RICHARD E. WILEY, ESQUIRE

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

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The Historical Society of the
District of Columbia Circuit

United States Courts
District of Columbia Circuit

RICHARD E. WILEY, ESQUIRE

Interviews conducted by:
George W. Jones, Jr.
June 5, July 24 and August 1, 2013

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NOTE

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INTERVIEWEE ORAL HISTORY AGREEMENT

Historical Society of the District of Columbia Circuit

Oral History Agreement of Richard E. Wiley

1. In consideration of the recording and preservation of my oral history memoir by the Historical Society of the District of Columbia Circuit, Washington, D.C., and its employees and agents (hereinafter "the Society"), I, Richard E. Wiley, do hereby grant and convey to the Society and its successors and assigns all of my rights, title, and interest in the voice recordings (digital recordings, cassette tapes) and transcripts of my interviews as described in Schedule A hereto, including literary rights and copyrights. All copies of the voice recordings (digital recordings, cassette tapes) and transcripts are subject to the same restrictions herein provided.

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Richard E. Wiley 9/4/13
Richard E. Wiley Date

SWORN TO AND SUBSCRIBED before me this
4th day of September, 2013

Sarah E. DeLozier
Notary Public

My Commission expires: Jan. 14, 2018

ACCEPTED this 19th day of September, 2013, by Stephen J. Pollak, President of the Historical Society of the District of Columbia Circuit.

SARAH E. DELOZIER NOTARY PUBLIC Expiration Date Jan 14, 2018 DISTRICT OF COLUMBIA

Stephen J. Pollak
Stephen J. Pollak

Schedule A

Tape recordings, digital recordings, transcripts, computer diskettes and DDs resulting from three interviews of Richard E. Wiley conducted on the following dates.

Interview No. and Date	Description of Media Containing Voice Recordings	Pages of Final Transcript
No. 1: June 5, 2013	MP3	1-23
No. 2: July 24, 2013	MP3	24-58
No. 3: August 2, 2013	MP3	59-98

The transcripts of the three interviews are contained on MP3.

INTERVIEWER ORAL HISTORY AGREEMENT

Historical Society of the District of Columbia Circuit

Oral History Agreement of George W. Jones, Jr.

1. Having agreed to conduct an oral history interview with Richard E. Wiley, for the Historical Society of the District of Columbia Circuit, Washington, D.C., and its employees and agents (hereinafter "the Society"), I, George W. Jones, Jr., do hereby grant and convey to the Society and its successors and assigns all of my rights, title, and interest in the voice recordings (digital recordings, cassette tapes) and transcripts of interviews as described in Schedule A hereto, including literary rights and copyrights.

2. I understand that the Society may duplicate, edit, or publish in any form or format, including publication on the Internet, and permit the use of said voice recordings (digital recordings, cassette tapes) and transcripts in any manner that the Society considers appropriate, and I waive any claims I may have or acquire to any royalties from such use.

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George W. Jones, Jr. — 8/27/13 Date

SWORN TO AND SUBSCRIBED before me this 27th day of August, 2013

Notary Public

My Commission expires: 01/01/2016

ACCEPTED this 19th day of September, 2013, by Stephen J. Pollak, President of the Historical Society of the District of Columbia Circuit.

Stephen J. Pollak

Schedule A

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ORAL HISTORY
OF
RICHARD E. WILEY

First Interview – June 5, 2013

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewee is Richard E Wiley, Esquire. The interviewer is George Jones, Esquire. The interview took place at Mr. Wiley's office at Wiley Rein LLP in Washington, D.C., on June 5, 2013.

This is the first session of the oral history of Richard E. Wiley being conducted at his office at Wiley Rein LLP in Washington, D.C. The interviewer's name is George Jones. Today's date is June 5, 2013.

Mr. Jones: Mr. Wiley, you were born in Peoria, but I wanted to start a little earlier than that. What were your parents' names?

Mr. Wiley: Joseph H. Wiley and my mother's name was Jean Wiley. J-e-a-n.

Mr. Jones: And what sort of work did your father do?

Mr. Wiley: He was a manufacturer's agent, I think, for McGraw Edison's small electronics products.

Mr. Jones: And was he in retail sales in Peoria?

Mr. Wiley: No, not retail sales. I don't recall precisely but I think he helped place McGraw Edison equipment with various retailers.

Mr. Jones: Okay. And how long did you live in Peoria?

Mr. Wiley: Just a few years. We moved to the Chicago area when I was four or five years old.

Mr. Jones: Chicago was a long ways from Peoria. Do you recall—

Mr. Wiley: Not very far. A couple hours.

Mr. Jones: I mean figuratively speaking Chicago seems to be quite a different place than Peoria, or at least my imagination of Peoria.

Mr. Wiley: Peoria was a cosmopolitan town. Certainly nothing to compare with Chicago. Caterpillar was the big manufacturer in Peoria.

Mr. Jones: Oh, is that right.

Mr. Wiley: Yes.

Mr. Jones: I don't think I've ever heard Peoria referred to as cosmopolitan.

Mr. Wiley: (Laugh) Well it's the quintessential capital of middle America. Let's put it that way.

Mr. Jones: Okay. Alright. Did you have siblings?

Mr. Wiley: I had two older brothers. One about 12 years older than I was, and one 4 and a half years older.

Mr. Jones: What were their names?

Mr. Wiley: Joseph H. Wiley, Jr. and Gerald H. Wiley.

Mr. Jones: So when your family moved to the Chicago area, you moved to a suburb.

Mr. Wiley: Right, Winnetka, Illinois. My parents hadn't gone to college, it was a different era then. My dad's father had died when he was eight years old leaving seven children. But my father really believed in education, so he sought, I think, a suburb that had excellent schools which was very fortunate for me.

Mr. Jones: Did your uncle and aunts live in Illinois?

Mr. Wiley: They live in Peoria.

Mr. Jones: Were you close to any of your uncles and aunts?

Mr. Wiley: Not particularly.

Mr. Jones: Alright, so you're in Winnetka. Where did you go to school in Winnetka?

Mr. Wiley: I went to Winnetka public schools and ultimately to New Trier High School, T-r-i-e-r, New Trier.

Mr. Jones: Okay. And I understand you were a baseball player.

Mr. Wiley: Yes I was. I played varsity baseball at New Trier.

Mr. Jones: And what position did you play?

Mr. Wiley: First base, some outfield.

Mr. Jones: And this was around 1947 to '51.

Mr. Wiley: Yes, I graduated in 1951.

Mr. Jones: What was Winnetka like? That's right after World War II?

Mr. Wiley: Well it was a very nice suburb then and now as far as I know.

Mr. Jones: So you play any other sports in high school?

Mr. Wiley: I played JV basketball.

Mr. Jones: Okay. Okay. What kind of team did New Trier have. What kind of baseball team.

Mr. Wiley: Quite good. We played in the Suburban League which was challenging.

Mr. Jones: Were you a Cubs fan?

Mr. Wiley: Definitely a Cubs fan, then and now.

Mr. Jones: But I've never understood this. I've spent some time in Chicago. There seems to be a very clear difference between Cubs fans and White Sox fans.

Mr. Wiley: Well Wrigley Field, where the Cubs played, was relatively closer to where I grew up so it was easier to get there. Comiskey Park, on the south side, was quite a

ways. We went down to see the White Sox play, but it was harder to get there. Took a lot longer in those days, in particular, and so I think you just identified with the Cubs more if you lived to the North, and the reverse would be true for people who grew up in the south side of Chicago or in the south suburbs, and there were a lot of those.

Mr. Jones: Calumet.

Mr. Wiley: And Harvey, and Thornton, and what have you.

Mr. Jones: So it's geographic?

Mr. Wiley: I think it was primarily geographic.

Mr. Jones: Then and now. So you were very excited when the Cubs won—did they win? They were in the World Series.

Mr. Wiley: Nineteen forty-five but they lost.

Mr. Jones: That was the last time?

Mr. Wiley: Yes. Well they won in 1907 and '08. As people say, anybody can have a bad century. We've had hard times, but we're always hopeful.

Mr. Jones: Weren't the Cubs recently in the playoffs?

Mr. Wiley: They've been in the playoffs from time-to-time, but have never won. They haven't been in the World Series since 1945.

Mr. Jones: Well, you should feel right at home in Washington whose sports teams have difficulties, except for the Redskins.

So, Winnetka High School. What else did you do in high school other than play baseball.

Mr. Wiley: Well, New Trier was an excellent school and they grouped students by, I guess, ability level you might say—homogenous grouping—so I found myself in some outstanding classes with excellent students. Many of them were planning to go to Ivy League schools, and I really had no experience in that. But it was a good opportunity to be in school with children like that.

Mr. Jones: Did you make friendships that lasted into adulthood?

Mr. Wiley: Yes, I've kept in touch with my class and with other people that I have known out there. And we have an alumni organization, so to speak, and still get mailings from them, and what have you.

Mr. Jones: (Laugh)

Mr. Wiley: I haven't lived out there for many, many years but I think all New Trier graduates still have an affinity with the school.

Mr. Jones: Indians' fans, when they go back to Chicago they see high school games?

Mr. Wiley: Perhaps.

Mr. Jones: Did they change the name? You said they changed the name.

Mr. Wiley: Yes they did. For a while they were the New Trier Indians, now they're the Trevians. Don't ask me what a Trevian is. Basically, after moving around a bit, my father bought a home right across the street from New Trier so I particularly had a feeling for the school.

Mr. Jones: Absolutely. And were there any teachers or other adult influences who were particularly important to you in high school.

Mr. Wiley: The teacher that I remember the best was a man named Lionel Lightner who was both my great books class teacher and the baseball coach. And he made quite an impression on me. I say he would rank #1 in my high school influences.

MR. JONES. Did he encourage you to go to college?

Mr. Wiley: He suggested, because I was younger – I was going to get out of high school at 16 – that I might consider prep school. But I really didn't know much about prep schools. And I really didn't know much about colleges to be honest with you. It was not something I got a lot of guidance on.

Mr. Jones: Now you say a lot of your high school classmates were considering Ivy League schools.

Mr. Wiley: Absolutely.

Mr. Jones: Did you think about applying to Ivy League schools or not?

Mr. Wiley: I really didn't. I didn't know where they were. I was somewhat naïve. So, I ended up drifting into the school that was closer to where I lived which turned out to be an excellent university, of course, Northwestern. I had always been a Northwestern fan growing up. I was interested in athletics. I'd seen many Northwestern games, so going to Northwestern seemed like a good deal to me.

Mr. Jones: Did you apply only to Northwestern?

MR.WILEY: I also applied to Washington of St. Louis primarily because we had lived very briefly in St. Louis during the war years.

Mr. Jones: And at Northwestern you continued your baseball career?

Mr. Wiley: Yes, I did play varsity baseball at Northwestern. I was not a star. I want to make that quite clear, but it was a compelling interest in my life. I would have to say

that my initial career plan was to be a high school teacher and a baseball coach. I really patterned my thinking along the lines of what Mr. Lightner had done, only obviously I changed my mind along the way.

Mr. Jones: Did you tell him that you wanted to be a baseball coach and a high school teacher like him?

Mr. Wiley: Well I may have discussed that with him at some point, I don't recall that precisely. But he kept in touch with me while I was going to school at Northwestern.

Mr. Jones: So you played baseball at Northwestern. What else did you do?

Mr. Wiley: I studied a lot. I was a pretty devoted student and I think those were my primary interests. I also had a good time like every young guy would have in school, but I was a pretty straight-laced student, I would say.

Mr. Jones: You mentioned that neither your father nor your mother had gone to college, but were both advocates of continued education for you.

Mr. Wiley: Yes, particularly my father.

Mr. Jones: How was the adjustment from New Trier High School to Northwestern for you?

Mr. Wiley: Not too much. I took exams as to whether I needed to take the freshmen courses and I found that I didn't have to do so because New Trier was such an advanced school. And so I was in sophomore classes pretty early. That helped. It gave me more opportunity later to take different kinds of courses.

Mr. Jones: But you were probably among the youngest people in the class.

Mr. Wiley: Yes, I was.

Mr. Jones: So you were 16 or 17. You were 16 I guess.

Mr. Wiley: Well I'd just turned 17.

Mr. Jones: Seventeen. And everybody else is 18 or 19.

Mr. Wiley: Yes. I found that particularly evident on the baseball team because a lot of people were more mature physically and I think Mr. Lightner's advice about going to prep school probably would have been a good idea. But I wasn't going to be a superstar anyway in baseball. One day, a professor at Northwestern suggested that I ought to go to law school and that's something, I can tell you, I had never thought about. I think that professor saw things in me that I didn't see in myself at the time.

Mr. Jones: Do you remember who it was?

Mr. Wiley: It was a man named Mr. Grow. Milton Grow.

Mr. Jones: And what did he teach?

Mr. Wiley: He taught guidance counseling and I was in the school of education, of course, planning to be a teacher. Mr. Grow said why don't you, over the Christmas holidays, take some competency exams. And when I did so, he said, "Let's not beat around the bush, you ought to go to law school." So the light went on, you know. And so I took the LSATs, I did quite well on them, and this time applied to Harvard, Yale, Michigan and Northwestern, and got admitted to all of those schools. My plan really was to go to an Ivy League school and get away from Chicago for a while. But Northwestern offered me a three-year scholarship and my folks didn't have a lot of money. Thus, I ended up going to Northwestern.

Mr. Jones: It's not a bad school.

Mr. Wiley: It's a very good school. And I have been quite active in the law school. I've been president of the law alumni society and I gave the commencement address one year. So I've had an affiliation with the school that maybe I wouldn't have had at Harvard. I have never regretted going to Northwestern Law School at all. But geographically I would have liked to have gone someplace else.

Mr. Jones: When Mr. Grow suggested that you consider going to law school, did you discuss it or did you just say okay?

Mr. Wiley: I think I was influenced by him quite a bit, and I said, "Really, Mr. Grow, I have no experience in that. Why would you say that?" And he just said, "You have abilities that would stand you in good stead in law school." I was impressionable and, you know, this was sort of a father figure who was suggesting something to me and so I thought I would try it.

Mr. Jones: Did you know any lawyers?

Mr. Wiley: I knew some. Parents of some of my friends in Winnetka were Chicago lawyers.

Mr. Jones: Did you have a sense of what it would be like to be a lawyer? To practice law?

Mr. Wiley: I really did not.

Mr. Jones: Did you—

Mr. Wiley: But I knew that lawyers dealt with words and logic and reasoning, and those were things I felt I had some facility with. So it seemed like a good fit to me, and when I did well on the LSATs that was reassuring.

Mr. Jones: And off you went.

Mr. Wiley: You may have had a different experience, but I just didn't have that background.

Mr. Jones: Well, when we finish I'll tell you my story.

Mr. Wiley: In any case, I wasn't sure when I took the LSAT how it was going to turn out, and I was very pleased that it turned out as well as it did.

Mr. Jones: So you were an education major in college?

Mr. Wiley: Yes. My major was in history and political science. And I took a lot of liberal arts and economics courses because I didn't have to take the original freshman courses.

Mr. Jones: When did you have this conversation with Mr. Grow?

Mr. Wiley: I think maybe my junior year, as I recall.

Mr. Jones: So you take the LSAT, you do well. You apply to four of the best schools in the country and get into all of them—

Mr. Wiley: Right.

Mr. Jones: But Northwestern gives you the most money so you say, "I'll stay here."

Mr. Wiley: That's right.

Mr. Jones: Were there particular areas that you focused on in law school?

Mr. Wiley: I don't think you did that in those days, and I wasn't really certain what I wanted to do. When I got out of law school at age 22, I felt maybe I had the time to get an MBA and combine the law degree with an MBA and think about an executive position. So I took the GMAT.

I didn't take any preparation for it. I just went in and took it and surprisingly—because I don't consider myself to be a math expert or anything like that—I did even better than I did on the LSATs. And I got admitted to the one business school that I applied to, and that was Harvard. And I had always kind of wanted to go to Harvard, so I was headed to Harvard business school. But this

was in the 1950s and at that time the government was still drafting young men for two years of basic training. In my senior year of law school a colonel from the 5th Army Headquarters in Chicago had come around and asked some of us if we would consider a 3-year commitment to the Army Judge Advocate General's Corps. I told him that was an attractive option but—Colonel Ryan, his name was—I said, "I'm going to Harvard. I'm going to business school." However, I got a call from my draft board in Evanston, saying, We think you've had enough education for now and we're going to give you a low draft number and you can expect to be drafted. So I called Colonel Ryan back and said, "You know, I've changed my mind. (Laugh) If that's still available, I'll opt for the JAG Corps." And that's exactly what happened. I got a telegram to report to basic training and then on to the Judge Advocate General school at the University of Virginia.

Mr. Jones: We'll come back to the JAG Corps. In law school were there any professors or classes that you particularly enjoyed.

Mr. Wiley: What was most memorable is I got a job with a firm called Hart, Stevens & Rothschild. And I had a chance to work with the future Justice Stevens. I still know him. I also had Willard Wirtz who had been Secretary of Labor as a professor, and I was very impressed with his course.

Mr. Jones: You worked with the Stevens firm in the summer?

Mr. Wiley: No, just during school.

Mr. Jones: Oh, during school. Were you a legal assistant?

Mr. Wiley: Just a legal assistant doing research. Things like that.

Mr. Jones: What was Justice Stevens like?

Mr. Wiley: He was a wonderful man. He still is. He lives out near where I do. Likes tennis like I do.

