge. And for a little interim time there, the deputy was the acting U.S. Attorney. But when Joe left, Hardin Marion left, who had been the first assistant to go with his campaign, and then Steve left to go with the campaign. And they had a plan that Hardin would go to Washington if Joe was elected. Steve would go to Tydings and Rosenberg, the law firm, and there was a man named Francis Gallagher that had a firm called Gallagher, Evelins and Finnerty, and we used to call him Francis the Good, a wonderful lawyer. And he was merging with Tydings and Rosenberg, so it was going to be Tydings, Rosenberg and Gallagher. And that occurred. And then when Hardin had served enough time in Washington, he was going to return to the law firm and Steve would go to Washington. And I stayed in the office to do the appeals.

Ms. Shakow: To do all the work that they had left.

Mr. Civiletti: Do all the work. Yes. Take care of the mess. And I was supposed to follow them, in two years, or a year later. And when Steve went to Washington, I was to go either to the law firm or to Washington as the legislative assistant. Well, that didn't work out. I decided that I'd rather go on my own and do my own thing. The last six months that I was in the office, between the appeals and the trials that I was continuing to have, were very busy and very rewarding, and I was very fortunate. I had a secretary named Helen who was an English major, and so I would be doing these appeals late at night and dictating poorly into the machine and she would miraculously turn it into great prose.

Ms. Shakow: You were fortune.

Mr. Civiletti: I was very lucky.

Ms. Shakow: Were you working terrible hours? You say that you were often

there at night because a later question I had —

Mr. Civiletti: I sometimes worked 48 hours straight.

Ms. Shakow: Oh, my.

Mr. Civiletti: And always 10, 12, 14 hours.

Ms. Shakow: And how did your family fare during this time? Was your wife —

Mr. Civiletti: They grinned and bore it.

Ms. Shakow: You're very fortunate. That was good. Because she understood you were building your career and had to put in that time. But it's not easy to be alone with three little children like that and your husband is working all the time. Was it the conclusion of these cases that led you to leave the office and move into private practice?

Mr. Civiletti: It was that, plus — I thought at the time I had learned about as much as I could learn in the office because now it was going on three plus years that I had been in the courtroom regularly and so I felt it was time to get into private practice.

Ms. Shakow: And were you fairly certain you were going to Venable, or did you look around?

Mr. Civiletti: I looked around and I had a lot of different offers. And Venable at that time was 16 lawyers and was viewed as a business and stuffy firm. And Judge Chestnut's secretary, for example, recommended another firm that was a litigating firm and I got an offer from that firm. But Venable had nobody who was dedicated to trial work —

Ms. Shakow: So, they really needed —

Mr. Civiletti: They had some trial lawyers, but I said I wanted to do trial work. And they said, "Okay, then you'll be the first specialist in trial," and there would be nobody

ahead of me. Whereas, at the other firms I would be fifth person, sixth person on the roster. So, I decided Venable was the better choice.

Ms. Shakow: And, there was no resentment on the part of the older lawyers who had done trials as part of their larger responsibility?

Mr. Civiletti: No, because they were glad to give me cases, transfer them and have me do them, and they wouldn't have to worry about them. Or, to say that I could join them as a No. 2 person on the trial team, and I could do the heavy work and they could get the satisfaction of a helper and the success.

Ms. Shakow: Their name was first on the brief. Of course, you did all civil, I assume, civil litigation in the firm.

Mr. Civiletti: No, I did criminal, too.

Ms. Shakow: Were those paying clients or pro bono?

Mr. Civiletti: There were both paying and pro bono. I defended a doctor on charges of distribution of substances without proper prescriptions and identifications, and defended some union members accused of improper conduct. In the '68 riots I defended lots of people for alleged curfew violations and crimes, pro bono.

Then I had the unusual experience of first one engineer and two engineering firms and three came to see me in sequence and saying that there was a series of investigations done by the Internal Revenue Service and U.S. Attorney's Office by a fellow named Pete Twardowicz and George Beall was the U.S. Attorney at the time and there was a prosecution of — I can't remember who the first one was — I think it was County Executive Joe Alton in Anne Arundel County. And eventually Marvin Mandel was prosecuted by the same method, and it was mail

fraud prosecution. It was a prosecution of the County Executive of Baltimore County — I'm trying to think of his name. In any event, it may come to me in a minute. That grand jury investigation was ongoing. And, so these three people came to me, and I represented them. I suggested that they tell the whole truth and they might avoid prosecution.

Ms. Shakow: They were contractors, I assume.

Mr. Civiletti: They were engineering firms, for whom competitive bidding wasn't necessary under the law at the time. It was the selection of the County Executive as to which engineering firm, whether it was structural engineering or sanitary engineering, would be the engineers for a particular public project, the contractor for whom had to competitively bid.

Ms. Shakow: I see. And was the prosecution's concern that these engineering firms had paid off to get the contracts?

Mr. Civiletti: Exactly. And the government had developed a device, a methodology that had first been utilized in New Jersey in order to see if there were irregularities by financial valuations, comparatively, of the expenses of the engineering firms and looking at all noncompetitive awards and to see the itemization of expenses and were there soft spots. Dale Anderson was his name in Baltimore County, the County Executive. So, I said, "You've got to lay out the truth." And, they said, "Well, we can't tell the truth." And one guy said, or the second guy said, "We can't tell." And I said, "What do you mean, just tell the truth that you paid —" Well, they said, "We did pay Anderson and we'd give him \$2,000 in envelopes and various other amounts, really nickel-dime stuff." And I said, "Why can't you?" "Because he wasn't the first." And so I said, "You mean this has been going on for three or four years, five years?" "Yes." "And, so then you paid the predecessor?" "Yes." "Where did you pay him?" "Well, we

paid him in the state house and we even paid him in the White House.” And, so I said, “Well you’ve got to tell the truth.” And, so I went in and saw — so, two of them said they would tell the truth. The third said he couldn’t. So, when I learned that, I had to refer them all to other lawyers, all three of them.

Ms. Shakow: Excuse me, but the predecessor was not suspected at this point.

Mr. Civiletti: Not that I knew of, anyway. And, before I learned of the potential conflict, I went in to the U.S. Attorney’s Office and said hypothetically, “My clients, A, B and C, believe that improper payments were made not only to D but to F, the predecessor.” So, then the eyes lit up, and that eventually led to Agnew’s guilty plea.

Ms. Shakow: Those envelopes and cash.

Mr. Civiletti: In any event, I use that as a reference to the fact that I was doing, maybe thirty percent of my practice, was white-collar crime defense related. I’ve never done street crime of any significance. And I came to Venable as the eighteenth lawyer in the firm, and I stayed for thirteen years and became a partner in — I went to Venable in ‘64, became a partner in ‘69, became the head of its litigation area or group in ‘70 and stayed through ‘77. So, I stayed those thirteen years from October of ‘64 to February ‘77, and got to where I was — one year, I can’t remember the year, maybe ‘76, maybe ‘75 — I was in court 110 days in that year.

Ms. Shakow: So, your schedule was perhaps even worse than it was when you were in the U.S. Attorney’s Office.

Mr. Civiletti: Not worse.

Ms. Shakow: But, certainly not better.

Mr. Civiletti: Because I’d take breaks in between a trial. Then, one year when it

was finished, we took six weeks off and went to Haiti — my whole family — to get away from phones and other distractions.

Ms. Shakow: Who were your mentors? First at Venable.

Mr. Civiletti: Well, H. Vernon Eney was the head of the firm and the person with whom I worked most closely. He and Bill Marbury were the two leading lawyers in Maryland, one at Piper Marbury, and one at Venable. Mr. Eney became, for example, the president of the Constitutional Convention Commission and then was elected president of the Constitutional Convention in Maryland. He was recognized as one of the two leading lawyers in Maryland, a very precise man, very hard taskmaster, but he and I got along very well.

Ms. Shakow: He was considerably older than you when you went to the firm.

Mr. Civiletti: I went to the firm when I was 29, and he was probably at that time 50-55, maybe.

Ms. Shakow: I know it's a very old firm.

Mr. Civiletti: It was established by Major Venable about the turn of the century.

Ms. Shakow: I see, but you didn't have any of these people who had been around since the turn of the century.

Mr. Civiletti: The only one we had was Harry Baetjer, who was the brother of the first Baetjer in the firm. And he was still there when I joined the firm. A little man sat in the chair —

Ms. Shakow: Sort of like your judge —

Mr. Civiletti: Yes. And so all the new lawyers had to see him. So he said, after we had some small talk, "I have a question for you, Mr. Civiletti." And I said, "Yes, sir." And

he said, “What’s the greatest service that you can render to a client in litigation?” And I thought for a minute and I said, “Well, I said you can win the case, you can get a case dismissed, you can recover a large judgment that’s been entered.” He said, “They’re all very good answers, but the best service that you can render to a client in litigation is a timely postponement.” (Laughter)

Ms. Shakow: That’s nice. But, Mr. Eney —

Mr. Civiletti: He was a real mentor.

Ms. Shakow: He really ran the firm.

Mr. Civiletti: He ran the firm and he had an engineering bent, so he took care of lights, furnace and the water and the —

Ms. Shakow: But not the engineering clients who came into you —

Mr. Civiletti: No.

Ms. Shakow: One always hopes for a husband like that, and fortunately I have one, which is very nice indeed.

Mr. Civiletti: Very handy, very efficient.

Ms. Shakow: And who were your peers? Do you still have friends from that period? Most of them, I guess, are still here. Or, are they?

Mr. Civiletti: Murnaghan was also to some extent a mentor. And at the same time I left the firm, within a year Kaplan went on the bench and within eighteen months Murnaghan, who was in the litigation division, went on the Fourth Circuit and he was the mentor really to Sarbanes, whereas Eney was my mentor, although I had a good relationship with Frank. So, the three people out of the litigation group left at or about the same time. So, it left some young folks to step up and mature faster, one of whom was Fred Motz, who then went on to the

federal bench in Maryland. His wife is on the Fourth Circuit, Diana, and her father was a managing partner at Covington.

Ms. Shakow: And indeed, the chairman of the organization that is compiling all of these oral histories.

Mr. Civiletti: Oh, is that right?

Ms. Shakow: Yes.

Mr. Civiletti: Oh, great.

Ms. Shakow: He's a lovely man.

Mr. Civiletti: So, as to — There's Tom Perkins, who was the business partner and is still in the firm and was a pal of mine; Jim Wright, who's a real estate partner and I played a lot of basketball early on in the firm and we had a pretty good basketball team. He was on the team. Bob Smith, another basketball player. Tony Carey, who was in the firm. He was an environmental lawyer at the time, and so he's still a peer and companion. Bill McCarthy — he and Dick Emory took me to lunch and convinced me to come to Venable. Bill is just retiring this year as a matter of fact, and he has long been the conscience of Venable, an outstanding lawyer and person. But it's starting to thin.

Ms. Shakow: Well. (Laughter) How large was the firm when you left?

Mr. Civiletti: When I left in '77, it was about 70.

Ms. Shakow: I see. And, did you have any women in the firm at that time, either as associates or partners?

Mr. Civiletti: Yes, Nell Strachan, who was on the phone this morning. I think we had Barbara Schlaff, who was a benefits lawyer. Nell is a litigator.

Ms. Shakow: It was still fairly early in the great wave of women who became lawyers.

Mr. Civiletti: Right. I distinctly recall those. Oh, and another one, who's in health care, a third woman whose is a health care lawyer, Connie Baker.

Ms. Shakow: And, how about minorities? Did the firm have any minority lawyers?

Mr. Civiletti: They had a couple, a couple of black lawyers at the time. No Washington office, no suburban office, just the central.

Ms. Shakow: But, still it must have been hard on the firm when the three of you left at the same time.

Mr. Civiletti: Of course. I left first, so I didn't figure that that was hard, just one person leaving. But I can imagine that when three of the more senior people left, all from the same area, that the young folks there felt a little abandoned.

Ms. Shakow: And, of course, you were taking a position where you could not be called and asked for advice, as would have been true if you'd retired.

Mr. Civiletti: I asked everybody in the firm about whether I should take the position or not, and they all said no.

Ms. Shakow: They did?

Mr. Civiletti: They did. They said that people leaving that position would be after the kind of position that I had and it was a step either down or sideways and not an advancement, but had I been offered the position of Deputy Attorney General, then I should take it. Except one partner, and his name was George Doub, and his father was named George C.

Doub, and he was an Assistant Attorney General in the Civil Division back under either Brownell or Rogers, and he said that he thought it would be great fun, that his father had done it and he had been in Washington when his dad did it, and he seemed to love it and enjoy it and have a good time, so he would do it if it was he. And, so, I did it.

Ms. Shakow: Listened to him. Good.

Mr. Civiletti: Listened to him.

Ms. Shakow: I was a summer associate at the Rogers firm in New York, the summer of 1960, when Kennedy was nominated and looked like he was going to win. And, we were all thinking of whether we would go to Washington. At the final lunch the senior partners took four of us to lunch, and I asked the question, "What would you think about going to Washington?" And they were appalled. To a man, they couldn't see any reason at all to come. They were not caught up in the excitement and glamour and everything else. I'm sure they were all Republicans. Finally one man, out of kindness, said to me, "Well, it might be all right to go and work at the IRS for a year or two and then come back and do tax for the rest of your life." That may have been a more prevalent view ten years earlier. Well, that was fifteen years before you had this decision to make.

Mr. Civiletti: Well, I think my partners were thinking about income. At that time an Assistant's job paid \$50,000, I think, and they were thinking about the cost of two homes or two residences, or the commute every day. And they may have been thinking to some extent of self-interest, that we'd be better off if I was at the firm rather than if I was off at some place they didn't know anything about.

Ms. Shakow: And, I suppose that they had enjoyed practicing and assumed that

you would, too. We've talked about some of the cases you worked on during that period while you were still at Venable. Do you have any others that you can think of that were particularly important or interesting?

Mr. Civiletti: Oh, there were tons of products liability cases and fiduciary cases. We represented the Mercantile Safe Deposit & Trust Co. in major challenges to their administration of trusts, which were a large part of their business. One case that was known as the *Madden* case, Mr. Eney and I tried, and we got a directed verdict in the first case, first trial, went on to the Court of Appeals. It was reversed on the ground that the plaintiff should have been given an opportunity to present other witnesses, expert witnesses. The judge had properly found two unqualified and then refused to allow them to present others. And, so it was reversed for a new trial. It was retried. It was a very sad case. The plaintiff was a young associate at Davis Polk in New York. And, so on the retrial he didn't have enough money, I guess, or enough confidence to hire lawyers. He had lawyers in the first trial and they hadn't done a very good job. But in the second trial he represented himself.

Ms. Shakow: What was the nature of the claim?

Mr. Civiletti: A very unusual claim. It was that the Mercantile had sold the Pimlico Race Track for an inadequate price back in 1946, when he was unborn. And he was an heir, and therefore the breach of that fiduciary duty was not extinguished by the establishment of the trust and the death of his father. And so it turned on the valuation of the Pimlico Race Track properties, but it was very complicated because the Jockey Club owned the Preakness and the racing dates. And the Pimlico Race Track didn't own the racing dates and the racing dates didn't own the Track, so it —

Ms. Shakow: And, you can't do business that way.

Mr. Civiletti: Yes. And so, in any event, he tried the case on the retrial and he had an expert this time that did very comprehensive kind of examinations — on the stand for thirty days. And, so then I was to cross-examine him. That was my job. Cross-examination took five days, and I'll never forget it. He had an appraisal book and I had gone through that book twenty times, so I offered the witness the book, and I gave him a red pen, and I would say, "Now on page such and such you have this statement. Isn't it true that your book appears to have no document to support it. Isn't that true?" He would say, "Oh yes, that's an error." I'd say, "Then, will you please just put an X through that part." And, before long, the book was full of Xs, all through it, every page almost had a big X on it, and on the retrial the judge found the witness not credible, no not credible, not probative. And the sad part of the case is that had the young man taken the trust distribution at the time, he would have received \$3 million. Two years later he received nothing.

Ms. Shakow: And was probably in debt.

Mr. Civiletti: And he lost his position at Davis Polk. It was a shame that he had become obsessed by the case.

Ms. Shakow: During these years what was home like? Where did you live? How old were your children then?

Mr. Civiletti: Home was terrific. We lived in Stoneleigh and Roland Park, both northern old-line communities, one just over the line in the county and the second one in the city. The first was smaller, naturally, than the second. We had my daughter, our last child, our third child, was born in December of 1965, so that makes her 36 this year.

Ms. Shakow: I didn't prepare for the math today. (Laughter)

Mr. Civiletti: So, when she came, the house we had in Stoneleigh, which was a lovely house, and as a coincidence, my daughter lives a block away from that house now with her two little children, where she grew up. We moved to Roland Park to a big house, old house in an old established neighborhood and called Goodwood Gardens, which is a pretty place. Now, incidentally, it is a famous house because it's owned by the Baltimore Ravens quarterback, Elvis Grbac and —

Ms. Shakow: I hope he fares better than the Redskins quarterback, who lost his job today.

Mr. Civiletti: I hope so. He'd better do better pretty well soon, too. And, you have our old Ravens quarterback, Tony Banks.

Ms. Shakow: Is that right? I'll have to go check that with my sons, because I don't follow football. Was your home close enough to the office so that commuting wasn't a problem?

Mr. Civiletti: It was close. It was about 15 minutes. We had a big swimming pool along side the house. It was an old house, but it had a big swimming pool, and the kids loved it. They were in the water all the time. So were their pals, sometimes invited and not invited.

Ms. Shakow: Right.

Mr. Civiletti: And it was a lot of fun. Their schools were reasonably close by. So, it was very happy times.

Ms. Shakow: Did they go to public schools?

Mr. Civiletti: They went to different schools at varying ages. Eventually, by the time they hit about the fifth or sixth grade, they all went into private school. But they went to Stoneleigh public school and then they went to Roland Park public school, and then my daughter went to Bryn Mawr and my sons went to Friends, and one son went up to Hagerstown to St. James Academy.

Ms. Shakow: So, you didn't have any personal experience of busing or any of that business.

I just want to set the stage for our next session when we'll talk about your years in the Justice Department by asking, first of all, how you came to be offered the position of Assistant AG for Criminal, and second, what factors went into your decision? You mentioned that you consulted with your partners but what about your life partner and your children? Did this mean a move to Washington for you, and how did they react? Let's go first with Mr. Kirbo. I understand he was influential in convincing you to take this job.

Mr. Civiletti: Yes, he was. I had tried two cases with Mr. Kirbo.

Ms. Shakow: Charles Kirbo, who was a good friend of the President's.

Mr. Civiletti: Who was the personal lawyer for the President and a good friend of Griffin Bell's and a senior litigating partner in King & Spalding, which is the firm that Judge Bell went to when he left the Fifth Circuit. And Mr. Kirbo and I had tried two cases together — his clients but they were in Baltimore, and the cases turned out well, and he and I got along very well. So, when Judge Bell and Mr. Kirbo were unable to find an Attorney General that suited them or suited the President, the President said that Judge Bell would have to be the Attorney General. And, so, he accepted, and he went about choosing the group of people who were going

to be his assistants, and he did it, as I understand it, in two ways. He asked Kirbo and King & Spalding to recommend young lawyers around the country who they thought well of. And then he asked his peers among the federal circuits, including the Fourth Circuit, being my circuit, to recommend young lawyers whom they thought well of as advocates, and when he got a double hit, he interviewed, or if someone recommended that he interview someone, he did. And, so that's how I got this invitation to interview with Griffin Bell, which was a little bit of a surprise because I had not applied for any positions.

