

**ORAL HISTORY OF
G. DUANE VIETH
FIRST INTERVIEW - JULY 22,2003**

This interview of G. Duane Vieth is being conducted for the District of Columbia Circuit Historical Society Oral History Project, on July 22, 2003, at the offices of Arnold & Porter in Washington, D.C., by Traci Grigg. This is Tape One.

Ms. Grigg: Can you state your full name and the year you were born?

Mr. Vieth: Yes. My name is Gifford Duane Vieth. I go by G. Duane Vieth, and I'm frequently called Bud, and have been ever since I was a young boy. I was born in Omaha, Nebraska, on September 20, 1923, and lived for about three years in Omaha, and then another year in Oak Park, Illinois. At the age of five, I moved to Davenport, Iowa, which I have always considered my hometown and where I lived until leaving to come to practice law in Washington.

Ms. Grigg: Do you remember anything at all about Omaha, Nebraska? You were very little, just a baby.

Mr. Vieth: Yes. I don't remember much about it. I have a picture in my mind of the house that we had there and, indeed, on trips to Omaha, I've tried to find that house and I haven't had much luck. But no, I don't remember much about Omaha, nor do I remember much about Oak Park.

Ms. Grigg: Where were your parents from?

Mr. Vieth: My parents were from Davenport, both of them, and my father was in the municipal bond business. He was working for other companies when he was stationed in Omaha and then later in Chicago, Oak Park being a suburb of Chicago. Then he ultimately went into business for himself in Davenport, and that's where he lived and where I grew up. I lived

there until, I think as I mentioned before, until I left to come to work here in Washington.

Ms. Grigg: What did your mother do while she was in Davenport?

Mr. Vieth: My mom was a typical Iowa housewife. She never held a position outside the home. She worked very hard in the home. As a matter of fact, that's sort of been the way my own marriage operated. My wife worked for the National Gallery of Art here in Washington, but once we were married, except for a short time where she worked in the office of Hale Boggs in Congress during the summer, she did not hold a job outside the house either. That's sort of been the tradition in our family. It was the old-fashioned tradition.

Ms. Grigg: What were your parent's activities and interests when you were growing up?

Mr. Vieth: It's hard for me to say. They were very much interested in their family. My father, as I say, was in the investment business. He bought and sold municipal bonds, and he did that for small towns in Iowa and Illinois and other governmental bodies. He would help them where they had a need for funds to create a bond issue and do all the necessary legal and other work. He would hire out the legal work — to get the issue issued and then he would buy the bonds from them and resell them, mostly to banks and small-town banks in Iowa and Illinois. He liked the idea of those tax-exempt bonds and that was pretty much what he did. My father played golf and my mother used to like to play golf, but they stopped playing later on in life. They didn't have much interests outside the family, I'd say.

Ms. Grigg: Backing up a little bit, where were your grandparents from?

Mr. Vieth: My great grandparents were from Germany and immigrated to the United States. On my mother's side, my grandfather was a Lutheran minister, and he had a

church in Davenport, Iowa, and then later on moved to Quincy, Illinois, where he had his last parish and where he lived until he passed away. And, after he passed away, his wife, my grandmother, then moved into our house. I'll never forget that. She lived with us for at least ten or twelve years until her own passing. She was very good, as far as my folks were concerned, a very good babysitter. But that was traditional also for, particularly widowed grandmothers, to move in with one of their children. My mother was the daughter of a Lutheran minister and one of her brothers became a Lutheran minister, and I've had a strong Lutheran background my entire life.

Ms. Grigg: And are you still —

Mr. Vieth: Oh yes, I'm still a member of Calvary Lutheran Church in Silver Spring, Maryland. One of the founding members of that church was an uncle of mine, another brother, a much younger brother of my mother. He was stationed here in Washington in the Pentagon just prior to and during World War II. During that period, he and a number of other people formed a congregation in Silver Spring, and he was considered a founding member. So, when I came to the Washington area, it just seemed natural for me to go out and visit that church and I did, and I ultimately joined, and I still do belong.

Ms. Grigg: That's wonderful. What were your family gatherings like? Holidays and weekends? It sounds like you come from a large family,

Mr. Vieth: Well, I have one brother and one sister, and both of them still live in Davenport, Iowa. I'm the only one who left town. My brother went into business with my father and continued in that business until he finally retired a year or two ago. The same sort of business, the creation and then buying of municipal bonds and selling them to banks, and that

sort of thing. As a sideline, he also went into the banking business itself. He ultimately ended up owning two small banks, one in Iowa and one in Illinois. He sold those and he's now sort of semi-retired. I say he lives in Davenport; he still has a home there, but I think he considers himself a resident of Florida now. He has a house in Florida as well. My sister married a local Davenport boy named Joseph Kimmel, Jr. Joe's father had founded a business known as Republic Electric Company. It was a wholesale heating and air conditioning company, and it was a very good business, as a matter of fact. Joe became very active in that business, and ultimately ran it until fairly recently when his health deteriorated. He died a year ago. That was run pretty much a family enterprise, but those are the only two close relatives I had, the sister and the brother and they both lived in Davenport and still do, except that my brother-in-law passed away last year.

Ms. Grigg: Where do you fall? Are you the oldest, the youngest, in the middle?

Mr. Vieth: I am the oldest. My sister is two years younger than I, and then my brother, George, is eight years younger than I.

Ms. Grigg: How many uncles and aunts did you have?

Mr. Vieth: Well, on my mother's side I had three uncles. I haven't talked about my father's family. On my father's side, I had one uncle and one aunt. The uncle died a good many years ago, and the aunt died just a couple of years ago. My uncle never married on my father's side, never married. His sister, my aunt, did marry, and she has two children who are my cousins and who I occasionally see, but not anything like as much as I'd like to.

Ms. Grigg: Can you tell me some of your early memories from your days in

Davenport? Grade school? Friends?

Mr. Vieth: Actually, you asked whether I remember much about Omaha. The only thing I do remember about that was that my folks, along with several others of their close friends, owned a cottage on a lake near Omaha. I distinctly remember one occasion when I tried to walk, it was sort of a gangplank, out to a dock. I was walking on that gangplank and I fell over, fell off. I must have been three or four years old. And, I recall very distinctly going down into the water and being pulled out by my Uncle Ed, the younger brother of my mother, who happened to see it from the cottage and came running out and pulled me out. I don't know if he hadn't done that, I don't know what might have happened.

Ms. Grigg: Thank goodness.

Mr. Vieth: That's the one thing I remember from Omaha. The one thing I remember from Oak Park, and I'm probably talking about a lot of irrelevancies here —

Ms. Grigg: No, this is fine.

Mr. Vieth: I do recall getting a tricycle in *Oak* Park, and the one thing I wanted to do more than anything else was to take that tricycle and have a real destination with it. On one occasion, my father agreed to walk us, with me riding the tricycle, down to an ice cream shop, which was three or four blocks away. I thought that was the most wonderful thing, going along the street, my father watching me, having a definite destination and something very good at the end of the destination, and then going home. Somehow that sticks with me.

Ms. Grigg: Sounds like a life plan.

Mr. Vieth: Well, it was something I really enjoyed. Growing up in Davenport, we lived in a house on a dead-end street, which was very nice from that standpoint because there

were sidewalks there and then we could play in the street. And, I had a lot of friends on that street, and we did an awful lot of things that young people do. Actually, the house had a wonderful location. It was, as I say, at a dead-end street, and it was the top of a hill that overlooked, about a mile-and-a-half away, the Mississippi River. We had a beautiful view of the river. Indeed, just down the block from where we were, there was a park called Lookout Park and it was just an absolutely lovely view of river traffic and that sort of thing. So, we played a lot around in our backyard, which had the view, as well as played in the street in the front. I can remember getting my first bicycle and that kind of thing, but, you know, I don't have too many memories other than I had a lot of fun playing as a kid.

Ms. Grigg: Do you remember if you read a lot or —

Mr. Vieth: I used to read a good bit. I loved — gosh, I can't even think of the names of the stories now. But there were some stories about a Westerner — when I see you next, I'll give you the name, if I can recall those. Yes, I did read quite a few books for kids of my age.

Ms. Grigg: I mentioned holidays. Do you have any strong recollections from holidays and family?

Mr. Vieth: I have a stronger recollection of our holidays. We weren't very affluent in those days and our holidays were primarily getting in the car and going to visit one of my uncles, and there were cousins there, so I thoroughly enjoyed that. We'd go to Clayton, Missouri, which is a suburb of St. Louis where my mother's brother had a Lutheran Church. I told you he was a minister. It was a rural setting. His house was on the grounds and the church was on the grounds, but there was a lot of room around the place. So, we used to love to go down and be with our cousins there, and that was pretty much what we did on holidays. I do

remember one occasion when my father undertook to take the entire family, that is my sister, my brother, my mother, and me, on a trip through the West. We went from Davenport all the way to California by train, stopping at various places along the way. It was an absolutely wonderful trip. We had sleeping accommodations on the train. In those days, you just went on an ordinary Pullmans. You had upper and lower berths. I recall, we visited the national parks in the West; went all the way to California, and it really stood out in my memory. It was an outstanding trip. I tried to do something similar to that with my own family. I guess it would have been in the '60s or '70s, and we even did travel a lot by train on that trip, although we also traveled by plane somewhat. It just stuck with me as a wonderful experience, and I tried to do the same thing with my children when they were young.

Ms. Grigg: With all those memories.

Mr. Vieth: Yeah, that's right.

Ms. Grigg: That's great.

Mr. Vieth: I can recall, as you know, seeing the California redwoods, and the Grand Canyon, and Yellowstone Park, all those things that you do. This country is a wonderful country to live in.

Ms. Grigg: High school?

Mr. Vieth: High school.

Ms. Grigg: What was the name of your high school?

Mr. Vieth: Davenport High School. The Blue Devils. High school was when I really started developing an interest in the sort of thing that ultimately was useful in the practice of law. We had an absolutely wonderful professor, a very old man, who taught public speaking

and debate. So, while I tried out for track and a few other things — and never was worth a damn as an athlete — I just devoted myself entirely to the public speaking course and debate. We did have competitions. I was a member of the debate team. We traveled around the state, and, indeed, even went to national competitions on several occasions. There were two or three disciplines. One was debate. Another was extemporaneous speaking that involved being given, at a competition, an assignment, a topic, and, an hour later, you had to make a 15-minute extemporaneous speech on that topic. You could use whatever cards and things you brought along to prepare for that. You could prepare a little card, but you had to know a lot about a lot of subjects, because you didn't know until the last minute what your subject was. Then there was dramatic speaking, too, where something had to be written by someone else and you delivered it. Well, we had a very active group that was interested in that, and we just all concentrated our attention on that. We would work after school. We'd go to the regular classes, but then after school we would be doing extracurricular work in connection with public speaking. We socialized together all the time. It was really pretty much our entire life there. I thoroughly enjoyed that in the sense that's what I spent three or four years in high school concentrating on. By the way, we also felt we were pretty good because a group of us who were in that group would put on what we'd call auditoriums. The entire school would be gathered together in an auditorium, let's say in the morning, and then it'd be an hour's entertainment. We would put on that entertainment, and I remember being very fond of a couple of comedians I'd seen in Chicago called Olsen and Johnson — you've never heard of them.

Ms. Grigg: I have.

Mr. Vieth: Have you? (laughter) But they used to do funny things, and we

would copy a lot of those for our auds, as we called them. We would put on those shows, and I think we were fairly well-received. (laughter) We could do a lot of strange, funny things. That was a great deal of what our time was spent on in high school.

Ms. Grigg: During the summers, did you have jobs or —

Mr. Vieth: Yes. I think, aside from cutting the neighbor's grass once in a while and that sort of thing, the first job I had where I got a paycheck was working for a local clothing store called The Hub. Then it was strictly the summer job. I'll never forget — I think I got \$15 a week for working six days; we didn't work on Sunday, but we worked all day Saturday. In fact, on Saturday it was open until 9:00. Social Security had just started and they took out 1 percent of my salary or \$.15 towards Social Security; so I got \$14.85 in cash in my envelope on Saturday night. That was a good experience. I was sort of a substitute salesman of shirts. I didn't try to sell suits, but shirts and ties and that sort of thing when the other fellows were going on vacation. I'll never forget, they had a way of, and I fell for this, they had a way of harassing neophytes. They really got me on this. There were several other clothing stores in town, and on about the first or second day when I came, they said that they need a sleeve-stretcher for shirts. They said it's expensive, so we only have one in town and we borrow it and back and forth. You go over to Simon and Landar, I think that's where we last sent it. So, I go to Simon and Lander and say, "I'm from The Hub. I'm looking for the sleeve-stretcher." They know what's going on, so they send me to the other store. I finally figured out that they were pulling my leg, but it was funny how you would fall for a thing like that.

Ms. Grigg: That's great.

Mr. Vieth: You were trying to do the right thing and so forth. The boss, the

owner of the store, was very angry at the guys who did that to me because he thought it wasted my time.