Mr. Jones: He still plays.

Mr. Wiley: He still plays.

Mr. Jones: Remind me to tell you about that too. I have that connection as well.

Mr. Wiley: Okay, good.

Mr. Jones: Was Wirtz at the same firm or was he a teacher?

Mr. Wiley: He was a teacher at Northwestern, and I thought he was a very good one and so I got interested in labor law. But that just shows the influence of good teachers, you know. But I didn't have any set view at all on an area of practice. But in my three-and-a-half years in the JAG Corps, I became really focused on becoming a practicing lawyer. That was really the first time I did.

Mr. Jones: Were people at Northwestern mostly from Illinois or did they come from throughout the country?

Mr. Wiley: Today it's very much more a national school, less so then. I think they've done a great job. Dean Van Zandt, in particular, was the dean there for a long time and he really focused on making it less of a Chicago and Illinois school and one that has a national following. Some of my classmates were from California and various places, but a lot of them turned out to be Chicago lawyers.

Mr. Jones: Were you particularly good friends with any of the people in your class in law school?

Mr. Wiley: Oh sure. I've maintained those relationships.

Mr. Jones: Anything else memorable happen in law school?

Mr. Wiley: (Both Laugh) During the summertime I continued my interest in playing baseball and still continued to follow the dream, so to speak, but I was beginning to see that I didn't quite have the ability that would take me to where I might want to go.

Mr. Jones: Now you mentioned playing amateur baseball.

Mr. Wiley: Yes.

Mr. Jones: Did you continue that all during law school?

Mr. Wiley: Quite a bit of it.

Mr. Jones: What teams did you play for?

Mr. Wiley: The Kenosha Chiefs was one of the teams I played with around Wisconsin, and a variety of other teams that you would never have heard of.

Mr. Jones: They are amateur leagues?

Mr. Wiley: Right. We couldn't take payment, you know, because during college it would impair your amateur standing. So you got meal money and that was about it. One year I got up during the summertime over 300 times, so we were playing 5, 6 games a week.

Mr. Jones: (Laugh) But did you do that during law school?

Mr. Wiley: I did it only after the first year. Then after the second year one of my roommates and I decided that we would take some summer courses at the University of Colorado. James William Moore, a famous civil procedure professor, was teaching. I thought I would get civil pro out of the way and also take another course and see Colorado. I had never been in the West at all. I really hadn't traveled that much. Again, that was not something we did in those days, at least

coming from the kind of environment that I was in. It was a terrific experience, and that was the summer I began to wean myself away from baseball.

Mr. Jones: (Laugh) And I take it that that was before the time when law students worked at law firms.

Mr. Wiley: Absolutely. I didn't know anybody who was working.

Mr. Jones: How did you and your law school classmate get to Boulder?

Mr. Wiley: We drove.

Mr. Jones: I don't know how long that is.

Mr. Wiley: Well, a long trip. But it was great. I hadn't seen some of those areas, so I enjoyed it tremendously. And Boulder, I don't know whether you've been there or not, but it's an interesting place. It's the foothills of the Rockies, so to speak. And Moore was a wonderful teacher.

Mr. Jones: He ended up at Yale.

Mr. Wiley: Well he was at Yale. This was a summer program. He had the definitive treatise in civil procedure at the time.

Mr. Jones: Was that common for law students to take extra courses during the summer?

Mr. Wiley: I don't recall. I just thought, gee, that it would be interesting. I was single and I didn't have any particular obligations. My school was paid for, and it made it a little more leisurely. You were able to take more optional courses in your senior year—seminars, so to speak.

Mr. Jones: Who was the other professor that you took at Colorado?

Mr. Wiley: You know, I don't recall. I'm blanking on what the course was now, but it was not particularly memorable.

Mr. Jones: Okay. Alright. You did well in law school?

Mr. Wiley: Yes.

Mr. Jones: Thought Mr. Grow must have been right?

Mr. Wiley: Well, who knows. (Both laugh) But certainly he had an impact on my life. I would say he would be one of the two men who had the most impact on my life. We'll get to the other one down the road, you know.

Mr. Jones: So, if you hadn't met Mr. Grow, and Mr. Grow hadn't suggested going to law school, what do you think you'd be doing?

Mr. Wiley: Well, I might have been a teacher. I was in the school of education and I really was enjoying teaching. I ended up teaching law school for eight years. I also have taught courses in communications around here at night from time-to-time. So, I've got a natural proclivity for that kind of activity. But Grow was a particularly impressive man who had a wide background in business and worked for General Electric. He came with some authority when he said things. And I was young, so somebody saying that to me, it made an impression.

Mr. Jones: Now what did he teach? Oh, he was a guidance counselor.

Mr. Wiley: Guidance counselor.

Mr. Jones: Alright. So, you graduate from law school, still young

Mr. Wiley: Why not get an MBA then? Right. That was the decision. I should go get an MBA.

But I just went in and took the GMAT and the results were kind of stunning to me. But it did get me into Harvard business school. And I was

definitely planning to go. I still think the combination would have been quite impressive

Mr. Jones: Oh, no. Absolutely. But the draft board had another plan for you.

Mr. Wiley: Yes. They said if you got to age 24, you didn't have to be drafted. I think that's what they told me. And they said, We think you're trying to avoid the draft. And I said, "No, that's really not my purpose." It really was an educational purpose. And I sketched my career plan for them—to a very skeptical audience I might say—

Mr. Jones: Oh, I'm sure.

Mr. Wiley: And they rejected it and said, Our plan is that you should expect to be drafted. So two years as an enlisted man against three years as an officer in the legal area—it was an easy decision. I think we had about 60 people in the JAGC class, and they told us part way through you'll get your choice of assignments depending on how well you do in school. I was a bachelor and I kind of wanted to go to Washington, DC. So I worked hard and got my choice of assignments basically. I chose the Pentagon and the government appellate division. I worked on appeals from general courts martials, which were the serious crimes. My job was to sustain the conviction on appeal. Down the hallway was a group, many of them my classmates from the JAG school, who were in defense appellate. And their job was to try to find holes in the decisions below. And so we would write opposing briefs and face off before boards of review at the Pentagon, and also in the Court of Military Appeals—COMA, as it was called then. I think now it's the United States Court for the Armed Services, or something like that. So, there I

was, fresh out of law school, twenty-three years old maybe, arguing cases before federal judges with black robes. It was kind of intimidating. After a while you did get used to it.

But then 1960 came and John F. Kennedy was elected president. And the decision was made, for reasons I don't know, but to reduce the number of line JAG officers in the Pentagon and keep only one lieutenant-level person, and I was selected. And they said to me, We're going to transfer you from government appellate—I'd spent a year and a half or so doing that kind of work—and we're going to put you in legal assistance. You are going to be the legal assistance officer for the Pentagon. We're going to give you a private office and we want you to wear a suit. By the way, I only had one suit, and so I said, "I'd like to wear my uniform some time because I was counting on that." (Both laugh)

Over the next two years, I saw 5,000 clients. They were mostly officers, all the way up to the Joint Chiefs of Staff, but also enlisted men and dependents. Fortunately, the Pentagon had a very good law library, and so I found myself down there trying to bone up on a lot of the subjects I had to know. Now the subjects weren't great constitutional law issues of the day, they were primarily the run-of-the-mill type work a small town lawyer—maybe, say, from Peoria—would be doing. But for me it was a tremendously rewarding and maturing experience because I had to deal with all kinds of people. And, I had to be Johnny-on-the-spot because I was scheduled as tight as I have ever been in my legal career. All day long with appointments every fifteen minutes or half an hour.

Mr. Jones: And you did that for about two-and-a-half years?

Mr. Wiley: About two years. I'd spent a year-and-a-half in the appellate division. So I thought it was a very good combination but I also wondered what my classmates were doing in Chicago and thought they're working on probably pretty big, complex matters for big law firms. Here I am drafting wills, talking about divorces, real estate deals, small contracts, and what have you. And I just wondered how am I going to match up when I go back to Chicago, which was definitely my plan. My folks were older and I definitely wanted to go home.

So I decided to get a master's degree of law at night at Georgetown. And I also started writing articles on military law for the Federal Bar Association publication. One day I got a call from somebody at the ABA who had seen one of those articles in Chicago and said, you know, We'd like you to write an article for the *Young Lawyers Speak*—specifically, on the voir dire process.

Well I had never selected a jury in my life but I thought this was going to be a pretty good opportunity. I didn't want to say no, so I went down to the law library again, read a lot of books on the voir dire process, and decided on an article entitled "50 thoughts on selecting a jury." I don't know what happened but I must have been miscounted because when it came out in print I was just shocked when I saw the title: "49 thoughts on selecting a jury." My editors liked it and requested similar articles on direct examination and after that on cross-examination. None of these subjects were in my knowledge base, I can assure you. (Both laugh) But I repaired once again down to the law library, did the same process, and produced 49 thoughts on direct examination and cross-examination.

And they are laughable now in a way, but I saw myself reading those humble articles in state bar publications for the next few years.

As a result of all this, I was asked to be the editor of the publication, and later, Chairman of the Young Lawyers Section of the ABA which turned out to be very important to my career. In all, I tried to make the most of my years in the Army.

Mr. Jones: Was your plan to go back to Chicago to work at a big firm?

Mr. Wiley: Yes, that's what I wanted.

Mr. Jones: What were big firms in those days?

Mr. Wiley: Big firms in those days? I think the firm I ultimately joined had 40 people. But that was one of the larger firms in town at the time. Meanwhile, my personal life was changing. I went to church one morning and met a lovely Arlington school teacher and it worked very well between us. And after a year of courtship or something, we got married. And during the Pentagon years, we had our first child. Then, in June of 1962 we moved to Chicago and I started practicing law out there.

I was interested in litigation primarily at that point, and I chose a firm that specialized in antitrust/trade regulation work. It was Chadwell Keck Kayser Ruggles & McLaren. And Dick McLaren was the partner for whom I worked mostly, and he later became head of the antitrust division at DOJ. And that's part of the story also.

When I got back to Chicago and started working I felt like it would be good to hone my legal skills by teaching legal writing and research. Northwestern

and Chicago didn't have night school divisions. I went over to John Marshall Law School which was a couple blocks from 135 South LaSalle where I was practicing with the Chadwell firm. And I asked the dean there if he could use a legal writing and research teacher. I got there just before school was going to open and he said, We've got it all filled, but do you happen to know torts because our torts teacher just died." And, of course, did I happen to know torts (laugh)? No, but I said, "Sure." I said, "I'd be happy to teach that course."

I managed to stay ahead of my classes somehow during the first semester, and for seven-and-a-half years, all the time I was in Chicago during that period, I taught night law school before catching the train to go out to the suburbs. I worked during the daytime and I'd teach that class at night. Along the way the Viet Nam war came and my classes grew from 35 to over 100. (Laugh). And the only thing that was interesting about that is that for years and years thereafter I would run into people out here who'd say, "I took your course in torts." So it was kind of amusing.

During this same period, I began to get into local Republican politics.

My dad was a Republican. If you were a small businessman from Peoria at the time, you'd probably be a Republican, you know. And this came at the same time when I became Chairman of the Young Lawyers Section. When the 1968 election began, the Nixon folks called me and asked if I could suggest some young lawyers who might work in the campaign. The people I recommended were well-received. As a result, I was invited to go down to the Republican Convention in Miami and, later, to take a position in the campaign.

So I took a leave of absence from my job, moved temporarily to DC and worked at the Willard Hotel, which was then sort of in a state of disrepair. That's where the United Citizens for Nixon/Agnew was located which was primarily an adjunct of the campaign to interest independents in being involved. I worked pretty hard and thought maybe I might get a position in the new administration.

But nothing happened. I really had no contacts with any top persons in the Nixon administration. So I went back to Chicago, made partner in my law firm, moved to a different house and basically forgot about it. However, this is where a second man who had a great influence on my life entered the scene. George Bell was a retired real estate executive who worked with me at the Willard. George took a liking to me for some reason. And he said, "If anybody should ever get a job in the administration, it ought to be you." And I said, "Well George, it didn't happen. I'm back to Chicago." But every once in a while he would call me in Chicago and say, "How would you like to be working in the Arms Control Disarmament Agency or at the Federal Home Loan Bank Board." And I said, "George, I've made partner now, I'm heading in a different direction, I have a wife and a couple of kids. I've got to concentrate on what I'm doing. It was a dream but it's not happening." However, I also said, "If you ever get something in Federal Trade Commission I might have some interest."

One day he called up and said, "When could you come down to see Chairman Weinberger"—Caspar Weinberger was the Chairman of the Federal Trade Commission—and I said, "Well, now you're talking. What about tomorrow?" So he lined up an appointment for me to meet Caspar Weinberger

and we hit it off well. By that time I was a partner and I was 35 years old. I wasn't just going to come down here unless I really saw it was going to be worth my while. Weinberger talked about the possibility of my being head of the Bureau of Consumer Protection, which was a terrific job. The general counsel position was what I was hoping for, but that was filled. So when George was driving me back to National Airport he said, "What do you think." And I said, "Well, I think this is really good. But I'd really like to be general counsel." And he said, "Well there's a general counsel's position over at the FCC." I had to think for a minute – FCC: Federal Communications Commission. He said, "Why don't you come back next week and I'll get you an appointment with Dean Burch who's the Chairman of the FCC." My wife was wondering, What are you doing? But I went back and told Dean Burch that I had no experience in communications. I knew regulatory agency work, but not the FCC. He said, "Dick McLaren (who by that time was head of the antitrust division) said you're great and I think I'd be interested in talking to you. I'm going to keep the existing general counsel on my staff." That was the guru of communications law, Henry Geller, and I thought at the time he's going to be on your staff and I'm going to be this junior grade general counsel. That might not be the best job security. But Burch offered me the job a couple weeks later and I took it.

That was the turning point of my professional career I would have to say -- to be general counsel at age 35, 36 years old. Once again, I left my wife and kids in Chicago and moved down here. All day I'd work at the FCC and at night I'd go into the library and try to read everything I could on communications law. I

had two big advantages: one, Geller had had a terrific staff and they were very decent and helped me to get up to speed and, number two, the field wasn't as complex as it is today. You basically had broadcasting, telephone and telegraph. So I, was able to learn a lot in those three months. And then my family joined me. You said three stages. We're at the end of the first stage.

Mr. Jones: Alright. Terrific.

ORAL HISTORY
OF
RICHARD E. WILEY

Second Interview – July 24, 2013

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewee is Richard E Wiley, Esquire. The interviewer is George Jones, Esquire. The interview took place at Mr. Wiley's office at Wiley Rein LLP in Washington, D.C., on July 24, 2013.

Mr. Jones: Mr. Wiley, at the conclusion of Phase One you had been appointed to serve as the General Counsel of the FCC at the tender age of thirty-something, is that right?

Mr. Wiley: Yes, I had just turned 36.

Mr. Jones: Remarkable. And you were in Chicago at the time?

Mr. Wiley: I was.

Mr. Jones: And you had no background in communications law, is that right?

Mr. Wiley: No, I did not. I was an antitrust lawyer. I had a lot of interaction with the Federal Trade Commission so I knew regulatory work, but I had no experience with the FCC. I think we covered it the last time how I managed to get that introduction to Chairman Dean Burch of the FCC and get the job.

Mr. Jones: I think we did. How did you prepare for this massive job?

Mr. Wiley: Well, I discussed last time how I left my poor wife and several children in Chicago, moved down to Washington, DC, worked at the FCC during the daytime, and went home every night and read all I could about communications. I served as General Counsel starting in late September of 1970 and, during the next 15 months, which was my tenure as GC, I tried to learn everything I could about

communications law, about the FCC's regulations, and about the communications industry then.

Keep in mind the industry was less complex than it is today, less complex. We had in the industry, for example, the telephone field largely dominated by AT&T, which for a hundred years had been a benevolent monopolist of both long distance and local telephone service; Western Union, which was the big telegram company at the time—we don't think about telegrams very much anymore—and then, of course, the broadcast industry. This was before cable, satellite and wireless and all the rest of it.

I also tried during this period to learn the people involved in the communications field both within the Commission and outside the Commission. In particular, I tried to get to know the FCC staff and to gain their confidence, because I was taking the place of a very renowned individual, Henry Geller, who I mentioned before was sort of the guru of the communications legal field. All this came in very handy as I moved up within the Commission. Of course, I couldn't foresee that at the time.

All in all, George, it was probably the most challenging period of my life, but there was more to come that, again, I did not anticipate.

Mr. Jones: Just the beginning. Did you address any significant communications or broadcast issues during your tenure as General Counsel or did those all come later?

Mr. Wiley: Yes, that was primarily later. I was really advising all seven Commissioners. We had seven in those days. And, I began to make, for the first time, public

appearances in the field; I argued a case before the United States Court of Appeals for the DC Circuit—I lost, by the way.

Mr. Jones: What was that case?

Mr. Wiley: It was *Friends of the Earth*. [*Friends of the Earth* v. *FCC*, 449 F.2d 1164 (D.C. Cir. 1971)] It was a fairness doctrine case.

I started making speeches to various industry and public groups; I assisted the Chairman in congressional hearings—I had never been before Congress before so that was a fascinating experience. As I learned my craft, I also began to engage in industry and public interviews and meetings.

One thing I decided early on was that I would maintain an open door approach, and I have to say that I continued that throughout my tenure at the FCC. That is, I saw just about everybody I could within the limits of time—those who agreed with the Commission and those who didn't.