Ms. Shakow: I should have thought there were hundreds of people who were anxious to get that kind of offer.

Mr. Civiletti: I guess so.

Ms. Shakow: It's impressive that they did it in such a methodical way based only on talent and not politically.

Mr. Civiletti: I have not seen a document that says that but by hearsay that's what I understand happened.

Ms. Shakow: Well, it stands to reason because you did not play a big role in the Carter campaign. That's very impressive.

Mr. Civiletti: Although I supported the President, I didn't play any campaign role. It was very interesting. Arthur, the Iran counsel from New York —

Ms. Shakow: It begins with an L. I know, it escapes me now, because he went to my law school.

Mr. Civiletti: Anyway, he and I went to the executive suites where Judge Bell was ensconced during his pre-confirmation period, at the same time for an interview. And so

Arthur Liman went in for an interview first, and then I went in. I had my interview, and it went well, and I expressed some reluctance because of money, because I had fairly young children and because I didn't know all that much about the Department of Justice. I had only been in the federal system in Maryland. Judge Bell answered all those questions, "You can always make money, you'll always be there when your children need you, and I'll be the one to decide if you know enough about the Department of Justice." And, anyway, he also did a good thing, an unusual thing. He said, "I'm looking for people to put in a pool, who are willing to serve, and then I'll select from that pool."

Ms. Shakow: I see.

Mr. Civiletti: So, he didn't say, you're going to get a job, or whatever.

Ms. Shakow: So, he didn't hire you specifically for Criminal until later, he was assembling it.

Mr. Civiletti: Until the day he was sworn in, I went into his office. He had called me and said I want you to be at the swearing-in, and we'll talk then, and after all the Georgians got out of there, he finally said, "Ben, come on in here." And so, we sat down. He said, "Ben, I want you to be the head of the Criminal Division." I had thought, maybe Environmental or Lands, since I did condemnation cases and all. Or, maybe Civil. I knew Criminal was a hot spot. So, I said, "Are you sure?" He said, "Yes." So, I said, "O.K."

Ms. Shakow: Well, that's wonderful. That's wonderful.

Mr. Civiletti: But, later on, the Judge tells the wonderful story about this man Arthur, who was — he also tells wonderful stories about Phil Lacovara — but anyway the story goes like this: He said, "Oh, yeah." He said, "Arthur, he's the most wonderful lawyer and he

came to see me when I was getting to become Attorney General, and he told me how wonderful he was, and that he was the best man in the country to be Deputy Attorney General of the United States, and that I would be foolish not to choose him for Deputy. And it was so obvious that he was the right person that he would accept no other position but Deputy Attorney General of the United States. And I thanked him for his interview and for his opinion, but Arthur made one mistake.”

Ms. Shakow: Which was —

Mr. Civiletti: He said, “He put me on terms, when I was the one to be putting people on terms. He forgot who was the Attorney General nominee. It wasn’t him. It was me.”

Ms. Shakow: He did have that reputation, I remember. And Phil Lacovara, was he in the pool, too?

Mr. Civiletti: No, but the Judge would never pronounce Phil Lacovara’s name properly. Whenever he referred to him, he would refer to him as Phil “Lochkorarro.” He said, “Washington’s a funny place.” He said, “The only place I know in the country where you get advanced by quitting.” He said, “If you resign on a point of honor or integrity or whatever, and quit, well then you get a higher position the next time that one is available. Now, take Mr. Phil ‘Lochkorarro.’ He has made his whole career out of quitting.” (Laughter) “He quits. When Mr. Jaworski had his *Watergate* investigation, Mr. Lacovara quit. Then, when the Koreagate investigation was ongoing and he was appointed counsel, he quit. I’m sure he’s going to arrive on the Supreme Court, (Laughter) if he quits enough in the future.”

Ms. Shakow: Well, he once said to me when Scalia was appointed to the Court, he said, “I was going to get that but at the last minute, there was mixup and they gave it to the

wrong Italian with a lot of children.” Because he also had a lot of children.

Mr. Civiletti: He does.

Ms. Shakow: That’s probably why he was quitting often to go back and earn a little money. Well, we’ve come to the conclusion of this session. It is now 11:25. Thank you very much for your time.

Mr. Civiletti; You’re welcome.

Ms. Shakow: And our next session is in mid-October, when we will discuss your years at the Justice Department.

Mr. Civiletti: Okay.

Ms. Shakow: Thank you.

Mr. Civiletti: You’re welcome.

**[Tape Ends]**

**ORAL HISTORY OF BENJAMIN R. CIVILETTI**  
**THIRD INTERVIEW**  
**OCTOBER 16, 2001**

This interview is being conducted on behalf of the Oral History Project for the District of Columbia Circuit. It is the third interview of Benjamin R. Civiletti, former Attorney General of the United States. The interviewer is Patricia Shakow. The interview took place at the Venable law firm at 1201 New York Avenue, in the District of Columbia, on Tuesday, October 16, 2001, at 10:00 a.m.

Ms. Shakow: When we completed our last session, Ben, you had just been asked by Attorney General Griffin Bell to be Assistant AG for the Criminal Division of the Justice Department. It was January 1977, and you had been working for the past 13 years at the Venable firm in Baltimore. Did you have any second thoughts about taking this job in Washington and returning to the government at that point?

Mr. Civiletti: No. I initially had some reservations. I think we went over about what Judge Bell had said in response to my hesitation, but once I had decided to join the pool and was informed by Judge Bell that he wished me to be the Assistant Attorney General of the Criminal Division, I was ready to go to work.

Ms. Shakow: You didn't prefer another division? Or at least you didn't tell him you preferred another division?

Mr. Civiletti: No, I didn't. I thought that I was better qualified to either head the Civil Division or what was then known as the Lands Division, now the Environmental Division, but I accepted his judgment that he knew what he was doing.

Ms. Shakow: Did taking this job involve a physical move for your family? Did you move?

Mr. Civiletti: Not the family initially. I got a small apartment here in Harbor

Square in Southeast that I used during the week and then went home on weekends.

Ms. Shakow: That was very hard. That was very hard for you and for your family.

Mr. Civiletti: It was, but it's only an hour away to Baltimore to our home so that if any emergencies came up, I could quickly go home. If Gaile wanted to come over and have dinner that was readily doable. And we had the benefit of — Gaile's father was living with us at the time, so our children were about 17, 15 and 10, so that he could handle them for a day or so.

Ms. Shakow: Somebody had to handle them at that age. (Laughter) As we all know. Did you feel right away, even in the position of Assistant AG, a certain loss of privacy by becoming a public figure at that level?

Mr. Civiletti: Yes, I did. But I had expected it, and I'm not a great privacy freak anyway, so that I pretty much had in my mind that anything about me would become public and that proved out to be true in two instances. One, I took my son, when I was deputy, down to Lexington, Virginia, to visit W&L and on the way out we stopped for gas and I didn't have any money and he didn't have any money and the gas man wouldn't accept credit cards. So we wrote him a check and he started to refuse to accept the check and I showed him my credentials and said I'm good for this check. So he accepted it and within two days, Jack Anderson called me and said we are going with the story that you spent the night in Lexington with a young man. I said it's absolutely true. I said go with the story. I said it's my son and we were visiting W&L. As the second proof of lack of privacy, somehow canceled checks found their way into the *New York Times'* hands. And so I got a call just prior to my confirmation as Attorney General from a

reporter from the *Times* and said, “We have checks that are made out to Pamela Liebowitz monthly” in a certain amount “and she lives in Los Angeles. Are you paying Miss Liebowitz?” And I said, “Yes.” And they said well we’ll have to run with that story. And I said, “Well, go ahead.” I said, “She’s my sister and I’m helping her and my mother is helping her and we each pay so much a month for her well-being.” So they said thank you very much. They will check that out.

Ms. Shakow: Two very nice stories. That’s very nice. I’m glad to see that each of the journalists was responsible enough to call you. Were your children enthusiastic about the job and about your being in Washington? Did they want to come and visit you? Bring their friends?

Mr. Civiletti: I think they did. Although I downplayed the job and the role and the importance because I felt that their lives were important and what they were doing was important and so I paid a lot of attention, in the time I had with them, to talk about their lives and what they were doing instead of trying to regale them with problems or issues of the Department of Justice. So I think to a certain extent, until I became Attorney General, when I was in the news a great deal, they just considered it a job and I had work to do and I was lawyering.

Ms. Shakow: What was the confirmation process like for you at this point? I know you went through it three times, but was there opposition?

Mr. Civiletti: No opposition. The only nemesis that I had was Bill Safire who continued to be a nemesis the entire four years.

Ms. Shakow: Why?

Mr. Civiletti: He started with his first column prior to my confirmation as

Assistant Attorney General in the Criminal Division, and the headline of his column was “Carter’s First Coverup.” And he alleged that I was a friend of Paul Sarbanes and had been the campaign manager for Senator Sarbanes and that I was a Democratic politico and that Carter was putting me in charge of the Criminal Division to cover up allegations of wrongdoing by Bert Lance in the peanut warehouse, or whatever. And so I got a tremendous number of letters from people like Joe Tydings and Bill Marbury saying that that was a lot of nonsense. And Safire had a number of questions to ask that he posed for the committee and the committee asked the questions, such as would I keep them informed of important criminal investigations, and I said no. And would I promise to — Koreagate was hot at the time — and would I promise to indict congressmen, and I said no. So it went on like that.

Ms. Shakow: Surprising that the senators would go along with asking you those questions. Anyone who was a lawyer would know —

Mr. Civiletti: There’s nothing to lose by asking them, I guess.

Ms. Shakow: An important Washington columnist to please.

Mr. Civiletti: Yes. And curry a little favor with.

Ms. Shakow: You had no relationship with him before this? You didn’t know him at all.

Mr. Civiletti: None. Never met him. Never talked to him. He never talked with me.

Ms. Shakow: He had, of course, been Nixon’s speech writer. Wasn’t any problem that you had with Nixon during those years that got his back up?

Mr. Civiletti: No.

Ms. Shakow: Well, it must have been a slow day, I guess that's what it was like. So you were confirmed on a voice vote?

Mr. Civiletti: Pretty much.

Ms. Shakow: It has been said that you were handed a number of hot potatoes when you arrived at the Justice Department. And one that came up almost immediately was the matter you just alluded to and that is Bert Lance, who was a close personal friend of President Carter's and I believe head of OMB. Was that the position he had?

Mr. Civiletti: Right.

Mr. Shakow: Can you tell us about that case? Did you get any interference from the White House?

Mr. Civiletti: No. I had no communication with the White House about the case, and I had very little communication with the Attorney General about the case. The case was investigated not by the Criminal Division as I recall, but by the U.S. Attorney in the Georgia District. Although maybe the Fraud Section of the Criminal Division was kept advised. I had very little to do with the case and don't remember much of the details except it had to do with banking and false statements and records regarding banking. But it was quite a scandal and it led eventually to Lance's resignation.

Ms. Shakow: Was he a personal friend of Griffin Bell's as well as the President's?

Mr. Civiletti: No.

Ms. Shakow: He did resign under some pressure, but I believe he was also indicted and tried.

Mr. Civiletti: I believe he was indicted. And I don't even remember the outcome.

Ms. Shakow: He was acquitted, which was kind of a surprise I guess. Do you believe he was treated fairly by the prosecutors, the press, the Congress, or do you think he was a scapegoat? Or do you have any thoughts at all. Maybe you don't.

Mr. Civiletti: I really don't have much of an opinion. My view would be based on my belief in the integrity of the process. And so I think there was probable cause to believe he committed crimes. But everybody's entitled to their fair day in court and although the government has a high rate of conviction, they don't convict everybody. When you go into public life, you assume the risks of that adventure. And one of the risks is that the spotlight would be on you and you will be charged with something which will be either correct or maybe less than correct.

Ms. Shakow: Do you recall a case involving Smith Bagley, who's the heir to a tobacco fortune?

Mr. Civiletti: I remember it vaguely. It's much like the Lance case in that it was handled, I think, by the U.S. Attorney. The Department had pretty much hands-off.

Ms. Shakow: Do you remember what the charges were?

Mr. Civiletti: No. I think campaign contribution illegalities.

Ms. Shakow: Okay. That figures. There was also a scandal involving campaign contributions that was dubbed "Koreagate." You also mentioned that earlier. What was that about?

Mr. Civiletti: I'm thoroughly familiar with Koreagate because it was handled by

the Public Integrity Section of the Department of Justice and it was a boiling matter when I became Assistant Attorney General. The investigation had been going on for maybe a year during the Ford administration under Dick Thornburgh. And by the time I was confirmed, there were reports that 100 congressmen had been bribed by a Korean, South Korean rice dealer named Tongsun Park. Congress was up in arms about it. The *Washington Post* was all over the story. So I became, in effect, the head of that investigation along with Paul Michel. And one of the problems was that Tongsun Park had gone back to Korea and we had no extradition treaty with Korea and he wasn't coming to the United States. So we strengthened the investigation. I went up on the Hill a couple of times to report on the process — what we were doing and the people involved, not in terms of identifying details or individuals —

Ms. Shakow: Excuse me, to report in public sessions or informal?

Mr. Civiletti: Public sessions.

Ms. Shakow: Were you called, or —

Mr. Civiletti: As the task force. I was threatened to be subpoenaed but I was called up there and Judge Bell went up once with me and then I gave the report the next time I went up by myself. We simply went after the investigation very vigorously. I went to Korea in the fall of 1977 and spent two weeks there negotiating to get Tongsun Park back unsuccessfully.

Ms. Shakow: Did you actually meet with him or just with his lawyers?

Mr. Civiletti: No. I met with the government to try to hammer out an agreement to get him back. They did not think — the Koreans did not think — that I could return to the United States without suffering a terrible loss of face and therefore, they hung on to the last minute. And I remember, as I had said many times, I have to leave at a certain time. When that

time came, I got up and packed up and was ready to leave. And they said, “Well come and see the Attorney General of Korea. He wants to speak with you.” He talked with me for a few minutes and I looked at my watch and I said my plane is leaving in 45 minutes and I must get to the airport. They said don’t worry about your plane. We’ve held the plane. That discussion was unsuccessful. I left and within a couple of months, with the cooperation of the State Department, we arrived at an agreement, the conditions of which were that Tongsun Park was to undergo lie detector tests in Korea and then return to the United States to testify in grand juries and before the Congress. So we did all of that and we got him back. We had about six or eight successful prosecutions of one kind or another.

Ms. Shakow: But not of Mr. Park? Was he prosecuted?

Mr. Civiletti: No. He got immunity.

Ms. Shakow: I see. That was part of the deal.

Mr. Civiletti: That was part of the deal.

Ms. Shakow: I see. I seem to remember there were girls involved in the scandal as well as money. At least one girl in particular.

Mr. Civiletti: Yeah. I remember that vaguely. One woman in particular who was

—

Ms. Shakow: A friend to all?

Mr. Civiletti: No. She was a girlfriend of Tongsun Park’s, or at least a companion of Tongsun Park’s. She was a very beautiful or attractive woman. I never met her, but he was a very dapper man, extraordinarily well groomed, always had plenty of money.

Ms. Shakow: A great party giver.

Mr. Civiletti: A party giver and he entertained at a private club in Georgetown a great deal and she was there with him. And I remember when we brought our own polygraph examiner with us and the first thing he did in the first polygraph session was he asked Mr. Park to take his sunglasses off. He always wore sunglasses, so he took those off. And then he said, well would you mind taking your jacket off because we have to put these devices on. And then he said, would you mind taking your shirt off. So he took his silk shirt off. Then he said he said would you mind taking your undershirt off so that we can put these devices on. So, in effect, he stripped him of his defenses and of his facade.

Ms. Shakow: Were you there at the time?

Mr. Civiletti: I was there.

Ms. Shakow: Even though I am very suspicious of lie detector tests, did he pass this test?

Mr. Civiletti: Yes.

Ms. Shakow: Which is why you were willing to grant him immunity.

Mr. Civiletti: Right. And we didn't do one, we did ten tests there on all different kinds of subjects. And, of course, we did them with some known facts as to each subject thrown in so it would be a reliable test.

Ms. Shakow: Do you recall who was indicted then convicted in this scandal?

Mr. Civiletti: I don't. I remember a congressman named Flood from Pennsylvania.

Ms. Shakow: Dan Flood and he wore a cape. Do you remember that?

Mr. Civiletti: And he had a mustache.

Ms. Shakow: That he kind of twirled as he swung the cape around probably.

There was also a congressman named Hébert from Louisiana. I believe they were both defeated.

Neither was convicted in this but they were —

Mr. Civiletti: Oh, I think Flood was convicted.

Ms. Shakow: Was he?

Mr. Civiletti: I think so. I don't know. I don't remember Hébert.

Ms. Shakow: I think Hébert was in the rice business in Louisiana.

Mr. Civiletti: And allegedly he had bribed these congressmen in order to allow more rice to come in from Korea.

Ms. Shakow: Do you think this case had anything to do with increasing interest today in campaign reform, or —

Mr. Civiletti: No.

Ms. Shakow: Or it was just a flash in the pan.

Mr. Civiletti: It was closer to a bribery case.

Ms. Shakow: Finally, in those first couple of years, you had to deal with a case of the President's brother, Billy Carter. Case is perhaps the wrong word to use. The matter of Billy Carter. What was he supposed to have done?

Mr. Civiletti: Well, Billy Carter was a character. He was an alcoholic and he was always spouting off about this, that and the other thing and I think probably as a younger brother was somewhat jealous of the success, in comparison to his rather failed life, of his older brother, the President.

Ms. Shakow: You know, this is something of a pattern. Lyndon Johnson had a

brother named Sam Houston Johnson. Nixon had his brother. Clinton had his brother. It's very interesting. The younger brother of the President syndrome.

Mr. Civiletti: That came up — Billy Carter came up from time to time in minor ways but it didn't become a really noteworthy matter until July of 1980, in the middle of the last year of my Attorney Generalship. Before that, the hot matters that we had inherited as Assistant Attorney General were Koreagate, which you mentioned, and an investigation called COINTELPRO, and the Weathermen in which finally we indicted the two deputy directors of the FBI and the former director of the FBI, Bert Lance, that you mentioned. Richard Helms was under investigation, the head of the CIA, for lying to Congress about Allende's business and Pinochet's business and whether the CIA had supported Pinochet and caused trouble for Allende, who, of course, was assassinated by a car bomb in the United States.

Ms. Shakow: His ambassador, I believe, was assassinated here.

Mr. Civiletti: The ambassador, yes.

Ms. Shakow: He was murdered in the course of the coup, I think.

Mr. Civiletti: And so those investigations, carryover investigations, took a lot of effort and were quite unpopular, some of them. COINTELPRO was very unpopular especially, and it had been in the Civil Rights Division. Judge Bell took it out of the Civil Rights Division and put it in the Criminal Division and eventually we convicted the two deputy directors of the FBI. Thereafter, President Reagan pardoned them during his term. But it was a successful investigation and what they had done were black bag jobs in trying to track down the Weathermen by, in effect, burglaries of their family and their friends and then covering it up. When I was Deputy and then Attorney General, we started an investigation which became

enormously controversial which was called Abscam and that was the investigation where we had a sheik, an FBI agent dressed as a sheik who was seeking to have special immigration laws passed to allow people to come into the country and was paying congressmen or senators, as the case may be, \$50,000 or \$100,000, and it was a very successful investigation, but two things happened that tainted it. One was that we had safeguards to the root process built in where there was a review, and we weren't targeting congressmen, but we were letting it be known that payment was available, and then if the congressmen or senator came forward, we would make sure of the bribery by surveillance cameras.