Ms. Grigg: Are you still in touch with any of your public speaking friends or any other friends from high school or Davenport?

Mr. Vieth: Once in a while, one of them I used to see when we'd go to high school reunions, and so forth. Well, I'd see several of them, as a matter of fact, but one I'm thinking of in particular died this past winter, and I was very *sorry* to hear that. Yes, I do see some. I should mention Hubbin, my closest friend in high school — and we were close friends in law school and college — I'll go through the whole thing with him. I do see him occasionally. He became an outstanding trial lawyer in the state of Iowa; he stayed in Iowa. So, yes, I see them from time to time. Another member of our public speaking group was Leo Ziffren. Leo Ziffren became an outstanding lawyer in entertainment law in Los Angeles, Hollywood. Leo's still around, but I think he's retired now from practice. I'll go to Ross Sidney. Well, I'll do that later.

Ms. Grigg: At least three of you became lawyers. Did others in the group? Your public speaking group?

Mr. Vieth: Yes. Dave McFarren, the one who just died, became a lawyer. Ross Sidney, Leo Ziffren, myself. I think one of the girls, Louise Hilfman, who was my partner in the debate team. I think she went to law school, but I don't think she ever practiced. Those are the ones who became lawyers.

Ms. Grigg: How many girls —

Mr. Vieth: Oh, Don Rivkin — he was a year behind us, but he was in the group — he became a very prominent New York lawyer.

Ms. Grigg: Were there a lot of girls in the group or was it just Louise?

Mr. Vieth: I know Louise and Beverly, Christine and — yeah, there were several of the girls, yes. I would say it was almost 50/50.

Ms. Grigg: How large was the group?

Mr. Vieth: I would say the group was about 12 and that included my class and Rivkin, and a few others in the class behind him, and when we first started, the kids in the grade above us. It was really a very large part of my high school experience. By the way, you talked about summer jobs. The second summer job was somewhat related to World War II. World War II hadn't started yet. But I think this was the summer after I graduated from high school. We had a large defense facility in my hometown, Davenport, Iowa. It actually is on an island in the Mississippi River, between Davenport and Rock Island, Illinois, which is the city directly across the river from us. The facility was known as the Rock Island Arsenal. It had been there for many, many years, I think, since the Civil War and was a large, munitions factory, government-owned. I got a job as a truck driver that second summer and I worked there that entire year before I left to go back to college for the first time. But those are the only two summer jobs that I really recall.

Ms. Grigg: What were you delivering in the trucks?

Mr. Vieth: They weren't large trucks, they were pickup trucks and that sort of thing. It's just carrying materials around.

Ms. Grigg: So they weren't bombs or —

Mr. Vieth: Oh, no. No bombs and, as a matter of fact, I can remember we took

several trips to Chicago and other places. We would travel on the road. But I can't tell you what we were delivering.

Ms. Grigg: How long did it take you to get from Davenport to Chicago?

Mr. Vieth: Chicago was the closest, big town. It was about 180 miles. We would always go to Chicago for weekends and that sort of thing. It was the closest big town. But no, traveling for the Rock Island Arsenal was all around the state of Illinois, various places, and I was just a plain truck driver. That was all I did, but I did get a paycheck there as well.

Ms. Grigg: Was this the summer after you graduated from high school?

Mr. Vieth: Yes, the summer, yes. The thing is, I'm really concerned here, because then what did I do the summer after my first year in college?

Ms. Grigg: Did you go to college that fall then?

Mr. Vieth: I did. You've got me worried about whether I'm — it may be that the summer after high school was the summer with the clothing store and then the next summer after the first year of college — I honestly can't remember now.

Ms. Grigg: Close enough. What year did you graduate from high school?

Mr. Vieth: I graduated from high school in 1941. I can try to straighten that out.

Ms. Grigg: We should probably back up a little bit. How did the Depression impact you?

Mr. Vieth: The Depression impacted in the sense that I know my father was always very concerned about it as was my mother, and it was very tough on him and his business and his concern to take care of his family and that sort of thing. But I can't say that it impacted

me very seriously. It's just that I grew up in the Depression, and I'll never get over the Depression ways in a sense. I just cannot spend money wildly, even though I — I wonder, should we take a little break?

Ms. Grigg: Yes.

Ms. Grigg: Let's hope the (recorder stopped) recorder works.

Mr. Vieth: Well, we were talking about the Depression. We never had much money. I could tell you one thing that I remember again very clearly. Once in a while I would be able to get enough money together, you know, a penny at a time, maybe to be able to buy a Coca-Cola for \$.05. I will never forget when Pepsi Cola came out for the first time and the big thing about Pepsi Cola was that it, it was a 12-ounce bottle. Coca-Cola was a 6-ounce bottle, always had been. Pepsi came out with this and, literally, a friend of mine and I would be able to get together a nickel between us and we would then go down and get a Pepsi and we'd split it because we got almost as much as you got in a Coca-Cola alone. I'm afraid that kind of a background has stayed with me my whole life. Yes, I do very much remember the Depression. There were things like penny candies. Also, penny movies. Let me tell you about this. It was a community building in the west part of Davenport known as the Friendly House, and we used to go to the Friendly House virtually every Saturday, particularly during the winter, because they had movies and they were penny movies. It cost a penny to get in and we always could get together a penny and go down there. It gives you an idea of what the Depression was like. In fact, you know, it was hard to come by. I told you my first job ever was for \$15 a week and I'll never forget getting \$14.85 because the \$.15 was taken out.

Ms. Grigg: Must be hard to go to the movies today.

Mr. Vieth: Yeah. (laughter)

Ms. Grigg: And pay \$9.00.

Mr. Vieth: Things are so wildly different now. That's a sort of an experience that I guess just will last forever. It will always be that way.

Ms. Grigg: Shall we move on to college?

Mr. Vieth: Yeah. That'll be fine. I think I've talked enough about high school.

Let me just mention that my closest friend in high school was a fellow named Ross Sidney. He and I were good friends there. He was also in the public speaking group. (Cough) Oh, sorry. And then we both went off to the University of Iowa in Iowa City, and we pledged the same fraternity. I guess as pledges in that first freshman year, we did not live together. You had to live with an upper classman in the fraternity house. But, I think thereafter, I certainly know that we went off to the war, and then both of us went back to college where we roomed together, and then went to law school, and we roomed together in law school. Ross and I were the greatest of friends then. Of course, our paths diverged. I came to Washington; he stayed in Des Moines, Iowa, but we still see each other from time to time. I'm hoping to see him again later on this year. He became a very, successful, outstanding trial lawyer in Iowa.

Ms. Grigg: Was there any real choice about going to the University of Iowa or going somewhere else?

Mr. Vieth: No. No, there really wasn't. Again, it was a question of economics. I can recall that the tuition at Iowa was something like \$500 or \$600 a semester for an in-state resident. I'd never given any thought to going anywhere else. We did join the Sigma Chi fraternity and that's where we lived until we went away to war. I know I started in college in

September of '41. I'll never forget December 7, '41. We were sitting around the fraternity house with the house mother there and all of us in the living room listening to the radio about Pearl Harbor and wondering what it might mean and that sort of thing. That sticks with me very much. I guess I stayed — I finished that year. Now that I think about it, I believe the summer I spent with the Arsenal, I believe, was the summer of '42 and then I went back to school and in December of '42, I went off to the air force — well, the air corps — *Army Air Corps*.

Ms. Grigg: Is that because you were drafted or because you volunteered?

Mr. Vieth: No, I volunteered. I wanted to become a pilot, and I ultimately failed the physical to become a pilot. I honestly think they took a lot of us in and very quickly led us to believe that we had a chance to become cadets, and then would wash us out for one reason or another because they needed air crew; they needed gunners. I ultimately became a gunner and a radio operator.

Ms. Grigg: How old were you?

Mr. Vieth: Well I entered in 1942. I was born in '23 — how old was I? Nineteen. My 21st birthday was while I was with the Eighth Air Force in England.

Ms. Grigg: How did your parents react to your signing up?

Mr. Vieth: Oh, they were very supportive. They were concerned, but that was one thing about World War II, it was a very popular war, unlike anything we've had since then.

Ms. Grigg: Did a lot of your friends from high school or classmates from high school also sign up?

Mr. Vieth: Yes. Virtually everybody did. Ross Sidney went into the infantry and another close friend, Don Shutter — he had not been so active in public speaking, but he was

a good friend of ours and joined the same Sigma Chi fraternity — he went into the Air Corps as I did. He became a pilot for the B-24s. And Sid was, well, his war experience was incredible. I can go into all those things. They're separate stories, and very good stories.

Ms. Grigg: Do you want to start with those or do you want to talk about some of your first experiences, where they sent you for training and —

Mr. Vieth: Yeah, well — all right, they sent me for basic training to Jefferson Barracks outside of St. Louis, Missouri. I'll never forget it, it was as cold as Adam, actually it was February. I signed up in December and I went off in February. I'll tell you there were unheated cabins that we lived in, and then took our basic training. It was really, really something. They then sent us to what they called ASTP, Army Specialized Training Program, I think it was. We went to college campuses. They did this with everybody who had joined the Air Corps. They sent them to ASPS, and they were on various campuses. Our campus was Milwaukee Junior College in Milwaukee, Wisconsin. It's now part of the University of Wisconsin system, that's the Milwaukee campus. I think most states have done that now. But in those days it was known as Milwaukee State Teachers College — it wasn't junior college — Milwaukee State Teachers College. We were there for about six weeks, I guess. We took flight training. I learned how to solo in a piper cub and had a lot of academic work and a great deal of drilling as well. Our drilling was featured in the Sunday supplement of the *Milwaukee Journal* one Sunday while we were there. Remember, the newspapers used to have something called the Sunday supplement and there's always a lot of pictures and so forth.

Ms. Grigg: Do you have that article?

Mr. Vieth: I think maybe, it may be among the things my mother had. I'll have

to take a look. Those should be things at home. But, then I was sent to California, and there I was given the physical that I failed and was told then that I would become a gunner after I wasn't going to be able to become a pilot. I was very disappointed, very upset about that, but there was nothing could be done about it. I was then sent to radio school to become a radio operator. The radio school was in Sioux Falls, South Dakota, and that's where I learned to become an Army radio operator. I learned Morse Code and all that sort of thing. Finally, I was sent to gunnery school, Aircraft Gunnery School in Yuma, Arizona, and after about six or eight weeks there, I was a certified radio operator and a certified gunner, and sent to Ardmore, Oklahoma, where I was put together with a crew. That was my first crew — we called ourselves Brown's Clowns because Gerald Brown was our pilot, a very fine fellow.

Ms. Grigg: Did you have more training in Oklahoma?

Mr. Vieth: Yes, in Ardmore, Oklahoma, that's where we first put together as a crew, and then we did a lot of training there and then ultimately, I think, I can't remember exactly what month, but we were ultimately assigned a B-17. We were to fly the B-17 — it was not going to be our plane, but this was the way they got the crews and the planes over to England. We'd take a brand new B-17 and we flew it. I'll never forget the trip we took was from Ardmore to Manchester, New Hampshire, where we stopped and spent the night, and then we flew to Goose Bay, Labrador, and stopped and spent the night, and then we flew to Reykjavik, Iceland, and spent a couple of nights, and then on to Northern Ireland and landed there and spent the night, and then we went on to England. The B-17 didn't have all that much fuel capacity. I think we could have made it further, but that was sort of the way you did it in those days — hopped one place to another. I'll never forget Reykjavik, Iceland. It was in the middle of June and we

could go out at midnight or 2:00 in the morning and read a newspaper —

Ms. Grigg: Oh my goodness — the sun.

Mr. Vieth: Yeah, the sun never goes down at that time.

Ms. Grigg: You were in Iceland.

Mr. Vieth: In Iceland. I just remember that and I do remember stopping in Northern Ireland, and then we flew on to England and to our base, which was at a little village called Thorpe Abbots — it was the 100th Bomb Group. The first time we knew exactly which group we were going to be with — and that all happened in June of 1943 — I beg pardon, '44, that was 1944.

Ms. Grigg: And then from there, what were your missions? Were you protecting England and France or flying over Nazi Germany?

Mr. Vieth: Flying over. We were essentially flying against Germany. The first couple of missions were in France. I remember attacking an airfield outside of Paris, which was in the hands of the Germans. I can recall very vividly our second mission, which was in support. It was a low-level mission, and let me tell you, a B-17 is not designed to fly at 12,000 feet and bomb in connection with troops, but that's what we were asked to do. This had to do with the fact that Field Marshal Montgomery, the British commander, was sort of stopped there. Montgomery had been stalled outside the town of Caen, France, and had been there for a number of weeks. Meanwhile, General Patton, who was with the American troops, was whizzing through France, and so we were sent to bomb in support of a movement that Montgomery planned. We did bomb at 12,000 and right over the German lines. They had a bunch of antitank **88** millimeter guns, which they could just turn up — and they did turn up — and shot anti-aircraft

at us. And, I'll never forget, we got about 87 holes in our airplane that day and got one of our crew members wounded. It was one of the most harrowing experiences I had in the war. Thereafter, there weren't many missions over France. We were then primarily having missions over Germany and I did fly 28 missions. I was supposed to fly 30. I got sick and near the end of my tour was in the hospital when our crew flew two missions, and so the crew finished 30 and I only had 28. We had three or four members of our crew transferred during the period we were there for one reason or another to other crews. In every case, they had been shot down. It was considered unlucky to have left our crew. So, my pilot went to the commander and got him to agree that I could be relieved and go back to the United States, even though I only had 28 missions when the others all had 30 because, I guess, I got an excuse for being in the hospital for the last two. In any event, that's what happened, and ultimately I went back to the United States.