I had a big advantage in that Dean Burch gave me an opportunity for input into the FCC policy. You asked me once before if General Counsel come in different flavors. Sometimes you're strictly a lawyer, and sometimes you're also a policymaker; I tried to be both because Dean Burch wanted it that way. He allowed me to sit in on briefings with his staff. The Commission used to meet once a week on various items that would come up. We would go over them, and that was a real learning experience to hear his staff (all very experienced people) brief the Chairman, hear what the Chairman was saying and what his conclusions were. I found that Dean Burch and I shared a common philosophy in the sense

that we both favored increased competition and perhaps less regulation as more competition made that possible.

You asked me before, "Well, how was it that we could have more competition in the communications field," which had been largely, as I said, a monopoly in the telephone area and maybe an oligopoly in the media field. It was because a tremendous technological revolution began in the very early 70's, and I was very fortunate to be there at that time. It made it possible for the FCC to allow competition to AT&T in the form of so-called specialized common carriers. Burch also had an "open skies" policy that brought about COMSAT, the first satellite communication company that the United States had along with, of course, AT&T.

Also, ultimately the development of cable television called Community Antenna Television—CATV—at the time which began to compete with the broadcast industry. What happened was that the signals from broadcast stations in Philadelphia and in Pittsburgh did not reach well into the mountains of central Pennsylvania. An entrepreneur got the idea of stringing a wire from a large tower down into the homes in little hamlets and create so-called community television with the advantage of more programming and more channels. Broadcasting was primarily a one-channel service. So we had to chart out how that entry was going to develop from a regulatory standpoint. For me, all in all, it was a very heady period.

Mr. Jones: Sounds like it. So, did the CATV development and the telephone competition occur simultaneously?

Mr. Wiley: More or less. They were evolutionary, you understand, along with satellite developments. I was just General Counsel, so I wasn't making the policy decisions in those days. Dean Burch, I think, did a very good job of trying to allow competition to occur. Looking back, probably the competition could have been more rapidly introduced, but we were feeling our way, so to speak. We didn't want to undermine telephone and broadcast service which went to all Americans by this specialized competition. Today, of course, cable essentially reaches 98% of the American public. In those days that was not true.

Mr. Jones: Were you aware that you were at the beginning of a technological revolution both with respect to cable television and telephone in the early 70's?

Mr. Wiley: I think we became increasingly aware of that. It was a fascinating experience. And, of course, a lot of it came during my tenure as a Commission member and as Chair of the Commission.

Mr. Jones: I don't remember whether it was you or somebody else who made the comment that in the early days telephone communication was by wire and television broadcasts were in the air. Today it's almost exactly the opposite.

Mr. Wiley: Absolutely. I think I did say that. We probably would have built our industries exactly the opposite that we did, but we, of course, couldn't foresee it all. You know with telephone, you don't have to sit at your desk, you can carry the phone around today. But we didn't have cellular telephone then, we didn't have wireless. The very first "mobile" telephone I saw was when I was Chairman of the FCC. Motorola brought it in to a social event and it was this big Dynatac, they called it. It was like carrying a brick over your shoulder—a very large brick

I might say. And, we did not understand that you could have hundreds of channels of broadcast programming.

Mr. Jones: So, Dean Burch was the Chair of the Commission—

Mr. Wiley: Yes.

Mr. Jones: And who were the other Commissioners when you became General Counsel?

Mr. Wiley: I have two pictures here, George, of my Commission.

Mr. Jones: Okay, the best of your recollection.

Mr. Wiley: Perhaps I could cover it when I became a Commissioner.

Mr. Jones: Okay.

Mr. Jones: So you were General Counsel for only 15 months. How did it come about that you became a Commissioner.

Mr. Wiley: Well, it was an interesting experience. One day, I think it was sometime in early fall of 1971 after I had been there not quite a year, the Chairman called me in and said, "What are you doing to become an FCC commissioner"? I said, "What am I doing? I'm not doing anything. I'm your General Counsel." He said, "Well, you know, Commissioner Wells"—Bob Wells was a former broadcaster from Kansas—is leaving and you'd better get over to the White House, because they're going to pick somebody else if you don't make your appearance there." I was dumbstruck. Maybe I should have known Wells was leaving, but I didn't. I said, "Well, would I have your support, Mr. Chairman," and he said, "Yes, but it's not going to be my decision ultimately." So I made an appointment very quickly and got over to the White House. I met with presidential personnel and also some of the President's personal aides—some of them I knew from the campaign. And

they knew me. During my year as General Counsel, I apparently had made a favorable impression on them. I made the case as to why I, as a young vigorous guy, could be a good commissioner.

Mr. Jones: Thirty-something.

Mr. Wiley: I had just turned 37, and I thought I could really help the Chairman in operating the Commission. I was perhaps more of an activist commissioner than some. They said, "Listen, no argument with us. We think you'd be great, but there's a key Senator that perhaps wants this seat to go to a female or a minority." And I said, "Well, who's that"? They said, "Senator Charles Percy from Illinois"? Well I knew him. I had been head of the Republican Party in a small township in Illinois when he was running for the Senate at the time. I backed his candidacy against perhaps some of the more conservative elements that thought he was perhaps too moderate. I had been a "big tent" guy, so to speak, and I hoped that he would remember that.

So I made an appointment, went up to see him and, in fact, he did remember it. Our discussion went very well, particularly when I told him, "By the way Senator, there is a Democratic vacancy coming up in about five months. Perhaps you might see fit to allow me to have the Republican appointment, and then perhaps a female or minority could be selected for the Democratic seat." He thought that was a good idea. Later, I found out I was only going to get a recess appointment. Senator Percy was going to make certain that the next appointment went to a minority, and we would have to be confirmed together. So lo and behold comes January 5 of 1972, I was a commissioner.

Mr. Jones: Senator Percy's strategy sounds like an early application of Reagan's maxim "trust, but verify."

Mr. Wiley: Yes, perhaps so. I suddenly found myself on the Commission. And, of course, having been General Counsel was a great background for my new duties. You knew the Commission staff, and you knew all the issues. So I started voting early and often on just about everything that came up. And it never occurred to me at the time—I know this sounds tremendously naïve by today's political standards—that there might be some hazards in that because I had not yet been confirmed by the Senate.

If you spent five months voting on everything, you could win some friends and you could also make some enemies. And those enemies could oppose your confirmation. But it was a different era then and that didn't happen. I came up for confirmation five months later with Reverend Ben Hooks, a Black Baptist minister and lawyer from Tennessee who had been appointed to the Democratic seat. And we were confirmed together and became great friends thereafter. I later visited his churches in Detroit and Tennessee and, more recently, when he was preaching here in northeast Washington. Frances and Betty—my wife—have been very good friends through the years. Ben just died within the last couple of years, but he was a great orator and excellent commissioner, I thought.

So I spent two years as commissioner, really as an ally and a confidant of Chairman Burch. I was probably a pretty active, aggressive commissioner—a little younger than my colleagues as you can see by this photograph that I'm showing you of the commissioners.

I am standing in the back behind Dean Burch and the other commissioners. I had good relationships with all the commissioners, both Republican and Democrat. Again, it was perhaps a different era then. I never thought our issues were partisan and we all got along quite well, including Nick Johnson who was sort of the "enfant terrible," you might say, of the Commission. He was a very liberal firebrand that Dean Burch didn't particularly care for, but he and I were about the same age and we got along even though we might have thought quite differently.

Mr. Jones: Where was Nick Johnson from?

Mr. Wiley: Iowa.

Mr. Jones: Iowa.

Mr. Wiley: And he later ran for Congress against Chuck Grassley. Grassley beat him and then went on, of course, to the Senate. And he's still in the Senate as you know.

Mr. Jones: So the commissioners—

Mr. Wiley: This is in the Burch era.

Mr. Jones: The Burch era.

Mr. Wiley: And then you had Charlotte Reid, a former radio singer in Chicago. She married a congressman from Illinois who died in the course of running for re-election. Within just a couple days, Charlotte made the decision to replace him. She was supposedly President Nixon's favorite congresswoman. I was General Counsel when she came on the Commission and I briefed her on the issues. Charlotte Reid was a wonderful person. She lived to 93, and just died within the last five years or so. Rex Lee standing in the back next to me was a Democratic commissioner

and a fine gentleman. Mr. Barkley down in front was the fellow who was leaving in five months whose seat Ben Hooks took. And then on Dean Burch's left is Bob Lee who served four seven-year terms, the longest in history. Twenty-eight years on the FCC. He was a Republican from Chicago. One of the problems I had when I was trying to move up to the Chairman was that the three of us were Republicans from the same state: Illinois.

Mr. Jones: Democrats and Republicans on the Commission. Did the commissioners share a vision of how the telephone and TV industry should develop?

Mr. Wiley: I think more or less they did. I think some would have gone faster in introducing competition and some slower. But I think all of them could see that technology was driving us. If we had been completely clairvoyant and more farsighted than we were, we would have made decisions a little bit better than we did. But we were struggling with, really, a fast changing world which by the way continues to this day and, as with the advent of the Internet, has accelerated exponentially.

Mr. Jones: Just before we get too far from your beginnings on the Commission, do you have a sense of why Senator Percy was such an influential person for this particular slot?

Mr. Wiley: You know, I don't recall that. I think he was an activist in terms of wanting to have diversity on these commissions and I think the White House was listening to him. But, fortunately, since he was from my state, and since there was another vacancy coming along, he could see the advantages of the suggestion I made to him.

I began to travel and speak widely during my two years as a Commissioner and really to develop myself as a Commission member. There was some press speculation that eventually I might be a future chairman candidate even though I was still in my thirties. Then, one day Chairman Burch didn't come to the Commission meeting. The Chairman runs the Commission meetings, so this was unusual. Afterward I went into the Chairman's office and I said to his secretary, "Hey, where was Chairman Burch? And she said, "He's in Key Biscayne," which you may recall was Nixon's sort of—

Mr. Jones: Southern White House.

Mr. Wiley: Southern White House. And she said, "And he's going to be calling you." And, in fact, he did call me an hour or two later and he said, "Dick, I'm going to the White House. I'm going to be an aide to President Nixon, and you're going to be the next Chairman." Boom. And I remember saying to him, "The President's had some problems. Aren't you concerned about that"? He said, "No, I think it's going to work out for me."

Mr. Jones: Was this '74?

Mr. Wiley: This was '74. And he said, "Stay by your phone; the President will be calling." So, I went back in my office and I told my secretary if you get that call let me know. Every once in a while I'd have to go down to the men's room, but I rushed back. Two days came and went and I got no phone call. I envisioned a Rose Garden swearing-in with my wife and children there and the President swearing me in. What I got instead was a two-sentence letter from the President, "I hereby

appoint you as Chairman." Dean Burch said, "Take it and run." I agreed with him.

So suddenly, May of 1974, I was the Chairman. You see this other photograph as the Commission began slightly to change. Charlotte Reid and Bob Lee are still on the Commission. There's Ben Hooks, who took Mr. Barkley's place. Then along came Jim Quello who came shortly after I did. A Democrat from Michigan—second from the right, and then later on, on the top left, a Republican, Abbott Washburn, who had been a former ambassador. And, finally, we have Glenn Robinson, a Democratic member who was a professor of law at the University of Minnesota and later at the University of Virginia.

Within three months after I became Chairman, President Nixon resigned.

Mr. Jones: August of '74.

Mr. Wiley: August of '74. I had never met the President and, after he resigned, I wondered what was going to happen to me. Fortunately, President Ford invited all of the independent regulatory agency chairmen to come over to the White House. He had us in the Cabinet Room, talked about his vision for the presidency and for our areas, generally speaking, and it was pretty clear that we were his guys. So that was a great relief for me. He said, "You're all going to stay in your positions." Since I only had it for three months, I certainly wanted to stay in that position.

So, at that point, I began to set some goals. The first thing I felt was that the Commission historically had been very slow moving under both Republican and Democratic administrations. We think about the great policy decisions, but there are also just a lot of applications and demands for action that people want

and the Commission didn't always reach determinations very quickly. So I wanted to set deadlines, make decisions, move paper. I had the advantage, again, of knowing all the Bureau chiefs. So I decided to hold a weekly meeting with them and asked, "Let's agree that you're going to identify any item in your Bureau that's over one year old. Let's agree on a date by which you can bring it to the Commission to make a decision. If you can't do it down at the staff level because it's too complex, too controversial, then let's get it up to the Commission and we'll make the decision." I started establishing three-month calendars. I told the commissioners, we're going to meet three times a week, not once a week. Now the commissioners meet once a month, but we moved from once a week to three times a week.

Mr. Jones: Are you saying now?

Mr. Wiley: It's once a month.

Mr. Jones: Wow.

Mr. Wiley: They make a lot of other decisions by circulation, and we did too in those days. But I wanted to get a lot of big matters teed up–major decisions. Set aside a Tuesday on which we're going to decide this big decision, and nothing else, then have our standard meeting on Wednesday and then another big decision on Thursday. I told the commissioners if you want to travel, make speeches, whatever you need to do, do it Monday and Friday because Tuesday, Wednesday, Thursday are going to belong to me. I published my three-month agendas inside and outside the agency, which locked everybody in.

Mr. Jones: Including you.

Mr. Wiley: Including me. We did move a lot of paper. It was a fast-moving era. When you move fast, you make mistakes. I'm sure we did, and we can talk about some of the bigger ones later, but at that time I was just trying to decide a lot of relatively minor issues rapidly.

In particular, there had been a huge backlog of petitions to deny broadcast licenses. In those days broadcasters got three-year licenses. Today their licenses are for eight years. The standard for upsetting that license renewal, as we call it, is much more difficult since the 1996 Telecommunications Act. But, in those days, a lot of people thought maybe they could knock off some of the broadcasters by filing so-called petitions to deny. Three years would go by, and a second term coming up, and still no FCC decision. I thought that was ridiculous.

So I started telling the staff to bring up twenty-five at a time. We're going to have a meeting called Petition to Deny Day, and we'll take twenty-five at a time. Maybe there'll be a difficult case here and there, but the rest we're going to move on. Because a lot of them were pretty routine, I thought. So we did clean that backlog up and that was good.

I also continued Dean Burch's very important policy of competition in the telecommunications side of the industry—in the specialized common carrier and satellite fields. But one particular area that had not been dealt with—it just hadn't developed during the Burch era—was equipment.

In those days you could not attach an answering device, let's say, to your telephone unless you got AT&T's approval. AT&T would have these products manufactured by an independent company and when they were attached to the

AT&T lines, there wasn't a problem. But if MCI attached it, there was a big problem. AT&T was a very good company, so I'm not knocking them. It was just a different era.

So we established interconnection standards for all carriers alike and if the foreign attachment, as it was then called, caused harm to the network, then we were going to shut it down. But if it didn't—and most of them didn't—they would be allowed. And robust competition in the equipment field began to develop. And, of course, it has continued to this day.

My very first speech as Chairman was to the National Association of Broadcasters. I had a reputation of being deregulatory-minded and I suppose they were looking for a speech that would say let's deregulate more. I may have given that speech later, but this talk was saying that we should do more for children's television. You know, cartoons are great—nothing wrong with them. On Saturday morning, I like to relax a little bit more and children perhaps would like to watch cartoons. But why, I asked, not use this great device—window into the world as I called it, television—also for some educational and informational programming. I didn't intend more regulation, because in programming it is very sensitive. The Commission can't be a censor. So, I couldn't tell them put this on; I could suggest to them they should. I used the bully pulpit, so to speak. And, as a result perhaps, Captain Kangaroo, Mr. Rogers' Neighborhood, Squire Rushnell and others began to appear on the airwaves. So it was a good speech, I guess.

I also tried to further something Dean Burch had been interested in: equal employment opportunity rules. We had a pluralistic society; I said we also should

have a pluralistic industry. Make information on jobs available; make sure that the percentages in the community were matched by the employment structure you had at various broadcast stations.

I also established what I call the New Ethic, that if broadcasters engaged in improper billing practices, or if they didn't give equal opportunities to Democrat and Republican candidates, we would take regulatory action. During that era, despite my reputation as being sort of deregulatory-minded, we took away thirty-four licenses from broadcasters. I don't say that with any great joy, but these were people who violated FCC rules, and those denials were upheld in courts.

I also thought that broadcasters ought to do news and information programming, but, again, it was difficult without being a censor to tell them how much news and information they should do. So, I came up with the idea and sold it to the industry of guidelines. We used to get all the percentages, so we knew what everybody was doing around the country, generally, and what the industry standards were. And, we said, If your station meets those, you're going to get renewed at the staff level easily. (And remember this was a period where renewal wasn't that easy.) If you don't want to meet those levels, your renewal will come up to the Commission. That doesn't mean that you can't argue your programming performance is appropriate, but we're going to look at it. Well a lot of people, of course, carrot-and-stick, decided they were going to meet those percentages. So, that worked out fairly successfully.

We also had two policies, the Fairness Doctrine and Equal Opportunities, which is often thought of as equal time. The Fairness Doctrine dealt with controversial issues of public importance. In general, if you covered one side of the abortion issue, you had to somewhere in your programming cover the other side. It wasn't with mathematical certainty. The Equal Opportunities rule was mathematical, and it was candidate-oriented. If you sold a half-hour of time to Candidate Carter you had to offer a half-hour of time to Candidate Ford.

Now there were some exceptions to the equal opportunities rules and those were for bona fide news programs. If you had the evening news, you couldn't have twenty-four people who were running for President on the program and give equal opportunity to all of them. And the same if you had a news interview; that also was an exception. But one thing that was not an exception, historically, was Presidential debates.