Ms. Shakow: You were concerned about charges of entrapment.

Mr. Civiletti: Right. So the review process was to be a multi-layered thing which takes time. Well, the investigators and the people who were coming forward to seek this possible discussion about special immigration laws got way ahead of the review process. And so the first thing you know there were 30 interviews and only 5 had gone through the supervision and the review process. And that became troublesome. The second problem was that the investigation leaked. And it leaked I think to Tony Morrow of *Newsday* in Long Island. So he had the whole story of the investigation and all the people who had been interviewed and that, in effect, stopped the investigation, the combination of the two matters. There were great discovery hearings about entrapment and all the rest and the prosecutions that we made, which again were about six or eight, including Senator Williams and a congressman from Florida.

I had to begin an investigation, and appointed Dick Blumenthal who was the U.S. Attorney for Connecticut and who is now the Attorney General of Connecticut to conduct a leak investigation. And we found a leaker.

Ms. Shakow: You did? Someone right in the Department?

Mr. Civiletti: Yes.

Ms. Shakow: Why was it being run from New York instead of Washington?

Mr. Civiletti: I think because it started as an organized crime investigation and centered in New York and New Jersey. I don't know the reason initially other than it started with — I can't remember the name of the very fine investigator now, it slips my mind, I may come back to it — and he was in charge of it. And he was sited in New York and New Jersey so we left it there. And that's where the surveillance trailers were set up. And there is the famous line when the congressman from Florida came in, had the discussion. They gave him \$50,000, and he put it in his jacket coat pockets, and he buttoned his coat, and then he patted where the money was and he said, "Does it show?" And we had all of that on camera, so he was a — remember that?

Ms. Shakow: I remember that. And I remember a film of the money being spread out on a coffee table and it looked like a zillion dollars. That was really a very marvelous case.

Mr. Civiletti: Then we started Greylord.

Ms. Shakow: May I go back to COINTELPRO? Was it thought by you or the Department or the public in general that the FBI and perhaps the CIA, although not so much in this country, operated this way most of the time, that they cut corners?

Mr. Civiletti: No. I think that it was a case where, which is the grave danger to freedom and civil rights, the atrocity or magnitude of the danger is so great that it justifies the means. The Weathermen were terribly disruptive, terribly frightening until the explosion in New York, which blew half of them up. And so there was enormous public pressure on the FBI to

have some success in that investigation, in finding them, and they were having no success. So, they determined through these black bag jobs I think, although I won't say it was unique, it certainly was rare for the Bureau to adopt that kind of illegal means.

Ms. Shakow: Do you recall, going back to the Nixon administration, that a man named Daniel Ellsberg, who was the source of the Pentagon Papers in effect, that his home was broken into, his psychiatrist's office was ransacked and his files disappeared — a number of those incidents. Was that the FBI? I cannot recall.

Mr. Civiletti: I do not recall.

Ms. Shakow: It would have been a little bit earlier, I guess.

Mr. Civiletti: I have a vague recollection that it was not the Bureau. It may have been local police or some other authority, but not the Bureau.

Ms. Shakow: What happened to Dick Helms? Was he convicted?

Mr. Civiletti: He was convicted.

Ms. Shakow: But he never went to prison, is that right?

Mr. Civiletti: Right. Helms was, of course, as the head of the CIA, he was represented by Edward Bennett Williams and we had a very strong case against Helms for perjury. But he had a very strong defense which was known as graymail, not blackmail, graymail, saying that if you charge me with these violations, to defend myself I will have to reveal all the national security secrets and that I was only doing my duty and as directed by the commander in chief. Well, that kind of case, if it goes to the President, is iffy as to whether it would be authorized and probably not authorized under the standards at the time. So I sat down with Edward Bennett Williams and showed him the strength of the case and also showed him the

parts that we could prove without getting involved, I thought, in national security. If it had ever gone to the President, we would not have been able to proceed with the case, so I was playing a little bit of bluff with Williams. And Williams finally said, “Well, if you can find a minor offense, Helms will plead guilty.” So we did. We scoured the Criminal Code and found, in effect, a misdemeanor provision that said if you provide misinformation or fail to provide all the information to the Congress then you have violated this misdemeanor. We went before the judge and Helms pleaded guilty. He was fined \$3,000 or so, and so we had a successful prosecution to uphold the rule of law. But Williams kind of trumped us because outside the courtroom he said that the \$3,000 fine was going to be paid by contributions from the men and women of the CIA, and that Helms would wear this conviction as a badge of honor. So he made the best of his situation and we made the best of ours.

Ms. Shakow: He did survive very nicely and he’s still around.

Mr. Civiletti: Is he?

Ms. Shakow: Yes. I see him every once in a while. We have mutual friends.

Mr. Civiletti: Graymail and that type of barrier resulted in our development of a statute that allows for a better handling of that defense and restriction of national security and excerpting documents and things of that kind to make those prosecutions more effective.

Ms. Shakow: And that statute has been used very effectively.

Mr. Civiletti: Upheld. Yes, very effectively.

Ms. Shakow: Do you recall any close calls in investigations that turned out okay?

Mr. Civiletti: Not investigations, but two interesting incidents. One involved a Russian Aeroflot full of Russian tourists, I guess, and dancers. And a man named Godunov, who

was a ballet dancer, declared that he wanted to defect to the United States and his wife was on the airplane and the doors had closed. But he said that his wife wanted to defect, too, so we surrounded the Aeroflot with military and they had armed men inside the jet at LaGuardia — I'm not sure if it was LaGuardia or Kennedy. In any event, 72 hours went by with this intensive negotiation. They're insisting that since the gates were closed, the doors were closed, that they were in international jurisdiction. We were insisting they were on the ground in the United States, they were under United States jurisdiction. So we were on high alert as to that matter. Finally, we developed a compromise whereby we moved buses up against the airplane and opened the door to the airplane and the door of the bus, such as the buses out at Dulles, and the woman came out and there were representatives from both sides and she said, "No, I don't want to defect, I want to go back to my parents." So, the crisis was over after 72 hours and they shut the doors and the plane took off and that was the end of that.

Ms. Shakow: But her husband stayed.

Mr. Civiletti: Her husband stayed and became a fairly successful ballet dancer here. The other was Prairie Fire where we had two — Prairie Fire was a group of western extremists who were going to create chaos and havoc by assassinating public figures. And Governor Brown was the first one who was on the target list in California.

Ms. Shakow: Jerry Brown or Pat Brown?

Mr. Civiletti: Jerry Brown. And we had two agents who had been under cover with Prairie Fire for two years and they were supposed to be sharpshooters. So it came a time toward the end of those two years where they were asked by the leaders to train other extremists in rifle fire. FBI Director Webster came over to the Justice Department and Attorney General

Bell was still there, I was the Deputy and said, “What do we do? If we don’t train, we endanger the lives of these two agents or we have to abort the undercover investigation. If we do train them and someone is killed, we will be blamed for having trained them how to actually be sharpshooters.” So Judge Bell said, “Well, what do you think Ben?” And I said, “Well give me a few minutes.” So I went down to my office and said, “Well, I don’t know anything about rifles or rifle shots or training. They could tell me anything and I wouldn’t know whether it was accurate or not accurate.” So I went back up and I said to Webster and Judge Bell, I said, “Let’s mistrain them. Let’s keep going and mistrain them. Tell them to shoot high or low or squeeze the trigger quickly or backwards.” And that worked. They went further into Los Angeles and caught people with rifles and we arrested them all.

Ms. Shakow: And I assume Jerry Brown, Governor Brown, knew of this threat to his life or were you keeping that quiet, too?

Mr. Civiletti: I don’t remember. I think he did at the last few minutes, the last hour. If you want to turn to the two things that dominated the last six months of my Attorney Generalship —

Ms. Shakow: May we go back to —

Mr. Civiletti: For Billy Carter and the hostage circumstances in Iran.

Ms. Shakow: Right. I would like to talk though, about a couple of things that came up earlier. One is the case of Hamilton Jordan. Tell me about that. He was President Carter’s chief of staff and was accused of using cocaine in New York?

Mr. Civiletti: Hamilton was very young when he was the chief of staff, as was Jody Powell. And to some extent they were — although great advisers, they had the image of

cowboys. In fact they appeared on the cover of *Rolling Stone* as Butch Cassidy and the Sundance Kid, all dressed up in regalia. And that didn't work particularly well to Hamilton's advantage when these two creeps in New York in Studio 54, which was a hot spot in New York, run and owned by Ian Schrager, I think and a second man —

Ms. Shakow: Rubell?

Mr. Civiletti: Rubell, that's right. And they were under investigation by Bob Fiske, who was the U.S. Attorney in the Southern District of New York, for income tax evasion in owning this very fancy night club. And they were represented by that disgrace to the legal profession Roy Cohn.

Ms. Shakow: Oh, my.

Mr. Civiletti: And I got a call from Bob Fiske one late afternoon saying that Cohn had told him that he had evidence and proof that Hamilton Jordan had used cocaine in Studio 54 and that they would not make it public if the investigation of his clients was closed. Fiske said, "What do you want me to do?" And I told Fiske, "Tell him to go to hell." And I said, "This triggers the new law that had been passed in 1978, which was then known as the Independent Prosecutor Act which President Carter had agreed, as part of his campaign, to make legislative." Well, under the terms and conditions of that Act, that allowed me to do a preliminary investigation for about 90 days and then make a report to the court.

Ms. Shakow: To see if these charges were serious or had any basis at all?

Mr. Civiletti: Well, the standard was something to the effect to see either whether there was reasonable cause or probable cause to believe that the accusations were true or whether further investigation was necessary. So I called the President. He was on the *Dixie Bell* on the

Mississippi at the time with Jodie Powell and Hamilton was with him. I told him —

Ms. Shakow: It was a steamship or the — a sternwheeler?

Mr. Civiletti: It was a wheeler. He was on some kind of a political trip up and down the Mississippi and stopping from time to time. So anyway, I talked to him and said, “Don’t talk to Hamilton and don’t talk to — let me talk to Jodie.” And Jodie was supposed to have accompanied Hamilton at least part of the time in Studio 54, not necessarily using cocaine. And I said, “At the next stop in Memphis, the Bureau will be there to interview you, Jodie and Hamilton.” So that went on and after 90 days, a dozen different leads came up about Hamilton’s doing this and Hamilton’s doing that. We ran them all down and pretty much proved that the allegation regarding Studio 54 was nonsense. There was a drug addict that made the allegation, had been convicted half a dozen times before. Cohn was a bum. These guys were under indictment, and so forth. But we couldn’t run down every rabbit. So I could not say that no further investigation was necessary and I had to report that since further investigation was necessary, we had to appoint the independent prosecutor. That was the first one appointed under that law. And he did a very good and very fast and through investigation.

Ms. Shakow: Who was he? Do you remember?

Mr. Civiletti: I don’t remember. His name may come to me. In any event, he found that there were no grounds to proceed against Hamilton but it adversely affected the whole business. It adversely affected Hamilton’s effectiveness and his —

Ms. Shakow: And his pocketbook.

Mr. Civiletti: And his pocketbook, and his relationship with the Department was severed, in effect. So it was too bad. (Arthur Christy)

Ms. Shakow: So he had to leave the White House?

Mr. Civiletti: No. He was able to stay.

Ms. Shakow: I see. My recollection is that he lost a good bit of money because he had to hire his own counsel.

Mr. Civiletti: Right.

Ms. Shakow: And later Congress amended the law.

Mr. Civiletti: As a result of that and a couple of others.

Ms. Shakow: Yes. To say that if, in fact, you were not indicted, then the government would cover your legal expenses.

Mr. Civiletti: That's right. And Meese was a beneficiary of that change in the law.

Ms. Shakow: That's right because he was involved but not indicted. But some people who were indicted but not convicted, I think, still had to pay their own legal expenses.

Mr. Civiletti: I'm not sure how the law applied.

Ms. Shakow: I remember the Secretary of Labor, Donovan, was that his name? Ray or Roy Donovan. He was actually convicted but then the conviction was reversed on appeal and he wound up having to pay that — you don't remember who Hamilton Jordan's lawyer was by any chance, do you? Big-time lawyer.

Mr. Civiletti: I don't.

Ms. Shakow: What do you think of that independent counsel law which has since been repealed?

Mr. Civiletti: I think it should have been repealed. I think the power of the —

The Attorney General has the power to appoint whenever he feels the Department cannot do the job. The power to appoint an independent counsel, in any event, and to remove him only for dereliction of duty.

Ms. Shakow: And to supervise it, to some extent.

Mr. Civiletti: Well, in a modest way. If you are going to do that, the very purpose is to not put any real shackles on the independent counsel from a monitoring standpoint, and Judge Bell used that power prior to the statute being passed in the peanut warehouse investigation of President Carter. Paul — not Connelly, but the former U.S. Attorney in the Southern District, Republican, was appointed by Judge Bell to do the peanut investigation and that power exists today and has been utilized historically and is sufficient.

Ms. Shakow: The danger, of course, is a runaway independent counsel.

Mr. Civiletti: The trouble with the statute is that the court picks an individual, and there are a good many examples of this under the statute, who may not have any investigatory experience, have no prosecutorial experience. It is his or her day in the sunshine, so to speak, and having no experience, the ordinary standards of evaluating evidence and probable cause and the ability to convict are absent, so you have a very dangerous kind of a circumstance.

Ms. Shakow: And indeed it is open-ended, I think, some of these investigations, that started quite some many years ago have not been — and the problem too with Walsh had to do with expenses. He was spending a fortune.

Mr. Civiletti: Then the more recent one in *Whitewater*, who was the special prosecutor there?

Ms. Shakow: Not Starr?

Mr. Civiletti: Starr had no prosecutory experience, no investigatory experience, never tried a jury case in his life.

Ms. Shakow: Of course he had been a judge. But he was an appeals court judge.

Mr. Civiletti: He had been a judge, an appellate judge and had been in the Department of Justice as the counselor to Smith, Attorney General Smith. Generally, he is a very bright and able lawyer.

Ms. Shakow: Do you remember a case involving a Dr. Peter Bourne in the White House? This did not rise to the level of a prosecution.

Mr. Civiletti: I do remember that. Bourne was a drug legalization advocate as I recall.

Ms. Shakow: And he took it into his own hands.

Mr. Civiletti: But I don't remember how he got involved. Was it the use of drugs?

Ms. Shakow: No. He wrote prescriptions for various people in his office and used false names. My recollection was he was forced to leave the White House, of course, when this came out, but I don't believe he was prosecuted. You don't recall?

Mr. Civiletti: I don't recall.

Ms. Shakow: Tell me about the controversy — going back again to your earlier days involving David Marston, the holdover U.S. Attorney in Philadelphia?

Mr. Civiletti: The Marston Affair.

Ms. Shakow: He was a Republican appointee who refused to resign?

Mr. Civiletti: Well, the controversy developed while I was in Korea. Judge Bell, in due course, in every administration, the U.S. Attorneys change. Most of them change. Some of them change very promptly and leave early. Others stay in the position until a successor is found. In due course, as I understand it, Marston was asked to leave by Judge Bell. He refused. Judge Bell fired him or had the President fire him, one or the other. Marston then went to the press and claimed that he was fired because he was investigating and about to prosecute a Democratic congressman. The Democratic congressman had met with President Carter once and had met with Judge Bell, so that there was some semblance of a fact basis for the allegation.

Ms. Shakow: To go back a little bit, U.S. Attorneys are appointed for four-year terms. Is that correct?

Mr. Civiletti: No. They are appointed at the pleasure of the President.

Ms. Shakow: I thought they were appointed for a fixed term and he said his term hadn't been up. So he should have resigned on January 20.

Mr. Civiletti: Well, as I say, some of them stay until their replacement is ready. Some of them stay until they are asked to resign. Some resign on January 20 and in some administrations the Attorney General says I want all of your resignations on "X" date.

Ms. Shakow: But in this case, to narrow it down a little, the Attorney General said exactly that to David Marston, I want your resignation. And he refused to give it?

Mr. Civiletti: Yes. And he refused to give it, and so then he was discharged. And Bob Fiske, on the other hand, was a holdover who stayed for many months.

Ms. Shakow: Fiske in New York.

Mr. Civiletti: In New York. And held over for more than a year and was a

superb prosecutor. In any event, that of course created a hullabaloo, the accusations of Marston, and Judge Bell called me in Korea and said did I know anything about Marston and his investigation of the congressman in Philadelphia. And I said that I didn't remember anything about it or know anything about it. And I had never discussed it with Judge Bell, not having such knowledge. And then one of my assistants, Timmy Baker out of Baltimore, whom I had asked to join me as an assistant in charge of Organized Crime, said that he had briefed me — his recollection was that he had briefed me on the Marston investigation in the course of briefing me on a whole series of investigations. And I maintained that I did not recall that in any way and I didn't recall it. I'm not saying that he didn't do it. I just didn't — it just didn't stick in my mind. Safire picked that up, that inconsistency, naturally, between myself and Baker and said somebody is lying here. They can't both be true. He either said it or he didn't say it and who said what to whom, and was it a cover-up of Judge Bell's firing Marston. So, that resulted in my confirmation as — I was nominated in November and then renominated in January of '78, and I went from January through May before the Senate Judiciary Committee, with Malcolm Wallop being the only non-lawyer out of 17 members of the committee conducting an inquiry, and I appeared some 52 times, or something like that.

Ms. Shakow: This was your appointment as Attorney General.

Mr. Civiletti: No, as Deputy. He would ask me all kinds of questions dealing with Marston and asked for records and information. So they ran the Marston Affair pretty well, and Marston then ran later on for mayor of Philadelphia. He lost, but he made a big play out of it. Finally, in May, *Time* magazine ran a story in which they had me in the hall with my hands in my back pockets pacing and reported an incident that occurred during the last appearance before

the Congress in which Wallop made a very long utterance. I sat there and looked at him, and he sat there and looked at me and he said, "Well are you going to answer that question?" And I said, "You haven't asked a question." And so they had the reporter read back the statement and it wasn't a question.

Ms. Shakow: It was a harangue.

Mr. Civiletti: A harangue. And so *Time* printed it and it embarrassed Wallop, I guess and the Republicans, and they ended the inquiry and confirmed me within a couple of weeks.

Ms. Shakow: And did he vote for you?

Mr. Civiletti: No.

Ms. Shakow: He was the one that voted against you.

Mr. Civiletti: Well, I think a number of them voted against me for Deputy. It was about —

Ms. Shakow: Twenty-two Republican senators. All because of the Marston thing.

Mr. Civiletti: I think so.

Ms. Shakow: Who were the other Assistant AGs in the Carter administration that you worked with before you became Attorney General? Who were your colleagues?

Mr. Civiletti: Pat Wald was the Assistant Attorney General of the Legislative Division. John Shenefield was the Assistant Attorney General of the Antitrust Division. John Harmon was the Assistant Attorney General of the Office of Legal Counsel. Barbara Babcock was the Assistant Attorney General of the Civil Division. Assistant Attorney General of the Tax

Division — I can see him, but I've forgotten his name.