Ms. Grigg: With all your original crew except the ones who got transferred?

Mr. Vieth: Yes, except for those who — yes, we didn't lose any members of the crew but the ones who transferred. The bombardier who was injured in the second mission was then transferred to another crew and promptly went down and was lost and was killed. When we arrived there, they immediately cut our crew back by getting rid of one, and he was transferred to another crew, and within two or three missions was killed. That's pretty much what happened. We ultimately became a lead crew, so we lost our ball turret gunner. Instead of a ball turret, we had a radar scope in there. We became a lead crew and bombed by radar. He went with another crew and was shot down on December 31st, I'll never forget. He survived, however. He was a prisoner. I haven't seen him since. There aren't many members of my original crew still alive. Those that came back have died off. World War II veterans are dying at

1,500 or so a day.

Ms. Grigg: Did you ever see the German enemy up close?

Mr. Vieth: Never got a chance to see them up close — it was always from a distance. I can remember coming back to the United States, and being sent to several bases and one of the bases I remember very distinctly. There were some very old German men who were prisoners of war. They were found in a prisoner facility where they were attendants walking around on the grounds and so forth of this airbase that I was sent to, and that is as close as I came to — I always felt *sorry* for those folks because they obviously didn't care much about what they were doing and were conscripted into the German Army.

Ms. Grigg: Have you been back to Germany?

Mr. Vieth: I've been back to Germany a number of times. I've been back to England to my old base on a number of occasions. The 100th Bomb Group has one of the most active of the alumni associations, if you want to call it that, reunions and so forth. I've sort of been forced to become kind of active in it. I do a lot of the legal work for them and that sort of thing — sort of assistant secretary. I kind of enjoy it.

Ms. Grigg: And it's Veterans Day —

Mr. Vieth: Veterans Day is no big deal — no not Veterans Day. But we do go to these reunions every two years, my wife and I. I'm not sure she likes them all that well, but there are some very nice people getting involved.

Ms. Grigg: Did you know your wife during the war?

Mr. Vieth: No, we didn't meet until the year 1951 when I came to Washington. She grew up in North Carolina, went to Sweet Briar College and then the University of North

Carolina. She was an art major who was working at the National Gallery of Art when I met her. In those days, young people would come to Washington and a lot of us lived in Georgetown — and the business of living together wasn't going on so much then. Groups of men lived in houses. Jane lived in a house with four other girls on 27th Street. I lived in a two-person house on 28th Street. We started dating. We'd go to parties together and that sort of thing, and that's how we met each other, and we ultimately got married in February of 1952.

Ms. Grigg: Are there any other stories you want to tell us about your war experience?

Mr. Vieth: Well, let me just tell you this one. I told you that Ross Sidney and I had been close friends. I knew that he was with the 106th Army Division and had come to England. Of course, I forget now how I learned this, but I learned that the 106th was in England. He was in that group and they were staged in Cheltenham, England. I think it was in the Cotswolds at the racetrack in Cheltenham, England. All these racetracks were taken over for Army facilities during the war. So I got that information, and I remember I got a three-day pass and went from my base down to London on the train, and then took another train out to Cheltenham, and I went out to the racetrack. And sure enough there was this big Army contingent there. Finally, I was able to find my friend Ross Sidney. He was in a tent and I spent the night there, in that tent, with him. We went out, drank a lot of beer and that sort of thing, and then I went back. Lucky I saw him. The next thing I heard, which would have been in December 1944, the Battle of the Bulge started. The Germans knew that this 106th Division was all a bunch of mean troops that had come under the line, and that's exactly where they went through to start the Battle of the Bulge. As a matter of a fact, they had something like a 50 percent casualty

rate in the 106th Division, I didn't learn until March that he was missing in action. It turned out he had been captured and was a prisoner. He was a prisoner for about four or five months until Patton's maneuver — I'd finished my tour of duty and I was headed back to the United States in March of '45, and all I knew was that Sid was missing in action. I didn't know whether he was dead or alive. We had to come back by boat. We flew over in B-17s and came back by boat. We landed in New York and were sent to Fort Dix, New Jersey, by train and spent a couple of days there, and then we were told that we were going to go back to the Midwest. They tried to send you back to a place close to home — in my case they were going to send me to Jefferson Barracks in St. Louis. They gave us a chance to go for a couple of hours to the PX to get some things because it was about a two-day train ride. In Alabama, I was standing in line at this PX and the fellow standing in front of me was Ross Sidney.

Ms. Grigg: Oh, my God.

Mr. Vieth: He had been a prisoner of war. The Germans did not deliver him, because they just didn't have any food and were starving. I remember seeing that. He was always a skinny guy anyway, and he had this distended stomach and so forth. By God, there we were. We got on the same train and went back to Jefferson Barracks. He went to a hospital facility somewhere, and I went straight at home. Ultimately he got back to Davenport, too, and that was one of the darndest experiences of my life. Here I thought he was missing in action. I didn't know if he was dead, and he was standing in front of me in the PX line. This thing was written up in the local paper. I think I do have a copy of that. This was kind of an interesting story. Thereafter, I got out of the Army before he did, again, because he had to have certain medical procedures and so forth. I went back to school in October of '45, and I managed to get

that semester in even though I started two or three weeks late. He didn't start until the following semester, but we both finished up together and from that point on, as I said, we roomed together in college and the rest of it. That's the last World War II story I have to tell you.

Ms. Grigg: Perfect. Did your parents ever share their feelings or concerns while you were over there?

Mr. Vieth: No. My mother was always very good about sending me packages. Funny thing I remember — I always liked Liederkrantz cheese. I don't know if you ever heard of that. It was a German kind of cheese — very, very smelly, but very good. And she would send me in addition to cookies and other things, she would send me some Liederkrantz cheese in a jar, you know, packed in the middle of a box and so forth. We lived in Paris then — I would open up that jar and the smell would come out and the other guys would raise hell with me because it did smell bad. It tasted better.

Ms. Grigg: I don't think I've ever had any Liederkrantz cheese —

Mr. Vieth: It's just like Camembert or what's the other name — the English one. I can't think of it, the very fine cheese. But they don't smell quite as bad.

Ms. Grigg: I was going to say I can't think of what it smells like —

Mr. Vieth: No, no, they don't smell as bad as Liederkrantz. I loved it. I haven't seen it in years. I think actually Liederkrantz, I think, was a brand name. I don't think it was a type of cheese.

Ms. Grigg: Do you want to keep talking about your college days or do you want to stop for today? It's up to you.

Mr. Vieth: No, no. Let's go on for another — but let's take another little

break. Would you like a break?

Ms. Grigg: Yes. (recorder stopped)

Ms. Grigg: You returned back to the University of Iowa?

Mr. Vieth: Yes. Well, I would like to talk a little bit about that because it certainly had a lot to do with my career, and it's something that I consider an interesting phenomena. Those of us who had our education interrupted by World War II and were out of college for three or more years gained a lot of maturity in our wartime experience, and as far as I was concerned it really had some very beneficial effects. I found that when I got back — and I had been just sort of an average student — I was able to handle economics courses primarily as an undergraduate within the Department of Economics. I could handle the courses much more readily, and was much more interested, and just a far better student than I had been before the war. I think that was due to the fact that you were quite a bit more mature. I took what the University of Iowa offered. Many, many schools offered the same sort of thing. It was a combined program and took three years of college and then you took your first year of law school. At the end of your first year of law school you got your college graduation.

Ms. Grigg: Oh, that explains it, the years.

Mr. Vieth: Yes, and then two more years of law school and you got your law degree. So, that was a combined course and, as I say, it was a very customary thing. It was, at least, in those days. And so that's what I did. I did really quite well as an undergraduate and then I started to do fairly well also as a first year law student which, as I say, was my final year of college credit. There was another thing about law school that was kind of interesting. The law school expanded tremendously as most law schools did because there were a lot of veterans

like myself who wanted to go, and they needed faculty. I was fortunate. Iowa Law School had some very distinguished professors that primarily taught courses filled with first year students, and I was able to have first year courses from those professors that I considered outstanding. A lot of the courses were handled by newly hired law professors. In most cases, the newly hired fellows had just graduated from law school — these were from good law schools in the East. But, the net result was, while I was in law school, particularly in my second and third year, the members of the faculty weren't much older than I was. We got to be very friendly. We got to partying together and that sort of thing, so I got very friendly with a good many members of the faculty. And it was okay because Sidney and I lived together. First, we lived together in Law Commons, and then we ultimately ended up with an apartment. We used to have a lot of parties over at that apartment. Our fellow law school students would come, but also a good many of these young professors would come, and we would have quite a lot of fun together.

Ms. Grigg: Why did you decide to do the joint program?

Mr. Vieth: I think I would have done it whether the war had intervened or not, but it saves you a year.

Ms. Grigg: I mean why law school versus —

Mr. Vieth: Oh, why law school — I remember people mentioning something about that, too. This goes back to the high school days and you asked about reading and so forth. I used to read a lot. I can remember so well a number of books that I read about small town law practice. I was from a small town myself, although not quite as small as I read about. But it's still very vivid in my memory. These were books about — I don't know how many county seat towns in Iowa I've seen that were just like this — there's a square in the center of town, and in the

center of the square is the county courthouse, and then you have four streets around that square, and there were storefront offices and so forth for lawyers — a number of these books dealt with that kind of an atmosphere. The impression I got was that in the law practice you tried cases. You tried them against the other fellows who were fellows who had offices around town like that, and you fought mightily in the courtroom, but then you'd go out to dinner together and so forth. That was what I thought that being a lawyer was all about. And that's what I wanted to do. And, so from high school days on, I planned to go to law school. That was not a sudden decision or anything like that. That was always my plan. The reason I did it in six years instead of seven — (tape ends)

Ms. Grigg: This is side B.

Mr. Vieth: I think I had finished on —

Ms. Grigg: You were talking about why you went to law school.

Mr. Vieth: Yes.

Ms. Grigg: Did you have any summer jobs when you returned?

Mr. Vieth: Oh yes. I wanted to talk about that, too. That was another phenomenon with regard to those of us who had been in the war. Most everybody who went back to law school or to college did not take summer vacations. We worked right on through. And that's the way most people did it. Most of the fellows in my law class, including Ross Sidney, took absolutely no summer vacations. They went right on through. I was a little lazy because I took a half a summer each year, so that while Ross and my other friends graduated in August of 1948, I didn't graduate until a semester later, in February 1949. But even with that, I had gone to half of the summer school. That was just part of the deal. That was just the way

most of us did it, because we were quite a bit older and were anxious to get finished with our school and get on with going to work.

Ms. Grigg: What was the most important part of your time as an undergraduate?

Mr. Vieth: Well, the most important part for me as an undergraduate, I think, was the thing I was referring to before. As I say, I had been sort of an ordinary student during my first two years. The first year-and-a-half was what it was, college. And I had a lot of fun and did ordinary things and so forth, but I don't think I was getting all that much education. When I came back after three years in the service, my entire attitude toward school was different, and I just really think that made a great deal of difference in terms of what I got out of it and what I was able to glean from it. I know that having done fairly well in the Economics faculty and so forth, ultimately helped me in searching for a job as a lawyer because I got a good deal, a good bit of support in the form of letters from, not only the law school faculty, but the undergraduate faculty, in particular, the Department of Economics, which helped a lot. I'll go into this later, in terms of the firm, Arnold, Fortas & Porter, I applied to, because they were heavily involved in economics as they relate to law, particularly antitrust. That was a very important part. I would say that was my most important influence in undergraduate days.

Ms. Grigg: And in law school?

Mr. Vieth: And in law school? Well, I remember so well the first year of law school when I did have a number of good professors who were very hard taskmasters. I've always told young lawyers, law students that the key year is your first year. And that really was my experience. We worked our tails off in that first year and we learned how to be lawyers.

Quite frankly, the second and third year, I spent my time in extracurricular activities, primarily working for the law review, which I did night and day, you know, worked very, very hard in that. But I really just handled my class work with the back of my hand. I didn't have to work very hard because if you learned technique in that first year, really apply yourself the first year, I think, you can get by in the second and third year. The third year frankly, I think, was almost a waste of time. You're a lawyer, did you have that same feeling about law school?

Ms. Grigg: We were busy with internships and law reviews.

Mr. Vieth: Yeah, well that's true. That's true.

Ms. Grigg: Law review. What was your role?