Henry Geller, former FCC Chairman Newton Minow, and I were all Northwestern Law School graduates, and we agreed that we were going to make 1976 a model year in political broadcast coverage. We decided to establish debates as a bona fide news event. I thought I was going to get a 7 to 0 vote for Commission approval but, after some Congressional opposition, ended up with a 5 to 2 bipartisan vote. So that became the rule. And, in 1976, we had the Ford/Carter debate as a bona fide news event.

On the fairness doctrine, one of the problems we had was counteradvertising. People would argue that, if broadcasters were going to run a product ad, they had to run a counter ad that would give the health deficits of this

product. I felt that the fairness doctrine should only apply if the ad made an explicit argument on a controversial issue of public importance. So we reformulated the fairness doctrine and that became the standard, and ended the counter advertising controversy. I got support on Capitol Hill for that view, by the way.

Now I did lose some decisions, important ones, but I will say that I ultimately won some of them later. One of them was indecency. There is a federal criminal statute that forbids the broadcast utterance of profane, indecent and obscene material. Profane is sort of "damn" and "hell," and it really wasn't regulated much in those days. Obscene is the hardcore stuff that is banned 24-hours a day. The question was whether there was something in between—so-called "indecency"—for example, words that you wouldn't normally hear or see on radio or television on which we should take regulatory action.

I got all sorts of input from Capitol Hill, because people were running programs and slipping in words that Congress felt shouldn't be said. In particular, at 2 o'clock in the afternoon, allegedly, a father and son were searching for the Yankees ballgame on their car radio and instead of the Yankees ballgame they got George Carlin's famous comedic sketch, 11-minutes long, of the seven words you can't say on radio and television. Some people called it "the seven dirty words." And some of those words, believe me, were not "damn" and "hell."

So, we decided to make this a test case, and we said on two basic standards it was an indecent program. One was the ubiquitous entry of broadcasting into the American home, and, second, the presence of children in the

audience. The Court of Appeals for the D.C. Circuit, under Chief Judge Bazelon, was considered by some as rather regulatory and liberal where I might have been considered deregulatory and more conservative. And they upset my standard. We took it to the full court of appeals en banc and lost 5 to 4. Finally, we took it to the Supreme Court and, in the famous *Pacifica* case in 1978 after I had left the Commission, the Commission was upheld—and on the very two bases that we had established. It is indeed still the standard to this day. One can argue whether or not it's narrowly tailored and whether it's needed as much, as many broadcasters do. But at that time it was a big victory.

The next case was *Newspaper/Broadcast Cross-Ownership*. I had inherited a rulemaking from Chairman Burch that questioned whether or not broadcasters and newspapers should be co-owned by the same owner in the same marketplace. The concern then was that newspapers which were a very dominant, powerful industry in those days—you wouldn't think of that today—would perhaps dominate the electronic medium. So ultimately we issued a rulemaking order that said we weren't going to break up longstanding co-owned arrangements like the Chicago Tribune and WGN in Chicago, and many others around the country which for years and years had served their communities, but looking forward you couldn't own a newspaper and broadcast station in the same market. We would look at waivers, however.

Mr. Jones: When you say broadcast do you mean television and radio?

Mr. Wiley: Television and radio.

Mr. Jones: Or television or radio?

Mr. Wiley: Television or radio.

Mr. Jones: Got it.

Mr. Wiley: And, by the way, it's still the rule today. And I again got upset by the Bazelon court of appeals which would have divested everything immediately. We took it to the Supreme Court, which again in 1978 upheld our rule: 8 to 0. That was a great relief for me, but it came, again, after I had left the Commission.

Another one was radio formats. It's a little hard to believe this today when we have CDs, Pandora and Sirius XM, et cetera. In those days, if a station had a classical music format, it might have been the only one in town. And if the people who owned that station made the decision that they were going to drop classical music and take a country format or something like that, people got very upset. It was their classical music station. But I felt this was a marketplace decision because stations were constantly changing their formats to reach larger audiences. The court of appeals overruled me, but that also was upheld later. So this all sounds good, sounds like I had a successful chairmanship, but I can tell you I did make some mistakes.

Mr. Jones: Wait, before we go to the mistakes I'd like to talk just a little bit more about the various initiatives that you described in general. First, competition in the telephone industry: did you have a sense of Bill McGowan who was the chairman of MCI at the time?

Mr. Wiley: Yes I did. Very dynamic, very demanding. He really wanted to move faster than the Commission was moving because we were feeling our way. And he really

wanted to become equal in every way to the dominant telephone companies and he eventually got there.

Mr. Jones: Right.

Mr. Wiley: He was one of the most amazing individuals I met during that period. A great person in many respects.

Mr. Jones: One of the things that I have come to think about him is that he was a person who came from outside the telephone business and you probably needed somebody who was outside the telephone business to even conceive of an MCI that would compete with AT&T from end-to-end.

Mr. Wiley: Yes. What really happened was that Chicago and St. Louis brokers were selling stocks and bonds and they wanted a dedicated line because their customers were calling in all the time, and AT&T wouldn't provide it. MCI came in and offered a dedicated line, and that's how it all got started. That was the first little homely example.

Mr. Jones: But that's before the specialized common carriers decision.

Mr. Wiley: Right, but the specialized common carrier really made it possible for other carriers to compete in these areas. I'm only touching on the surface, but the Commission was moving in the right direction.

Mr. Jones: As you watched MCI develop, were you surprised by how successful they were?

Mr. Wiley: Yes, to some extent I was.

Mr. Jones: Why?

Mr. Wiley: Well because they were taking on the big kahuna, right? And we were making these decisions and never foreseeing that in 1983 AT&T would be broken up.

The Kingsbury Commitment of 1913 gave AT&T a monopoly in return for making telephone service available to everyone, including in the rural areas which was expensive to do. But the tradeoff began to splinter a bit when other companies came in and started taking parts of their business, sometimes the most lucrative part of their business. And so AT&T had legitimate concerns.

On the other hand, if you were going to have competition you had to move in that direction. So when the Justice Department brought an antitrust lawsuit against AT&T, the company made a deal to spin off the local Bell operating companies, keep the long distance and the equipment—and that was probably the wrong decision, but who knew, right? The Baby Bells then took over the parent, and the current AT&T, of course, is actually Southwestern Bell Company, the smallest of the seven Baby Bells, but led by a very dynamic management that started buying the other Baby Bells. Today we have three of those original Baby Bells, more or less, still in existence.

Mr. Jones: I guess the Justice Department had filed suit against AT&T—

Mr. Wiley: Just at the end of my tenure. Just before I went out of office they told me they were going to bring this lawsuit.

Mr. Jones: If you had foreseen while you were Chairman that allowing MCI and the other competitive carriers to get into the business, to compete with AT&T, would ultimately lead to the breakup of AT&T and to the revolution of telephone service in the United States, do you think you would have had the votes to go forward?

Mr. Wiley: Well it's questionable because I remember Ben Hooks was very concerned about my policies of competition to AT&T and here he was a Democrat and a minority.

He used to come and say to me, "You're a Republican. You're a conservative from the Middle West. What are you doing to this big company, AT&T"? And I said, "Ben, we're not trying to hurt them, we're trying to create competition for the public." And Ben ultimately supported it, but he had a concern. Would we harm the nation's telephone system, which is vital to this country? And would we harm the nation's broadcast system which was vital to this country at that time, particularly because there were no options? Those were real concerns. And looking back today you'd say, Well, gee, Burch and Wiley and all these guys could have moved competition a lot faster than they did. And I accept that criticism, but we were playing with an unknown frankly because these were vital services. And we received a lot of criticism on Capitol Hill. In fact, there was the so-called Bell Bill, which got several hundred congressional supporters actually trying to constrict what we were doing to AT&T. I had to go up and testify and say, "Look, this is a wonderful company, but we feel there's a chance for competition. Technology has made it possible." I don't want to sound like a hero here because as I said I think we made our mistakes along the line but that one wasn't one of the mistakes.

Mr. Jones: Was there a Bill McGowan in the cable industry?

Mr. Wiley: Yes, John Malone who's still out there.

Mr. Jones: Oh.

Mr. Wiley: John Malone was one of them. And there were other entrepreneurs around the country. And they were pushing us to deregulate them much faster than we did. Dean Burch had an elaborate cable policy that he had set up in '72, which I had

voted for when I was a commissioner, to put a bunch of restrictions on cable to make sure we were protecting local broadcast service. Then slowly but surely we began to remove those restrictions as we became convinced that cable wouldn't harm the basic over-the-air service. But the tension between broadcasters and cable is a difficult problem even to this day.

Mr. Jones: The Presidential debates, was there any opposition?

Mr. Wiley: Lots. And from the Hill, in particular. Senator Pastore called Ben Hooks and some of our other commissioners, and they would come in and see me and say, Gosh, what are you doing. I'd say, "You've got to stick with me. We agreed we were going to do this." Fortunately, we managed to get the votes. But there was a worry as to whether somehow we were upsetting Presidential politics. You know, for an independent regulatory agency, that's not what you want to get into, right?

Mr. Jones: Right. But was the concern about the policy or the potential political impact?

Mr. Wiley: Definitely the latter. One of the best known lawyers in town at that time came to me and said, "How could you do this?" He said, "How could you turn this agency into a partisan agency?" I said, "This isn't a partisan thing." Fortunately I had Henry Geller and Newton Minow with me. It certainly helped a great deal that we were together on that.

Mr. Jones: Now, was Geller a Democrat?

Mr. Wiley: He was a Democrat. Remember he was the General Counsel before I got there.

Mr. Jones: Right. But was Burch a Democrat?

Mr. Wiley: No, he was a Republican, but Burch kept Geller on his staff.

Mr. Jones: I got it.

Mr. Wiley: That often happens.

Mr. Jones: So Geller the Democrat, Newt Minow the Democrat and you.

Mr. Wiley: Wiley the Republican. But we all agreed that the policy was in the public interest.

Mr. Jones: Right.

Mr. Wiley: And in the end we had a bipartisan Commission. It was demonstrably the right decision for the country. Unfortunately, in the debate with Jimmy Carter, Gerald Ford said that Poland was not under Communist rule and many people thought that he lost the debate and, therefore, lost the presidency. And, as a result, I was going to lose my job!

I had a wonderful seven years at the Commission. The Commissioners and I used to have rotating dinners at their homes, which I think would be a good idea today. We were all friends. We would disagree from time-to-time on an issue, but then you'd see each other on Friday night. It's a little hard to cuss people out if you're seeing them at their homes for dinner. In all, it was the most enthralling, enjoyable period of my life. But when the 1976 election results rolled in, I said, "Gee, my government career, which I greatly enjoy, is about over."

In December, I got a call from the Carter transition team. And I said to my secretary, "This is it." So I went up to Union Station where the Carter transition team was officed, and I met this fellow and I said, "Look, I've been a commissioner before and I'm happy to be a commissioner again. My term runs to the following June. I'm going to stay and finish my term." It sounds very honorable, but it would also give me a chance to practice law before the agency

immediately. That was the rule then. Obviously you couldn't get involved in things that you had decided, but you could go over to the Commission right away on other matters if you finished your term.

Mr. Jones: Whose rule was that? I mean was it a statute or just a policy?

Mr. Wiley: I don't recall now what it was, but they changed it obviously to one year and now I guess it's two years.

Mr. Jones: Right, for senior people. So the Ethics in Government Act, that comes after Watergate. It's in '78.

Mr. Wiley: Yes. So I told this gentleman, I said "Look, I'm going to stay until June so you can do whatever you need to do." He said, "I'm a Kansas public broadcaster. I know and like your policies. We don't have our guy yet so why don't you just stay on as Chairman." I was really surprised to say the least, but also very pleased because I loved the job.

The one person that wasn't pleased, by the way, was my wife who was assuming that after seven long years at the Commission I might be leaving and actually earning some money; because we were not in good financial shape at that point. I had just made partner out in Chicago before I joined the FCC and my income went down and hadn't really gone up very much. So I went back to the Commission, called the three Democrat members in and said: "Guys, you're looking at the next Chairman of the FCC."

Mr. Jones: Looking a lot like the old Chairman, right?

Mr. Wiley: Yes. The old Chairman and I'm the new Chairman. I said, "I think they've got somebody else in mind who maybe isn't ready yet. But whatever it is," I said, "They've asked me to stay on and I'm going to do it."

Ben Hooks later decided he would leave. He wasn't going to get to be Chairman. He could see that, and so he became head of the NAACP which was a great job for him. And the other two commissioners stayed on.

I started working with the Carter White House. I traveled internationally with them to various treaty organizational meetings. Sy Lazarus and Rick Neustadt who were the Carter aides at that time became good friends of mine. Rick actually became such a good friend that he later came with me to Kirkland Ellis, the firm that I joined—we'll get to that later. Rick was the son of the famous Harvard history professor, Richard Neustadt, and he was a terrific individual.

Carter and Ford had similar policies, I would say. Call it moderate deregulation. So the Carter folks didn't seem to have much problem with my policies, and it was a good opportunity for me because I knew later I was going into private practice and I got to know these guys. It was only a short time until June, I figured, so it was good.

Comes June I got a call saying, Hey, come over to the White House for lunch. They took me around, showed me Amy's tree house, and they showed me the tennis court, because they knew I was a tennis buff. They said, Look, we're still not ready. Any chance you could stay on until Labor Day? My wife was, again, not particularly happy. Senator McClellan, a very conservative Democrat,

who liked me said, "We're going to get you reappointed." I said, "No, that's not what I had in mind." I would get a divorce, I think, from my wife and I didn't want that. But I said, "I'll stay on until Labor Day." So, finally, it was October 18 of 1977, within two weeks of the day that Ford had lost, that they finally replaced me at the Commission. And I realized that my seven-year journey at the FCC was over and I would have to find a job in the private sector. George, I guess that's stage three.

Mr. Jones: Well, we're not there yet. We have some more to talk about in stage two. So as I think I understand it, the obstacle to Presidential debates was the Equal Opportunity Doctrine.

Mr. Wiley: Absolutely.

Mr. Jones: Is that statutory, regulatory Commission decision?

Mr. Wiley: Oh, it's statutory.

Mr. Jones: Statutory. And to have Presidential debates without having to invite fifty candidates you reinterpreted the statute?

Mr. Wiley: Yes, exactly. There were exceptions as I said earlier for bona fide news events which would include news casts, news interviews and other kinds of sudden news events. We said that a presidential debate could be a bona fide news event.

Mr. Jones: I see. I see.

Mr. Wiley: In those days the League of Women Voters had to be the moderator. It was before the days in which the networks took over. Now, we don't think of debates as being controversial. Indeed, we think of them as being one of the most

important elements of the public's determination of who they're going to vote for, right?

Mr. Jones: Yes. On indecency, were you the leader on that?

Mr. Wiley: Yes. I was the Chairman, I had to make that decision and I thought that we had the right grounds because there was a concern about children being subjected to this kind of language which, by the way, with little kids at the time, I shared. I didn't want the "F" word being broadcast during times when children were likely to be in the audience.

Mr. Jones: You mentioned "ubiquitous"—

Mr. Wiley: Immediate availability into the American home by mere turn of a dial or a knob, right?

Mr. Jones: So would that apply to cable stations?

Mr. Wiley: No, that would not apply to cable and, as a matter of fact, I was pilloried by some people on Capitol Hill on this point. They would bring me up, and show me *Midnight Blue*, which was a cable program that was very explicit and they'd say, What about this Mr. Chairman? And I'd say, "We can't regulate it because it's like movies. You want to go see a XXX film and you pay your money, the government can't stop that. And this is the same thing". And the courts later upheld that position. You're paying a monthly subscription for cable. Unlike broadcasting which is advertising supported and is immediately available to every American—

Mr. Jones: Who has a TV. And that's a distinction that has continued to exist even today?

Mr. Wiley: Yes. And people are questioning whether or not that still makes sense, because there are so many ways in which programming can now be made available to the public. Only this one little segment is sort of pristine. But the most recent Supreme Court decision has upheld—

Mr. Jones: *Fox*.

Mr. Wiley: *Fox*, yes. Has upheld it, and even upheld the "fleeting expletive" policy of the FCC, which when Bono, the lead singer for U2, held up his Golden Globe award and said, "This is f'ing brilliant," the Commission ruled that that was indecent and the courts have basically upheld that. Now, the Commission may move away from that policy and I happen to think that's probably wise. It's so hard to regulate in that area. But, on the other hand, I don't like to see gratuitous use of bad language on the airwaves.

Mr. Jones: So you mentioned common ownership. You were worried about the newspapers controlling radio or television in the same market.

Mr. Wiley: By the way, that is still the rule today. But the world of the Internet and fragmented media and multiple competitive sources have made that rule, in my personal opinion, outmoded and counterproductive.

Mr. Jones: So, at the outset, the concern was that newspapers would dominate communication to the public?

Mr. Wiley: Yes. If you owned a newspaper and you had your television station in the same marketplace, you would be in a very super competitive status compared to the other stations in the marketplace.

Mr. Jones: And charge more for advertising?

Mr. Wiley: Perhaps. And control what went on that station. There were all those concerns.

Mr. Jones: Lots of power. You could influence the candidates who were elected and the like. And today you have almost countless avenues for communication.

Mr. Wiley: George, I'd like to use you as one of my witnesses here when we go to the FCC next time because that's what I'm saying over there. But so far we haven't sold it.