Ms. Shakow: Did any of them become personal friends? Were you particularly impressed by any of them? Are you ever in contact with them?

Mr. Civiletti: I was impressed with Pat Wald. And, of course, I've been in contact with her from time to time. Shenefield was very impressive and he became my Associate Attorney General when I became Attorney General. Carl Ferguson was the Assistant Attorney General of the Tax Division. A very competent man.

Ms. Shakow: Pat Wald is an example I always use to young women lawyers because she and I are friends and she said she took ten years off and had five children and then came back and her career just went right to the top.

Mr. Civiletti: Wonderful.

Ms. Shakow: She's a very lovely person. Who was the Director of the FBI during these years? Was it Webster?

Mr. Civiletti: Webster.

Ms. Shakow: The whole time? Did you get along with him?

Mr. Civiletti: Yes. In fact I had recommended him.

Ms. Shakow: Tell me about that. How did that happen? He had been a judge.

Mr. Civiletti: They had a commission and the commission picked a United States Marshal and it was headed by a man named Shapiro, the head of Dupont. A blue ribbon commission because the President had committed in the campaign to get rid of the Director of the FBI.

Ms. Shakow: Who had been — was that Gray?

Mr. Civiletti: No. The man after Gray.

Ms. Shakow: Oh, I know. Saxby. No. A man from Kansas City.\*

Mr. Civiletti: A great big fellow. Clarence Kelley. So the commission recommended this United States Marshal. Judge Bell and the President didn't think much of him, and so Judge Bell got Frank Johnson to agree to become head of the FBI who was then, I think, a United States District Court judge. I don't think he was — he may have been on the Fifth Circuit.

Ms. Shakow: We are talking about the same Frank Johnson.

Mr. Civiletti: The same Frank Johnson. The great civil rights judge. And that was terrific. But before Frank Johnson was picked, Judge Bell said, "Well, we don't want the blue ribbon commission then. The President would like you to consider being the head of the FBI."

Ms. Shakow: You?

Mr. Civiletti: Me. And I said I'm really not a cops and robbers guy. I really like practicing law and being a lawyer, and I wouldn't do a good job in that position. He said all right. Well then he got Frank Johnson. Frank Johnson had a physical examination, and he had a very deep hernia that had been undiscovered so he went into the hospital. He had an operation, a three-week recuperative period in the hospital and rethought his life and his efforts, and decided to turn down the FBI directorship. So the Attorney General came knocking at my door and said, "Frank Johnson is not going to be the head of the Bureau. I want you to be the head of the Bureau. And I know your reservations, but we are confident you can do a good job." And I

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\*Kelley.

said, “Well, I think I can find a really good person to be the head of the Bureau if you’ll give me 30 days.” So the Attorney General said, “That’s all you have, 30 days.” I had met Webster earlier and Webster is the All-American Boy. Just a great resume, great everything, Republican. He was terrific. So, I got a hold of him. I had met him through the Bar Association. He was an Eighth Circuit judge at the time. So I put Judge Bell onto him and showed him all these credentials and resume, and he was a circuit judge, as was Judge Bell. So Judge Bell called him — and he used the line that he was so effective in using and Webster said, “Well, why would I give up a lifetime appointment to become the head of the FBI?”, and Judge Bell said, “To serve your country. What you’ve always done all your life.” So Webster came in and became the head of the FBI and saved me.

Ms. Shakow: Otherwise, we wouldn’t be sitting right here today. Well that’s a nice story. How about the Solicitor General’s Office? Was Wade McCree the S.G. in those days?

Mr. Civiletti: Yes.

Ms. Shakow: Did he serve in the Carter administration, the whole four years?

Mr. Civiletti: Yes.

Ms. Shakow: And you liked him?

Mr. Civiletti: I liked him very much. We had — he was living in the Southwest and so from time to time I would walk with him up to the Department of Justice and we would discuss life or philosophy. He was a wonderful man.

Ms. Shakow: Did he become a judge or had he been a judge?

Mr. Civiletti: He had been a judge.

Ms. Shakow: Okay. He was from Ohio? Detroit.

Mr. Civiletti: Detroit, Michigan.

Ms. Shakow: When you rose from Assistant Attorney General to Deputy Attorney General, was that a promotion that you more or less expected? Who had been the deputy and why did he leave?

Mr. Civiletti: The deputy at the beginning was a man named Pete Flaherty, who had been the Mayor of Pittsburgh and had been in his younger days a prosecutor, a state prosecutor and had a master's degree in administration. So Judge Bell felt that that combination was ideal for Deputy. That he could run the Department reasonably well and that he was familiar with criminal proceedings and criminal law which was important. Pete Flaherty thought the job was — as I later discovered — thought the job was similar to the job that Justice White had had under Attorney General Kennedy which was the judges, the appointment of judges, and testimony and appearances and work with the Congress, which was right up Flaherty's alley. When the administration started in February, March, April, it became apparent that they did not have a meeting of the minds on the nature of the job and the nature of the role that Judge Bell expected, having been a circuit court judge for so long. He expected Flaherty to be able to present cases, present issues of legal substance and evidentiary evaluations and assessments and Flaherty, his talents were in other areas and not in that type of presentation. So by July it was obvious to each of them that it was not working. And so Flaherty left in September of 1977, and Judge Bell asked me to become Deputy Attorney General in October and I was nominated, I think in November. During the time I was negotiating Tongsun Park out of Korea and then confirmation hearings were not held, and Christmas came and I was renominated in January, and

that's when the Marston Affair broke. So I acted as Acting Deputy and Assistant Attorney General of the Criminal Division from September or so through May of '78.

Ms. Shakow: Two great jobs at once. And you were not a full year as Assistant AG, you just had eight or nine months.

Mr. Civiletti: I was, in effect, because I wasn't confirmed as Deputy until May, so I had come in around February of '77 and I was still Assistant AG. And then I picked Phil Heymann to become my successor in the Criminal Division, and then Phil came back as Deputy Attorney General under Janet Reno, and that didn't work out.

Ms. Shakow: How did you know him?

Mr. Civiletti: I didn't. I just knew his reputation and he had been on the Jaworski *Watergate* prosecutive team and was recommended by Chuck Ruff. Chuck I got to come over to the Department of Justice as my Associate Deputy Attorney General when he was at HEW at the time.

Ms. Shakow: So that was Chuck's first experience in the Justice Department.

Mr. Civiletti: No. He had been the last *Watergate* prosecutor and had been in the Department and was picked to do that job out of the Department, I believe.

Ms. Shakow: A final question about this period. In 1978, Congress created an enormous number of new federal judges. What was the Department's role in filling those slots? It was the greatest group of vacancies ever available to any President. And even though President Carter didn't get to nominate a Supreme Court Justice, he did name many judges.

Mr. Civiletti: There were very few areas involving the Justice Department that President Carter was interested in intensely. One was judgeships. And he had the advantage of

having Griffin Bell who had been a circuit court judge for 17 years as the Attorney General so he relied very heavily on Judge Bell's vetting process and judgment and recommendations. With regard to judgeships, President Carter had two innovations. One was the commissions, presidential commissions for federal circuit court judges that were established in every circuit, and so he said that he would pick judges that were recommended by these presidential commissions instead of United States senators.

Ms. Shakow: Only at the circuit level. And who sat on these commissions? Are they judges or prominent lawyers?

Mr. Civiletti: Walsh was the head of the commission in New York at the time. Very prominent lawyers, citizens, public figures.

Ms. Shakow: Did they ever nominate themselves?

Mr. Civiletti: No. The second requirement or standard that he imposed was he wanted much greater diversity on the bench. Minorities, women, academics, a mixture.

**(Tape Ends)**

**ORAL HISTORY OF  
BENJAMIN R. CIVILETTI - FOURTH INTERVIEW  
NOVEMBER 13, 2001**

This interview is being conducted on behalf of the Oral History Project of the District of Columbia Circuit. The interviewee is Benjamin Civiletti, former Attorney General of the United States, and the interviewer is Patricia Shakow. This interview, the fourth in a series, took place at the offices of the Venable law firm at 1201 New York Avenue, in the District of Columbia, at 10:00 a.m., on Tuesday, November 13, 2001.

Ms. Shakow: At the end of our last session, Ben, we were discussing legislation creating a large number of new federal judgeships. You said that the administration was interested primarily in improving diversity on the federal bench. Can you give us any rough figures indicating whether that goal was achieved; in other words, of the new judges —

Mr. Civiletti: I can just give you my rough recollection. The number of women on the bench probably quadrupled, but that's not saying much since it started from such a low number. But, I would guess that something like three out of every ten appointees of the Carter administration were women. Probably, two more of the ten were black, so I would say half of the judges, probably, that the Carter administration appointed were either women or black or both. A few Hispanics, particularly in the Southwest and the West, but not as substantial a number as other minorities.

Ms. Shakow: Did you have any controversial nominees? Did you have to fight for some of them? Were any of them defeated that you recall?

Mr. Civiletti: No, I don't recall any that were defeated and I don't recall any that we had to really fight extraordinarily hard to get confirmed. Of course, the Democrats controlled the Senate at the time, and so that made it somewhat easier. There were any number of potential candidates that were not nominated after the vetting for one reason or another.

Ms. Shakow: Vetting by the ABA, or vetting by the Department?

Mr. Civiletti: Most of the ones who were not nominated were vetted by the Department, and the reasons for their not being nominated were discovered during the Department's work. I don't recall any special difficulty. We had a couple of instances where the ABA initially had a requirement of so many years of practice and so many trials and, of course, black lawyers and women lawyers frequently didn't have those requirements. But we were able to convince the committee that that was inappropriate for people who either came to the bar later, as many women did, or who had not been in a litigative practice but had been professors or in a business practice, or something of that kind.

Ms. Shakow: I seem to remember, too, that the ABA had an informal rule that 40 was the minimum age for judges, and I believe that that was also changed —

Mr. Civiletti: That's correct. They did away with that silly rule.

Ms. Shakow: It doesn't look so silly as we get older, does it?

Mr. Civiletti: Well, there is some logic to it. My experience has been throughout the practice, not only in government, that a higher percentage of judges who go on the bench at an early age, from 34 say to 42, become disenchanted after ten or twelve years. Disenchanted, I think, because of the volume of nonsense cases in the federal court, disenchanted by the comparison in private salaries to judicial compensation —

Ms. Shakow: And, the pay freeze they had to endure for so long.

Mr. Civiletti: The pay freeze. And yet they stay on the bench and they become, I wouldn't say cynical, but they become difficult to deal with.

Ms. Shakow: That's a very interesting observation. I hadn't thought of that.

President Carter, of course, was not a lawyer, so this may not have loomed so large in his consciousness, but were you at the Justice Department and others in the administration very disappointed that he did not get to appoint any Supreme Court justices? Did you to expect —

Mr. Civiletti: Not really disappointed. We had a list that kind of was handed down. Attorney General Levi had a list on the Republican side that Judge Bell was very, very familiar with circuit court judges throughout the country, having served for thirteen years as one in the Fifth Circuit. He reviewed that list, developed his own list or the administration's list. I inherited it pretty much when I became Attorney General, and so we were kind of half prepared if the occasion arose, but no one was counting on it or disappointed that it didn't happen.

Ms. Shakow: Who was on that list? Can you tell us some names?

Mr. Civiletti: I don't remember exactly who was on the list, but I remember Attorney General Levi's list had Bill Webster on it, who became the head of the FBI, of course, and then the CIA. And he had a judge from the Ninth Circuit who was from either Utah or Arizona. He was a well thought of judge.

Ms. Shakow: Were there any women —

Mr. Civiletti: Once Ruth Bader Ginsburg got on the D.C. Circuit, she came onto my list.

Ms. Shakow: So, it's possible that President Carter might have appointed the first woman to the Court instead of President Reagan.

Mr. Civiletti: Amalya Kearse of the Second Circuit. She was on the list.

Ms. Shakow: She is also African-American, isn't she?

Mr. Civiletti: Yes.

Ms. Shakow: That's very interesting, a very interesting list. Are there any other issues or cases from that period, that is, before you became Attorney General, when you were Assistant AG and Deputy that you'd like to discuss before we move on?

Mr. Civiletti: I think we discussed Helms and Koreagate, Bert Lance.

Ms. Shakow: Graymail, we discussed.

Mr. Civiletti: Graymail, we discussed. Did we discuss Prairie Fire?

Ms. Shakow: No.

Mr. Civiletti: That was the circumstance where we had two FBI undercover agents in an organization called Prairie Fire — I think we did discuss that.

Ms. Shakow: I think we did, right, excuse me, we did.

Mr. Civiletti: Abscam began when I was Attorney General, I believe. Greylord began when I was Attorney General. The Weatherman prosecutions of the Deputy Director of the FBI began before I became Attorney General and continued after that, and I think we discussed them. I don't think there were any prior to my becoming Attorney General. One little incident when I became Attorney General was, and we may have discussed this, the Godunov, the Russian ballet dancer.

Ms. Shakow: The Russian ballet dancer, whose wife was in the plane.

Mr. Civiletti: Right, I guess Abscam and Greylord were two more sensational investigations while I was Attorney General. Greylord began just as I finished my term. Abscam was, of course, full blown and exploded while I was Attorney General as a result of leaks.

Ms. Shakow: Greylord was the corrupt judges in Chicago. I don't think we did

discuss that. Do you have anything you'd like to say about it?

Mr. Civiletti: I had a report from the U.S. Attorney in Chicago that there was evidence of corruption. So, he and the Bureau requested authority to conduct an undercover operation in Chicago of the state court trial system, of providing the opportunity for judges, lawyers and court personnel to receive payments for lesser sentences or for acquittals. And I authorized the investigation but required the condition that the Chief Judge of the state court system be advised, so that there was some recognition of the legitimacy of the federal investigation and it wasn't an attack on the system itself but on the corruption part of the system. That investigation went on two or three more years after I left office and resulted in probably half a dozen to a dozen judges being removed and the same number of lawyers being prosecuted successfully. It was quite a cleanup.

Ms. Shakow: Were the judges convicted and sent to prison?

Mr. Civiletti: Yes.

Ms. Shakow: Well, they should have been. In the summer of 1979 Griffin Bell decided to leave the Justice Department. Why did he do that? Do you know?

Mr. Civiletti: I think because he told the President when he took the position after having failed to satisfy the President in finding an Attorney General that the President had confidence in, that he would take the position but only for two years because, remember, he had just a year prior to the Carter administration retired from the Fifth Circuit in order to go into practice at King & Spalding with Charlie Kirbo, and his reasons for doing that still prevailed two years later in 1979 when he resigned. That was one reason. The second reason was that he was very canny, Judge Bell, and felt that a year of an election effort, which would be 1980, would be

a crazy season for all kinds of things to happen, and he would just as soon not be part of that.

The third reason was he thought he could get what he wanted to get done in the first two years of his service. So, he decided in 1977, that he was going to resign in January of '79, but what coincided roughly with that time was President Carter's Camp David retreat, where he discovered a malaise in the country and also would determine that certain Cabinet officers were not playing as team members. And he removed Patricia Harris and Califano and the fellow who was the head of the Treasury —

Ms. Shakow: Miller?

Mr. Civiletti: No.

Ms. Shakow: Blumenthal?

Mr. Civiletti: Blumenthal. So, Judge Bell didn't want to be associated with people who had been fired, so he waited several months until the coast was clear, so to speak, to resign.

Ms. Shakow: You have said that it was he who recommended your nomination to the President. Had you had much contact with President Carter or the White House staff before you became Attorney General?

Mr. Civiletti: No. A little bit of contact, but not much.

Ms. Shakow: So, he really was quite satisfied with Judge Bell's recommendation.

Mr. Civiletti: Well, there were two people who were being rumored to be Attorney General to replace Judge Bell; Warren Christopher, who was then the Under Secretary of State under Cy Vance and under Ed Muskie, when Muskie replaced Vance, and myself. And so, I think the President followed Judge Bell and Charlie Kirbo's recommendation and I think

that their feeling was that the Under Secretary of State was doing such a good job there that it was well to leave him there rather than have him switched to Justice and then have some lesser known person, and, of course, that proved to be a good choice because Warren played such a strong role in the release of the hostages in Iran.

Ms. Shakow: Once again, your nomination had token opposition in the Senate. One senator voted against you. Do you recall who that was and why he did so?

Mr. Civiletti: I don't recall who it was, but my guess is that it was the senator from Wyoming.

Ms. Shakow: Who had given you a hard time before.

Mr. Civiletti: Who had given me a hard time in my nomination for Deputy, Malcolm Wallop. Is that right?

Ms. Shakow: I think that is right, yes. I'm surprised that you don't have it engraved in your heart. I think I would remember someone who had done that to me.

Mr. Civiletti: I didn't think much of Wallop, so it didn't bother me that he voted against me. You're known by your enemies.

Ms. Shakow: That's right. I have read that a man named Jerry Berman, who was the lobbyist for the ACLU at that time, praised your nomination and said that the ACLU would much rather have you than Bell as Attorney General, and he was happy to see Bell leave. Why was that? Did Judge Bell run into problems with the ACLU?

Mr. Civiletti: I have no idea. I think Judge Bell believed — and I think it's been shown a little bit since he's left the government — I think Judge Bell believed that the ACLU was in left field and that they took extreme positions which were not good for the country, and

so he did not allow them the respect that they felt they were entitled to. And Judge Bell was, as was President Carter, fairly conservative and he has supported President Bush, the first, and now President Bush, the second. So, I'm not surprised that the ACLU may have felt so strongly about it.

Ms. Shakow: Was his confidence in you borne out? Did you have a good relationship with the ACLU? Or, do you recall any at all?

Mr. Civiletti: I don't recall any, but I did some things in civil rights in publishing a *Stanford Daily* guidelines dealing with free press and severe limitations on efforts to subpoena reporters or obtain sources from newspapers or things of that kind. And also, supported or promoted legislation which spelled out the rights of defendants and the use of graymail and information and where the discovery limits were, all of which I think probably were within the scope of the interests of the ACLU. They may not have agreed with all the positions, but they were within a range of reasonableness. And then we promulgated, which are still alive today, for the first time in the history of the Department, the Principles of Federal Prosecution, which spelled out for everyone, so everyone knew the rules of the game, plea bargaining, the focus of criminal prosecutions, the factors to be considered in priorities, the rights of defendants, the rights of people subpoenaed before the grand jury. For example, the subpoena of a potential defendant before the grand jury was determined to be a last resort. You had to exhaust all other means of evidence before you took to shooting fish in a barrel. So, those kinds of things probably —

Ms. Shakow: And, are you saying that before that time there was no uniformity across the country in each of the —

Mr. Civiletti: There was little uniformity. There was some uniformity, of course, as a result of Department of Justice policy, and to some extent, the advocacy training in the Department. But there was no express or published rationale for what the government was doing and should be doing in each of the stages of federal prosecution, investigation charging, for instance. One of the principles within this set of policies was that the fewest charges should be brought in order to cover the range of crimes committed by the alleged defendant and to secure an adequate sentence. And prior to that you'd have indictments of 400 counts in a case, which was ridiculous. And so I'm rather pleased that essentially, with minor modifications, those principles have survived through the Reagan years, the Bush years, the Clinton years, and to this day.