Mr. Vieth: My role in the second year of law school was to — I forget what we called them — write a large, brief, concise article, which I spent most of the year researching and that sort of thing.

Ms. Grigg: What was your topic?

Mr. Vieth: It was not very much of a topic. It had to do with agricultural law in Iowa, and I guess I've still got the article but I can't remember much about it. I do remember that faculty representatives spent a lot of time with me. It wasn't really very good. In the third year, of course, I was on the editorial board and I was editor-in-chief, and I had to spend a lot of time going over other people's work and that sort of thing. That to me was, by far, the best experience in law school, working on the law review — and really working night and day on the thing. Learning to edit other people's work. I had to do a few things like getting in touch with faculty to write the lead articles and that sort of thing, but mostly it was just about learning how to write and to edit, which is what you do so much as a lawyer. I found that to be a very, very

good experience.

Ms. Grigg: Influential professors?

Mr. Vieth: Yes, well, the older ones I mentioned, a man named OK Patton, a teacher of two very difficult courses. One was called contracts and the other was called sales. And he was a very, very tough taskmaster, and I thought he was an outstanding professor. We had another man, he was slightly older named Chris Boardwalk. He was well known teacher of property law. I'm talking about first year, the classes that were mandatory. And a Paul Sayer. I'm trying to think. Oh, Philip Meacham was the professor of wills and trusts. Those were some of the outstanding professors. As I say, I got to know some of the younger fellows. I guess among the younger ones, a man named Frank Kennedy, he was a little older. He had not served in the war. Some of the other fellows had. But Frank Kennedy was the advisor to the law review so he and I worked very closely. He was also an outstanding creditors' rights and bankruptcy lawyer. Not long after I got out of law school, Frank Kennedy came to Washington. I guess maybe ten years after I did and he started working for the Congress, rewrote the bankruptcy law. He's considered the author of the current bankruptcy law. He was a very influential professor.

Ms. Grigg: How did you finance your law school education?

Mr. Vieth: Well, I didn't finance it. My father financed it. That was sort of the way things were done in those days. By the way, I shouldn't say my father alone. The government financed a lot, seeing that I was on the G.I. Bill.

Ms. Grigg: I was wondering about that.

Mr. Vieth: Yes. With the G.I. Bill, once I came back, a good bit of my — I can't remember now what percentage was paid. But, I can tell you this, we were a lot luckier

than current students. I don't know what your experience was, but so many people now have to borrow heavily to go to college and law school, and they're stuck with a big debt at the end. I was not, because of the G.I. Bill, and because I went to a local state university, which had relatively low tuition. I came out totally debt-free and I think that was a lucky break for me, and I really feel sorry for a good many young lawyers today who come out with a big, big debt.

Ms. Grigg: By the end of law school, sort of a wrap-up question, what was your general philosophy?

Mr. Vieth: My father was a Republican, so we were raised to be that. But I had become much more liberal, I guess, in my views. I was very much a student of current affairs. I was interested in the New Deal and what it had done and that sort of thing. And, that had a lot to do with where I came to work because in reading generally about what was going on in Washington and that sort of thing, I heard about A & P, about Thurman Arnold and Paul Porter. I didn't know much about Abe Fortas. But, I heard about the law firm. I remember, as a matter of fact, writing to Thurman Arnold and asking him to review a book — I think it was primarily to review a book. I don't think I asked him to write an article. In any event, he wrote a very nice letter declining to do it. I was impressed with the letterhead. I'll never forget. I was a very close friend of a young professor named Bob Hunt, and I showed Bob the letter, and he pointed out that the last name on the letterhead was a fellow named L.A. McLory, who had been a classmate of his at Yale Law School. He was the last one hired at this firm. He said, "if you ever want to look into that firm, I'll get in touch with McLory." I ultimately asked him to do that, and Bob not only did that, but he got a number of other law school professors and university professors to write letters in support, and when I finally decided I wanted to apply here, but that's

getting beyond the story, I guess, here.

Ms. Grigg: Is there anything you want to add, talk about, from undergraduate or law school days?

Mr. Vieth: I guess not. If I had the chance to meet with you again, I'll have a chance to review some things and maybe put together some materials for you and I might be able to fill in some holes.

Ms. Grigg: That's what I was thinking. Well, should we stop for today?

Mr. Vieth: That would be fine. Right.

Ms. Grigg: This is the end of Tape One.

**ORAL HISTORY OF
G. DUANE VIETH
SECOND INTERVIEW - SEPTEMBER 3,2003**

This interview of G. Duane Vieth is being conducted for the District of Columbia Circuit Historical Society Oral History Project, on September 3,2003, at the offices of Arnold & Porter in Washington, D.C., by Traci Grigg. This is Tape Two.

Ms. Grigg: The last time we met we were talking about law school experiences. Before we move you to Washington, do you want to talk about what you did to prepare for the bar and which bar you took?

Mr. Vieth: I'd be glad to, but I'm afraid it's not much of a story. The Iowa Law School had an arrangement with the Iowa Bar Association under which the bar exam members would come to the law school and give us the exam near the end of our senior year. It really wasn't necessary to do much preparation in those days. We were pretty much asked questions that related to our law school classes and what we had learned in our law school classes. So we didn't really engage in any bar review courses and preparatory courses and that sort of thing. We just stopped one day in our senior year and took the bar exam, and it was pretty much a routine thing. I don't believe that's true anymore at the University of Iowa, and I know it's not true in other places. I've had my own sons take bar exams now, and go do the review courses and spend long hours practicing and so forth. But in any event, I was then admitted to the Iowa Bar.

Ms. Grigg: What year was that?

Mr. Vieth: That was in 1949, it would have been February 1949. And I came right out to go to work for the firm of Arnold, Fortas & Porter. I started on April 1, 1949. In those days, again, thankfully, you could become a member of the District of Columbia Bar just by being waived in on the strength of your home state, in my case, Iowa Bar membership. That's

how I became a member of the District of Columbia Bar. It was really as simple as that. I never really had to study for any of the kind of trick questions that people get nowadays.

Ms. Grigg: You were lucky.

Mr. Vieth: Yeah. I really was.

Ms. Grigg: Now, we talked last time how Professor Hunt and other professors did a letter-writing campaign for you. Did you focus in on Arnold & Porter? Did they recommend it? Did you look at any other law firm in D.C. or the government?

Mr. Vieth: I didn't look at the government or another law firm in D.C.?
No. They all very much encouraged me to, but I had indicated that was the firm that really interested me, and so that's where they turned their attention. Hunt organized this letter-writing campaign, and —I don't know —I wonder if we have files here. I never thought about asking to see those, but —

Ms. Grigg: Oh, that would be great.

Mr. Vieth: The fact of the matter is that when I arrived, several of the partners, particularly Norman Diamond, knew all about me and indicated that he had heard all these things and he had passed the information around. The firm was very small then. He'd seen to it that Abe Fortas knew about this and Thurman Arnold did. And so, when I interviewed with them, they pretty much knew something about my background.

Ms. Grigg: You were the seventh attorney here?

Mr. Vieth: I was the eighth lawyer.

Ms. Grigg: That's what I was trying to figure out. How many partners? Was it just the three name partners?

Mr. Vieth: Well, technically, there were just the three name partners at that time, yes. There were several senior people — Milton Freeman, Norman Diamond, Walton Hamilton. They had a status under which they were called partners, but they felt very much that they weren't, because they were not equity partners. That was an issue that was reached some years later, but you can call them partners if you want to, those would have been the six, and then there were two associates. I may have been the ninth lawyer, now that I think about it, because there were two associates also — Reed Miller and Leonard Nickloric. Mr. Nickloric was the contact, and he was the friend of Bob Hunt, and so it was through him that all the letters were sent and that sort of thing.

Ms. Grigg: When you got here, what did they have you do and what were your first sort of assignments?

Mr. Vieth: Well, my first assignments were to help out on various cases. I remember distinctly the very first big case I was assigned to. It was being handled by Abe Fortas. It was a price discrimination case under the Robinson-Patman Act which had been brought against the three major soap companies at the time. Our client was Lever Brothers Company. The other two companies were Procter & Gamble and Colgate-Palmolive Peet. And this was a rather large proceeding. It involved hearings around the country. The Federal Trade Commission took these hearings in. It was an administrative proceeding. At the conclusion of the hearings, we had to file briefs and that sort of thing. And ultimately, it was an oral argument. The case was kind of a landmark case on Robinson-Patman law. The decision finally came out, I think it was in 1953. But I spent a great deal of my time in the early years on that case. Now, I spent a lot of time on other things, but that was the one big case to which I was assigned. I

remember Norman Diamond had been helping out Abe Fortas on the case and he couldn't wait to get rid of it and get it on to me. And, of course, I was very pleased to have the opportunity to work on a thing like that. The thing that's interesting. There was another large case that we, I worked on with Abe Fortas and only Abe Fortas, which was finally decided actually, I think, in the year 1960. So it gives you an idea how things went on. But, no, I didn't start with it right then.

Ms. Grigg: Oh!

Mr. Vieth: How things went on. My point is, that those were big cases involving a tremendous amount of work, and the only people that worked on them were Abe and me in the *Lever* case, and Abe and me in the *Great American Life Underwriters* case which is the other one I was talking about. In those days, tons of associates and paralegals and all that work on cases nowadays — we just didn't have those people. We did it all ourselves, and we worked very hard. But we had to keep track of all the documents. I guess we obviously didn't try them as thoroughly as they're trying them now, but I think we tried them pretty well. But just in stark contrast with the way things go nowadays.

Ms. Grigg: What's your opinion about the way things are nowadays with major staffing?

Mr. Vieth: Well, it makes it so horrendously expensive to be involved in litigation, and it results in so many cases being settled just because people can't afford the incredible cost. Certainly they're being tried better now. I'm not suggesting that the large staffing is not needed because I think the resources on the other side are much stronger, too. This is just a matter of interest; I just wanted to point out the great difference between the way things

were handled when I first started and the way they're handled now.

Ms. Grigg: What was Abe Fortas like to work for?

Mr. Vieth: Abe Fortas was an extraordinary taskmaster. He was one of the most brilliant men, certainly I think, the most brilliant oral advocate I ever saw and one of the hardest working lawyers. He was absolutely ruthless in his editing materials. If you sent him something, you just made very clear, made certain, that a draft that you'd hand to him was in good shape. You know very often it wasn't in good shape — you thought it was — and he would throw it back at you with a contemptuous remark and that sort of thing. He was very difficult to work for. As a matter of fact, there's a story about Abe, which I tell to some of the young associates all the time, to describe the three founding partners, and I think it's true. Abe was at the Yale Law School. He was one of the brightest young men ever to go through Yale. And he was the editor-in-chief of the *Yale Law Journal*. He was such a ruthless taskmaster to the other members of the editorial staff. They, I am told, they all got together and en mass resigned from the *Yale Law Journal*. And Abe said, "all right," and single-handedly put out the next edition of the *Yale Law Journal*. I don't know whether that's really true, but it's a story that's been told many, many times, and I continue to tell it, and I choose to believe it. It certainly is consistent with the manner of the man.

Ms. Grigg: Do you have a favorite story from your early attorney days with Abe Fortas?

Mr. Vieth: Gee, I don't know. (laughter) There's so many. I'll have to — let me think about that.

Ms. Grigg: I'm going to stop this for a moment and check the tape.

Mr. Vieth: Okay. (recorder stopped)

Ms. Grigg: Do you want to talk for a moment about the other two founding partners?

Mr. Vieth: Yes. I'd be glad to. As I say, all three had different personalities, and that was one of the things that made this a very interesting place to practice in.

Thurman Arnold had been, well he started academically. He was the Dean of the West Virginia Law School. He practiced law in Laramie, Wyoming, in his very early days. He had been in the army in World War I. In fact, I think he had something to do — I can't remember now exactly — something to do with the border wars down in Mexico back, you know, in his early days. He practiced law in Laramie and then in shifts he became the Dean of West Virginia Law School. He was there for several years and made quite a name for himself, and was recruited to join the faculty at Yale. He was a very popular professor at Yale for a good many years. During that time he wrote several books and became quite well known on economics and that sort of thing — the *Bottlenecks of Business* and *Symbols of Government* are two of the books. He was then appointed as Assistant Attorney General in charge of the Antitrust Division at the Department of Justice, and he became known as — well, he was certainly the most vigorous trust-buster that the Department ever had. He became very, very well known for his activities there. He really went after big business, but he also went after big labor as well, because he thought labor unions — that many of their activities were generally in cahoots with the employer engaged in conduct that was against the public interest and a violation of the antitrust laws. He didn't make himself very popular with a lot of Democratic politicians by going after labor unions, but he did. He went after the American Medical Association for their practices with regard to physicians' bills and

that sort of thing and having to be connected with certain hospitals, all of which he thought violated the antitrust laws. He was very big — he was well known for that. The interesting thing about that was that when World War II started, the Roosevelt Administration decided that now was the time for industry and government to cooperate to help win the war. And it was felt that Arnold's trust-busting activities were antithetical to that and so he was in effect kicked upstairs. He was named to the Court of Appeals for the District of Columbia Circuit. He was a judge there for four or five years. He used to say that he was always terribly bored being on the Court of Appeals. He said he'd much rather talk to a bunch of damn fools than listen to them.