Mr. Jones: And the notion is that because you have multiple ways of communication there is no way for anybody to dominate communication?

Mr. Wiley: Well, I would argue that, but others still are concerned about too much consolidation.

Mr. Jones: You might have the equivalent of the failing company defense in the antitrust area—

Mr. Wiley: Well we do have a failing station rule over at the FCC, but not failing newspapers because the FCC doesn't regulate newspapers. They only regulate their co-ownership of television stations.

Mr. Jones: Okay. Let's talk about your mistakes.

Mr. Wiley: Yes, well I've made a few. I think we were slow sometimes in our pace of deregulation, particularly, in pay television. But the big one was—and this was kind of akin to the indecency situation—concerned so-called "Family Viewing." People from Capitol Hill expressed concerns to me about violence and sexually oriented programming that was appearing on television. So I decided to call in the presidents of the three major networks—ABC, NBC and CBS—into my office. I wanted to have an adult conversation with them about this problem. I suggested, for their consideration because, again, you've got the—

Mr. Jones: First Amendment.

Mr. Wiley: First Amendment. And you've got the no censorship provision. I suggested to them intelligent scheduling that would say that in the first two early hours of prime time—say, 7:00 to 9:00 a.m. in the East Coast—you wouldn't have programs that were not suitable for the entire family.

And I also suggested the avoidance, even in the later hours, of gratuitous violence and sex when it wasn't necessary to the programming line. And finally I said, "How about warnings to parents if there's going to be a program that may be upsetting to some?" And you see those warnings today.

Mr. Jones: Right.

Mr. Wiley: So I made those suggestions. I never used the term family viewing. Arthur Taylor was a young, dynamic president of CBS. And he made a speech a couple weeks later calling for a family viewing hour, and it basically followed the outline of my suggestions. The first two hours of prime time would be appropriate for family viewing, there would be warnings, avoidance of gratuitous violence and sex. I, of course, liked it.

Mr. Jones: Did he attribute it to you?

Mr. Wiley: Well he said we had discussed it, but he said, "This was our idea." And I endorsed it as a landmark in self-regulation. It was all looking good. But Norman Lear and some of the folks in Hollywood didn't see it that way, and they sued the networks for antitrust violations and sued me, again, for violation of the First Amendment. It went to a District Court. I remember the judge telling me

that he thought Norman Lear was a genius, which he may well be. (Both laugh) I didn't take that as a comforting sign.

Mr. Jones: During the hearing?

Mr. Wiley: He actually said that. This was in Los Angeles and we lost that case.

Mr. Jones: I'm shocked. (Laugh)

Mr. Wiley: Yes, I'm shocked there's gambling going on here. Fortunately, a couple years later the Ninth Circuit Court of Appeals reversed and vacated that decision. But by that time, the family viewing hour concept had come and gone although you'll still see references to it. You had asked me once whether it really was a mistake. No, I believed in it. I thought it was a good idea. Maybe I could have handled it better. I never thought about getting sued.

Mr. Jones: That's the biggest one, or the only one?

Mr. Wiley: Oh, there were many, I am sure, but that's the biggest one that I'll always recall because I had to have the Justice Department representing me, and I had my deposition taken and my cross-examination by a very smart lawyer from Munger, Tolles. I still remember that.

Mr. Jones: Who was the lawyer?

Mr. Wiley: I can't recall who it was, but he was good. (Both laugh) I thought I held my own, but obviously the judge didn't see it that way.

Mr. Jones: I'm not sure I would regard that as a mistake, if I were you.

Mr. Wiley: You're nice to say that, but at the time it was upsetting and it was nerve racking. To be sued, and it got lots of press. It was not a comfortable position to be in. So I was very pleased when the Ninth Circuit issued their decision.

Mr. Jones: Did they come out with the decision while you were still Chairman?

Mr. Wiley: No, I was gone. I got all the good decisions after I left office. (Both laugh)

Mr. Jones: The weekly dinners with the commissioners, was that your innovation or was that a continuation of—

Mr. Wiley: No, it was mine. And, you know, again, it was self-serving in the sense that obviously it helped me to have good relationships. But that was my nature anyway. I liked these people. They all remained friends of mine. Unfortunately, the only one that's still living to this day is Glen Robinson—up there in the far right of that picture—and he's retired from the University of Virginia Law School. But just a terrific fellow. And you know Glen was a libertarian Democrat, so when we did the children's television proceeding he actually opposed it because he thought the FCC shouldn't be involved in this area. I said, "Well, Glen, we're just trying to do something in the public interest and we're not regulating." But he was a purist in that respect.

Mr. Jones: Was it unusual for a person like Charlotte Reid who was a performer, not—

Mr. Wiley: But she was a congresswoman. I think she served four or five terms as a congresswoman.

Mr. Jones: Oh, I see.

Mr. Wiley: So she was a performer earlier and then was the wife of a congressman and then became a congresswoman herself. As I say, Nixon thought highly of her. She was a very smart woman and ultimately decided, after many years, to get remarried and she left the Commission.

Mr. Jones: Sy Lazarus, the guy you mentioned as being one of the Carter administration people—

Mr. Wiley: Carter people, yes.

Mr. Jones: —was at our firm for a few years.

Mr. Wiley: Oh, is that so?

Mr. Jones: Yes, he's a good guy. I see him from time-to-time.

Mr. Wiley: Oh, a very good guy. Is he still practicing?

Mr. Jones: Not with us. He does a lot of work with, I think, the Constitutional Accountability Center.

Let's see. We'll call this the end of Phase Two.

Mr. Wiley: Phase Two or Stage Two, you called it.

Mr. Jones: Stage Two.

.**ORAL HISTORY**
OF
RICHARD E. WILEY

Third Interview – August 1, 2013

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewee is Richard E Wiley, Esquire. The interviewer is George Jones, Esquire. The interview took place on August 1, 2013.

Mr. Jones: So, when we stopped last time you were about to re-enter private practice to your wife's great delight. Tell me about that process.

Mr. Wiley: Yes. On October 18, 1977, I had to leave the FCC, and I started talking to a number of firms and decided ultimately on Kirkland & Ellis. I had overtures from various firms—Hogan & Hartson, Skadden Arps and Dow Lohnes, which is a communications firm here in town, as you know. I thought K&E was a very strong firm. It was headquartered in Chicago which, of course, is my hometown. I thought there was a possibility I might want to go back there someday, maybe get involved in politics; who knows? And it had a small communications practice at the time, maybe seven or eight lawyers—

Mr. Jones: In DC?

Mr. Wiley: In DC. I thought I could use that to build on. It was a good base. And, most importantly, Kirkland asked me to be the partner-in-charge here of the Washington office which gave me an opportunity for a leadership position of the sort I had enjoyed at the FCC. I thought if the practice didn't develop, it would give me something to do. (both laugh)

Luckily, however, the practice did take off. The second day I was at Kirkland I got a call from a Los Angeles lawyer who was here in town and he was going to interview three firms, including ours. He had seen my name quoted in the *Wall Street Journal* that day, so he said he came to me first. He was with Xerox Development Corporation, a subsidiary of Xerox, in Los Angeles. He told me they were thinking about a new technology project. I was very interested, because it wouldn't involve any conflicts for me. It was something I had never worked on at the FCC. He decided after our meeting not to visit the other firms, and retained me more-or-less on the spot.

The nice thing about it is for the next three or four years I worked on that project to a large extent. I must have gone to Los Angeles three or four dozen times. It was a very interesting project. I also began to bring in a number of other clients—Xerox, the parent, of course; GTE, which was later merged into the Bell system, but before that was very much an independent telephone company; CBS; Texas Instruments; Motorola; Twentieth Century Fox; Newspaper Association of America; COMSAT, which is the satellite company that we had talked about before in Dean Burch's "open skies" program, if you recall—

Mr. Jones: Sure.

Mr. Wiley: After three or four years, we got Xerox Development Corporation everything they wanted, but the parent company decided not to proceed with the project. So, I had done my job. I had been well paid for my efforts. In the course of five years at the firm, I had been able to grow the communications practice from seven or eight

lawyers to twenty-five. So, obviously, all was going very well for me and I enjoyed it greatly.

There was a little bump in the road. In 1980, as you will recall, Ronald Reagan was elected President. That was only three years after I had left the FCC, but I knew a lot of the people in the Reagan campaign and I got invited by somebody who had worked for me at the FCC to serve as head of the Justice Department transition team. They said you'll be great because you don't have any conflicts and you can do this. Well, I didn't know too much about all the DOJ issues, but I can assure you that I started learning the first day they asked me.

Mr. Jones: Sounds familiar.

Mr. Wiley: They gave me a part-time office over at the Department of Justice. First thing I did was to interview Ben Civiletti, who was, I thought, a great guy, and Charles Renfro, the deputy attorney general, who was a wonderful man who later became a federal judge. They were both very cooperative.

Mr. Wiley: In any case, the next thing I was asked to do was to go to Los Angeles and brief William French Smith, who was going to be the new Attorney General, Judge Smith as we called him. I worked really hard to get ready for that trip. I had some backup here at the firm, including a young man named Henry Habicht, who later went to the Justice Department. I recommended him to Judge Smith. I also had help from a young fellow named Ken Starr, who was in Judge Smith's Washington office, and who I later recommended to the Judge. Those two fellows eventually became counselors to the new Attorney General. So I went out, met Judge Smith, and developed a good relationship with him. We later

played tennis during his tenure here. He was a big tennis buff, and I was also. We played both in Washington and out at the Claremont Club to which he belonged in California. He was really a fine man.

One night we were having dinner at the Jefferson Hotel over on 16th Street. He said, "Look, I'd like you to come into the administration. I'd like you to be Associate Attorney General." And, boy, I was very excited about that prospect; for one thing I liked public service. I had spent eleven years in the federal government: three and a half years at the JAG Corps and seven and a half years at the FCC. So I went home to see my dear wife.

Mr. Jones: I know what the reaction was.

Mr. Wiley: (laughs) And the reaction was what you'd expect, because I was really building a practice at Kirkland. It was three years out, and these clients—the kind of clients which I recited for you—which would be on anybody's list of great clients to have was something that I was beginning to accumulate. Obviously, the offer was an honor. I liked Judge Smith. It was very tempting, but ultimately I decided, no. It was the same level of position that the chairman of the FCC was, a Level 3; it would have caused me to have to leave the communications practice I had spent over seven years at the FCC and now three more at Kirkland really honing my expertise on. In those days the Associate Attorney General's responsibilities were criminal. The deputy's were civil. I don't know if they continue doing that.

Mr. Jones: I think it's still the same.

Mr. Wiley: So, anyway, I didn't know anything about criminal law, and I would really be a duck out of water. William French Smith said you can learn it and, of course, one

of my capacities is to pick things up pretty rapidly. But I ultimately decided that it would interrupt my practice. I enjoyed K&E and I just decided to turn it down.

Mr. Jones: You said you built the—before we get too far—So, how large was K&E's Washington office when you joined in '77?

Mr. Wiley: Well when I left it was seventy-five, so it was probably around 60 or something like that.

Mr. Jones: Oh, I see. And seven to eight communications lawyers?

Mr. Wiley: Yes.

Mr. Jones: Were you doing FCC-related projects for Xerox and Texas Instruments?

Mr. Wiley: Yes, all these clients.

Mr. Jones: I see.

Mr. Wiley: The work that came to me was largely work that I had not been involved with at the FCC, which was good.

Mr. Jones: And the rules permitted you to practice—

Mr. Wiley: Practice before the agency right away, but on the Xerox Development Corporation project I really didn't have to go back to the FCC at all. I may have done so during that period for other clients, but XDC was really a project that was headquartered in California. I was meeting with the executives out there, and talking to them about the new technology opportunities that they were thinking about.

Mr. Jones: I see.

Mr. Wiley: So, I just decided that things were going well for me. I was going to stay. Well that looked like a good decision. And, by the way, I was also earning some

money for the first time. When I left the FCC I was basically pretty tapped out. I think I told you the story of trying to buy a new car and had to take a loan for it.

Mr. Jones: Right.

Mr. Wiley: So it seemed like a great decision, but one day I was down in Florida on business. I got a call from the managing partner of Kirkland & Ellis in Chicago, a man who had really been responsible for my being hired. He had conducted the negotiations with me.

Mr. Jones: Was that Johnson?

Mr. Wiley: Elmer Johnson, yes. And he said, "Guess what?" He said, "I've got great news for you. I'm going to become the general counsel" of what he called Midwestern Bell, but was really Ameritech, as it turned out to be. The name hadn't been selected at that time.

Mr. Jones: Was it Illinois Bell then?

Mr. Wiley: No, this was one of the Baby Bells that had been spun off from AT&T in the divestiture.

Mr. Jones: Oh, that's right. So it's right after the divestiture?

Mr. Wiley: It was right after the divestiture.

Mr. Jones: I see. Ameritech.

Mr. Wiley: Ameritech. It wasn't called Ameritech at that point; this was really just getting formed. He said, "I'm going to stay a partner at Kirkland & Ellis." Well, from a conflicts standpoint, this really locked it in. It was obviously very good news for Kirkland & Ellis. They were very excited about it. I said I thought it was going to be a problem for me because I was on the other side of the Bell Companies on

many issues at that point. I had argued cases before Judge Greene who was presiding over the breakup of AT&T. (All that changed later in my career, as we can talk about.)

So Elmer said, "Come out to Chicago, let's talk about it." He had the whole management committee for dinner at the University Club and Bert Rein and I were there also. They indicated why this would be advantageous to them. Sidley had AT&T, and they would now have Ameritech. It made sense from their standpoint. But for me, it was pretty clear I would have to leave Kirkland & Ellis to maintain the competitive communications practice that I was building. The local Bell company was going to be a monopoly. They told me that I needed to give up my telecommunications clients, but could keep CBS and other media clients. Of course, I just didn't want to think about that. I was in full blush of building this practice, which was coming together better than I ever expected it to do, to be very candid.

This was a heady time for me after the wonderful FCC years. I was greatly chagrined when I had to leave the FCC. I have to admit it. I'm one of those people who loved the agency and the job and never wanted to leave, as you can tell by the Carter administration experience that I had.

So, I now was going to have to leave Kirkland & Ellis, which, in truth, I didn't want to do.

Mr. Jones: I'm sure they didn't want you to leave either.

Mr. Wiley: Oh, they didn't want me to leave, but they wanted to take this client. I had a number of major conflicts. I just thought this was going to frustrate the future

development of my practice, as I explained to them. So the departure was friendly and businesslike. I had no ill feelings about it, except that I didn't want to go. Of course, I had financial insecurities. I was doing well at that point. They had been very generous to me, and that should be said. I was given three months to leave.

It got into the papers and the trade press that I was leaving – in particular, a big article in the *Chicago Tribune*, which was not particularly kind to Kirkland, but very kind to me because it looked like they were pushing me out. I don't really think that was true. As Fred Bartlett, one of the top partners there said, "This is just business, Dick; don't take it personally." And I didn't. I felt badly about it, but I didn't take it like they were getting rid of me or wanted to get rid of me.

In any case, we had thirty-one firms contact us during that period. I remember one of those snow days when I was home and could not get out of my cul-de-sac in Arlington. A catalog of great firms called that day and it was very flattering. Latham & Watkins was the firm that I focused on most, because it is a wonderful firm, but it seemed a lot like Kirkland from my standpoint. Skadden came back again and locally, Hogan. Those were sort of the firms that I thought most about.

But I was worried that the same thing could happen to me again. That I could build a practice, and get hurt by conflicts. At my own firm, I thought maybe I could control my own destiny. So Bert Rein, who I had known a little bit in the State Department during the Nixon and Ford years, but who I'd gotten to

know quite well during the five years at Kirkland, and I began to think about maybe starting our own firm. He indicated that he would be willing to come with me.

Mr. Jones: He was at Kirkland when you joined?

Mr. Wiley: Yes he was at Kirkland. And the twenty-five communications lawyers were essentially going to go because I was largely the rainmaker. Then Jim Wallace, who was then, and still is, our lead IP litigator said that he would go. Ultimately, it broke down that half the firm, thirty-seven, by exact number, would leave. I was still worried that was not enough to make a practice. So I walked down the street to the Commodities Future Trading Commission and talked to Phil Johnson who I had met at Kirkland. He had gone into the administration as Chairman of the CFTC, and now was thinking of leaving. I said, "Phil, why don't you come with us. We'll make you a name partner, Wiley Johnson & Rein." I said, "Can you build a commodities practice here in Washington," because I thought it was a practice that needed to be in a market like in New York and Chicago. He said, "I think I can do it." His general counsel also joined us.

So, on May 1, 1983, we formed the new firm and ventured into a legal unknown. Basically, Kirkland had four floors, 9, 10, 11 and 12 in this building. The communications floors were 10 and 11. So we took 10 and 11, and they took 9 and 12—

Mr. Jones: (laugh)

Mr. Wiley: —which I think was odd. The other thirty-eight lawyers on 9 and 12 were all friendly. I mean there were no ill feelings on their part. Their practice was largely tied into Standard Oil and the other major clients that Kirkland had.

May 1, 1983 was a Sunday, and I went to church and knew I was still a partner at Kirkland & Ellis until noon. When church was over, I got in my car and drove downtown to do some work here. Barry Strauss, who was the firm administrator—

Mr. Jones: For Kirkland or for your new firm?