Ms. Shakow: That certainly explains Mr. Berman's confidence in you.

Mr. Civiletti: Maybe.

Ms. Shakow: Before we go into some of the cases and causes that you handled as Attorney General, I'd like to talk a little bit about being a member of the Cabinet. Do you recall your swearing-in ceremony, for example, where it was held and who administered the oath, and what members of your family were there? Was it a very big occasion in your life? Or, was it just a —

Mr. Civiletti: It was a very big occasion. Those are photographs of it. The Chief Justice swore me in. President Carter was there. Judge Bell, my wife, all of my relatives and family, friends, members of my law firm, members, of course, of the Department and other Cabinet officers, Chairman Rodino of the House Judiciary Committee, Senator Sarbanes, Senator Kennedy —

Ms. Shakow: And this was all done in the Justice Department?

Mr. Civiletti: And it was done in the Great Hall of the Justice Department, where those two statues are.

Ms. Shakow: Unclothed, as I remember Ed Meese having his picture taken with one of them. (Laughter) To what extent did this change your personal life? Did your family move at this point to Washington?

Mr. Civiletti: Yes. My wife and daughter — we got an apartment at the Irene, out in Bethesda, is it?

Ms. Shakow: Chevy Chase.

Mr. Civiletti: Chevy Chase, and we lived there for those two years. And my daughter was a freshman in high school, so she changed from Bryn Mawr School in Baltimore to a school out on — just before you get to the Beltway.

Ms. Shakow: Was it out River Road, the girl's school?

Mr. Civiletti: Yes. I've forgotten the name of it.

Ms. Shakow: It escapes me now. It's a very good school.

Mr. Civiletti: Not far from Burning Tree.

Ms. Shakow: Yes. I know just where it is.

Mr. Civiletti: That turned out to be a very good thing, because it was like a prep for when she went away to college. So, she switched schools, had to make all new friends, a new environment, test herself against missing the people she'd grown up with most of her life, and so she was there and then she returned to Bryn Mawr when I left the government and graduated from Bryn Mawr and then went to college the following year.

Ms. Shakow: She did graduate with her correct class back in Baltimore. That was nice.

Mr. Civiletti: But other than that, it didn't make a great change because I had been in the government for two years. We had tightened our budgetary belts and I never had any protection, FBI people or anything, either as Deputy or Assistant or as Attorney General.

Ms. Shakow: Even as Attorney General, you did not have any security people?

Mr. Civiletti: None.

Ms. Shakow: I'm amazed.

Mr. Civiletti: None, and never felt any need for any.

Ms. Shakow: Did you have a driver, for instance?

Mr. Civiletti: Never had any incidents. There were threats from time to time, but they usually came from prisoners who were in prison and couldn't do anything anyway. I had a driver, but I'd had a driver as Deputy and as Assistant Attorney General, so that wasn't new or different. I generally flew commercial airlines all the time and never had security with me when flying or traveling. The Bureau would meet me at an airport or railroad station sometimes when I was busy in another city and be available but we replaced Levi in the *Watergate* years and Mitchell, all of whom had had security. So, Judge Bell, along with other symbolisms of opening all the doors of the Department which had been secured before the Carter years, one of his symbols was that he had no security service and had not felt the need for it, and so I just followed in that path. I didn't feel any need for any, either. And, of course, security service is like live-in help, so to speak. You give up a lot of your privacy as a condition of that service.

Ms. Shakow: I couldn't imagine living that way, but I had assumed that you had

to at that point. What about your wife's obligation as a Cabinet wife? I should think that the burdens on her increased, especially in terms of social activities and other things. Did you feel obliged to go to functions that you just as soon would have skipped?

Mr. Civiletti: Modestly.

Ms. Shakow: Modestly, you went, or modestly, you felt —

Mr. Civiletti: Modest increase or imposition of social obligations. I think it was tempered by the fact that during most of the year 1980 the American hostages were held in Iran, and President Carter was following the Rose Garden strategy that he was not going — it turned out to be the wrong strategy — but he was not going to live it up while his fellow citizens were held captive in this foreign country. And so, that put a damper to some extent on social activities, although we did go to any number of them. The more burdensome were the requests for appearances and public speaking by every organization under the sun and balancing those occasions and making sure that you used some common sense in what was accepted and not accepted. But a major part of the Attorney General's role is as a leader and spokesperson for law enforcement throughout the country or on other issues, civil rights, the environment, or something else; so that a substantial amount of speechmaking is obligatory, and that was much more burdensome than as Deputy Attorney General, for example.

Ms. Shakow: Were you invited to the White House on many social occasions? Do you remember any state dinners, for instance?

Mr. Civiletti: I went to state dinners. From time to time the President would have the Cabinet, or half a dozen members of the Cabinet, sometimes all the Cabinet, sometimes fewer than all, and they would be more informal dinners than the state dinners, and would be

held in different areas of the White House. He did that about once a quarter or so, and they were very lovely dinners and very good times. I got to know Bill Miller quite well, and I got to know Ed Muskie quite well. I remember I didn't hit it off with Califano particularly well, but he wasn't there a great deal.

Ms. Shakow: Why was that?

Mr. Civiletti: I thought he shot from the hip a lot, and my first experience with HEW at the time was when he had made his speech saying that there were frauds, multimillions of dollars were being lost by the government as a result of health and welfare frauds throughout the country, as many as 50,000 frauds, and they should be investigated and prosecuted. Here I am, the Assistant Attorney General of the Criminal Division, and so we heard this speech, and the newspaper people, you know, just collapsed on me. So, I asked for a meeting with him, and he sent over his Undersecretary or Deputy, and I had my criminal fraud people there, and I said, "Well, who are these people? Where are the records? Have you referred them to the Department of Justice?" And went bang, bang, bang, bang. So, his answer to that was, "We don't know. We don't know. We don't know." And I said, "Well, you'd better go back to HEW and find these out and you'd better inform Secretary Califano that he'd better limit his remarks with regard to HEW fraud until he has the facts. Well, his people were appalled at that because they felt I was uncivil and lacked appreciation of the purpose of the meeting that they felt was a spiritual meeting so we could get together and discuss common problems and develop a plan for solving them. Instead, I had been combative.

Ms. Shakow: A lawyer.

Mr. Civiletti: Yea, a lawyer. So, that left an early, less than a wonderful taste in

my mouth about Joe Califano. Since then, of course, we've become friends, and I much admire him, but at the time I was not terribly happy with him. Neither was President Carter because he was off the reservation so much.

Ms. Shakow: Yes, yes. Did you make any lasting personal friends in the Cabinet, or even just for the time you were there? For instance, you mentioned, Muskie and Miller.

Mr. Civiletti: Cecil Andrus was —

Ms. Shakow: Interior.

Mr. Civiletti: Yea, the Secretary. He was a good friend.

Ms. Shakow: Was that because of your work in the Lands and Environmental area?

Mr. Civiletti: Yes, and because we hit it off. I never knew Blumenthal very well at all. And Patricia Harris, I did not know well. There was a man from Chicago, an older man, who I think was the head of — I can't remember now whether he went into —

Ms. Shakow: Klutznick?

Mr. Civiletti: Klutznick. Yes, Klutznick.

Ms. Shakow: Commerce Department.

Mr. Civiletti. Right. And, he and I got along very well.

Ms. Shakow: You didn't serve with Juanita Kreps, who was his predecessor there?

Mr. Civiletti: I did. I knew Juanita. I may have overlapped a little bit with her service, and she was a very charming lady and very competent. I didn't know her well, either.

Ms. Shakow: How about Brock Adams, or Neil Goldschmidt? He was fairly

young as you were.

Mr. Civiletti: Neil Goldschmidt was a good friend, and I enjoyed his company.

We were about the same age.

Ms. Shakow: That's what I was thinking. Yes, he was a very nice fellow.

Schlesinger, did you deal with Energy, or —

Mr. Civiletti: No, I didn't.

Ms. Shakow: Ray Marshall in the Labor Department?

Mr. Civiletti: Ray, I got along well with and became very fond of. McIntyre at OMB, I have and had a good relationship with him. Schlesinger, I thought was a windbag.

Ms. Shakow: Probably always a danger of that in the Cabinet.

Mr. Civiletti: He'd sit back and smoke his pipe and pontificate. I never enjoyed his arrogance.

Ms. Shakow: Now, Charles Duncan succeeded him. Was that the Charlie Duncan who had been U.S. Attorney there?

Mr. Civiletti: No.

Ms. Shakow: Okay.

Mr. Civiletti: Charlie Duncan was a very wealthy man. I think he was a Texan.

Ms. Shakow: I see.

Mr. Civiletti: From the Southwest and very competent.

Ms. Shakow: I didn't remember him at all. What were the Cabinet meetings like?

Mr. Civiletti: Perfunctory.

Ms. Shakow: Really.

Mr. Civiletti: You can imagine you have thirty people sitting around the Cabinet table, and then another twenty-five staff people sitting behind them. Each of the people at the table has very disparate interests. The Agriculture Department doesn't know anything about Justice. Justice knows little about Agriculture. State has its interests. Labor Department has its interests. Treasury, etc. So, at a meeting the commonality is far outweighed by disparate interests, and, by and large, the Cabinet meetings were an opportunity for the President to address policies or issues and to try to bring the Cabinet together to focus on what his priorities were and what was needed to be done, generally speaking, and then apply that general policy to your department. But there was very little discussion or question-and-answer period or ideas that were concrete. There were two exceptions: Califano and Harris; and they would always say, "We need to spend more money." To each of them the President said, "We can't spend any more money."

Ms. Shakow: So, real problems weren't solved there.

Mr. Civiletti: No.

Ms. Shakow: Did you find that you got the ear you needed in another forum if you didn't get to raise some question at the Cabinet meeting? You had no trouble dealing with the White House staff to the President?

Mr. Civiletti: No, I would periodically send a report to the President on issues that I thought should be called to his attention. Occasionally, I would call Hamilton Jordan. Occasionally, I would go to see Jody Powell. I think there was a man named David Rubenstein—

Ms. Shakow: I think I remember that name, too.

Mr. Civiletti: — a young man who was a Baltimorean. And I would call him and he was more a domestic policy and economic policy advisor. And for common problems, I would deal with the Cabinet member of that department, whether it was Ray Marshall, or Klutznick, or Muskie, or whomever.

Ms. Shakow: Did you feel that the President was a strong leader in terms of his own team, I mean, at these Cabinet meetings, or was he fairly content to let you —?

Mr. Civiletti: No, he was quite strong. He dominated the meetings, and he was very knowledgeable about detail, and he was not passive. He was active.

Ms. Shakow: I seem to recall that Mrs. Carter would occasionally sit in at meetings.

Mr. Civiletti: She was at every Cabinet meeting I was at.

Ms. Shakow: She was? And, what was the reaction? How did she — ?

Mr. Civiletti: She sat not far from the door. The Cabinet table is a very large oval table, and the President sits in the middle on one side, and the Vice President sits opposite him, which, in this instance, was Mondale. The Attorney General sits to the left of Mondale. The Secretary of State, Secretary of Defense sit to the left and right of the President, and the Secretary of the Treasury, I think, sits to the right of Mondale, or something like that. Those are the four. And then the other Cabinet officers at the time of creation sit and you get to the end of the table, the staff people sit behind the President and behind the Vice President, and their respective Cabinet officers that they've come with. At the very end of the table, at what would be the foot of the table, so to speak, near the door and away from the table, that's where Mrs.

Carter sat.

Ms. Shakow: Not actually at the table. More like a staffer would.

Mr. Civiletti: Except, she wasn't in a staff position. More like a sergeant-at-arms at the door, I mean it was adjacent to the door. She never said anything.

Ms. Shakow: She didn't participate.

Mr. Civiletti: Never.

Ms. Shakow: Did you have the feeling that she influenced the President later?

Mr. Civiletti: No. Not by the Cabinet meeting business. From the nature of their relationship, which was very, very close, and by the fact that she was a tireless campaigner and had her own issues such as mental health, I never had any doubt that she would speak her mind to the President or that the President would consult with her from time to time. But not anything that happened at Cabinet meetings would indicate that.

Ms. Shakow: Do you have any sense of what was the best part, aside from the substance of the job, the best part of being a member of the Cabinet, and what perhaps was the worst?

Mr. Civiletti: Well, I think the best part was being exposed to the conduct of the business of the federal government and to have the opportunity and to see the President develop policy and to see the caliber of the other men and women who were involved in one form of policy and the other; it was a very exhilarating type of exposure and experience to see the highest levels of government in operation themselves. There was no bad part, or poor part of Cabinet meetings. The toughest time I had as Attorney General was after the hostages had been held several months, White House staffers would call meetings to discuss various aspects of the

hostage crises, and as far as the Department of Justice those meetings focused on issues that related to the Department, too, which stood out. One was all the Iranian students in the United States. Most of them were on educational visas and many of them were not complying with the terms and conditions of the visas.

Ms. Shakow: That's the situation we have now with the Afghan students.

Mr. Civiletti: Similar.

Ms. Shakow: Interesting.

Mr. Civiletti: And, the second was that there were enormous numbers of Iranian demonstrations in support of the Ayatollah, which infuriated those who wanted to stop the demonstrations and, this is too harsh, and put all the Iranian students in jail.

Ms. Shakow: Yes.

Mr. Civiletti: And so I had to go to the White House twice a week and say you can't do that, it's not legal, it's not constitutional. You can limit where they demonstrate and you can get them out of the front of the White House and move them over to Constitution Avenue or somewhere, and we can investigate to see if Iranian students are violating their visas and the law and begin deportation proceedings, but we can't throw them in jail. So, it was a very difficult, —

Ms. Shakow: Trying time.

Mr. Civiletti: — trying time because I was kind of like the policeman who had to keep saying well, we can't do that, no, no.

Ms. Shakow: Well, I hate to sound parochial but I think when lawyers are in the White House or have strong staff positions in the White House, that kind of problem is addressed

with some sensitivity, but I gather that this didn't happen. If you were dealing with, for instance, Jordan or Powell, who were both young and —

Mr. Civiletti: No, I was dealing with some lawyers.

Ms. Shakow: And, even they —

Mr. Civiletti: And they were the ones that were pushing all kinds of creative ideas. I mean they knew that we couldn't close down all demonstrations and couldn't arrest all Iranian students. So those outliers they knew but they came up with a lot of cockamamie ideas that were short of that which were just as bad and just as, in my view, unconstitutional.

Ms. Shakow: Yes.

Mr. Civiletti: So, I don't excuse the proposals on the ground that the people who rendered them or made them were not lawyers or not trained and were politicians or whatever. And the White House counsel and I, at the time, didn't get along, particularly well.

Ms. Shakow: And, who was the White House counsel?

Mr. Civiletti: Lloyd Cutler.

Ms. Shakow: Oh, yes, a very strong-minded man. Moving on to some of the official activities of the Department, one of the major programs you had to administer during your time as Attorney General was the one created by the Law Enforcement Assistance Act, passed in the Johnson administration. Why was this program so controversial? Was it because a great deal of money was spent on hardware for police departments? And, some thought that it was wasted?

Mr. Civiletti: I never got into the LEAA controversy myself. By the time I became Attorney General, the handwriting was on the wall that the program would be knocked

down. President Carter, I guess, during his campaign had railed against the waste and silliness of LEAA, and Judge Bell picked up that theme as his own and believed it very strongly, so he wanted to eliminate the agency because he thought it was run poorly. He thought it wasn't doing what it should do, and he needed some symbols for that. So, the great symbol that he came upon was a grant that had been given to some police department or police academy to develop a shooting shoe, and the government had given \$50,000 for the development of this shooting shoe. So Judge Bell had a prototype of the shooting shoe sent in and he would wave it at every press conference and opportunity he had as to what LEAA was doing and why it should stop doing it.

Ms. Shakow: And there's nothing like a visual, like a shoe, to get you on television.

Mr. Civiletti: Then, he had a replica of an armored car, that a prototype had been developed, and it looked like a wartime tank. Instead of having one heavy artillery gun pointing out of it, it had about six of them coming out of each side, and it looked like it could have been used in the Battle of the Bulge instead of someplace in the metropolitan area.

Ms. Shakow: Rolling down Pennsylvania Avenue.

Mr. Civiletti: So, he succeeded in getting it reduced and reduced and I think it was eliminated by the end of the Carter administration.

Ms. Shakow: It was zero budgeted, as I recall, and then legislation was passed, I think, or it was extended. It was supposed to be.

Mr. Civiletti: — sunsetted.

Ms. Shakow: Yea, it just sunsetted a couple of years later. President Carter during these years decided to pardon the Puerto Rican terrorists, who had shot up the House of

Representatives sometime in the '50s and killed some Secret Service officers, as I recall, during the Truman administration. Did you take part in making that decision? Can you tell us about that?

Mr. Civiletti: I think we commuted their sentences — I don't think we pardoned them — to time served. They had become martyrs for activists in Puerto Rico that were challenging the Government of Puerto Rico, protesting or stirring up unrest and the feeling was the reason for their martyrdom was that these people had served thirty years — something like that — and were sick. A couple of them were unstable mentally and so they became a rallying cry for dissidents in Puerto Rico, anti-government activity, allegations that all military forces should be thrown out of Puerto Rico, etc., etc. And, so, I guess, I believe, I can't remember exactly who, but humanists, because of the condition of these people, sought their release and the Government of Puerto Rico, at least some elements of the Government of Puerto Rico, supported their release. And then our own State Department and Defense Department put in their positions which varied a little bit but concluded that release would be better than keeping them in prison. The Pardon Office was handling this and I had the Pardon Office do an extensive evaluation of each of the individuals and then had the State Department do a political evaluation as to whether they were likely to be leaders of revolutionary-type or terrorists, and all the reports of our investigation, and State Department's investigation, were that these people were too old, too sick or too feeble-minded or crazy-minded to be real leaders, and that their release would remove the martyrdom from them. They had already served thirty years and that it was the humane thing to do. So I recommended to President Carter and he was disposed in that way anyway, I believe, and so the sentences were commuted.

Ms. Shakow: In retrospect do you feel that was a good decision? It seems to have worked out.

Mr. Civiletti: It was a very good decision. No untoward acts, I think, ever occurred as a result of any of their releases. They were soon forgotten.

Ms. Shakow: They were. They sort of disappeared, didn't they?

Mr. Civiletti: Patty Hearst was the other commutation, which was, to some extent, controversial. We recommended that commutation because of the pretty much conclusive evidence that she was a victim of that peculiar mental condition where the hostage identifies with the hostage-taker.

Ms. Shakow: The Stockholm Syndrome, isn't it called?

Mr. Civiletti: Yes, the Stockholm Syndrome. But she had served for two-and-a-half or three years.

Ms. Shakow: And she was actually in prison when you made this pardon retrospectively —

Mr. Civiletti: It was a commutation, again.

Ms. Shakow: She was released.

Mr. Civiletti: She received a pardon, I think, under President Clinton.

Ms. Shakow: And, she seems to have settled down into a very respectable life, too.

Mr. Civiletti: Yes.

Ms. Shakow: In 1980 the Justice Department sponsored, and the Congress passed, legislation setting up new procedures short of impeachment for removing federal judges

from the bench. I believe the Act was later used in the case of Judge Alcee Hastings.

Mr. Civiletti: The Judicial Disabilities Act?

Ms. Shakow: Yes. Why was this legislation necessary?