Ms. Grigg: I like that.

Mr. Vieth: That was his favorite remark. He really didn't care much about being on the Court of Appeals. One of the great opinions that he wrote while there was an obscenity case involving the post office. I don't know if you're familiar with that case, but one of the great concluding lines — and I can get that case for you. The post office had undertaken to deny a second-class mailing permit to a publication that they thought was obscene, and Thurman and the court found that it was not, and that the post office had no right to make a judgment like that. At the end of his opinion he said that the postal authorities could go back to seeing to it that neither storm nor rain nor gloom of night will stay these couriers from their appointed rounds. You remember, it was the famous slogan of the postal service, and that's the way he ended the opinion. It was really quite interesting. He left the bench and started a practice with a man named Arnie Wiprud who had been an ICC expert. I think he left the bench knowing that he was going to help to get as his client a Cleveland financier. Christ almighty, Robert L. Young was a partner in the group. These people were trying to get control — what was the guy's name?

(Manning Cyrus Eaton) I know it was well as I know my own, I just can't come up with it. It will come to me in a minute. But in any event, there had been an antitrust case against the railroads. In those days, the railroads, which of course were the primary form of transportation, also owned the sleeping car company, which was called the Pullman Company, and the antitrust judgment had been that had to be broken up — that the railroads could no longer own the Pullman Company. And so the Pullman Company was up for sale and Arnold's clients wanted to try to buy it. Unfortunately, they lost out in the court, and Wiprud decided to go back to the ICC. It happened about six or seven months after they had started practice, and Arnold always used to tell the story about how bleak that was, the Christmas of 1945, how bleak that Christmas was. He didn't know where he was going to go. Somehow or other he and Abe Fortas had known each other, and Abe had decided he wanted to come out of government. So he told Thurman he'd form a firm with him and they did. It was Arnold & Fortas in 1946. Paul Porter did not join until 1947. And, of course, that was the start of the firm. Paul Porter joined. I'll tell you a little bit about him, if you're interested.

Ms. Grigg: Yes.

Mr. Vieth: Paul Porter was an incredible character. He was one of the best raconteurs I've ever known. He was from Kentucky, and he had that Kentuckian ability to tell wonderful stories, to be a great raconteur. He had gone to the University of Kentucky Law School. Had been a journalist. He actually helped put himself through law school by writing for the local newspapers and that sort of thing, and then came to Washington and was working in radio law for CBS when he was appointed to the Federal Communications Commission as chairman. He was chairman of the FCC. As a result, he always considered himself a well known

communications lawyer, and his practice was pretty much in that field when he finally went into private practice. After the FCC, he was appointed the head of the OPA. Are you familiar with the OPA?

Ms. Grigg: No.

Mr. Vieth: The Office of Price Administration. They controlled prices during World War II, and Paul was about the last administrator of the OPA. Then the agency was disbanded. After his OPA experience, he was appointed by Harry Truman, President Truman, with the rank of Ambassador to head up a mission, which was called the Truman Doctrine, and it was a mission to Greece. It was an economic mission that was designed to prevent a communist takeover of Greece. You may remember that in World War II a number of Greek partisans fought the Germans, and a lot of those partisans were under communist control. The Truman administration was concerned about Communism taking over. You remember that was a big concern right after World War II. So the Truman Doctrine was designed to give economic support to Greece, and I always thought one of the interesting things about it was that clearly that program, which succeeded rather well, was the forerunner of the Marshal Plan, which came out the next year and did the same sort of thing for all of Europe. Well, Porter did that and it took about a year and then he came back, and Arnold & Fortas invited him to join the firm and he did. As I say, his original practice was very much in the television field — radio and television. And I mentioned Reed Miller. Reed Miller was an associate who almost limited his practice entirely to communications. Reed worked very closely with Paul. I even had the opportunity to work with Paul myself sometime — again, let's just go back to 1952 and see if you can remember that prior to World War II there had been some television stations that had been granted authority by

the FCC, and then when the war came they put on a freeze and no more television stations were authorized. Then in 1952, the FCC lifted that freeze and there were channels all over the country that were up for grabs. And the way you got a channel, you had to go through a comparative hearing. Well, that was an incredible bonanza for lawyers in the FCC field, because clients came from all over the country trying to get television stations awarded by the FCC, and they had to do it through the comparative process. So our firm, which was still very small at that time — I don't think we had more than 10 or 11 lawyers — we had a number of clients and they all had these cases that were now set to be tried before the FCC, and these things were tried over an extended period. Even though I was working with Abe Fortas primarily on a number of matters, I had to get in along with Reed Miller and several other people in the firm and agree to help on some comparative cases for television stations, even though that was not my field. I did that once. I learned all the procedures and helped Paul on a very large case, the *Channel 10* case in Miami, Florida. But that was sort of the way we did things in those days. We considered ourselves generalists. And wherever the need arose in the firm, we would study up a little bit on the law involved and get in there and help to try the cases. That's an example of what we did there.

Ms. Grigg: What did you consider your field of law?

Mr. Vieth: I considered my field mostly antitrust because that's what I worked on with Thurman and with Abe Fortas. And securities laws because I did a number of things in the securities field as well. I told you that Paul Porter was quite a raconteur. There's some kind of interesting kind of stories about him. He always was wonderful. Let me tell you about this also. I may have mentioned this before, but we had a garden room, did I tell you?

Ms. Grigg: Right. Yes. I saw the one you have here.

Mr. Vieth: Right. You saw it now. Well in those — of course, when we first started we were in the Ring Building. There was no garden room, but we would either go into Thurman's office or Paul's office at the end of the day and sit there and have a drink. We had a kitchen which had a bar in it and that sort of thing, so, you know, I'd love to just go in and listen to their stories. But I want to tell you this one story. I told you about Greece. Paul Porter was over there, and his number one aide was a fellow named Steve Ailes. Well Steve Ailes ultimately became the head of a very large firm here called — unfortunately he died recently — Steptoe & Johnson. Ailes was his aide at that time. Porter at the end of his mission there — they were going to have a gathering and local people and so forth. He didn't speak any Greek, but he wanted to be able say thank you at least to the Greek people. So the word thank you in Greek is "efharisto." Well he couldn't get it down. Ailes told him, "look," he said, "just think F. Harry Stowe, F. Harry Stowe." So Porter gave his final speech and then at the end he and with a great flourish he said, "and so my friends I say to you, Harry F. Stowe". And there was dead silence. And he looked back at Ailes and said, "you," I forget; some remark to him, but it was a typical Porter joke. It was — I thought it was very funny.

Ms. Grigg: That's great. Because Mr. Arnold went after all the big business when he was in the government, did he have trouble getting big business to come to him or were they happy to have him on their side?

Mr. Vieth: I think they were happy. As I told you, Cyrus is the name that I couldn't think of before. It was Manning Cyrus Eaton. He was a large financier of Cleveland and Robert R. Young was a financier from New York. They were the ones that were trying to buy the Pullman Company. He had that retainer, and when he left and opened his practice, he

had a retainer from Robert Woodruff who was then the head of Coca-Cola Company, and Thurman represented Coca-Cola for a long time. As a matter of fact you see in those days there weren't many Washington law firms and people with government experience of that kind could attract clients so that I don't think for, no, no, there was no — the only problem we had with regard to some big business clients, and this was really only one, had to do with our activities in the McCarthy era and the fact that we fought McCarthy and represented government employees in proceedings involving communist charges. One of our clients objected to our activities in that regard, but otherwise we got along just fine. By the way, have I given you that *Harper's* article?

Ms. Grigg: No.

Mr. Vieth: Then I should do that, too. I should have brought a pad here. I briefly alluded to the McCarthy era activities and maybe I should talk a little bit more about them. It seemed that when the House Un-American Activities Committee started its activities going after various government employees that they thought had communist tendencies, along came Joe McCarthy, the Senator from Wisconsin who undertook to make his career out of finding disloyal government employees, particularly, in his case, in the State Department. There was quite a lot of hysteria with regard to that sort of thing. I think the Truman administration meant well, but President Truman felt, I think, that he had to do something to respond to that kind of hysteria so he promulgated the loyalty program for federal employees, and Arnold — Fortas & Porter — undertook to do whatever they could to — really two things. One, we agreed to represent government employees who were caught up in the loyalty program, and I'll tell you what we used to do for them. We did that all on a pro bono basis. But secondly, we undertook to try to find a case that we could take all the way to the Supreme Court if necessary — as it

turned out, it was — to have the entire program declared unconstitutional. We came very close to getting that done. Unfortunately, we ultimately lost by a four to four decision. Let me tell you a little bit about what the firm did in those days. From my standpoint and that's really what I'll talk about. I was just a brand new lawyer, but I was encouraged to devote one or two hours a day, almost always at the end of the day, to meeting with government employees who were caught up in the program and to help them handle the matter. Now I don't want to overemphasize this because a great deal of what we did in those days was just help people prepare a response to a questionnaire. You got to remember that there was a lot of hysteria then, and these people were just government employees — that was their only form of livelihood, and they would get a questionnaire under the loyalty program asking about alleged associations or Communist activities that they'd engaged in. That would absolutely terrify them because they were afraid that if they lost out on that, they would lose their job, and they didn't know where they'd go. Many, many of the questionnaires were sent to people who had just belonged to one organization. And it was up to us then to respond to that questionnaire and make it clear that this was either an innocent thing or that the organization was perfectly all right. I'm going to give you an example of that. Pursuant to the loyalty program, the United States Department of Justice, the Attorney General, published a list, which was known as the Attorney General's list. This was a list of some 70 or 80 allegedly Communist organizations. If any federal employee had ever belonged to one or more of those organizations, he was bound to be caught up in the loyalty program, get a questionnaire. If the questionnaire procedure was not satisfactorily answered as far as the government was concerned, a hearing would be called. I'll tell you something about the hearings in a moment. But that's the way the thing worked. Now, of course, many of the

organizations on the Attorney General's list were obviously Communist organizations of one kind or another. But it went all the way down to organizations that were really as far as people were concerned were perfectly innocent. I'll give you an example. There was an outfit in Washington in those days called the Washington Bookstore. It was run as a cooperative, a consumers' cooperative, and you could belong to the thing, and you'd buy books at the Washington Bookstore. At the end of the year, they would declare a patronage dividend you know and you'd get some money back. It was a way of getting books at a discount. By the way, there were no such things as discount stores in those days. The fair trade laws were vigorously enforced, and there just wasn't a Crown Books or anything like that. So this was a place where people could buy these books and get the discounts. And a great many government employees would join. Well, it turned out that the Washington Bookstore, in addition to selling books, did have a meeting room or hall of some kind, and they did allow Communist-oriented meetings to be held there. Apparently, you know, some of the owners of the bookstore, or the entrepreneurs, they weren't owners, but the people who ran it, may have had some sympathies like that. In any event, the bookstore got onto the list, and so every poor government employee whoever bought anything at that bookstore was caught up, and these people would be terrified. Well, what I would do for two or three hours in the afternoon would be to meet with these people and help them prepare their answer, and try to calm them down, and get their answer, and get it notarized by someone in the office, and send it in. Usually that was the end of it as far as they were concerned. But there were a number where much more serious charges were brought and in those cases I would either handle them myself or — I remember one case, a rather prominent fellow, Thurman was asked to do it, and so Thurman left it up to me. I prepared the whole case

and we presented it. About the only thing you could do in those cases was to bring in witnesses who knew the government employee and could testify to their good character and then hope that things would turn out well, and generally they did.