Mr. Wiley: For Kirkland, but Barry decided to cast his lot with us. I had been close to the staff; I had been the managing partner right from the start, as I indicated. So, he and the entire staff came with me which made life a lot easier. I didn't have to worry about hiring secretaries or ordering pens and pencils. So Barry Strauss had put up a temporary sign on the 11th floor. When I left, on Friday, the sign was Kirkland & Ellis, one of the great firms in this country, and I mean that sincerely. On Sunday, I got off the elevator and I saw Wiley, Johnson and Rein. I thought, What have I done? (both laugh) What have I done?

What we found was that the clients that I had all said they would come with me, and Bert's clients came, and Jim Wallace's came, and pretty quickly things began to purr. I talked to Chuck Verrill who had been a name partner over at Patton Boggs and an old friend of mine. He came with us and started an International Trade practice. A couple of years later, Rand Allen came through and wanted to develop a Government Contracts practice. He had been with Crowell & Moring, and I said, "Come on in." Tom Brunner was over at DLA

Piper—Piper Marbury it was called then. He said, "I have the Dick Wiley problem," which was a conflicts problem. The clients at that firm were running into his insurance practice. So, he said he would join us. Over the years we continued building. Then in 1987, '88, somewhere along that line, a good friend of mine, Fred Fielding, was going to be leaving the Reagan administration—

Mr. Jones: He was the White House counsel?

Mr. Wiley: White House counsel. Fred lived in Arlington, less than a mile from me, and I had known him well. I said, "Fred, why don't you come"? Johnson had departed by that time to practice in New York City. "We'll change the name from Wiley Rein to Wiley Rein & Fielding." Fred decided to do that, rather than going back to Morgan Lewis. He was here twenty-one years, and we can talk about that story later. But, Fred joined us. So, we had a nation of immigrants, you know, to help build the firm.

Our goal at the time and our vision was to develop a large diversified law firm here. Yes, we had a communications practice, but we needed to build away from it a little bit. To try to build a practice focused on Washington and on the federal government and on litigation, regulation and, to some extent, transactional matters. Today we have about two dozen practices and 275 lawyers. What we set out to do, we largely have done.

We also had a vision of the culture. I felt like you could have a work-life balance and still be able to compete with large Washington firms, not necessarily Skadden Arps or Kirkland & Ellis in terms of profits, but successful enough. I feel good about the fact that over the years Barry is still here as the firm

administrator and we very seldom have lost people to other law firms, usually only to the government. Hopefully, some of them will come back; indeed, some of them have.

We wanted this, for both professionals and non-professionals, to be a place where you can have a home – and where everybody knows each other. I can say I know every lawyer here and most of the staff. We are an old-style firm in that regard. In this day and age, I realize the multi-city firm is the model, but our model is just a little different than that. We're very efficient, because we don't have to duplicate all our systems and our accounting and technology. It has worked for us, at least in our own view.

Mr. Jones: How large are you today?

Mr. Wiley: About 275.

Mr. Jones: That's pretty substantial.

Mr. Wiley: Well, I think in terms of Washington law firms, boots on the ground, we're about tenth in size. Now that doesn't mean we're tenth in overall size, of course. But, in terms of people right here in Washington, it's around tenth.

Mr. Jones: Right. We have a similar number in Washington.

Mr. Wiley: Yes. If you look at the numbers, George, your firm and our firm and Patton Boggs, they all come up—

Mr. Jones: Ten, eleven, twelve in size.

Mr. Wiley: Yes, ten, eleven, twelve or something like that. So, it's worked out pretty well the way we wanted to. Fred, by the way, was here until George W. Bush invited him to go back to the White House—which really surprised me because I didn't think

he'd want to do the same job again. But, just like me, I suppose if I could have gone back to the FCC at sometime—I couldn't have done that, of course, because of conflicts.

Mr. Jones: Right. I was about to say.

Mr. Wiley: It would have been a great experience, to go back and really know how to do it this time. I think Fred did a fine job for Bush in the very last couple of years of that administration. When he got out, Fred was going to do a lot of arbitration work and really needed an international office and a New York office. So, in a very friendly manner because we are still friends—his wife also is a good friend of my wife—he decided to go back to Morgan Lewis. I understood that totally.

Throughout the last three decades, I have been very active in the communications practice. I've also served as the managing partner through all the years, except in the last year or two I have been elevated to the role of chairman, but I'm still very active in the management. Peter Shields is now our managing partner. He and I work pretty closely together. Being a managing partner and being a rainmaker is probably two full-time jobs. It's probably not what you want to do, I think, with your rainmakers.

It's been possible for me for several reasons. Number one, my partners have been very supportive. I have had a great team. We have seventy-five communications lawyers, so there's an expert on every aspect of the practice. Dick Wiley doesn't have to know every single jot and tittle. There is somebody down the hall that will know the details better than I will in a lot of respects. And number two, I had Barry Strauss—and he and I are very close—and the excellent

staff that he has assembled. Number three, as you can see, I have a lot of energy and enthusiasm. I think that goes a long way in life, maybe more than skill.

But, there it is. It has worked out nicely, I think, for us. Once I started the firm, it was really impossible for me to leave and go back into the government. I thought maybe there would be other opportunities that would come along in the Reagan administration, after I'd turned down the associate AG's position. But, once the firm started, I really couldn't think about it. I had to stay here.

We have tried to develop the firm not only with the laterals we brought in, but also tried to compete with great firms like yours as far as bringing in younger people just out of law school and judicial clerks, including Supreme Court clerks. One of the things I found is we would win matters at the FCC, but lose them at the court of appeals. I was used to that from my FCC days (both laugh). Andrew McBride came over from the Cooper Carvin firm and started an appellate practice. And, then, Helgi Walker, who also was a Supreme Court clerk, joined us. And Bert, himself, is a Supreme Court clerk. We've got a bunch here. Not like your practice, but a lot of ours is built around the communications field, obviously.

As we talked about before, Bert argued two cases recently before the Supreme Court and always argued a lot of other court of appeals cases. Indeed, I also have argued a number of cases before courts of appeal. But, what I have done primarily is to develop a ubiquitous communications practice. A lot of firms emphasize media or telecom, but we've tried to do all of the above that you can

do within the confines of conflicts and business relationships. So we cover telecom, media, wireless, international.

A few years ago, David Gross, who'd been for eight years at the State Department, head of Communications and Information Policy, came over to help us expand our international practice. Basically, our objective is to have expertise in all aspects of the communications field.

My own work has largely been in large, complex transactions. Mergers, if you will, and like the bankruptcy of *Tribune*, more recently. I represented JPMorgan in that case. The mergers largely involved the Bell Companies. You might ask, well, how did that happen, because I had to leave Kirkland because of conflicts with the Bells.

Mr. Jones: I was dying to ask you that question.

Mr. Wiley: I had represented the Newspaper Association of America in cases before Judge Greene. In 1996, Congress decided to pass a new Communications Act, and largely supplant the Communications Act of 1934. This was the Telecommunications Act of 1996. And, one day thereafter, I was visited by a PacTel executive. PacTel was the Baby Bell on the West Coast. He said, "We'd like you to consider being our lawyer and do our work." I said, "Well, gee, you ought to talk to your management about that because they may think I'm Public Enemy No. 1." He said, "That's old thinking. The 1996 Act changed everything."

In fact, I had been thinking about how I could kind of jump the hoops over to the Bell system, because it was obvious the Bell companies were going to be

the survivors and the strong players in the future. In fact, PacTel even talked about us opening up an office on the West Coast. But then they ended up getting acquired by Southwestern Bell. Southwestern Bell also acquired Ameritech, and there were a number of other mergers in that field, and we were involved in a lot of them. GTE, which had long been my client, ended up merging into the Bell system even though they had been highly independent.

CBS also had a number of mergers. Westinghouse, you'll recall and Viacom which, of course, they're owned by now. We were in all those transactions.

One day I got a call, and an individual asked me to come over to the Willard Hotel and meet with him. It turned out to be Craig McCaw, who is an interesting billionaire. He wanted to get into the wireless field, and we represented him for many years, until his company was acquired by AT&T. Indeed, we started doing work for AT&T and for Verizon, as they began to emerge.

We also handled the AOL/Time Warner and Comcast/Adelphia mergers, just to name another two.

Mr. Wiley: And we continued the work with other media companies, like Belo. Belo owns a number of newspaper companies and broadcast stations and now they're merging with Gannett, which was also a client.

In 1990 I started doing work for a company which was called CD Radio. CD Radio had the idea of satellite radio, and ultimately became Sirius. Then we were engaged in the Sirius/XM merger for my old friend Mel Karmazin, who had

been head of CBS. I had handled the CBS/Infinity merger years before when his company was Infinity. So, I've known Mel for a long time.

I worked for a number of newspaper/broadcast companies, and the JPMorgan representation sort of grew out of that. Comsat was a longtime client, one of the largest clients I had for many years, but ultimately, of course, Intelsat took it over.

Mr. Jones: Intelsat, the one right up on Connecticut Avenue?

Mr. Wiley: Yes, exactly. They're moving to Virginia ultimately.

I was also involved in major FCC rulemakings – for example, one involving the Newspaper Broadcast Cross-Ownership rules. While those rules may have made sense in 1975, they make absolutely no sense today. John Sturm, who'd been my legal assistant at the Commission, became head of the Newspaper Association of America here in Washington, and we worked to eliminate the rules, but unsuccessfully I have to say.

Mr. Jones: So far.

Mr. Wiley: Yes, so far. Some day it will have to happen. All these projects and all these rulemakings have taken me back to the FCC, which has always been my port of call, you might say—a place where I feel very comfortable. I still walk through there and know a lot of the people that I once worked with when I was there. Now, they're beginning to retire, but a lot of them are still there. I've always enjoyed the FCC. That was a great experience for me.

Again, I was able to do all this because of the deep bench we have here. Two people, in particular, that I've talked to you about before: Larry Secrest,

who'd been my top media aide and helped me with the 1976 debates issue. And Mike Senkowski, who was FCC chief of staff and my top telecom guy. They both have been partners here in our firm. As I said in that article in the DC Bar publication—

Mr. Jones: *Washington Lawyer*.

Mr. Wiley: —*Washington Lawyer*, "You don't succeed in this practice alone." It's just too complex. All these big regulatory practices take great expertise. So it's wonderful to have an expert team here.

But the truth is I still yearned for public service. So, in 1987, I got a very welcome call from Dennis Patrick, who was then the Chairman of the FCC. I knew him, of course, and he asked if I would come over and see him. He said, "We're thinking about a new transmission standard for broadcasting." The so-called analog television standard, to which all sets had to be manufactured, was the original television norm that we had in this country as TV emerged starting in the early '50s.

That standard was set, if you can believe it, back in 1941. That's how early they were thinking about television. Patrick said, "We want to develop a new standard" for what he called advanced television. He said, "Research and development has been going on in Japan and in Western Europe. Congress and our Commission are very concerned that the United States is going to be left behind. So we'd like you to come in and head up what is called a Federal Advisory Committee"—it's under the Federal Advisory Act in which you have to have meetings in the public, and you can't have any conflicts.

I didn't represent any set manufacturers at that point, so that wasn't a problem for me. I thought, I could take this on. He said, "It'll probably be a two-year project." I was worried about the two years of pro bono work. I'm the managing partner. I've worked and developed all these clients. I mean, how much time do I have? I want to see my wife and kids—

Mr. Jones: You'd be surprised at how little sleep you really need.

Mr. Wiley: Well, that is one of my secrets, if you want to know the truth.

Mr. Jones: You don't sleep?

Mr. Wiley: (laugh) A little bit. But anyway, I said, "Fine." It turned out to be nine years, not two years. But when you're having fun, as I've said, who's counting?

Mr. Jones: Right.

Mr. Wiley: So anyway, I took it on. But what did I take on? I had to first figure out who is going to be on the Advisory Committee. Patrick wanted the leaders of the major broadcast companies, like Rupert Murdoch and Larry Tisch at CBS at the time, and the leading cable companies, set manufacturers and later, computer companies. He said, "There will be twenty-five people on the Advisory Committee and you'll be the CEO, basically." So, October '87, I was sitting back in my old chair up there in the Commission meeting room. I was back; my dreams had come true (laugh).

Mr. Jones: The Chairman is back.

Mr. Wiley: I had returned to the FCC. While the staff people over there didn't work for me, a number of them were available to me because this was an engineering project, a standard. I'm not a technical person. While I have learned enough to be

dangerous about electronic communications, I needed an expert engineering staff. The goal was to develop this new standard. But how do you do it?

I remember going to a restaurant down the street with the chief engineer of the FCC and on the back of an envelope we sort of charted out a committee structure. And I said, "But we've got to have co-chairmen. Because we have to have a cable guy and a broadcast guy. We've got to make it look very fair. Otherwise, we will not get the support of these industries. They will be concerned about each other." My old political instincts were useful in this regard.

Mr. Jones: Essential, it sounds.

Mr. Wiley: Basically, what we devised that day was to have an international competition. We would invite everybody by June 1 of 1990 to develop systems that we could test. Then I helped convince the cable and broadcast industries to build a laboratory down in Alexandria where we could test these systems. Twenty-three different proposals were submitted but a lot of them were just ideas, and, so, there was nothing to test.

We made the decision early on that we were only going to deal with the players that could bring us systems that we could actually, under objective standards, test. The Japanese were developing a so-called MUSE System which I had seen in Las Vegas at the National Association of Broadcasters convention. I saw pictures of geisha girls walking in gardens. You could see their faces very clearly. It was the first time I had ever viewed high-definition television—it was fantastic.

Mr. Jones: Right.

Mr. Wiley: It was better than anything we had ever seen at that time in our homes. I said, "We want that." But the geisha girls weren't making much movement. It wasn't like sports or anything like that. This was just at the very inception. So the Japanese wanted to be in our competition.

Mr. Jones: A Japanese company?

Mr. Wiley: It was NHK, which is their big engineering company. RCA and Phillips, which were the big European companies at that time, and AT&T wanted to be in the game. Zenith, which was the last American set manufacturer, Sarnoff Laboratories, and MIT also were interested in participating. Then a company called General Instruments, of which Don Rumsfeld was chairman of the board, decided to enter our competition. But all these entities were proposing analog transmission, which was the old technology. I began to think about and hear from some of the engineers that the Holy Grail was digital transmission.

Mr. Jones: Do you mean the proposals that they made were all analog?

Mr. Wiley: All of the proposals were analog, advanced analog; high definition. And the Japanese system was analog.

Mr. Jones: I see.

Mr. Wiley: I had begun to hear rumblings of digital transmission. I was talking to a lot of people in and out of the Commission. I went to New York one time to make a speech at some investment banking conference, and the chief engineer of CBS came over and said, "Hey, we had an interesting demonstration today, a digital transmission; the language of computers." I said, "Well, I want to hear about it."

June 1, 1990 was approaching and we were getting ready for testing, and I said, "Everybody who's going to be tested has got to be in by that time." The entity proposing digital transmission turned out to be General Instruments. I said, "If they want to play, then they'd better get in by June 1 because we're going to cut it off at that point. We're going to start doing our testing, our evaluations. It's going to be a very long project."

I had already been working on the Advisory Committee for three years, so I wanted to get it going. Just before Memorial Day I was invited to meet with General Instruments. They said, We have a digital system. And I said, "Terrific. Give me a check for $175,000"—which I had established as the entry fee to pay for all the costs because we had to get a budget here too.

Mr. Jones: Right.

Mr. Wiley: We didn't have any money. We were making this up as we went along. I remember MIT did not want to pay $175,000. "We're an academic institution" and I said, "Pardon me. You want to be in this game, you've got to pay $175.000." I knew the commercial entities were all paying and, if I started making cut-rate deals, I'd get a lot of heat. So General Instruments got it in by June 1.

Then I started getting calls from the other proponent systems saying, "What do you think about digital transmission"? Well Japan and Western Europe had spent all those years developing an advanced analog system and they were bureaucratic, government-run systems. I didn't want anything to do with that at all. I was focused on the private sector, looking for the best that technology had

to offer. So I said, "It's your decision, but to me I'd think about digital," because I said, "That's the future."

I went over and made a speech in Europe and got booed off the stage. (laugh) I said, "You've got to go digital. It's going to be digital." The audience didn't agree! The Japanese even told me that it would be 2005 before digital transmission would happen. I said, "I think we can do it faster," because I had talked to General Instruments and the other systems. They were all switching to digital. Then they started talking about merging. They came in and said, What do you think about a merger? I encouraged all mergers.

Mr. Jones: Right.

Mr. Wiley: Because I figured the stronger they got and the fewer systems I had to test, the better it would be. So we ended up testing four digital systems and the Japanese system, which had been developed over many years. And, guess what, under objective standards, we found out, to our amazement, that the digital systems did better even than the MUSE system, which was a real revelation that we had something going here. Incidentally, the European systems had shifted too.

Mr. Jones: They were digital.

Mr. Wiley: They were digital. But here was the problem. All of them had been developed on the fly because digital transmission had been introduced so recently. They were learning from each other and copying from each other. One day, Zenith's CEO Jerry Pearlman called me—a Saturday. I remember it to this day. He said, "You know, we'd really like to have our improved system tested." I said, "But we just put everyone through testing at $175,000 for each one of them." He said, "Yeah,

but our system's much better than it was." I replied, "Well, Jerry, they're all going to say that." He said, "Well, do you want to pick a system that isn't as good as it could be"? I said, "No, you're right about that."