Mr. Civiletti: Because judges are human like all the rest of us and they suffer frailties. They lose their physical abilities and they lose their mental abilities, and neither one of those factors are grounds for impeachment. So, we needed a method to deal with those frailties or other bizarre conduct or behavior that didn't amount to an impeachable offense, and we had half a dozen examples of judges around the country — after all, there are a thousand or more federal judges but only a few who were really incapacitated in one manner or another. And so the solution was this Judicial Disabilities Act, which provided for hearings and process and methodology to forcefully retire judges.

Ms. Shakow: I also seem to remember a problem involving the length of time it took to remove a judge by impeachment, which was considerable. And there was a case at the time I believe, a Nevada judge who was indicted and actually, I think, in jail, and who refused to resign.

Mr. Civiletti: True. That's exactly right. And there were other examples. I remember the Nevada judge, and he was one I was thinking of. And, then there was a judge in Northern California, also who had serious problems, a judge in Minnesota, who had serious problems, and impeachment processes were started and they took forever.

Ms. Shakow: And, I remember in the case of Judge Hastings, that he was charged with corruption and acquitted, but his colleagues on the bench, at least in the Fifth Circuit, believed that he was guilty and they were able to move him off the bench through the use of this

Act.

Mr. Civiletti: And put him where he belonged, in Congress.

Ms. Shakow: Right. Where I'm sure he's working on repeal of this Act. Now, let's talk about the Iran-Contra case. Excuse me, the hostage case, the Iranian hostage case. What was your role in seeking to free these hostages? Let's start from the beginning, actually. When were you notified that hostages had been taken?

Mr. Civiletti: Same day.

Ms. Shakow: The day it occurred.

Mr. Civiletti: The day it occurred.

Ms. Shakow: And, it was clear from the beginning that you would have to play a role in this.

Mr. Civiletti: It was, but the role that the Department of Justice played was, of course, a domestic role — in the aftermath, how to deal with adverse consequences in the United States, such as I mentioned earlier. Then, when negotiations started, the Department played a very large role in designing, in effect, the Iran Claims Court, and the seizure of Iranian assets throughout the country and the issuance of those orders and designing and developing and negotiating out. But largely the State Department did the negotiating of the terms and conditions of the Iranian Claims Court, which eventually became part and parcel of the release of the hostages and the settlement. The other role that we had was a technical role, and that is — I forget the Act now — but there is an Act that whenever there's a use of the United States forces on foreign soil, there has to be a notice to Congress —

Ms. Shakow: War Powers Act?

Mr. Civiletti: War Powers Act. And, of course, the Iranian hostage mission was top secret. And after the forces were under way, and the helicopters were under way for their mission, the Attorney General has responsibility of notifying the Congress under the War Powers Act.

Ms. Shakow: And, how did you do that? Quietly, or one by one or a message —

Mr. Civiletti: Through the respective chairmen of the committees in the House and Senate and at the very last minute after there would be no leak of the prospect of such a mission.

Ms. Shakow: Did you participate in any of the planning for that mission?

Mr. Civiletti: No.

Ms. Shakow: In retrospect do you have any thoughts about whether it should have been undertaken?

Mr. Civiletti: I'm not well enough versed to know whether it should have been undertaken or not, whether or not the equipment and the design of the rescue plan were sufficient. I do think that in a rescue mission of that nature, that, in my view, it has to be an all-or-none mission so that faced with the requirement of success, men can reach heroic levels of performance. This mission, as I understand it, had four or five checkpoints at which the mission could be aborted if it was not going well or there was a deficiency of some kind that had developed. Psychologically, it seemed to me, that created the possibility of failure from the very beginning and deprived it of the extremities that produce heroism.

Ms. Shakow: You went to the World Court, was it?

Mr. Civiletti: Yes.

Ms. Shakow: Tell me about that. And you personally represented the United States in this endeavor.

Mr. Civiletti: Yes. Almost all of the work in the World Court proceeding was done by the State Department. It was done by the Legal Advisor of the State Department, who was a man named Roberts Owen.

Ms. Shakow: It's not what you expected?

Mr. Civiletti: Roberts Owen. And, he and the State Department prepared all the papers. At the last minute, three or four days prior to maybe the arguments, I was directed to go to The Hague to make an opening statement on behalf of the government.

Ms. Shakow: May I step back a little. Was our government the moving party here, and, if so, what were we seeking?

Mr. Civiletti: Yes. We were seeking the declaration that the hostage-taking was illegal.

Ms. Shakow: I see.

Mr. Civiletti: And that the hostages be released, which in fact the court ordered. And we were not under any illusions that it would occur, but it was to rally world opinion against the Iranian hostage-takers and government, so as to be one more weight to achieve the release. So, I prepared the argument and reviewed it on the plane over, and then had an overnight rest and I made the initial statement and argument for about forty minutes or so to the World Court, not dealing very much with the technicalities of the argument or the positions taken in the brief, but rather general principles and the plight of these hostages. Then, when I finished, Roberts Owen made the bulk of the argument on behalf of the United States, probably

for two hours or so. It's a strange court because they don't, unlike the Supreme Court, for example, there's no give-and-take among the advocates and the court. There are, I think, as I recall, about thirteen to fifteen members of the Court of all different nationalities and languages, and so there are two glass rooms of interpreters and microphones worn by the judges. And what they do at the end of the presentations, and did at the end of mine, said that they would submit written questions to the advocates, and then you provide responses.

Ms. Shakow: Did they submit the questions, in fact, to you? Or, to Bob Owen?

Mr. Civiletti: Probably, yes. More to him. Probably, two to me.

Ms. Shakow: Were there any Americans on the Court at the time? There's usually one.

Mr. Civiletti: Yes, one.

Ms. Shakow: Do you recall who it was?

Mr. Civiletti: No.

Ms. Shakow: I can't recall, either. Did he recuse himself?

Mr. Civiletti: No.

Ms. Shakow: How soon did you have your decision?

Mr. Civiletti: Very quickly. Maybe within three weeks.

Ms. Shakow: That must have been very exciting.

Mr. Civiletti: Very exciting. First time. Of course, not many Attorneys General were trial lawyers and advocates. A few, Jackson is probably the most famous. So, for me it was not a strange environment. And I had argued the President's Wage-Price Guidelines case before the D.C. Circuit Court *en banc*, and I had argued the Fedorenko Nazi War Criminal case

before the Supreme Court, and I had, as I mentioned earlier, appeared at the disposition of the *Helms* case before the DC trial court. So I had been in court on behalf of the government in these different posts, never, of course, and no Attorney General's ever appeared in the World Court, so it was quite a momentous undertaking on short order.

Ms. Shakow: How did you feel when the hostages were released exactly the moment President Reagan was being inaugurated?

Mr. Civiletti: While I had two feelings. I had, of course, great exhilaration as a result of the release finally and relief that they were released unharmed. At the same time, I thought the timing was probably a petty act or least participating in a petty act by the new administration and the Iranian Government to deprive President Carter of —

Ms. Shakow: Right to the minute, as I recall. It was President Reagan who announced —

Mr. Civiletti: That's not an accident.

Ms. Shakow: No, no. Did the Cabinet have any formal or informal meeting with then-former President Carter, as he left?

Mr. Civiletti: I seem to recall we had a meeting on election night at a large hotel up on Wisconsin, and all the Cabinet officers were there, or it may have been the next night. In any event, the President gave a talk and then there was television coverage of the event of all the Cabinet officers, or most of the Cabinet officers. There was a dinner in January prior to the end of the administration at the White House with all the Cabinet officers. and the President said goodbye to everyone, and thanked them for their service. A very warm evening.

Ms. Shakow: In retrospect, what is your view of President Carter as a human

being as opposed to —

Mr. Civiletti: Oh, he's a great human being, a man of considerable humanitarian principles. I think his emphasis, if not introduction, certainly emphasis and focus on human rights being an integral part of our foreign policy is one of the greatest symbols of his humanity and his strength as a human being. He's very bright. My only hindsight assessment as to the nature of his personality not being viewed as enormously successful as a President, dealt with his being an engineer with an engineer's mind, in that each problem or issue that came before him he would analyze and try to perfect the solution in great detail. And if you have a hundred problems, and if you do that with each individual problem, looking at each part, you may say, well, that's of sound judgment and logical, and whatever. Looking at the whole, it may look less symmetrical because it's not consistent. It doesn't have a whole set of themes and principles that govern it throughout. And so his micromanagement, if it existed, I think detracted from his general abilities or at least from the impression of his policies.

Ms. Shakow: Certainly, his life since the presidency has been a model of good works.

Mr. Civiletti: I think he's been our greatest former President in terms of the use, for human good, of his high office. The only President that I'm familiar with in current times who has contributed in a similar fashion, although different, was Hoover.

Ms. Shakow: I was just going to ask if it would be Hoover.

Mr. Civiletti: The Hoover Commission and civil service reform and respect with which he was held by both parties.

Ms. Shakow: But President Carter's contribution isn't really as strong in the

private sector it seems to me. He not only does peacekeeping.

Mr. Civiletti: It's wider and broader both in domestic, world and the international sector, whether it's the elimination of disease or the enhancement of the food sources for underdeveloped countries or the securing and monitoring of free elections and the development of democracies in countries; or domestically, with homes for the poor or support for education, scholarships.

Ms. Shakow: Yes, even Mrs. Carter is quite active in many of those things, women and also in the mental health.

Mr. Civiletti: She's very active in Habitat for the Humanities and, of course, in mental health, and an advocate, I believe, for HIV assistance.

Ms. Shakow: Have you seen the President since he left office?

Mr. Civiletti: Yes.

Ms. Shakow: Do you have regular reunions or periodic reunions or was this a personal visit?

Mr. Civiletti: There are two opportunities for meeting with the President annually. One, is he comes to Washington several times a year, and on one or more of those occasions there is a reception and dinner for him to which the Cabinet officers are invited. And secondly, there is a similar annual affair at the Carter Center in Atlanta. Last — maybe two years ago, we had an Attorneys General quorum at the ABA meeting in Atlanta with eight, I think, former Attorneys General, including Kleindienst, who's no longer with us. At the end of that session President Carter came in and said hello to everybody and shook all hands and was very charming. I got to the Carter Center very early. If the program was at 9:00 o'clock, I was

there at 7:15, and lo and behold but who comes jogging down the Carter Center Road but Rosalyn and President Carter coming in from their run.

Ms. Shakow: That's very sweet. That's very nice. Did we miss anything in talking about this period during which you served as Attorney General?

Mr. Civiletti: I don't know. Did we talk about the Mariel Boatlift?

Ms. Shakow: No, we did not.

Mr. Civiletti: That was another crisis that was very difficult to handle, if not impossible, and that's when, as I recall, there were, I think, Cuban exiles in some South American country. I can't remember which country, Chile, or somewhere like that. And President Carter opened the American Embassy to allow these exiles to have sanctuary. And said some disparaging statements about Cuba and its human rights record and Castro's indifference to human rights. So, Castro's response was to say, "Fine, I'll let all the prisoners out and all the mental hospital occupants out." And he did and, of course, initially they were provided with some boats and means of transportation. Well, the Cuban relatives in the United States and Miami then sent thousands of boats to Mariel Harbor.

Ms. Shakow: It was like Dunkirk, wasn't it?

Mr. Civiletti: Right. And, in growing numbers over a period of three months. And then it became business where people would get a vessel and say, for a thousand a head, I'll go pick up your relatives. And two hundred thousand people of all stripes and kinds were flooding into Florida, and the President wanted to put a stop to that. Well, the Department of Justice does not have a Navy. It does not have an Air Force. So, stopping these boats was not easy. In fact, was not possible until Castro decided to turn off the spigot. But we did investigate

and prosecute traffickers. We did seize some six hundred vessels, but we had no place to put the vessels. We had no marinas or harbors, or anything else, so it became from the logistics, a very tough operation, and then the people who were here we had to try to house them or detain them because they were in the United States illegally and the military wanted to have nothing to do with us. And, finally, we got the President to order the military to take them into military barracks and facilities and camps and some are still in prison.

Ms. Shakow: I seem to recall that when the Department began to vet all these people, we found a number of felons, people who would not be eligible to come here under any circumstances, but that Castro at that point refused to take them back, so that's why we still have some —

Mr. Civiletti: Still have them in prison, some of them. I don't know how many have left. I think all told about 250,000 people came in —

Ms. Shakow: It was in enormous numbers.

Mr. Civiletti: The Mariel Boatlift.

Ms. Shakow: Yes. And I think the precedent that was very much in President Clinton's mind was when a similar crisis arose early in his administration.

Mr. Civiletti: Oh, sure.

Ms. Shakow: And complicated by the failure of this government to admit the Haitians from the same part of the world.

Mr. Civiletti: Correct.

Ms. Shakow: Yes. Very difficult time.

Mr. Civiletti: Other than that, I think we've covered almost everything.

Ms. Shakow: That's wonderful. Well, we have one more session in which we will discuss your life after the Justice Department, and thank you for your time today.

Mr. Civiletti: You're welcome.

**ORAL HISTORY OF  
BENJAMIN R. CIVILETTI - FIFTH INTERVIEW  
DECEMBER 13, 2001**

This interview is being conducted on behalf of the Oral History Project of the District of Columbia Circuit. It is the fifth interview of Benjamin R. Civiletti, former Attorney General of the United States. The interviewer is Patricia Shakow. The interview took place at the Venable law firm at 1201 New York Avenue, in the District of Columbia, on Thursday, December 13, 2001, at 11:00 a.m.

Ms. Shakow: Ben, we finished our last discussion as you were leaving the Justice Department in January 1981. What was the first thing you did after leaving office? Did you take a long vacation?

Mr. Civiletti: Yes. Gaile and I wanted to get away from — we wanted to do two things. One, we wanted to get away from the hubble bubble of public service and decompress so to speak, but also to stay away long enough in a rather remote area so that in returning to private practice I would not be disappointed by the fact that the phone only rang once a day, at best, originally, as opposed to 50 times a day. So we went on a trip to the Baja Peninsula and we spent eight weeks in Mexico. The Baja Peninsula did not quite work out because the hotel, one of the Princess Hotels was not quite — it was finished, but it had just opened and the golf course which supposedly was to open at the same time, had no grass on it. It had no greens. So it was a little difficult to imagine playing there. We stayed in the Baja Peninsula about two weeks and went all around, to Cabo San Lucas and the rest, and then we took the ferry overnight to the mainland and we found a place to stay there on the golf course, El Cid. It's not a very unique name, but, so we had some friends come down and see us and it was terrific.

Ms. Shakow: That's nice. And how long was that vacation? A couple of months?

Mr. Civiletti: A couple of months.

Ms. Shakow: You said that you were — at least your wife feared you'd be disappointed not to have the phone ringing all the time. Were you worried about that when you left?

Mr. Civiletti: No. I wasn't worried about the fact that it would be slow going to start a practice in Washington or to return to my practice after four years away and to return, particularly, with a Republican administration and having been a former Democratic Attorney General, I was not in high demand for lots of types of work. However, I didn't intend to be a lobbyist at all and did not do much lobbying, and still have not done it to this day so that my work returned to being advocacy work in the trial courts and the appellate courts. And I added some corporate governance knowledge and abilities from serving after a time on public corporate boards.

Ms. Shakow: I didn't mean to imply that you feared you wouldn't have enough work, but that psychologically you might feel left out. Most people do.

Mr. Civiletti: Oh, no question about it. I had anticipated being, if not depressed, then certainly frustrated between a — going from a 15-hour day of busyness as well as sometimes importance, to a day where you were thinking of ways in which to develop business or to communicate with old clients, or whatever, and I anticipated that it would be a frustrating experience and, indeed, it turned out to be even more frustrating than I had anticipated.

Ms. Shakow: I believe we touched on this earlier. But I wonder if you would tell me again how and why you decided to return to Venable instead of accepting other offers in both the law and business.

Mr. Civiletti: Well, the best way to describe it is that I knew Venable and I knew the quality of the lawyers, the character of the firm. And Baltimore had been our home for a very long time. And lastly, one of my mentors in my legal career was a man named H. Vernon Eney, who was the head of the firm when I came to the firm and had just stopped being the head of the firm in about 1979 or '80 and was ill. He was going in for an operation on his lungs which proved to be fatal, not known at the time that that was going to occur. But he and his wife had dinner with Gaile and me shortly before I made the decision. And he made a very appealing argument for my coming back to the firm. Since the firm had done so much for me, and this man had done so much personally for me, I decided that that was the best thing to do.

Ms. Shakow: That's very nice. And you've never regretted that obviously.

Mr. Civiletti: No. It's been wonderful.

Ms. Shakow: Good. I would like to look on your post-Justice career in two parts. First, the cases you have handled as part of the business of the firm. And second, the civic work you've done and the boards of both for-profit and nonprofit on which you have served. Let's talk first about traditional practice. In the 20 years in which you have been practicing since you left the government, what have been the most interesting cases that you've handled and which gave you the most personal satisfaction?

Mr. Civiletti: The ones I won gave me the most personal satisfaction. (Laughter)

Ms. Shakow: That's a perfect answer. (Laughter)

Mr. Civiletti: And solving problems. And, of course, I don't get cases that are lay downs. I get cases where the chances are about ten percent of winning. So they are a lot of fun because they are very difficult and people come when they are in a "bet the farm" situation.

Investigations have been fun, whether they have been derivative suit investigations or criminal investigations representing individuals or companies in the defense of those investigations and persuading the government either not to indict or to indict for tolerable charges and offenses, misdemeanors with heavy fines instead of a felony which would have far-reaching consequences, for example, for investment bankers and brokers and things of that kind.

Ms. Shakow: The sort of thing you did for the head of the CIA at one time.

Mr. Civiletti: Right. Exactly. Then I did individual plaintiff's cases. I've had two or three plaintiffs' cases of some size and significance and they are very creative and they were a lot of fun. Once suing the Blue Cross and Blue Shield on behalf of a small Cleveland hospital for antitrust violations, and once representing people who were injured in an airplane crash in New York when the plane, on the way to Cleveland, went over an embankment — a U.S. Air plane — it went into the water at LaGuardia. And that turned out very successfully. In a trial against General Motors, I represented the plaintiff's case, in which a Cadillac burned up with its owner in it. He happened to have passed out having drunk too much. But he was a horse breeder, a Canadian horse breeder, and so it was a great fun case because we got the jurisdiction in Kentucky when he was a Canadian resident, bought the car in Canada, the fire occurred in Canada, and we got jurisdiction in Kentucky, which is not easy. This year, for example, I represent the Republic of France in a major investigation involving Crédit Lyonnais and a French government entity called CDR. I represent a special litigation committee investigating derivative complaints against the Bank of New York. That's about finished. And it's been a lot of fun. I represent Massachusetts Mutual in a case in which they got unfairly socked for \$55 million in punitive damages because of a discharge of a career insurance agent,

and we got that — I handled the post-trial motions, got that reduced to \$7 million and now it's on appeal. We just filed a brief the other day. So, all of those cases and kinds of cases and variety of cases are very satisfying, very interesting.

Ms. Shakow: That's nice. The variety interests me because I see you have so many big corporate clients but there are so many aspects of representing them that —

Mr. Civiletti: Right. And it's fun working with younger lawyers, because on the bigger cases I may have anywhere from five to 15 lawyers doing the heavy lifting and it's fun to see those lawyers develop and exercise their judgment and imagination.