Let's now go to the campaign to have this entire procedure unconstitutional. The case was known as Dorothy Bailey. Dorothy Bailey was an employee of the Labor Department. She was some kind of an expert on, I don't know, wages and hours and that sort of thing. And she was a union member. Milt Freeman in our firm was, one of the young partners, was active when he'd worked for the SEC and he'd been active in union activities. So when Dorothy Bailey got a questionnaire and it went further and charges were brought against her, she came to Milt and Milt got the firm involved in it. There were several layers of jurisdiction. The first was the Federal Loyalty Board, and there were hearings before the Federal Loyalty Board. I remember that Paul Porter and Milt represented Dorothy Bailey in that. In the course of that Paul made a wonderful record because these members of this Loyalty Board kept reading statements which suggested that Dorothy Bailey had somehow or other participated in various communist activities. They'd read their statement and they would say to her, "What is your response to that?" And Porter said that he wanted to know who were the informants and how reliable they were, and the Loyalty Board said we don't know. These are just FBI reports that we get. We don't have the names of the informants, we have to rely on the FBI and reports. Porter did a very good job of making it clear that in this whole thing there was no opportunity to cross-examine — not even an opportunity for the accused or even the judges — the board deciding these things — to know who the informants were. It was just based on FBI reports. Well, we thought we had a pretty good case there. You had to take an appeal to the Loyalty Review Board. We took an appeal and

argued the same sort of things. I say we did this. This was done by Milt and the others in the firm. I just did some legwork from time to time. The Loyalty Review Board affirmed, so we took the case to the U.S. District Court and drew Judge Alexander Holtzoff, who was a real curmudgeon. I don't know if you every heard about Holtzoff. In any event, there were two days of argument there. I went to the argument and was the third man. It was really Thurman and Milt Freeman, and Judge Holtzoff decided against us. We took the case to the Court of Appeals and lost by two to one, but the dissenting opinion was such a ringing denunciation of the whole process and how un-American it was that I remember that in filing the Supreme Court brief in support of the petition for cert., we just used the dissent of the dissenting judge. Well, the Supreme Court agreed to hear the case, and it was a great argument. Thurman argued most of it, Paul Porter did part of it. And, unfortunately the court split four to four, so they affirmed the decision below on a four to four decision. We were unable to get the loyalty program declared unconstitutional. That's the case of *Bailey v. Richardson* – that was the name of it. And it's Bailey against Richardson in the District Court and the Court of Appeals, and, of course, there's no opinion in the Supreme Court four to four. We later on brought another case involving a fellow named Dr. Peters, who was a prominent physician on the Yale — he was a consultant to Yale. Something like a dollar-a-year man consultant, but because he was a consultant he was a government employee and he was charged. We had pretty much the same sort of facts. We took the thing up to the Supreme Court. We thought we were going to finally get the thing done there. This was near the end of the McCarthy era by this time. And I'll never forget, Thurman was so mad. He argued the case. In fact, in the *Peters* case what had happened was he had been cleared by the Loyalty Board, but then the Loyalty Review Board undertook to review it, and they

reversed and held that he was ineligible for government employment because of Communist sympathies. What the Supreme Court did was decide the case on that basis. Dr. Peters won. We won, but not on the basis we wanted. They held that the Loyalty Review procedures did not permit the Loyalty Review Board to reach down and take a case and reverse it. So Thurman pleaded with them not to decide it on that basis, but they did. By that time, the hysteria was pretty well over. But, that's some indication of the kind of thing that we did in the firm in those early days. And we did that because there weren't any other big law firms that were willing to take cases like that.

Ms. Grigg: That's interesting.

Mr. Vieth: You know fellows like Joe Rauh and Tom Eaton — he wasn't in a large firm. Abe Fortas once said we did it because nobody else would do it. There were young lawyers that would do it. You know in those days Ed Williams did not have a firm. He was over there on 17th Street and he had a stable of fellows — he had an office with and then he had a number of younger lawyers — Tom Warden and Murdaugh Maddon were good fellows. They shared office space with him and he would use them from time to time in cases. Murdaugh Maddon was one that we knew pretty well and we often got him to handle some of these loyalty cases we couldn't handle. There were just too many for us. So young lawyers like that would do it. But there was no firm that would take on cases like these. Abe Fortas just said it was something we had to do so we did it.

Ms. Grigg: Was it the start of your pro bono program?

Mr. Vieth: Well in a way it was. It clearly was. Because once that was over we decided we had to have some sort of a pro bono program and did.

Ms. Grigg: Was Mr. Fortas the managing partner from the time you started and a title that maybe evolved later?

Mr. Vieth: No. There was no title. He was just it. There's no question about it. He ran the firm — lock, stock and barrel. Thurman had no interest in that and Thurman really felt that Abe had saved his life when things were so gloomy in 1945. Neither did Paul. No question. Abe Fortas ran the place and he did so until 1965 when he left. I was sort of appointed by Abe to be his assistant on all those things and so it was sort of natural that when Abe left, they sort of made me the managing partner of the firm. Before that there had been no managing partner and didn't have to have one. He was it.

Ms. Grigg: What was his managerial style?

Mr. Vieth: Well, he was kind of imperious about it. No question about it. He had great charm. He could charm the ladies wonderfully. You didn't ever cross him. You mustn't do that. I told you that story about the *Yale Law Journal*, and I think this is certainly true. He never expected associates, young partners, whatever, people working for him to do more than he was willing to do himself. That was one thing about him. You know in those days, the workday always included Saturday and you were lucky if you got off after lunch on Saturday so you could have Saturday afternoon and Sunday off. And Abe worked hours like that all the time. Just he never really stopped working. But even when he finally left, the firm was not that large. You're talking about a management style — it was just so completely understood that he'd be — he was the boss — and that nobody questioned it.

Ms. Grigg: How many lawyers were here when he left?

Mr. Vieth: Let me look that up.

Ms. Grigg: What would be a typical workday? What time would you get in and when would you leave?

Mr. Vieth: You know, it's a funny thing there. We worked long hours. Generally speaking we didn't start too early, maybe 9:30 a.m. — something like that, but you could work until 7:00 p.m. And as I say, we worked on Saturdays, too. And of course, we would pull all nighters once in a while. People still do that, I guess. Can we stop for just a minute?

Ms. Grigg: All right. (recorder stopped)

Ms. Grigg: You were going to talk about some of the early cases. Some more on Abe Fortas?

Mr. Vieth: Yeah, well, I told you about the *Lever Brothers* case that we tried together. I guess that was finally decided about 1952 or 1953. But the case that gives you some idea what kind of advocate Abe Fortas was involved the Otis & Company, the Cyrus Eaton Company. As I say, Otis & Company at the time was a large financial organization. It no longer exists. But Cyrus Eaton was quite a financier. The case involved a new car company which Henry Kaiser and Joseph Frazer started right after World War II. There were some thoughts that all of the automobile manufacturing facilities had been taken over by the government during World War II, and they made tanks and jeeps and that sort of thing. As part of, I guess, the general antitrust philosophy it was thought that there should be some new companies — shouldn't just have Ford, General Motors and Chrysler. So Kaiser Frazer Company came along, Henry Kaiser. They started making automobiles and were being financed a lot substantially by Otis & Company. They finally came around 1946 or '47 — I guess, they were ready to come with a very large, what we call an IPO now, a stock underwriting. The market got a little dicey,

and for whatever reason, Otis & Company decided in the end that they didn't want to go through with this thing. If it failed it would mean the end of Kaiser Frazer, which was — moving along — I remember the Kaiser Frazer automobile. Just to make a long story short, at the last moment, someone filed a lawsuit against Kaiser Frazer, and Otis & Company took that as an excuse to back out of the deal, and the deal tanked. Oh, Kaiser Frazer fought an enormous lawsuit against Otis & Company and claimed — and indeed the SEC believed this and brought a proceeding against Otis & Company as well — that Otis & Company had instigated the lawsuit which they then relied on to — and I think, just between you and me, I think the evidence was pretty damn clear that had happened. Kaiser Frazer brought a suit against Otis & Company, and the SEC also brought a proceeding against Otis. We handled that, too, but that's not an issue I want to talk about. The District Court rendered **an** enormous judgment against Otis & Company. We hadn't tried that case. But, then, by the way, Otis & Company had been filed in bankruptcy. They couldn't afford — (recorder stopped)

Ms. Grigg: We were at bankruptcy when the tape recorder stopped.

Mr. Vieth: Yes, Otis had to go into bankruptcy because they couldn't afford to pay the judgment. Well, an appeal was taken to the Court of Appeals for the Second Circuit and Abe Fortas argued the case. There was not really much point in trying to argue that Otis & Company had not generated the call. Rather, what Abe argued was that the prospectus in connection with the offering was false and misleading and that Kaiser Frazer was responsible for that, and therefore they couldn't have a recovery for a failed underwriting when the underwriting itself was unlawful. And, he managed to get the Court of Appeals to adopt that theory and we won the case. It was one of the greatest arguments I have ever heard. It's not the kind of thing

you'd like to tell in Sunday school classes, but, in fact, it was a brilliant piece of lawyering, and Abe pulled it off. I will never forget how impressed I was by that.

Ms. Grigg: Did you attend the oral argument?

Mr. Vieth: I did not. I was unable to do that, but I was told that it was really a fantastic argument.

Ms. Grigg: Did you get to go to any of his oral arguments?

Mr. Vieth: Oh, yes. I went to go to the *Lever* case. Another case that I had with Abe Fortas, I mentioned it in one of those — it was a really long big case. Again — when I think back how he and I used to do it — I can remember sitting at home on Sundays, working away on these exhibits and so forth. It was called the Great American Life Underwriters. This was a company that was — technically it was **an** investment company, known as a unit investment trust. When the Investment Company Act of 1940 was passed, this company registered as an investment company under the Act, and then promptly forgot that it had registered and operated for seventeen years as an investment company without complying with the requirements of the Investment Company Act, which are extraordinarily complex. Believe it or not, the company was extraordinarily successful. It had always dealt very fairly with its investors and did it very, very well. But after seventeen years, it was suddenly discovered by the SEC that they had filed an original registration and then never done anything else, and the SEC had missed it, too. So the question was what could be done. And meanwhile the — I should mention that you invested in, bought a ten-year certificate, and at the maturity of the certificate you didn't get your money at the time that you were entitled, you got shares in Franklin Life Insurance Company. Franklin Life Insurance Company controlled this account. It had become

really a major, major enterprise. Well, the question was what do you do about this. They came to us with it and Abe and I decided that there was only one thing to do and that is to go back over seventeen years of history and show with regard to all major transactions how the company had treated investors and others completely fairly. That was an enormous task. We did undertake to do that.

Ms. Grigg: Pre-computers!

Mr. Vieth: Yeah — pre-computers. That's right. But we did that and we filed a petition with the SEC to give them a retroactive exemption back to the day they registered, seventeen years before, and it was a tremendous undertaking. We started in the mid-'50s I think we finally finished it around 1960. We got the exemption. The SEC battled us, but they couldn't find that there had been anything untoward in the way the company had been run. That was the kind of thing that we liked to do. By the way, I don't want to say that we did that entirely ourselves. We worked very closely with Skadden Arps on that. Bill Timbers was the partner in Skadden Arps. He had been the SEC General Counsel and Joel Flam and Barry Garfinkle worked with us also. But that was an enormous case. Well, I can't remember all the cases I worked on through the years, but there were lots of them.

Ms. Grigg: Well, how did your practice evolve? When you were a young lawyer, you did a lot of prep work for the senior partners, but when did you get to start going to a courtroom or —

Mr. Vieth: Well, I guess it must have been along around 1970 or so. I — well maybe no — I guess it must have been before that. I'm just trying to think of the first time. For instance, several loyalty cases I tried. While they were not strictly court cases, we always — that

was another thing I learned from Abe Fortas, we always treated the so-called judges, the panel members on those review boards, we treated them with the same kind of elaborate respect that you do with judges because we thought that was just a good way to do. So we did that. I argued several of the motions in the *Lever* case, but there's no question that Fortas was the head man there. By the way, in the *Lever* case — also I mentioned that, but there were three high-powered law firms in that case. Proctor & Gamble was represented by Kenneth Royal of New York and their principal firm in Ohio, and Colgate was represented by Lord Day & Lord in New York. Everything we did in that case had to be done on a coordinated basis because we were all three charged with the same thing. So I didn't get a chance to argue many things but once in a while when Fortas was unavailable I would argue minor motions. I don't know, it's hard for me to remember exactly when I started. You asked about my practice and so forth. As I indicated, I, you know, I used to do a lot of different things. But I was primarily interested in antitrust and we represented Federated Department Stores. Abe, again, was the principal on that. But I would work on a great many matters with him. Lever Brothers Company was a long time client and we did a great deal of counseling with them. And, as time went on, the General Counsel of Lever or other officials of Lever would call on me rather than Abe when Abe was busy and so forth — he had a lot of things to do. So that's how my practice sort of developed. It just sort of evolved.

Ms. Grigg: You've described yourself as an antitrust lawyer and not as a litigator, so over time, did you move more into proactive advice and counseling?

Mr. Vieth: Yeah. It was mostly that. I did try some cases, but it's mostly helping on earlier cases. The one large case I did try involved Allis-Chalmers, which acquired a tractor company — Allis-Chalmers was in the tractor business — tractor and lawn mower

business and so forth. They acquired Simplicity Manufacturing Company in Wisconsin, which also made a very fine small tractor and mower and so forth. The government challenged that and we had a full-scale trial in Milwaukee and won the case. That was a trial that took two or three years with various hearings back and forth and that sort of thing. It's a little hard for me to tell you exactly when I did start doing those things on my own. But I was saying is that I used to do some small things on my own right off the bat. I remember trying several cases in the Superior Court down in the District of Columbia and that sort of thing. God, it's hard to remember all those things.

Ms. Grigg: During this time, the '50s, isn't that when you met your wife?

Mr. Vieth: Yes.