Mr. Jones: (laugh)

Mr. Wiley: So I got the "brilliant idea" of writing a letter to all the proponents. I said, "I'm going to give you two choices. Either a second round of testing and another $175,000, millions in developmental work, and another year or two," or, I said, "We could have"—and I just picked the term out— "a grand alliance of systems. We'll take the best elements of each system and combine it into one." At first they thought the "Grand Alliance" was a silly name, but they got enamored of it somehow. It became the name.

They started having meetings to see if they could reach agreement. They would report back to me and say, We're working on it. Finally, the big meeting was May 1 of 1993 — I think I've got the right date —at the Grand Hotel by chance which is now the Westin. It's at 24th and M. And they said, We're all meeting over here, and I thought, oh boy, this is it.

Paul Misener, who was my assistant (now the head of Amazon's office here in Washington and internationally and a brilliant engineer and lawyer) and I were sitting here on pins and needles waiting for the call. Finally, Robert Graves, who was AT&T's representative, telephoned and said, "It didn't work. They're breaking up and going home."

I said, "Wait, wait. I'm coming over." So I went over and asked, "Why"? They said, "Well, we can't agree on this and on that." And I said, "Let's forget

what we can't agree on, let's talk about what we can agree on. Don't we want HDTV? That's what we all really want. And don't we all agree that the digital picture has to have over 1,000 scanning lines"?

Mr. Jones: For the sharpness of the picture?

Mr. Wiley: Yes. And they all agreed. Then there was the question of whether it would be progressive scanning or interlace scanning. I don't want to turn this into a technical treatise, but computers are progressively scanned. And television is interlaced. And all the programming was interlaced.

I said, "Well, don't we think that it would evolve to progressive, but right now we've got to have interlaced scanning." MIT said, "No way, it's got to be progressive right from the start or we're not playing." I said, "Hey guys, we've been at this now—you know, this is 1993. We've been at this six years. We're right on the cusp. We're all here, think about it."

So they all broke up into different suites, and I circulated around to them. I finally got MIT to call Boston and talk about it and said, "You've got to be part of this." Finally, they all said they'd meet the next day. We met all day long.

Jim Quello—you saw him in the FCC photograph—was then the Chairman of the FCC. And one thing I wanted was a press conference. If I saw they were coming together, I wanted to lock it all in by announcing it. So I called Jim and said, "Can we come over at two o'clock and meet with you in the Commission meeting room." But the meeting dragged past two o'clock because the proponents were still talking about patent royalties. That's one issue I didn't want to get into.

I said, "You guys figure that out, I'm only dealing with the technology and what's good for the country." So, finally, about 4:30, they all voted to join the Grand Alliance. I said, "Let's all go over to the FCC. Chairman Quello will be there."

So we all kind of signed it in blood, and it was reported in the papers. The next day the "Grand Alliance," and they liked that term, was born. But we weren't done, we were just starting. It was really not the beginning of the end, it was the end of the beginning because we had to build the system.

Mr. Jones: And when you say, build the system do you mean build the TV sets?

Mr. Wiley: No, a model TV system based on digital transmission which turned out to have 1080 lines. You'd have to have an engineer explain why it was. It was a very complex system that had to be built and tested.

Mr. Jones: And is it that the group of seven are still—

Mr. Wiley: The Grand Alliance. They were the Grand Alliance. It was wonderful.

And at one point, we had over a thousand engineers working on this as volunteers. They were the cream of this nation's video engineering talent. The nice thing about the Federal Advisory Committee Act is that we did it all in public. So, you had a peer review. Some guy would say—I'm making this up—we need 1080 scanning lines. Well he would have to get up and explain why in front of his peers.

Mr. Jones: Right.

Mr. Wiley: Way above my pay grade, I can tell you that. And, as we built the various systems, we'd have technical bake offs—we used to call them—for individual

elements. For example, the audio quality. Phillips and Dolby had competing concepts. And there was a huge fight over which one was going to be included in the new system and standard. Somebody accused me of putting a thumb on the scale for the Dolby system because it was American. I said, "Listen, I don't play that way. We want what is best for this country technology-wise. This is for future generation of American citizens." Sounds heroic, but I'm just telling you that's what I had to do. Having been Chairman and being backed up by the then Chairman of the FCC, Al Sikes, at the time, I could kind of influence them a little bit. And, when Dolby did better, it got selected.

Then there was a fight over the modulation technique. Zenith and the cable industry had different technologies. And so there was a major debate on that. So, you know, it went on and on and on. But, ultimately, to make a long story short and not to bore you on this thing, the Grand Alliance system was built, and tested by our Advisory Committee. Tested in the lab and in the field as well. But, then, Reed Hundt, the Democratic chairman, wanted something different.

Mr. Jones: Oh no.

Mr. Wiley: He wasn't especially enamored with high definition. Instead, he wanted so-called multicasting. And the public television guys told me that they wanted it also.

Mr. Jones: What does that mean?

Mr. Wiley: Our digital system had a through-put of 19.4 million bits per second. Most of the bits could be used for a single high definition signal. And broadcasting always had been a one channel service. But the alternative was to break the bitstream up into four or five channels of standard definition which would be equivalent to

analog television. I said, "Well, why would we want that? We worked all these years for HDTV." The public TV reps said, because we want to put on educational programming during the daytime when nobody cares what the quality is. We could do a lot of good with that. And, by the way, the commercial stations could put on a local news channel and a local sports channel—which is exactly what many are doing.

Mr. Jones: (laugh)

Mr. Wiley: It was too late to test the concept because we had completed all the testing by that time. But, fortunately, we were able to prepare a technical paper which said that digital multicasting was feasible, which it has proved to be. Many of the stations today transmit several multicasting channels. And the beauty of the FCC's standard—the Grand Alliance standard—is that you can shift flexibly between HD and multicasting in different time periods. By the way, progressive versus interlace scanning—that big fight—all went away because Intel developed a chip that made it invisible in the television set.

Mr. Jones: It didn't make any difference.

Mr. Wiley: It didn't make any difference. We fought about that for years.

Mr. Jones: Now is this all going on at the same time that telecommunications transmissions are going digital?

Mr. Wiley: Yes. The whole world was going digital—telephone companies were out ahead of that technical initiative, and I assumed broadcasting had to go digital. By the way, we also wanted to make the standard accessible to cable and satellite transmission and, now, telephone (FIOS for Verizon, U Verse for AT&T). So

they all used the same standard for video, and that's the beauty of it. As indicated, the FCC's standard is very flexible, so you can shift in different parts of the day between high definition—primetime, sports, movies—to standard definition for educational programs or the local sports channel or the local news channel during the daytime, when the quality isn't quite so important.

Mr. Jones: Right. People aren't watching, they're just listening while they do other things.

Mr. Wiley: Well, that may be. So, we got it done finally. But, after all those years, it took the FCC nine torturous months to go through their regulatory process. Chairman Hundt was concerned about it being a computer standard as well.

And, of course, what is happening today is that the television set and the computer are merging, and with service to handheld mobile devices as well. Anyway, we got it all done, and the FCC ultimately adopted the new standard in December of 1996, and the epic was over for me. I certainly didn't design the system. As you can tell, I'm not an engineer, but it was great to be part of the process and receive an Emmy to boot.

Mr. Jones: The Grand Alliance folks—did they get Emmys as well?

Mr. Wiley: Most of them did and should have. During these nine years, incidentally, I probably spent fifteen to twenty percent of my time working on the standard.

Mr. Jones: For anybody else that would have been a full-time job.

Mr. Wiley: Yes, well maybe so. Now some weeks you wouldn't have to worry about it, just a couple of phone calls. Other weeks it would be almost full-time. There's a book written by Joel Brinkley, who was a *New York Times* reporter and the son of David Brinkley.

Mr. Jones: Sure. Absolutely.

Mr. Wiley: His book, *Defining Vision*, tells the whole story. Everything I've told you, he tells in an amusing way. It's not a technical treatise.

Today, as I said in that DC Bar article, when I hear my neighbors and friends say, HDTV, isn't it great? It gives me a lot of personal satisfaction. Starting the firm and being Chairman of the FCC were wonderful. But if I had to pick the single thing that has given me the most personal satisfaction, the achievement of my life, it would have been this one.

Mr. Jones: I can believe that because it has significantly affected every person in the United States.

Mr. Wiley: Yes, that's true. The first generation of HDTV sets weren't very good, and people were even questioning whether we picked the right standard. And there was reason to argue that position, because if we had done our work ten years later, we would have emphasized mobile technology more than we did. We were thinking, again, of people sitting in front of a great big screen—

Mr. Jones: Right, sitting in front of it.

Mr. Wiley: My vision was a screen that would be hung on a wall which is what many people have today. Believe it or not, after all this effort, people are working now on what is called Ultra High Definition. It's going to be much better. I have seen it at the London Olympics on a very large screen and in Las Vegas. It's the next big thing. So, what you're going to see is technology continuing to move ahead. And if there's any lesson that I needed to learn when I was in my thirties and was FCC Chairman, which I didn't fully understand at the time but do now, is that you've

got to give technology its head in this country. By the way, it's moving a lot faster than it did when we were there. In other words, the standard was set in '96 and really just fully implemented in the United States in 2009. Within ten years after that, sometime in this decade, there'll probably be a new one.

Mr. Jones: A new FCC standard, do you think?

Mr. Wiley: A new standard, maybe, but the only thing that will slow it down is not the technology; it's going to be the marketplace. Because people aren't going to want to run out and buy another new television receiver too soon.

Ultimately, there will be very high resolution pictures on hand held devices the kids carry around. You see it now in high definition, and it'll be even better. Then, in your home the only thing that's going to limit the adoption of ultra high definition is just how big do you want the screen to be, and how big a home you have. The ultra high definition set I saw had a 100 inch screen. It was tremendous. But you don't need it in your house. You need it for motion picture houses, sports bars and things like that.

Mr. Jones: Or stadiums.

Mr. Wiley: Yes.

Mr. Jones: Is that what they have?

Mr. Wiley: That's HDTV.

Mr. Jones: That's still HDTV.

Mr. Wiley: But it'll be ultra HDTV. The Japanese are working on super high vision, which is even more.

Mr. Jones: More pixels or more lines?

Mr. Wiley: More pixels. But I think this will not be as revolutionary as the move to HDTV. One of the other things people are thinking about, of course, is 3D. But they've had trouble with it. I think the answer is you've got to have no glasses.

Mr. Jones: Exactly. Exactly.

Mr. Wiley: It's called stereoscopic 3D, which means no glasses. You can bring the set home and watch 3D. Everything comes in its time. Our biggest fear in HDTV was that the sets would not be good enough or the programming wouldn't be sufficiently available. Chicken or egg, if you will.

One big advantage we had was Hollywood. Hollywood shot movies in wide-screen cinematography, which was equivalent to HDTV. So we had a lot of HD programming in movies. Once the networks began to see that sports in HDTV would be a big winner, the programming started to come.

Now all prime time is HD. First the ads were not in HD; now they are. Another thing we had to pick was the dimensions for the new HDTV sets. It's 16:9. The old picture was more boxy at 5:3. All those decisions were made by our advisory committee. Incidentally, Hollywood wanted 18:9, but it just didn't work with the algorithms that we had.

Mr. Jones: 18:9 would be good for movies?

Mr. Wiley: Movies. But it did not pan out for what we were trying to accomplish. Basically, we provided leadership. But the standard was developed by engineers. They could find a solution for every problem. I came away from this experience with great admiration for them.

Mr. Jones: Were there representatives from all of these represented pieces of the industry?

Mr. Wiley: Yes. The key guy was Joe Flaherty of CBS who'd been the chief engineer back when I was Chairman of the FCC, so I knew him.

Mr. Jones: Right. And he volunteered too?

Mr. Wiley: They all volunteered. For these guys this was the next frontier.

Mr. Jones: Right. Like going to the moon.

Mr. Wiley: This was quite a technical achievement, and something they are all proud of.

Mr. Jones: So, you had representatives from the various pieces of the industry on the advisory committee?

Mr. Wiley: Yes.

Mr. Jones: And then you had the proponents of the systems?

Mr. Wiley: Yes, and we had the twenty-five people on the Advisory Committee itself. And all sorts of committees and subgroups, with co-heads drawn from various industries.

One of the mistakes we made was that the computer companies felt excluded from the process. They came into the game a little late and we had to get them assimilated quickly. This progressive versus interlace issue was a big problem. But, as indicated, it got solved. At the end of the day, pretty much everybody bought into the new standard so I could go back to practicing law and running the firm full-time.

Mr. Jones: So, in December '96, the standard was adopted?

Mr. Wiley: Yes. But then we had to have a transition. There were two major problems. First, you had to give every broadcaster two channels. Why two channels? You had to maintain the analog system on one channel while you slowly transitioned

over to digital on the other. And second, what would happen to all the analog sets in people's homes when digital comes in?

Mr. Jones: Right.

Mr. Wiley: A lot of people can't afford a digital set or maybe the digital set isn't working as well and they want to use their analog sets. So we proposed converter boxes.

Mr. Jones: Right.

Mr. Wiley: The government ultimately brought into that and largely paid for them. They spent a couple billion dollars on it. I don't know whether you have one, but up in my bedroom I have a little analog set with a converter box. I want to keep it as sort of a relic, if you will.

Mr. Jones: An antique.

Mr. Wiley: It converted the digital signals (counter intuitively) back to analog so you could watch it on your analog set. That was really a stopgap thing. Maybe the government shouldn't have spent that amount of money, but for a lot of older people, poorer people, and non-English speaking people, people who were going to have analog sets, it sufficed.

Mr. Jones: Why would non-English speaking people—

Mr. Wiley: Well, immigrants, who perhaps didn't have the necessary finances.

Mr. Jones: So it's just people who don't have the money to buy?

Mr. Wiley: It's economics, not a language issue.

Mr. Jones: It happened fairly smoothly, I think.

Mr. Wiley: No.

Mr. Jones: What I mean is—

Mr. Wiley: From the outside looking in you'd say fairly smoothly.

Mr. Jones: Right.

Mr. Wiley: Things happened, even at the very end. The gold standard in broadcasting has always been VHF, the lower part of the spectrum. UHF was the wild and woolly area when television first was introduced. You could hardly receive the picture, and then, over time, it became better and better.

So we assumed all the television stations would want to maintain their VHF signal. Well, guess what? No engineer predicted it, but when the transition occurred the VHF signals sometimes were less good. In the digital world the UHF—the higher band—turned out to be generally better. Who knew? I certainly didn't, but that's what the FCC figured out. So there were a lot of problems for stations in the early years of the transition.

Mr. Jones: I know that I only saw the very tip-top of the glacier, but my sense was there was a lot of concern when the government said on such and such day, digital television. Everybody has to have it. People were, as Americans are, up in arms that they were being told that they had to do something by such and such date. I don't know how to do this. What am I supposed to do? I don't want to buy another television. I don't want to have to pay for cable. And then the government made the decision to provide the converter boxes—

Mr. Wiley: And the FCC did a wonderful job of going around to various broadcast markets and educating the people. They would go into markets, and hold seminars; this was a huge project for the FCC. Much as today, with the switch to broadband, which is high capacity Internet service.

Mr. Jones: Over the cable wires.

Mr. Wiley: Or telephone.

Mr. Jones: But once it actually happened and people saw HDTV, they said, Wow, that's really great.

Mr. Wiley: That was the saving grace. It's what you could see, right?

Mr. Jones: And people who said, Well, I still don't want to pay money for a new television, and I don't want to pay money for cable, and I don't want to pay money for this, they had the option of keeping what they had and they could still watch the programs that they watched the same way they always watched them.

Mr. Wiley: The converter box program probably didn't make a lot of sense except from a fairness standpoint to make sure that it wasn't only wealthy people who got digital and others lost the use of their existing sets. It was essential for that period of time.

Mr. Jones: Absolutely. And, it may not have made sense from a purely economic perspective or even a policy perspective, but it made tremendous sense from a public relations standpoint. The process, again, looking at it from the outside, once it happened, Wow, this is great stuff. We should have done this earlier. This is wonderful. My wife says that she hopes it doesn't get any clearer because when you're watching a sports broadcast, you can see everything. You can see the pores in a pitcher's face as he's about to pitch.

Mr. Wiley: But it will take some time to see ultra high definition, and you'll see that TV can get even better. I think our telephone service is terrific but, with broadband, it's going to get better, right? Now, they're talking about HD voice. And guess what

radio is doing? They are working on HD digital radio, which would not only have the advantage of clearer reception, but maybe have multiple radio channels which would give you more capacity.

All this is, again, the inevitable, undeniable march of new technology. That was something that I didn't fully appreciate when I was in my thirties and, therefore, made some mistakes. I now understand that you've got to get on the side of new technology. The United States may not always produce the equipment—but we have a terrific capacity in software and programming. Obviously, HDTV wasn't put into effect in this country fully until 2009. People were watching it all during the early part of the 2000s, but the changeover, the transition day, was in June 2009.

Mr. Jones: Right. It was a remarkable thing to witness. Having heard about the effort that went into it, I wonder to what you attribute the success of the project? Putting together seven or eight—

Mr. Wiley: It was unlike the European and Japanese systems. Ours wasn't a top down system; it was really bottom up where engineers, through peer review and without government or private sector management or interference, actually were able to design the "perfect" system or as close to it as we could develop at that time. And we tested and retested it. We really tried to make sure it worked, because we didn't want to screw up people's television sets. My name would have been mud in this country.

Mr. Jones: Right.