Ms. Shakow: And compete with each other I suppose.

Mr. Civiletti: Yes, to some extent.

Ms. Shakow: Good. The kind of work you've done for your largest business clients has been very interesting. As I look at your resumes and material the firm has prepared, I see they include Bethlehem Steel, Honeywell, MBNA, Goodyear, The Greater Baltimore Medical Center and Wackenhut. Did you have most of these clients before you joined the Carter administration? And what particular problem brought them to you, just generally, or can that not be said? Did I leave out any important clients other than the ones you just mentioned?

Mr. Civiletti: I don't know. It's hard to keep a little roster of them. If you do litigative work or trial work, unless the client has repetitive trial problems, it's a one-shot deal or a two-shot deal and then you go onto a new client. So it's not like a business lawyer who has IBM and he has IBM for 20 years.

Ms. Shakow: Or a specialist like a maritime lawyer.

Mr. Civiletti: To some extent, I have represented Bethlehem Steel before and

after the government since about 1965 probably, in a variety of different kinds of cases.

Employment cases, discrimination cases, asbestos cases.

Ms. Shakow: Did you ever do any trade work?

Mr. Civiletti: No.

Ms. Shakow: I came across an asbestos case which had been filed by some employees in the summer of 1981 just as, perhaps, you were rejoining the firm and I seem to remember that you won that case on some kind of jurisdictional grounds, but it must have been a long slog, any of these asbestos cases.

Mr. Civiletti: I think we won that particular case on the jurisdictional ground that the employees only had workman's compensation claims and not direct claims against the company.

Ms. Shakow: I believe they had claimed conspiracy, or something, which created a new cause of action.

Mr. Civiletti: MBNA I gained after I left the government as a result of being on the board of Maryland National Bank which then spun off MBNA, the credit card subsidiary that it had, and I came to represent the bank and the credit card company as a result of the relationship with Al Lerner, who is the major owner of MBNA and who owns the Cleveland Browns.

Ms. Shakow: You get to go to the games, too?

Mr. Civiletti: I don't go to many Cleveland Browns games. I go to Ravens games, the Baltimore Ravens.

Ms. Shakow: I remember. I think I've heard of them. When you represented the

Medical Center, did you handle malpractice cases of various kinds, or did you do lobbying?

Mr. Civiletti: No. Neither one of those. I did a major case where the State Health Board had allowed another hospital to build a new hospital in the northern territory of GBMC, and so it became — they were terribly upset about it and took an appeal to the Circuit Court. And I handled that trial in the Circuit Court. I got the judge to reverse the State Health Commission that had granted the certificate of need, and prevented the hospital, which was Maryland General, from, in effect, cutting off the entire northern market from GBMC. So they were very happy about that and grateful and, as a result, we continued to, and I became the lead lawyer for them, and continued to do all of their business except malpractice, which was done by an insurance law firm.

Ms. Shakow: Let's talk a little about the savings and loan scandals of the mid-1980s, which was not a happy time for your firm, among other people. The firm was sued, was it not, for malpractice and conflict of interest in some of these cases and wound up paying the State of Maryland \$27 million which, at the time, was the largest legal malpractice settlement ever in Maryland? Who brought that case and what was it all about?

Mr. Civiletti: The State brought the case on behalf of the bailout that had occurred when these various savings and loans went bellyup. The State had to, through its state insurance program, make them reasonably whole, the depositors reasonably whole, up to the amount individually of the insurance applicable to each depositor. They were not generally federal savings and loans, they were state savings and loans. So they brought suit against any number of defendants — boards of directors of the savings and loans, executives of the savings and loans, counsel for the savings and loans, accounting firms who represented some of the

savings and loans. Venable got involved or caught up in the scandal because we represented Old Court Savings and Loan in real estate transactions and gave them tax advice, gave them real estate advice, all of which advice was sound. But one of our other lawyers gave advice to a state agency which was the state insurance body and the young lawyer who had done that was advised by our ethics people to get a waiver from both sides. And so we got a waiver — we had the waiver from the Old Court Savings and Loan, it was in the file, a written waiver. The young lawyer said he got an oral waiver from the state agency but we had no record. And so we got sued for that conflict of interest, and some of the real estate transactions proved out to be such that the property was not as valuable as it appeared to be at the time. There was no proof that we had knowledge that it was inflated prices for higher loan values and some of the executives of the savings and loan had interests, hidden interests, in the real estate. In any event, we got sued. A number of people left the firm.

Ms. Shakow: Including that poor young lawyer who didn't get the waiver, I'm sure.

Mr. Civiletti: He left. And what it — it froze the managing partner at the time. It was Jacques Schlenger. He went into a bunker mentality, unfortunately. And so within three or four months of the scandal, I, in effect, told him that I would have to take over the firm and become the managing partner. This was in the beginning of 1987 or the end of 1986. So I did. I moved from the Washington office back to Baltimore, became the managing partner. Settled the case in June of 1987, I think. The firm went from about 220 lawyers down to about 140 during that time, during that year or so that we were in the scandal. I did an enormous number of interviews in the papers, the thrust of which was that we should have done better. That I was

disappointed that we were associated with the scandal and that I put into operation a tripartite review process, that was not only a review on ethics, but it was a review by an acceptance quality board of several people. And then the managing partner had to approve all new files and new clients. And so it was kind of a triple check system to prevent any kind of reoccurrence of that. We were treated very fairly by the press and media and the clients stayed with us, and so we've rebuilt the firm from that blow that it took, quite well. I'm particularly proud of this Washington, D.C. office, of course.

Ms. Shakow: The press, I think, was very understanding in saying that even though this award was high, it was considered fair and then a lot better than what the State had asked for.

Mr. Civiletti: Yes. The State had asked for \$50 million. Our insurance coverage was \$30 million and the State wanted a pound of flesh from each of the partners. We argued that that was unfair to do that and the carriers came up with the ability and the willingness to settle for the \$27 million, which was, they saved \$3 million out of their policy and we avoided any of the individual partners being obligated. But a consequence of that, the tax lawyer who worked on the Old Court matters was a close colleague of mine, a close friend, and he was one that had to go.

Mr. Shakow: That must have been very hard.

Mr. Civiletti: That was very hard. He went and of course the young partner went who didn't get the waiver.

Ms. Shakow: Mr. Schlenger, did he leave?

Mr. Civiletti: Mr. Schlenger?

Ms. Shakow: Yes.

Mr. Civiletti: No. He kind of took a back seat from then on. There was a third partner, but he didn't leave. Two of them had to leave. Those three were charged by the state ethics board with ethics violations, and they went to trial before the court and were all found innocent.

Ms. Shakow: And, have they survived in terms of the legal careers they had?

Mr. Civiletti: Yes. The tax lawyer has a good practice with a smaller firm, the real estate young lawyer who neglected the waiver got a very good position with Alex Brown, and the third man has continued a good practice with the firm.

Ms. Shakow: Now, you've said that the firm went from, I think it was, 240 to 120. Who would we —

Mr. Civiletti: From about 220 or 240 to 150.

Ms. Shakow: Who were the others? Were they associates that had been —

Mr. Civiletti: Partners and associates.

Ms. Shakow: I see.

Mr. Civiletti: They got frightened about the future and they were good lawyers, and they jumped.

Ms. Shakow: So, they weren't forced out. They left.

Mr. Civiletti: No, they weren't forced out.

Ms. Shakow: I see. I see. Well, that must be a very painful experience. Were all the depositors made whole after all this litigation and investigation, or were they, I suppose, made whole up to \$100,000 a person?

Mr. Civiletti: I think that they were not all made whole. I think that there were, of course, about in this scandal, there were about 15 or 18 savings and loans that went bellyup, and Old Court, that was our tar baby was one of the bigger ones. But my recollection is that as a result of a combination of the receiverships and the litigations that the depositors of Old Court got over time about \$.75 on the dollar.

Ms. Shakow: Not bad. Another semi-scandal involving the firm, but only tangentially, occurred in the eighties, and I wonder if you remember it. An attorney named Gary Notestein —

Mr. Civiletti: Yes.

Ms. Shakow: — was found to have embezzled tens of thousands of dollars from the firm, and he later went on to falsify his credentials and worked for a number of other firms, and then he was murdered.

Mr. Civiletti: And he was murdered.

Ms. Shakow: Yes. Do you remember that case? Was his killer ever found?

Mr. Civiletti: I think he was, and I think it had to do with some kind of perversity. I think he was knifed to death in an alley.

Ms. Shakow: He was. At night. At 2:00 in the morning or something.

Mr. Civiletti: And Notestein was a terribly tragic case because he was a rising star, and he had been head of the associates committee. The first year he became partner and he wrote a book on OSHA, had it published, and it was a leading authority on the OSHA law. And so he had a wonderful career ahead of him. He was very bright. He was very articulate. He was charming. And, by accident almost, or carelessness, or psychological desire to be caught, or

whatever, our accountant found — at that time any partner could sign a check, and you didn't have to have a countersignature or the head of the firm sign it, or the business manager of the firm, or anything — so, his scheme — he had several schemes — but one of them was that he would take a trip to New York and he'd charge it for reimbursement from the firm.

Ms. Shakow: Yes.

Mr. Civiletti: And, then he would on the same day charge reimbursement to two other places, which was stupid.

Ms. Shakow: Yes.

Mr. Civiletti: But, he would submit this claim the day before, or the day after, it might not have been exactly the same day. And then he'd get the reimbursement check and he'd sign the check and after a while it got, as those things do, bigger and bigger and he was submitting reimbursements every two weeks for a trip to California, a trip here and there and somewhere else. And, the other thing he was doing was he began to make up a file for a client that didn't exist and charge to that file reimbursements for trips that he never took and events that never occurred for fictitious client and fictitious work. And then for existing clients he billed some of them for work that he never did. So, we had to reimburse the client for the billing that he did. We discovered this, and so Mr. Schlenger called me in and said, "Take a look at it, Ben, see what you think." I took a quick look at it, and I said, "We have to discharge him right now and report him to the disciplinary people," which we did. And, then he was — I think he was prosecuted by the State's Attorney's Office, and I think he was disbarred —

Ms. Shakow: I think he was. Yes.

Mr. Civiletti: — in Maryland. But, then he falsified his records and papers and

changed his name slightly —

Ms. Shakow: Exactly.

Mr. Civiletti: — and began teaching in the West first, I think in Colorado or somewhere, and then he went to New York and taught law in New York for a while. His excuse for having done this was that he was dating some, or going with some stripper, and she was threatening that she would tell his wife, and so he was being blackmailed and he needed the money to —

Ms. Shakow: Well, that certainly explains it. (Laughter) Obviously, he was a very creative criminal.

Mr. Civiletti: Stupid.

Ms. Shakow: Moving on to your public life as opposed to the firm, you continued to be involved in both national and state matters almost from the beginning. I found, for instance, in September 1981 that you had a letter published in the *Washington Post* critical of the Reagan administration for revoking the so-called Snep guidelines that you had put into place about government employees publishing material. Do you recall that situation, and do you know if the revocation of these guidelines led to prosecution that you would not have brought?

Mr. Civiletti: I don't know about the latter, but I do recall the former. And, we had worked very hard on those guidelines, and they were highly desirable because early on in the Carter administration there were some, I think there was a man named Agee who was a former CIA agent —

Ms. Shakow: Yes.

Mr. Civiletti: — and published papers and there was a big dispute with him

and —

Ms. Shakow: He had signed a nondisclosure agreement, however, which he then abrogated.

Mr. Civiletti: And, so we had worked very hard to publish these and they were, I thought, highly desirable and they were a way, a reasoned way, through the morass of a person who writes on the one hand and national security on the other. So, I was eager to join the letter, or write the letter, and I thought it was a mistake to revoke the guidelines. Part of the reason for the letter was to try and persuade William French Smith's department, even if they revoked the guidelines, to utilize them.

Ms. Shakow: Yes. Informally. Yes. Perhaps they did, because I can't recall too many prosecutions.

Mr. Civiletti: I don't recall either.

Ms. Shakow: And I do recall that one of the matters dealt with in the guidelines was the vulnerability of newspapers who published accounts of these books.

Mr. Civiletti: Right.

Ms. Shakow: And if the guidelines were revoked, they were presumably at risk, but I don't recall any newspaper being sued. That would really be a mess.

In 1990 you were closely involved in a kind of series of disputes between the Governor of Virginia, Doug Wilder, and the Attorney General of that State, Mary Sue Terry, over a couple of matters. One was the integration by women of the Virginia Military Institute and later there was a dispute over Ms. Terry's representation of the Virginia Retirement System. You represented Governor Wilder in both situations. Can you tell us anything about these cases?

Mr. Civiletti: I won them both. (Laughter)

Ms. Shakow: So, there was great personal satisfaction. They were two very interesting political characters. It must have been fascinating to see them scrap with each other up close.

Mr. Civiletti: Right. Well, I surprisingly — my involvement was purely legal, that is, since I wasn't a Virginia lawyer, wasn't in Virginia politics, had no interest in it. I didn't pay much attention to the shenanigans of the Attorney General or the Governor at the time. I was focused purely on whatever the legal issues were in those respective cases.

Ms. Shakow: How did you come to represent the governor of the state where you had no connections?

Mr. Civiletti: I don't know. Wilder called me and asked me.

Ms. Shakow: You'd met him before. You knew him.

Mr. Civiletti: Vaguely, maybe once, casually.

Ms. Shakow: Well, that's very nice to get that kind of call.

Mr. Civiletti: Right. But you get those calls from time to time from people that you never heard of.

Ms. Shakow: It seems that she was jockeying for position to run for governor at some point and there was some talk that he was determined to discredit her. Did you get any sense of the political aspects of this?

Mr. Civiletti: No.

Ms. Shakow: No, you just —

Mr. Civiletti: I got the sense of the political aspects of the VMI case, you

know —

Ms. Shakow: Of which there were many, right?

Mr. Civiletti: — which there were many. There were people all over the spectrum there. And Wilder was trying to balance politically in that case without destroying the Democratic Party for decades —

Ms. Shakow: Yes.

Mr. Civiletti: — in Virginia. But he finally took the right position and the right course. There was no — although it took a long time for that decision to occur —

Ms. Shakow: And a lot of litigation before it was implemented.

Mr. Civiletti: There was no justification for the state —

Ms. Shakow: Well, it really was a state-supported school, too, wasn't it?

Mr. Civiletti: I couldn't believe how adamant and passionate some of those VMI graduates were who were lawyers.

Ms. Shakow: Oh, I see. I thought it was just the military types who were so upset. Well, it was a rocky time for them. Do you know whatever happened to Mary Sue Terry, who was really a rising star in the party and who kind of collapsed?

Mr. Civiletti: I don't know.

Ms. Shakow: I don't either.

Mr. Civiletti: I don't know that I ever met her.

Ms. Shakow: Oh, I see. I see. Well, of course she and the Governor both came separately before to see us at the *Post* when I was there writing editorials and he was a real charmer, he really was. And then she seemed bright, too. We all thought she was going places.

You serve on five or six corporate boards, mostly on behalf of clients and corporations. What is this work like? Do you enjoy it? Is it time-consuming, tedious or interesting?

Mr. Civiletti: It is very interesting and it's reasonably time-consuming. It's a little better than might appear on the face of it because two of the boards are Wackenhut, the parent and the subsidiary. And two of the other boards are MBNA, MBNA America and MBNA Europe, so they are a parent and a subsidiary. And then the fifth board is a corporate board, Bethlehem Steel, so that it takes some time but not an overriding amount of time. The interesting part is to see or to learn how corporate boards make decisions, how they operate, how they exercise their consensus, and it is done in different ways. Whether interesting to see in times of trouble — and I've been on boards where they have been in troubles like Maryland National Bank board and now the Bethlehem board — it is interesting to see how many people stand up or don't stand up, want to just get along and go along or get out or do whatever. Interesting to see in action, instead of just theory, the differences between the power of the CEO and the executive and operational matters, and the power of the board for policy and direction matters, and how they interrelate. And sometimes there's an overstepping on one side or an overstepping on the other side and how that corrects itself. The dynamics in corporate matters are interesting.

Ms. Shakow: And in some corporations you're saying that there really is a balance. I have assumed generally since the management more or less appoints the board or chooses people to go on the board that they were less likely to rebel. But what you are saying is that they do when you have a good arrangement and a strong board.

Mr. Civiletti: Right. And the management, generally speaking the best management, wants the board to tell it when it disagrees with it or when it's wrong or to challenge the management on the direction it wants to take. Not every day, not every issue, but where it's important or where it counts, rather than rubber-stamp. You might as well not have a board if you just have rubber stamps.

Ms. Shakow: But there are many businesses that operate that way.

Mr. Civiletti: Well, people are like that.

Ms. Shakow: Yes. And CEOs get an idea about their own power.

Mr. Civiletti: Even with people who are successful — if you get 100 people in a room and give them very tough issues, you only come out with 10 people who are going to stand up and say I believe this and it's important and right. So that even with your best of intentions, I think my experience is that half the board is kind of laissez-faire. Now that's not true of boards in difficult times. When things are going well, the boards are attentive, but they are not obstreperous when things are going very well. And MBNA, for example, is a hugely successful company and does the right thing in almost every way so that those board sessions and meetings and all are all very positive. And everybody participates but there is not much tension. Occasionally there is a little tension. On the other hand, the Wackenhut boards, which are dominated you would think by the Wackenhut father and son, are very forceful and challenging to management, but of course they've got an army and a marine general on the board, a former commandant, P.X. Kelly, Tom Stafford, a former astronaut, myself, Jack Ruffell who's the former vice chairman of the board of Morgan, J.P. Morgan. So, I mean it's a really fairly strong, high-quality board.

Ms. Shakow: And it says something about the corporation in that they chose to have people like that on the board.

Mr. Civiletti: Right. And you'll read either today or tomorrow, Bethlehem Steel which is in Chapter 11, but the board brought in Steve Miller who's a turnaround expert and a very competent guy, to become the CEO and replace Duane Dunham who was the former CEO, moved him down to president and now I think yesterday afternoon, Miller has replaced four of the top executives, eliminated their positions and they're retired as of January 31<sup>st</sup>.

Ms. Shakow: Is there hope for the steel industry in the country?

Mr. Civiletti: Slim.

Ms. Shakow: It's very sad, isn't it?

Mr. Civiletti: Yes.

Ms. Shakow: I supposed we'll find other industries for them to work in as we move ahead.

Mr. Civiletti: Yes.

Ms. Shakow: You've also served on a pro bono basis on a number of nonprofit boards and governors' task forces in areas including the funding of public education where your suggested reforms were adopted by the state legislature and the funding of arts programs in the state and panels on drug abuse and welfare reform. How about that kind of work? Is that very satisfying? Time-consuming?

Mr. Civiletti: It's a mixed bag.

Ms. Shakow: Are the boards as good?

Mr. Civiletti: The boards are as good. They are usually larger and more difficult

to focus and the problems which are put on the table before the boards are not soluble problems as they would be in closing a plant or opening a plant, or whatever. They are kind of age-old problems, but you can make improvements or try to make improvements but you can't — it's unlikely to correct an entire —

Ms. Shakow: Right. It's more on the policy decisions, too, I suppose.