Ms. Grigg: Do you want to talk a little bit about your personal life during —

Mr. Vieth: The '50s? Yeah, I was single when I came to town. I lived in — I think I told you this — lived in a house in Georgetown and my wife lived in a house on another street, just the next street over. And that's how we met. And, let's see. Well, I was married in February of 1952. I'll give you an idea — my wife always talks about this. The very first date I had with her was in 1951, sometime in the fall. I guess I could establish the time because I invited her out to dinner, and then I had to call her and tell her that Abe Fortas had given me an assignment. This was a Friday night, and sometime Friday night the Korean War had started, and the Truman administration had decided to reimpose price controls. They set **up** an Office of Price Stabilization, I think it was called — OPS rather than OPA. The first regulation of the OPS was to be issued that Friday night, but nobody knew exactly when it would happen. Fortas told me that I had to go down to the Office of Price Stabilization, which was then along the Mall. In

those days, there were a number of — temporary buildings had been built in World War II, I guess, and they were still there until, I don't know, I forget what time they knocked them down, but in any event, that's where the Press Office was. I had to go down there. So I told my wife that she had to come over even though I was — she had to come over to my house and we would wait by the phone. And she did and we waited by the phone. Then I had to go down and get — the release when it was finally available. I got it and then took her out to dinner. Then, of course, bright and early the next morning, Saturday morning, I was down there, and Abe Fortas was in the office and I gave it to him, and we analyzed the thing, and then he called a number of the clients. That was the kind of thing he felt was very important to do. But she always reminds me that I made her walk over to my house, rather than my coming over to pick her up on this date.

Ms. Grigg: And then you had your three children?

Mr. Vieth: Yes. Our first child was born in 1953. I guess he's — what, how old is he now — he's 50 years old. That's hard to believe, isn't it? We actually had four children. One of them was lost at age two-and-a-half, our second son, yes — he drowned. We were on a holiday and what it was — one of those things that I'd been working very hard. We had moved into a new house and I had a weekend off. We took the kids over to Ocean City. It was in September, after the season was over. He just got away. He was so intrigued with the pool, swimming pool there that he went and jumped into the thing and got away from us, and we didn't find him until it was too late.

Ms. Grigg: Oh, I'm sorry.

Mr. Vieth: Yeah.

Ms. Grigg: You have another son?

Mr. Vieth: Then I had another son born in 1956 and then a daughter born in 1962.

Ms. Grigg: Let's stop for a moment.

Mr. Vieth: Sure. (recorder stopped)

Ms. Grigg: All right.

Mr. Vieth: I mentioned that I had done a lot of antitrust — some antitrust, mostly counseling, and that was the greater portion of my practice. But, I guess sometime in the early '60s, we started representing several mutual funds. One in particular, a large fund known as ISI or Insurance Securities Incorporated in California, we undertook the representation of them. Abe Fortas — they came to Abe because they had a real problem with the SEC and we worked on that problem for a long time. It seems to me not long after we started that, Abe left the firm, and I took it on and carried on with it. Then I continued to represent ISI for many years thereafter. This was a mutual fund that sold — it's kind of unusual. They charged a sales load on the sale of the fund shares. Of course, that's very common in the industry, but they had an unusual arrangement under which the shares terminated at the end of ten years, and if you wanted to stay in you had to buy new shares, and pay a new sales load. This was very profitable for the company.

Ms. Grigg: I bet.

Mr. Vieth: But the SEC didn't much like it. We had a terrible time working our way out of that problem. We finally did, but as a result, I became rather active in mutual fund work. Another major client that we got around that time in the mutual fund industry was

the trade association itself known as the Investment Company Institute. The Investment Company Institute was engaged in a variety of projects. Again, they wanted Abe Fortas and that's how we started. But, it wasn't long after that he left the firm. They were engaged primarily in a fight with the banking industry at the time. The banking industry was trying to get into the mutual fund business and the ICI and its members were trying their best to keep them out of the business. We were arguing that the Glass-Steagal Act prohibited banks from engaging in any kind of investment business including the mutual fund business. That was really a big fight. It was a big fight in the Congress. It was a big fight in the courts. We filed the lawsuit and we ultimately took it all the way to the Supreme Court. It's one of only two cases I ever argued in the Supreme Court. It's known as Investment Company Institute against Camp, and I won the case. It involved actually a kind of a mutual fund that Citibank Citicorp was trying to set up in those days. I think it was called First National City Company at the time, as a matter of fact. We got the court to hold that was a violation of the Glass-Steagal Act. There was a later case that I brought on behalf of ICI that I lost and since then the floodgates have opened. I mean the banks are in the mutual fund business and securities business generally right and left. But I was involved in that fight for a long, long time and, as I say, was successful for a while. But ultimately, I guess the battle was won, but the war was lost. I believe because of a conflict we had to drop ICI some years ago and I haven't done anything for them in recent years. When I say some years ago, I guess it's at least fifteen or twenty years ago that we stopped. As a result, I had a number of mutual fund clients from various transactions so that I — that's another area of practice where I spent a fair amount of time.

Ms. Grigg: Did you ever consider taking a position in the federal government

for a period of time and leaving private practice and then coming back?

Mr. Vieth: You know, I never really did. Certainly, all of the people who I admired in the firm when I first came had all had significant government jobs of one kind or another that had helped them tremendously in their practice. I don't know, for some reason, I just was so wrapped in the practice of law right from the start, that I never gave any thought to that. Some of my predecessors — some of the successors who came in, such as Bill Rogers in our firm here, he came in not long after me. Bill left several times — one first to become director of the Aid Program for Latin America, and then came back to the firm, and then left again to become Deputy Secretary of State. But that's something I never really thought about. I guess I never really thought I had time. (laughter) By the time, I was through managing the firm and so forth, it was much too late to do it. I was already 65 years old at that point.

Ms. Grigg: Is there anything else you want to cover today?

Mr. Vieth: I think that's about it today.

Ms. Grigg: We covered a lot of territory.

Mr. Vieth: You wanted to talk then about the management. I'll spend a little more time trying to get myself up to date on what happened after I became managing partner and so forth.

Ms. Grigg: Okay.

Mr. Vieth: We had some crises.

Ms. Grigg: (laughter)

Mr. Vieth: And we will, the next time —

Ms. Grigg: I'm going to turn the tape off now. Thank you.

**ORAL HISTORY OF
G. DUANE VIETH
THIRD INTERVIEW - OCTOBER 1,2003**

This interview of G. Duane Vieth is being conducted for the District of Columbia Circuit Historical Society Oral History Project, on October 1,2003, at the offices of Arnold & Porter in Washington, D.C., by Traci Grigg. This is Tape Three.

Ms. Grigg: All right. We were going to pick up this time from the mid-1960s. When did you become managing partner?

Mr. Vieth: Sometime in 1965. But let me just give you a little background on that. As I think I mentioned in some earlier interviews, the firm was very small in the early days, and it was clearly run lock, stock and barrel by Abe Fortas, and there was no question about that. Abe Fortas relied on me to be his assistant in a lot of things having to do with running the firm. But there was no question who was the man in charge. In September 1965, much to the surprise of virtually everyone, Fortas was appointed Justice of the Supreme Court, and had to leave the firm. This was something we really weren't prepared for at all, but it was a fait accompli, and we had to deal with it.

Ms. Grigg: Was he surprised also?

Mr. Vieth: Well, the stories around that time are that he, yes, he was surprised. He had been approached by President Lyndon Johnson on a number of occasions. Fortas was very close to Johnson. Indeed, a lot of people feel that Fortas had a great deal of responsibility for getting Johnson into the political life. I don't know whether you've ever heard the story about the 1948 senatorial elections.

Ms. Grigg: Go ahead and tell it.

Mr. Vieth: Lyndon Johnson defeated Coke Stephenson and became Senator

from Texas. There were a lot of allegations of improprieties with respect to that election and the Coke Stephenson people brought a lawsuit challenging a number of things. The federal district court agreed with the Stephenson people, and intended to delay the primary election. This was a primary election for the Democratic Party, and election as a Democratic candidate was the same thing as being elected to the Senate. In other words, you were going to win if you were Democratic. Stephenson won his case in the district court and, I can't remember now, but I think it also went to a court of appeals, and he won there. So the question came out what should be done. Johnson had a number of lawyers, sort of friends of his working with him on that — well-known names at the time, like Tommy Corcoran and Abe Fortas. Abe Fortas really ultimately took charge of things, and managed to get a stay from the Supreme Court so that the election went ahead as scheduled. Johnson won and he won by fewer than a thousand votes. That's why he was always called Landslide Lyndon. But if Fortas and Johnson had not been close before that, they were certainly very close after that. Johnson always admired Fortas. Fortas was one of the first people Johnson called on when he became President after John Kennedy's assassination. Let's see that assassination was in 1963. For the period thereafter, Fortas spent an awful lot of time counseling Johnson on his activities. I'm certain, I didn't know at the time, but I've heard that Johnson many times asked Fortas to agree that he could go on the Supreme Court. Fortas always declined. The story is that Johnson was about to make another speech to the nation and, in effect, to the Congress asking for an additional 50,000 troops to be sent to the Vietnamese War that was going on and raging at the time. Fortas was a close adviser to Johnson in connection with those activities. He called Fortas in just before he was making his press conference and told Fortas that he was going to ask for 50,000 more troops. He said that's a great sacrifice for them

and I'm going to also announce that you're appointed to the Supreme Court, and you have to make that sacrifice. Fortas was really in a position where he couldn't say no. So, the announcement was made and I don't think Fortas had any more notice than that. In any event, that was quite a thing for Abe Fortas. And it was quite a thing for our firm. At the time we had about 45 lawyers and we had really no firm organization at all. The thing had been run, as I say, pretty much by Abe Fortas. It would have meetings. I usually conducted the meetings, although again, as I say, Fortas was the lead who was in charge — no question about that. We would have meetings and we would elect new partners at the end of the year and that sort of thing. We conducted them as if they were the democratic process and that sort of thing. But, in fact, it was pretty much Abe. Well, when Abe left the firm, it was necessary for us to organize. We didn't really have an elaborate partnership agreement at that time. It was more or less agreed that I would prepare a partnership agreement and we would set up a formal structure for running the firm and I did. I remember some of my senior colleagues at the time didn't like some of the provisions that I put in the first draft. We had quite a few discussions about that. But ultimately we came up with a partnership arrangement. By the way, I relied heavily on the partnership arrangement of Covington & Burling, which was a large firm at the time, and they were nice enough to let me see what — or tell me at least about what their provisions were. So I pretty much followed that. The partnership agreement provided for an executive committee. The original committee was named in the agreement. There were five people. The executive committee would be in charge of the firm and there would be a managing partner, and I don't think we ever had an election for that. I was just sort of assumed to be the managing partner until I finally semi-retired in 1986, I guess.

Ms. Grigg: Did you intend to serve from 1965 to 1986?

Mr. Vieth: No, I never thought it would come to that, but it did. The agreement set forth a number of procedures as to how we would elect partners and how we would advance people, and we pretty much followed those procedures from then on. I know that at some point in the late '70s, the firm was growing very rapidly. We were at that point up to 70 or 80 lawyers and there was a feeling that we needed something more than just one single managing partner. We had a large retreat — I remember that — a retreat of partners up in Bedford, Pennsylvania. At that time, there was a very elaborate resort hotel in Bedford, Pennsylvania. It used to be the site of the District of Columbia Bankers Association conventions every year. We went to that hotel and had our retreat. By the way, that hotel subsequently burned and it's never been rebuilt.

Ms. Grigg: Oh, no.

Mr. Vieth: Yes, it did. It was quite a place. It had a golf course, and it was a very elaborate place. I think there were some natural springs nearby and all that sort of thing.

Ms. Grigg: I recall going there in the early '70s with my family.

Mr. Vieth: Did you? Sometime thereafter, it burned. In any event, at that meeting, it was decided that we should reorganize to some extent and have a managing partner who was a younger partner and who would be in charge of managing the firm and its non-legal personnel and that sort of thing. We set up a number of partners who would work under the managing partner to be in charge, with one for instance in charge of the secretarial force, another in charge of other employees, and that sort of thing. At that point, and I was named chairman of the firm and a younger man, David Kentoff, became the managing partner. David worked very

well in that role for a long time. But that's pretty much the way in which the firm organization was set up.

Ms. Grigg: What was your management style?

Mr. Vieth: My management style. I guess, in one word you would describe it as consensus. I always believed that I had to have pretty substantial consensus for anything that I did, and I strove to get that, and if I could get it — it generally worked that way and it worked out all right. I think I was lucky in that my partners had some confidence in me and so they would go along with things. Although not by any means everything — I mean — but if I sensed that some position I was taking was not widely popular, I would change, because I really was trying to work a consensus every time and generally I managed to get that.

Ms. Grigg: Someone told me at some point you were given a Golden Glove award or the Golden Elbow award.

Mr. Vieth: Golden Elbow Award. (laughter) Well that's — that's just kind of a joke. Indeed there was — I think I still have it — literally a little sculpture that looked like an elbow. But that was because I had a reputation of dealing with associates or partners or non-legal personnel in a way that I tried to be kind of avuncular with them would grab them by the elbow and then talking to them and so forth. So they literally came up with this idea of a Golden Elbow and they gave it to me.