Mr. Wiley: So, it was a great achievement. Not by me, but a great achievement by all of those people who worked on it and they feel that way about it. I feel a good sense, when I'm with them, that this had really been the crowning moment in their professional lives as it was for me.

Mr. Jones: I can imagine. About how many people, do you think—just a ballpark estimate—contributed to the successful result?

Mr. Wiley: Over 1,000.

Mr. Jones: All volunteers?

Mr. Wiley: All volunteers. Now there was a core group, a hundred maybe, because all of the major companies had engineers that were working with us. FCC Chairman Al Sikes and I agreed on one thing, we were going for the gold. In other words, one network wanted to have what they called "enhanced definition." It wouldn't be high definition, it simply would be enhanced. I told the National Association of Broadcasters that this would be like when Technicolor came in, we would settle for Sepia. No way. I'm a baseball fan, as you know. I watch the Nationals and the Orioles, and I love watching those games in HD.

Mr. Jones: What I was referring to, I went to a Nationals game and this huge screen that they have there—

Mr. Wiley: Spectacular.

Mr. Jones: It's amazing, absolutely amazing. Sometimes you catch yourself at the game watching the screen. It is amazing, and it's amazing that it's so big and still so sharp.

Mr. Wiley: That's HDTV technology. Ultra high definition will be even better.

Mr. Jones: And still big.

Mr. Wiley: Even bigger. Now it's going to take some years for this to occur, but it's coming.

Mr. Jones: Did HDTV change require the broadcasters to install new equipment for transmission?

Mr. Wiley: Huge. That's why they are somewhat put off by the thought of yet another transition coming along because it took so much capital for them to build their HDTV systems. Even now some of the newsrooms are just getting into HDTV at the local level. The networks have done it, but they perhaps are in a better financial condition. HDTV makes the news so much more spectacular, I think.

. Jones: The difference is astonishing. How could we have watched this all those years? When you doing it, it seemed fine, but now that you've seen HD you can't go back to the farm.

Mr. Wiley: So that's the story of Dick Wiley's life here. Not very enthralling, perhaps, but I have enjoyed it.

Mr. Jones: No, absolutely enthralling; absolutely enthralling.

Mr. Wiley: Well you're nice to spend the time you have on this.

Mr. Jones: You're the only lawyer in Washington with two Emmys, I'm sure of that.

Mr. Wiley: (laugh). Well, that's probably so. I was trying to figure out some way to get an Oscar, but I couldn't do that. (laugh).

Mr. Jones: Well, you know, never say never. It could happen.

Mr. Wiley: Never say never.

Mr. Jones: One of the ironies that you alluded to when you were talking about leaving Kirkland to start your own firm was that the impetus for your leaving was that

Johnson was going to become the General Counsel of the Midwestern Bell Company and that created conflicts with your competition carriers, or your competitive carriers.

Mr. Wiley: Yes.

Mr. Jones: And after '96 you ended up representing many of the Bell companies. At the time—

Mr. Wiley: Timing is everything in life.

Mr. Jones: Fair enough. Was Johnson still alive when that happened?

Mr. Wiley: Well, what happened, very ironically was before I left Kirkland & Ellis, Johnson decided to leave Ameritech and become General Counsel of General Motors.

Mr. Jones: Right.

Mr. Wiley: So the same guy who wrote that article in the *Tribune*, Jim Warren, who is a very good reporter, called me and said, "Guess what, he's leaving. You don't have to leave." And I said, "Jim, we've crossed the Rubicon."

Mr. Jones: That ship has sailed.

Mr. Wiley: We had the firm set up. This was sometime in the winter. I remember it was a cold night when he called me and I said, "We're gone on May 1. It's over." But it was tempting to think about it because I had a good experience with Kirkland & Ellis and I'm a great admirer of that firm.

Mr. Jones: Okay. Well I think that may conclude. If you have additional stories that you want to tell, we can have another session.

Mr. Wiley: No, I think not. I think I've bored you and bored anybody who ever reads this stuff. But it has been interesting to relive these three stages.

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Richard E. Wiley

CHAIRMAN

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Mr. Wiley heads the firm's 80-attorney Communications Practice, the largest in the nation. As Chairman of the Federal Communications Commission (FCC), he fostered increased competition and lessened regulation in the communications field. Mr. Wiley played a pivotal role in the development of HDTV in this country, serving for nine years as Chairman of the FCC's Advisory Committee on Advanced Television Service. He represents a number of major communications-oriented organizations, including Verizon, AT&T, JP Morgan, Credit Suisse, Newspaper Association of America, Motorola, CBS, Belo, Gannett, Sirius/XM, Emmis, Gray Television, and LG. Mr. Wiley also is a frequent author and lecturer on telecommunications and information law.

PRACTICE AREAS

Communications, Chair
Public Policy

EDUCATION

Honorary Doctor of Laws, The Catholic University of America
LL.M., Georgetown University Law Center
J.D., Northwestern University School of Law
B.S., with distinction, Northwestern University

BAR & COURT ADMISSIONS

District of Columbia Bar
Illinois Bar
Supreme Court of the United States
U.S. Courts of Appeals for the Third, Seventh, Ninth and District of Columbia Circuits

| PROFESSIONAL EXPERIENCE

- Chairman, Commissioner and General Counsel of the Federal Communications Commission (1970-1977).
- Chair, FCC's Advisory Committee on Advanced Television Service (1987-1995).

| AFFILIATIONS

- American Bar Association (ABA).
    - Chair, Law Day (2003); Chair, Committee on Governmental Affairs (1997-2000); Chair, Section of Administrative Law and Regulatory Practice (1994); Chair, Forum Committee on Communications Law (1985-1987); Chair, ABA Journal, Board of Editors (1985-1988); Chair, Young Lawyers Section (1968).
- Chair, Advisory Board, Columbia University's Institute for Tele-Information.
- Senior Fellow, Council of the Administrative Conference of the United States (ACUS) (2010-Present).
- President, Federal Bar Association (1976-1977) and Federal Communications Bar Association (FCBA) (1986-1987).
- Chairman, The Media Institute's Board of Trustees.

| HONORS & AWARDS

Mr. Wiley has often been profiled by the media and recognized for his expertise and contributions to the communications industry. The following is a sample of recent honors.

Accolades

- Recognized by *Washingtonian* magazine as one of Washington's 30 "Superstar" lawyers for his role as "the unofficial sixth commissioner" of the FCC (2011) and named one of Washington's "Best Lawyers" by the magazine (2011).
- Included among *Bloomberg Businessweek's* list of Washington, DC "Power Brokers" (2011).
- Named the Washington, DC Administrative/Regulatory Law "Lawyer of the Year" by *The Best Lawyers in America* directory (2011).
- Named to the *National Law Journal's* list of "The Decade's Most Influential Lawyers" (2010).
- Named a "Star of the Bar" and one of "Washington's Top Lawyers" by *Washingtonian* magazine (2009).
- The "most prominent telecommunications lawyer and lobbyist in Washington" by *Broadcasting & Cable* (2005).
- The "Father of High-Definition" television by *The Globe and Mail* (2005).
- The "most influential media and telecommunications lawyer in the United States" by the *International Herald Tribune* (2003).
- An "Enduring Influence" by *The National Law Journal*, which has regularly named him as one of "The 100 Most Influential Lawyers in America" (1988, 1991, 1994, 1997, 2000, 2003, 2013).
- "The Sixth Commissioner" by the *Los Angeles Times* (2001).
- The "Godfather of HDTV" by *Mediaweek* (2001).
- "A Telecom Lion" by *Investor's Business Daily* (1996).
- The "Lion of the Communications Bar" by *The National Law Journal* (1995).
- "Telecommunications' Ubiquitous Man of Influence" by *The New York Times* (1992).
- The "Brand Name of the Communications Bar" by *The American Lawyer* (1992).
- One of the top "100 Men of the Century" by *Broadcasting & Cable* (1999).
- One of *HollywoodReporter, ESQ's* "Power Lawyers 2007," for outstanding achievements in and contributions to entertainment and media law (2007).
- Named a *Legal Times* "Visionary," one of a select group of lawyers "whose foresight and hard work have changed the business of law in Washington" (2008).
- The Washington, DC area's "Leading Communications Lawyer" by *Legal Times* (2007).
- One of Washington's "Top 30 Lawyers" by *Washingtonian* magazine, which recognized him as "a force in developing both policies and technologies" (2004).
- Listed by *Chambers USA* as one of "America's Leading Lawyers for Business" for both Telecom, Broadcast & Regulatory and Media & Entertainment (2003-2013).
- One of the *Lawdragon* "500 Leading Lawyers in America" (2005-2008, 2010-2012); one of the *Lawdragon* 500

"Dealmakers" (2007); and one of *Lawdragon*'s "100 Managing Partners You Need to Know" (2008).
- Named a *Legal 500* leading lawyer, "peerless" in the areas of Media and Telecom law (2007-2013).
- One of the Washington, DC area's "Top Ten" lawyers by *Super Lawyers* magazine (2007, 2008).
- Named one of DC's "Top 100 Lawyers" (2009-2012) and "Super Lawyers" (2009-2013) by *Super Lawyers* magazine.
- Recognized as one of "The Best Lawyers in America" for Communications and Administrative Law (1983-2014) and for Mergers & Acquisition Law (1983-2014).
- Rated in the top tier of regulatory communications attorneys by *The International Who's Who of Business Lawyers*, which includes him in its lists of "the practice area's elite" and "most highly regarded individuals." The publication also notes that he is said to be a "doyen of the communications bar" (2005-2013).
- Named one of DC's "Power 100" by *Washington Life Magazine* (2007).
- Named to *Washingtonian* magazine's "Power 150" list of Washington's "most influential" (2007).
- Named to the *Washingtonian* list of top communications lawyers to see if you have business with the FCC (2007).
- Recognized as a "Leading Individual" in the field of Telecommunications Law by the Practical Law Company's *Which Lawyer?* directory (2007).
- Included in Legal Media Group's *Expert Guides: Guide to the World's Leading Telecommunications Lawyers* (2011).
- Included in Legal Media Group's *Expert Guides: Guide to the World's Leading Technology, Media & Telecommunications Lawyers* (2007, 2010).
- Included in Legal Media Group's *Expert Guides: Guide to the World's Leading Lawyers-Best of the Best USA* (2006, 2009).
- AV Peer Review Rating, Martindale-Hubbell's highest ranking by peers for general ethical standards and legal ability.

Awards

- *American Lawyer*'s Lifetime Achiever Award (2012).
- Consumer Electronics Hall of Fame Award (2009).
- Award of Special Recognition from the Radio and Television News Directors Foundation (2007).
- *Chambers USA* Award for Excellence in the area of telecommunications regulatory work (2006).
- The North American Broadcasters Association's International Achievement Award (2004).
- The National Association of Broadcasters' Distinguished Service Award (2002).
- The *RCR Wireless* Hall of Fame Award (2002).
- The Digital Pioneer's Award (2000).
- An Emmy from the Academy of Television Arts and Sciences (1997).
- The Electronic Industries' Medal of Honor (1996).
- *Broadcasting & Cable* Hall of Fame Award (1993).

CURRENT NEWS RELEASES

Richard E. Wiley Named to IRTS Foundation Hall of Mentorship
August 16, 2013

Twenty-Six Wiley Rein Partners Recognized Across 18 Practice Areas in the 2014 Edition of *Best Lawyers*
August 15, 2013

Richard E. Wiley Named Among "Giants of Broadcasting" for 2013
July 23, 2013

Former FCC Commissioner Tyrone Brown Rejoins Wiley Rein
July 1, 2013

***The Legal 500 US* Ranks Wiley Rein's Telecommunications Group in the Top Tier for the Seventh Consecutive Year**
June 7, 2013

***Legal 500 US* Recognizes 25 Wiley Rein Lawyers Across Five Practices Nationally; Wiley and Senkowski Are "Leading Lawyers"**
June 4, 2013

Wiley Rein's Media Practice Remains in *Chambers USA*'s Top Tier for Fifth Consecutive Year
May 31, 2013

Wiley Rein's Telecom Practice and Richard E. Wiley Receive Top Honors from *Chambers USA* for 11 Years in a Row
May 31, 2013

***Chambers USA* Recognizes 31 Wiley Rein Attorneys Across 14 Practice Areas as Among Best in the Country**
May 24, 2013

Veteran Natural Resources Lawyer Steven Richardson Joins Wiley Rein
May 20, 2013

Former NTIA and FCC Official Anna M. Gomez Joins Wiley Rein
May 6, 2013

Wiley Rein Celebrates Its 30th Anniversary
May 1, 2013

Fifty-Eight Wiley Rein Attorneys Named to DC "Super Lawyers" List Across 18 Areas of the Law
April 19, 2013

Richard E. Wiley Named One of the "Most Influential Lawyers in America" by *The National Law Journal*
March 26, 2013

Former Senior State Department Official Richard Beaird Joins Wiley Rein's International Telecommunications Practice
March 15, 2013

Prominent Bankruptcy Attorney George Pitts Joins Wiley Rein
January 14, 2013

Four Wiley Rein Partners Earn *Who's Who Legal* Honors
January 4, 2013

| CURRENT IN THE NEWS

An Anniversary to Memorialize! Bert Rein and Richard Wiley Discuss 30 Years of Wiley Rein

May 2013 | *The Metropolitan Corporate Counsel Vol. 21, No. 5*

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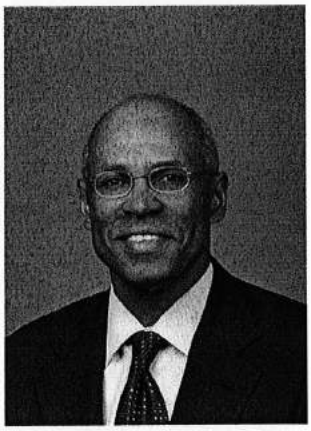

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PRACTICES

- Accountants/Professional Service Firms Liability
- Complex Commercial Litigation
- Corporate Governa Governance and Executive Compensation

AREAS OF FOCUS

- Law Firm Representation

ADMISSIONS & CERTIFICATIONS

GEORGE W. JONES, JR. is a partner in the Washington, D.C., office of Sidley Austin LLP. Since joining the firm in 1983, Mr. Jones has represented clients in complex commercial and regulatory litigation, involving substantive areas such as antitrust, contracts, employment discrimination, energy, environmental law, fair lending, labor, healthcare policy and products liability. Mr. Jones also advises both law firms and in-house law departments on questions of professional responsibility, including state rules of professional conduct and federal reporting obligations prescribed by the Securities and Exchange Commission pursuant to § 307 of the Sarbanes-Oxley Act of 2002. He has handled internal corporate investigations of employee fraud and embezzlement, and related civil and administrative proceedings. In addition to federal and state court proceedings and administrative proceedings, Mr. Jones has participated in alternative dispute resolution proceedings, including both arbitration and mediation.

Prior to joining the firm, Mr. Jones was a law clerk to Judge Philip W. Tone on the United States Court of Appeals for the Seventh Circuit. Mr. Jones also served as an Assistant to the Solicitor General of the United States for two years, during which time he argued five cases on behalf of the federal government in the United States Supreme Court.

Selected Publications and Interviews

- "A Conversation with D.C. Bar President George Jones," *Washington Lawyer* (July/August 2002)
- "A Remarkable Success Story," *Washington Lawyer* (July/August 2002)
- "In the Name of National Security," *Washington Lawyer* (September

- U.S. Supreme Court, 1987
- U.S. Court of Appeals, 4th Circuit
- U.S. Court of Appeals, 10th Circuit
- U.S. Court of Appeals, D.C. Circuit
- U.S. District Court, District of Columbia
- District of Columbia, 1980

EDUCATION

- Yale Law School (J.D., 1980)
- The University of Chicago (B.A., 1975), *with honors*

CLERKSHIPS

- Philip W. Tone, U.S. Court of Appeals, 7th Circuit

2002)

- "Federal Regulation of the Practice of Law: Unthinkable?," *Washington Lawyer* (October 2002)
- "The Cost of War in Iraq," *Washington Lawyer* (November 2002)
- "A Matter of Integrity," *Washington Lawyer* (December 2002)
- "Client by Client, Family by Family," *Washington Lawyer* (January 2003)
- "Unauthorized Practice and the Internet," *Washington Lawyer* (February 2003)
- "Revisiting Bakke," *Washington Lawyer* (April 2003)
- "SOX Rules," *Washington Lawyer* (May 2003)
- "Confidences and Secrets," *Washington Lawyer* (June 2003)

MEMBERSHIPS & ACTIVITIES

- American Bar Association Commission on Ethics 20/20
- D.C. Circuit Historical Society
- Former Chairman, United States District Court for the District of Columbia Committee on Grievances
- Former President, District of Columbia Bar, (2002-2003)
- Former General Counsel, District of Columbia Bar
- Former member, Board of Governors, District of Columbia Bar
- Former Co-Chair, Washington Lawyers' Committee for Civil Rights and Urban Affairs
- Former member, Board of Directors, Washington Lawyers Committee for Civil Rights and Urban Affairs

- Former member, Board of Directors, National Lawyers Committee for Civil Rights Under Law
- Former member, American Bar Association Standing Committee on Ethics and Professional Responsibility
- Former member, District of Columbia Committee on Professional Responsibility
- Former Secretary, District of Columbia Conference on Opportunities for Minorities in the Legal Profession
- Former Advisory Board member, Conference of Minority Partners in Majority/Corporate Law firms
- Former Board member, Legal Counsel for the Elderly