Mr. Civiletti: It's a mixed bag, too, about the interest. I'm flattered sometimes into saying yes without examining more closely whether I'm really concerned or interested in this issue. And so then I get involved in it and the satisfaction varies depending on the subject matter. For example, the Education Commission was very interesting, very exciting. You could make tangible progress. Worthwhile. Welfare reform the same way. It was terrific. The board dealing with prison reform and jail reform was not so satisfying. It was too diffuse and —

Ms. Shakow: And everything you wanted to do, I assume, costs an enormous amount of money.

Mr. Civiletti: That's right.

Ms. Shakow: How about the arts? Did you enjoy that?

Mr. Civiletti: Yes. That was fun. That was fun and very worthwhile. Some of the ideas were quite creative. It wasn't simply giving money but it was demonstrating utilization by inner-city children of the arts and the contribution the arts made to the well-being of inner-city children. And then the multiplication effect of every dollar given or provided to the arts and how that was multiplied in terms of tourists or participations or travel or whatever.

Ms. Shakow: I have myself been on minor task forces that start off with a great push and have — half the problem that lawyers on the East Coast named to the task force, myself

included of course. And they fizzle because these people who are governors and famous politicians really don't — they don't show up, they don't do any work and the whole thing is staff driven, really. Do you find that happens occasionally?

Mr. Civiletti: Yes. I'm sorry to confess that it has happened to me, but I've been on a couple of commissions or boards in which I have had very little participation and after a while withdrew because I was embarrassed by the fact that I wasn't contributing and didn't have the interest and didn't want to have simply a name association.

Ms. Shakow: Especially when you were unwilling to devote the time to examine everything that was going to be published in your name.

Mr. Civiletti: Right. I was on an interesting commission with the National Research Council on Cryptology.

Ms. Shakow: I saw that. Tell me about it.

Mr. Civiletti: Well, that was a wonderful experience. And a fellow named, who is now Undersecretary of State — Dam — anyway, he was the chair of it. It had to do with restrictions on the export of advanced cryptology mechanisms in computers and how in an ironic way that was — a lot of the evidence was that it would severely handicap United States industry and businesses and developments and give advantages to the Japanese or to the Europeans because they could use analogs and other encryptions that were far stronger than ours. And so it was an isolationist type of view. But there were arguments, too, about national security and some of these methodologies which were prohibited, if utilized, would destroy NSA and its ability to break codes and interpret communications. It was a very — we went there and visited NSA and heard their pitches and had CIA representatives come. And we all had to be cleared for

national security purposes for access to intelligence —

Ms. Shakow: I think that matter is still around, isn't it?

Mr. Civiletti: Oh sure. And it will continue to be around.

Ms. Shakow: And it really focuses on the Justice Department, as I recall, so you were a good fit for that.

Mr. Civiletti: State and Justice, those two really. But Clinton relaxed the export rules on cryptology. The State Department has the policing role.

Ms. Shakow: Well, it's a fascinating subject. You and I have talked briefly about your position in relation to the Teamsters, but I'm not clear on what that is.

Mr. Civiletti: Well the Teamsters agreed to a consent decree back in 1988 so that — and over time in that consent decree there was an appointment of an independent review board of three persons. One nominated by the Teamsters, one by the Attorney General and then one picked by those two nominees.

Ms. Shakow: To oversee the entire work of the union?

Mr. Civiletti: No, the independent review board was essentially to oversee association with criminals, bringing disrepute on the union or corruption. A mechanism was, essentially, a body that could investigate and then could give its investigative report to the head of the union, Hoffa in this instance, recommending that he proceed with it. He then has the right to proceed, and if he does then his result comes back to the independent review board and they say it's adequate or inadequate or they can seize the jurisdiction and say well we're going to do it. Or Hoffa can kick it back and say I don't want to do it, you do it. And then it's tried by — there's a hearing and it's tried by the independent review board. Last year, I guess, the Attorney

General decided to change the government representative and nominated me instead of Judge Lacey who had served for more than 10 years — and the union decided to change and get Joe DiGenova and so we picked Webster who had been on the board for some continuity.

Ms. Shakow: That's a congenial trio.

Mr. Civiletti: And it's interesting, not only because of the work, but it's interesting because the Teamsters now are saying enough is enough and it's time to get rid of this independent review board. And they've been joined by the AFL-CIO — who's the head of it now, Murphy?

Ms. Shakow: There's a fellow named Hiatt who's the General Counsel of the AFL-CIO.

Mr. Civiletti: Murray or Murphy or something like that — he came out with his 13 million members and said enough is enough. And so President Bush who has been wooing the union folks to some extent has made a couple of little noises about well we're going to take a hard look at this.

Ms. Shakow: The consent decree did not have a termination date of this arrangement?

Mr. Civiletti: No. It had some for elections and election supervision and they are passed and I think the last operative parts of the consent decree are this independent review process. And we've had two or three hearings since I've been appointed.

Ms. Shakow: And all it would take to free them from this consent decree is the government's agreement?

Mr. Civiletti: No.

Ms. Shakow: Court?

Mr. Civiletti: It would have to go before the court and they'd have to bring justification and a record made that it's no longer necessary or desirable. And it can be done, in effect, by the union itself, or by sporadic investigations by the U.S. outside of the regular process.

Ms. Shakow: That sounds fascinating.

Mr. Civiletti: It is fascinating. It is interesting to learn about how the union operates.

Ms. Shakow: Yes. And how cleverly they play both parties.

Mr. Civiletti: For example, I did not realize that some union officials make \$300,000 a year and the reason they make it — one of the reasons is that they hold five different jobs.

Ms. Shakow: Sure. They're the head of the pension funds —

Mr. Civiletti: Right. And they get paid for each job.

Ms. Shakow: That's what got them into trouble. They used to steal from each fund, too. But now that you're supervising, I'm sure that doesn't go on at all.

Mr. Civiletti: I hope not.

Ms. Shakow: Moving to perhaps some less interesting work, but I see you have been a leader of the legal community, both in the state and nationally, you've done a lot of work on the ABA and you were a founder of the state's Legal Services Corporation. Anything to be said about that work? Especially Legal Services?

Mr. Civiletti: A lot of it, or most of it, is ending.

Ms. Shakow: Really? Because of funds?

Mr. Civiletti: I retired from the — Setting up the Legal Services Corporation, it was fun and to get all the banks to throw in the IOLTA money was interesting and worthwhile. And setting up the grant programs and the review of all the initiation was fun. And then more recently, I've been on the Legal Aid board, the actual rendering of the services, for about five years. And I just retired from that. This is my last year on the Section Council of the Litigation Section of the ABA. I've told them I'm not running again for membership in the House of Delegates. I've been in for 12 or 15 years, or something. So, that's why I say I'm ending the direct role in the Litigation Section and the House of the ABA and in the Legal Aid Bureau. What I'm keeping is my title as and office as the American Bar's Representative to the UN.

Ms. Shakow: Tell me about that. How long have you done that and are you the only one?

Mr. Civiletti: I'm the only representative. I have an alternate representative under me in the event that I don't participate in some event. And I replaced Edmund Muskie who was the ABA representative before me. So I've been probably four years, something like that. There's an ABA Day at the UN each year in the spring which the representative hosts, so to speak. Fifty officers of the ABA of one kind or another come and meet with various representatives of the UN and the General Counsel's office for a full day and a half in New York and they have a meeting there. And there are non-governmental organizations is what we are — NGOs is what the ABA is and they have various meetings on various topics so we're invited to go to those and sometimes I go —

Ms. Shakow: To testify sometimes?

Mr. Civiletti: Sometimes. And usually though, I refer those matters and request assistance from the International Law Section of the ABA that has the expertise in the various pockets of interest.

Ms. Shakow: Well that sounds real interesting.

Mr. Civiletti: It is. I hope to do more of that.

Ms. Shakow: Is there any other matter, a case, a public policy issue that you've been involved in since 1981 that we haven't mentioned and that you'd like to talk about?

Mr. Civiletti: Well, one public policy issue which I have been involved in for almost the entire time and that is the relationship between the Department of Justice and congressional committees, and I got in a big fight with one chairman. This is a fellow who would beat up on the Defense Department and he had one of the huge staffs, investigative staffs up there, 150 people. It starts with a "B" or a "D." Anyway, I took the position and have always taken the position that line attorneys who handle cases should not be subpoenaed before the committees unless there is specific evidence of bribery or corruption or dereliction of duty, which there seldom is. That instead, the Assistant Attorney General of the particular division of the Department of Justice or the Deputy or the Attorney General should submit to the inquiry and the questions and the justification for the prosecutions and all the statistics relating to them or whatever it happens to be. Because otherwise, if someone who is a line attorney or the head of a section, of the Criminal Division let's say, fraud or public integrity, if either one of them has to worry that someone is going to be looking over their shoulder when they make decisions and second-guessing themselves, then their decisions are tainted by that effect rather than simply on the merits. So I wanted them always to make their decisions purely on the merits, whether it was

prosecution or nonprosecution, and not have to go up and be embarrassed by questions from the Congress. And I related it back historically. Well, this particular chairman —

Ms. Shakow: Dingell was it?

Mr. Civiletti: Dingell, that's exactly who it was — took umbrage at that and said that is total nonsense. We have a responsibility to look at everything. There's no legal justification for this distinction that Civiletti tries to make. So I've been in that battle for 20 years.

Ms. Shakow: A big bully of an enemy.

Mr. Civiletti: Although he's been reduced — the only good thing about the Republicans having control of the House.

Ms. Shakow: In an interview published in the *Washington Lawyer* you said that your hobbies are golf and gardening. Is this still true? And when do you find time to do either?

Mr. Civiletti: It is still true and I make time. And I do it in spurts. I may not play golf in the seasonal weather for two or three weeks and then I'll play four times in a week, and I seldom turn down an excursion opportunity to play golf — to go to Myrtle Beach or to go to Ireland or Scotland or whatever. I've never played in Ireland and I'm anxious to do that. And gardening, my wife likes to garden and I like to garden and so we're out and — I like to do all kinds of gardening — vegetable gardening and trees, flowers — I love flowers anyway. When I was in college I was a mason's helper, so I learned something about walls and patios and stone work and bricklaying and those kinds of things, so I fool around with stones to some extent.

Ms. Shakow: If you have any free time in the spring, I'd be happy to see you.

(Laughter) Well those are two lovely hobbies.

Mr. Civiletti: What I'm looking forward to, because I like working with my hands, is woodworking. And I do a little bit of it now, but I'm too ignorant to do anything serious. But I'm looking forward in the future to taking some woodworking courses at Winterthur, and they offer a two-week course of woodworking and cabinetmaking.

Ms. Shakow: I think of them in terms of gardens.

Mr. Civiletti: They have beautiful gardens.

Ms. Shakow: I have their calendar on the wall in my kitchen. Are you a grandfather now?

Mr. Civiletti: Eight times. Six boys and two girls. Ages nine months to twelve years.

Ms. Shakow: Oh, that's perfect. Some of them are your daughter's children who lives quite close to you.

Mr. Civiletti: Two of them.

Ms. Shakow: Are the others nearby?

Mr. Civiletti: Four of them are in Wilmington and two are in Maine.

Ms. Shakow: That's the only long haul. That's wonderful. I'm new to that business and just love it. I just absolutely love it. Finally, do you plan to stay at the firm indefinitely or do you see retirement on a date certain in the future? Is there a policy in the firm about retirement? I don't mean to pin you down if you are just not sure.

Mr. Civiletti: There is a policy and it's either retire at 65 or take a countdown, 65 to 68. Then the firm can extend that countdown in two-year slices until 72 or something. So when I was 64, the board came to me and said we'd like you to stay and we would like to enter

into an understanding with you to stay for five years after 65.

Ms. Shakow: On a full-time basis?

Mr. Civiletti: Yes. However you want to do it. So I said all right. I'm not promising that I'll do that, because things might change. I might not, physically, feel well or whatever, but my present intention is to stay for those five years. So, last year I was 65, so this is the first year after that. I'm going into the second year after that and so if I stayed to 70, I would stay another three years I guess. I don't know about that. I'm not so sure about that.

Ms. Shakow: Well, you seem to be in very good health and —

Mr. Civiletti: I seem to be, as far as I know.

Ms. Shakow: On the other hand, you seem to be a person who has enough interests outside of the practice of law to keep you going I suppose, if the —

Mr. Civiletti: Well, that's interesting. That is true. But it is interesting that any number of my friends and now even people who were my subordinates or my assistants to me have retired. And so when they do that it makes me pause every once in a while and say well, how come they're retiring and I'm working. And I finally resolved that question, so that I don't have to ponder it anymore. I must like what I'm doing and I'm doing it by choice. It's not an accident. And when I don't like it anymore I won't do it.

Ms. Shakow: Well, I'm certainly glad to have met you and I thank you for all the time you've given.

Mr. Civiletti: Well, it's been fun, Pat. You're more than welcome.

Ms. Shakow: It's been really delightful getting to know you and to relive some of these times myself since we are contemporaries and knew a lot of the same people.

Mr. Civiletti: Let me tell you one story to close out the meeting. You mentioned a congressman earlier who was the chairman of a subcommittee when I was Attorney General, was writing letters and calling about the FBI not doing enough to investigate a certain disreputable organization and demanding a meeting with me. And I put him off and put him off and put him off. So finally we arranged a meeting about 6 o'clock one evening and he appeared with a whole entourage of maybe 15 people. And we sat down and it was — I think it was in the wintertime or it had been chilly out — and he sat down and said, “Now I want to know what the Bureau and what you’re doing about investigating the X organization.” So I started to tell him in a wonderful soft monotone. Within three minutes he was sound asleep.

Ms. Shakow: (Laughter)

Mr. Civiletti: And so were some of his entourage. So I continued to talk for 25 minutes without changing tone or pace or anything.

Ms. Shakow: Or letting on that you noticed.

Mr. Civiletti: And at the end of the 25 minutes I went [banging a book down on the table], “That’s what we’re doing about going after X.” And he kind of sat up and he said, “Oh, wonderful, wonderful, wonderful. This is one of the best meetings I’ve ever been at. Don’t you agree gentlemen? Thank you so much Mr. Attorney General.” (Laughter)

Ms. Shakow: That’s wonderful story. And it shows both a sense of humor and what a gentleman you are. Thank you, Ben.

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## Benjamin R. Civiletti

Chairman Emeritus and Retired Partner



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### AREAS OF PRACTICE

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[Corporate Governance and Investigations](#)  
[Litigation](#)  
[Foreign Corrupt Practices Act and Anti-Corruption](#)  
[Securities Enforcement and Compliance](#)

### GOVERNMENT EXPERIENCE

Attorney General of the United States, United States Department of Justice, Office of the Attorney General

### BAR ADMISSIONS

District of Columbia  
Maryland

### EDUCATION

L.L.B. (J.D.), University of Maryland School of Law, 1961

A.B., Johns Hopkins University, 1957

Chairman Emeritus and retired partner Ben Civiletti focused his practice of law on commercial litigation, banking, white-collar crime, government regulation, and corporate governance. He conducted numerous product liability cases; successfully prosecuted and defended statutory and constitutional claims, and conducted special investigations growing out of derivative suits, governmental proceedings, and a state impeachment resolution. Ben is both a trial and appellate advocate. In addition, he developed a practice in alternative dispute resolution, working successfully as a mediator, facilitator, master and arbitrator in many commercial and tort disputes to achieve faster and more cost-efficient justice.

Ben's prior service on four public for-profit boards and three non-profit boards afforded him a thorough familiarity with corporate governance consensus, task forces, and strategic planning. As Attorney General of the United States, Ben argued before the International Court of Justice on behalf of the American captives in Iran, and before the Supreme Court for the right of the government to denaturalize Nazi war criminals, and successfully defended the President's wage and price guidelines in the Court of Appeals for the District of Columbia Circuit (sitting en banc). Furthermore, Ben was responsible for the Justice Department's promulgation of open trial guidelines, the Stanford Daily laws, the development and publication of National Priorities for the Investigation and Prosecution of White-Collar Crime, Principles of Federal Prosecution, National Prison Standards, and a score of other improvements in the effective enforcement of criminal law and in civil rights and environmental protection.

### SIGNIFICANT MATTERS

Ben successfully argued again in the Court of Appeals of Maryland to reverse excessive millions in punitive damages and the court entered judgment for the defendant. He was co-independent counsel, appointed by regulators, in the investigation of the derivative business of a major Wall Street financial institution. Ben represented a corporate client in the successful defense of multi-million dollar claims of tortious interference with contract. For another client, he successfully settled multiple intentional tort claims after a lengthy trial on motions to suppress. And he again was successful in settling claims from a domestic air crash in which he represented plaintiffs against a major airline.

### ACTIVITIES

Ben served as a member of the National Research Council Committee to Study National Cryptography Policy and as Chair of the Maryland Governor's Commission on Welfare Policy. He was a member of the Governor's Task Force on Alternatives to Incarceration. In community-related areas, Ben's service includes former membership on the Legal Aid Bureau, Inc.'s board and Chair of GBMC Healthcare, Inc. (retired). In the legal publications field, he was a member of the Lexis-Nexis/Martindale-Hubbell Legal Advisory Board and a member of Matthew Bender & Company, Inc., - board of editors of Federal Litigation Guide Reporter. Ben also served as chair or member on a number of task forces under several Maryland governors. These include: Funding of Public Education; Drug Abuse; and Funding of the Arts.

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## **JUDICIAL CLERKSHIPS**

Honorable W. Calvin  
Chesnut, U.S. District Court  
for the District of Maryland,  
1961 - 1962

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## **MEMBERSHIPS**

American Bar Association

Federal Bar Association

Maryland State Bar  
Association

District of Columbia Bar  
Association

Bar Association of Baltimore  
City

## PATRICIA CONNELL SHAKOW

- Professional: Retired member of the Editorial Board, *The Washington Post*  
Member, New York and District of Columbia Bars
- Employment: 1981-97, Editorial writer, *The Washington Post*  
1978-81, Washington Counsel, Aetna Life and Casualty  
1977-78, Partner, Debevoise and Lieberman  
1965-77, Legislative assistant and counsel to Senator Jacob K.  
Javits, United States Senate  
1962-64, Counsel to Senate Judiciary Committee and to Senator  
Kenneth B. Keating, United States Senate  
1961-62, Law clerk, Judge Orman W. Ketcham, Juvenile Court of  
the District of Columbia
- Education: J.D. Yale Law School, 1961. Board of Directors, Moot Court  
B.A. Marymount College, summa cum laude, 1958
- Associations: Member, Project on the Judiciary, Task Force on Criticism  
And Intimidation of Judges, The Century Fund (formerly  
The Twentieth Century Fund) September 1998- February 2000  
Shapiro Fellow and adjunct professor, George Washington  
University, February-June, 1998  
Lecturer, Brookings Institution courses for senior civil servants  
and business leaders, 1974-82  
President, Yale Law School Association, 1982-84  
Member of the board of directors, Center for Development and  
Population Activities, 1982-85  
Member, Board of Directors Marymount College Alumnae  
Association 1968-71
- Weekly volunteer, emergency room, Suburban Hospital, Bethesda,  
Maryland, 1997-present
- Personal: Born New York City, October 22, 1936  
Parents: John F. and Mildred King Connell  
Married Alexander Shakow, World Bank official,  
December 26, 1967  
Three sons: John David (February 10, 1969)  
Peter Jeremy (September 19, 1970)  
Thomas Edward (November 15, 1972)  
Two grandchildren: James and Benjamin Shakow (July 31, 2000)