One of the things that is very important in managing a law firm is determining — well there are two things really important. One, how do you get clients and what do you do with regard to taking on clients? And secondly, how do you staff the matters, how do you make sure that the legal services that the client hires you to perform are performed well, in a first-rate

manner? With respect to the second point about how you decide this, when you have a number of partners, and we did have — once Fortas left we had a number of people who began to assert themselves to get their own clients, and our rapid growth is in large measure a testament to the fact that happened. But if a younger partner brought in a client, he would want to have it properly staffed. In the early days, I used to try to handle that all by myself.

Ms. Grigg: Oh my goodness.

Mr. Vieth: Then a case would come in and the partner would come to me and say I need A, B, and C, and I'd have to try and figure out — try to keep track, in the early days when it wasn't too large, of what all the associates were doing so that I knew who was available and that sort of thing. I very often almost entirely had to negotiate with other partners to allow an associate who was working for them to give part of his time to this new matter that another partner had brought in, — that kind of thing. I consider that a very important part of the job of managing the law firm. I should explain in connection with that, this firm prided itself in those early days and for a long, long time, probably longer than we should have, we prided ourselves on the fact that we were a bunch of generalists and did not have departments. We did not have specialists. We were good lawyers. We could handle almost anything that came to a Washington lawyer. And, so that was the way we operated. Could I just take a break for a minute?

Ms. Grigg: Yes.

Mr. Vieth: Okay. (recorder stopped)

Ms. Grigg: You were saying that the firm prided itself on being generalists.

Mr. Vieth: Yes. We did and we had no departments, so that, in effect,

whoever was trying to keep track of the legal personnel had to know what everyone was doing, and sort of parcel them out that way. That prevailed for quite a long time, as a matter of fact. As we got larger, we still pretty much operated that way. Of course, ultimately, I would say sometime around the late '70s, it became really impossible to do that and that was primarily for two reasons. One, we were much too large for one person to keep track of what all the lawyers were doing. And secondly, the nature of the practice of law changed. It really became necessary for people to become specialists in certain areas of the law because they could provide legal services to clients in a much more productive and cost-effective way than the generalist approach where one day you might claim that you were a great expert in antitrust, and the next day you were a great expert in securities laws, and the day after that in food and drug law, and that sort of thing. Those areas became highly specialized and it really was necessary for people to start to specialize to some extent in their practice. See, in the early days I do remember working on a Robinson-Patman antitrust case as one of my first major assignments; and then not long after that I worked on a couple of large Federal Communication Commission matters, and then not long after that, that is, those were comparative hearings on who would get new television stations, and then not long after that I worked on a couple of major proxy fights which involved the SEC rules and regulations dealing with proxy contests. I didn't really have any background in any one of those things when I came here. I'd get the assignment and I would learn as I was going along. You really can't do that any more. The clients won't pay you for your educating yourself on their time, and they insist on dealing with people who really are very knowledgeable in areas. So that there did come the time when we divided the firm into — we still don't call it departments; — we call it practice groups. But there is no question now we do have practice groups that specialize in

various areas and every practice group has a responsible partner, or two responsible partners in some cases, and that's what we call it. I suppose somebody would say well, you are just kidding yourself; those are departments, and I guess they are department heads. But that is the terminology we use. I can't tell you how many practice groups there are, would you like to know that? That would be something else I could send to you?

Ms. Grigg: That would be great.

Mr. Vieth: Actually, I guess you could go into our —

Ms. Grigg: I could probably go online and get that information.

Mr. Vieth: Go online to get that, yeah. Which is probably what I'd do.

Ms. Grigg: I'll do it.

Mr. Vieth: Yes, you might just want to make a note of that. Take a look at our website. It does describe all of our practice groups. I don't know that it identifies the heads of each practice group.

Ms. Grigg: And what practice group did you put yourself in?

Mr. Vieth: Well, I put myself in the antitrust practice group. But I never really was affiliated with any practice group because I continued to have this overall responsibility and while I continued to practice law. The kind of law I mostly practiced was antitrust and securities work. So, I guess, I was in both those practice groups. But the real intense development of large practice groups and the real intense growth of this firm really came after I stepped down from — you see, at age 65 I was required to step down from all positions in the firm and become kind of semi-retired. Maybe I ought to mention that fact, too, if I could.

Ms. Grigg: Absolutely.

Mr. Vieth: One of the things that I did in setting up the partnership agreement was to adopt a retirement-type system that was pretty much based on Covington's. The idea was to make sure that partners as they got older would relinquish their responsibility for clients in favor of younger partners who had been working with them on the matters. I think it's a damn good idea. It allows for a ~~firm~~ to be vibrant and continue to grow. But it does create tensions and strains; there's just no question about it, because very often a lawyer at age 65 is still very active, very engaged and can do an excellent job. Very often people at age 65 or even at age 70 do not want to quit. One of the things that I put in the original agreement — I remember this very vividly — it provided that once a partner became age 65 he became what we called semi-retired. His participation in the firm would be reduced each year over the next five years, sort of on a down escalator is what I used to call it.

Ms. Grigg: Do you mean reduced in terms of their compensation?

Mr. Vieth: Their percentage of the firm's profits.

Ms. Grigg: Right.

Mr. Vieth: Would be reduced, little by little and in steps until at age 70 they would be at the so-called bottom of the escalator. The idea — the original plan, incidentally — the way it was when I drafted it and that was true in the firm for many, many years until some time in the late '90s — was that when you were at the bottom of the escalator your share of the ~~firm~~ was 25 percent of what it had been when you were at the top. But you could stay and have an office and continue to practice, and that sort of thing. Well, I'll never forget when I sent around the first draft of this agreement in 1965. A couple of my partners, who were somewhat senior to me in terms of age and also with the firm, came in the next morning and objected to the

fact that it started going down at 65. They were closer to 65 than I was. So, we had to make exceptions for some of them, for those who were here at the time.

Ms. Grigg: The grandfather clause.

Mr. Vieth: In a sense, a grandfather clause. Yes, and I was the next one in line; I did not have the grandfather clause. I didn't want it. But I did give it to them. They didn't start down on the escalator until age 70. That was just kind of an interesting little sidelight. But I think that being on the Covington system — by the way, I know that some of the Covington partners who were very active when I started to practice, people like Howard Westwood or Tommy Austern — outstanding lawyers — Westwood in the aviation field; Austern in the antitrust field — a whole bunch of those fellows continued to practice long after they were way down at the bottom of the escalator there. Their system worked well for those partners. I don't know whether they were able to pass on as much responsibility as was ideal to the younger partners. But I was impressed with the fact that those men continued to work very hard even though their compensation was very, very low compared to what it had been at the height of their career. Our system worked, I think, pretty well for quite a long time. It has recently been changed so that there is an actual retirement arrangement now. You must leave — totally retire. I think it is at age 70 for people who — I don't know exactly where the cut-off is, but there are some who still are on this old system, and then there are some now who will probably be required to retire entirely.

Ms. Grigg: I had a few people, when they were telling me about you, say that when you hit this semi-retirement stage you, on your own, very quietly, left your corner office and took a smaller office, and someone said that's how Mr. Vieth led. He led by example.

Mr. Vieth: Well, that's interesting. I know I don't think I was entitled to — I didn't think I should be — when we moved into this building I took a very small office, and now I even have a, maybe not any smaller, but it's on this atrium here, rather than on the outside.

Ms. Grigg: An indoor window versus an outside view.

Mr. Vieth: Indoor window, yes. Which is, by the way, it's quite nice. You can see that being on the atrium is —

Ms. Grigg: Very interesting.

Mr. Vieth: It is. It gives you a sense of being outside, but you have some light coming through, but you don't know whether it's raining or not.

Ms. Grigg: Last time, right before we ended, you mentioned we would cover the managing partnership years this time and you laughed and said "Oh, we had some problems." Do you want to talk about any of those?

Mr. Vieth: I'll be glad to talk about some of those, yes. Let me just say, before we get into problems there, there was one other thing I did want to mention in connection with the growth of the firm and that sort of thing. I had known some senior lawyers around Washington, some people who were very, very good, and who in a sense were running law firms, and had said they deliberately made a policy of not growing. I'm thinking particularly of an outstanding lawyer at the time, Clark Clifford. Clark Clifford had this reputation that he was running a firm and he would not allow it to become large or to become a factory like Covington or Hogan, or Arnold & Porter, for that matter. I often wondered about that, and I've been asked many times what do you do about that? Well, I can tell you that I don't quite know how you do it unless you are a man like Clark Clifford where the firm is you and you are the firm. There is no

question about who was the boss. Because we had, and I think our success is due to this, we had some very aggressive, very able younger lawyers who were interested in promoting their careers and promoting the firm and getting into — the way you do that is you get the clients and do a good job for clients and the only way you can control the growth is to turn away clients. So if a young fellow comes in and says "I've got this big company" and we say "Well we don't want to get that big — it would take too many lawyers to service it, so we are not going to take the thing" — that is something that I just didn't think was possible to do. We never did it and the result is that we have grown rather substantially. By the way, not all of our growth in recent years is due to bringing in new clients and so forth. With existing personnel we have had a number of acquisitions in recent years. I can talk about that if you'd like me to.

Ms. Grigg: Of course.

Mr. Vieth: But, in any event, my philosophy was that we were not going to try to stop any lawyers from bringing in matters; that just wouldn't be a fair thing to do. So we didn't. The only constraint — and this constraint operates to — it's troublesome but it had to do with conflicts. We could not, of course, take Coca-Cola and then also represent Pepsi, and that sort of thing. By the way, I could tell you some of the most excruciating problems we have had through the years would be situations like that, where a young lawyer would land a very big client, and then we'd have to turn it down because either there was an actual conflict or maybe the general — this happened once I remember — the general counsel of a long-time client objected to our taking another company not in direct competition with them but they were related, and so this general counsel objected to that. I had to tell the partner who had brought in the new client that we couldn't take it. I'll tell you that was a terrible blow to him and it was a

tough thing for me to do. He's still a good friend of mine, but he reminds me of it from time to time.

Ms. Grigg: So he stayed with the firm.

Mr. Vieth: He did stay with the firm. He became one of our outstanding partners. But it's a tough thing. Nobody really objected when there was an actual conflict. You know that; you don't even try to come in — but you know, very often there is not a bright line; it's a question of judgment and that sort of thing, and you have to look at them. But in any event that was one of the reasons we did not adopt this philosophy of "this is our firm; we are going to keep it small and we are going to enjoy ourselves," and so forth. It just didn't work out that way.

Ms. Grigg: Well, through the '70s and even into the '80s, firms often had institutional clients. And you were **the** firm. You represented Corporation A; you were the first firm they came to.

Mr. Vieth: Yes.

Ms. Grigg: Is that still true at Arnold & Porter?

Mr. Vieth: Yes, I think it is still true. Yes, we have, what you're talking about is longstanding clients and that sort of thing. Of course, Arnold & Porter came late to that game. Covington & Burling was a preeminent firm in Washington, and they had a great many institutional clients in their Washington practice, so to speak. Hogan & Hartson had a wonderful institutional practice, particularly in local matters. Hogan & Hartson — when I came to Washington and for a good many years after that — represented all the major local businesses. By that I mean they represented the transit company, they represented the biggest bank; they represented the utilities, you know, the leaders of the community, the local community. That was

Frank Hogan and then — what was Hartson's first name, I can't think now — but you know, they had developed that kind of a practice. It was very substantial. The transit company business, streetcars running into people, was a big, big business, I'll tell you. A fellow like Ed Williams, who ultimately left and formed his own firm, but he started out with Hogan.

Ms. Grigg: I didn't know that.

Mr. Vieth: Yeah, he did.

Ms. Grigg: Do you want to — before we go back to the problems — do you want to talk about the number of acquisitions — that the growth at Arnold & Porter recently has been due more to acquisitions?

Mr. Vieth: Yes. My God.

Ms. Grigg: Let me stop the tape for a minute.

Mr. Vieth: Yes. (recorder stopped)

Ms. Grigg: It's on.

Mr. Vieth: Is it on?

Ms. Grigg: Yes.

Mr. Vieth: I'll talk a little bit about the kind of acquisitions we made. Let me just talk a little bit about our growth in terms of offices and that sort of thing. We, of course, were a Washington firm and only had a Washington office until I think it was 1980, when we acquired a young, relatively young lawyer from Denver who joined us as a partner. His name is Harris Sherman, and with Harris we opened a Denver office. That was our first office outside of Washington. We hired a couple of people in Denver and a couple of our partners went out to Denver to help staff the office. They ultimately became a rather substantial branch office; it is

not our largest, but it is a substantial office. In terms of major acquisitions, I can't tell you the exact date. I will supply you with a chronology here of our acquisitions. We now have a rather large office; actually, two offices in the Los Angeles area. One we call the downtown office and the other is the Century City office.

Ms. Grigg: Why do you have two in L.A.?

Mr. Vieth: Well, L.A. is so big and the law practice there, just like the businesses, is pretty divided, at least into those two areas. The downtown, is sort of a typical downtown. And Century City, which is an area to the west of Los Angeles which itself is a major business area. Century City concentrates a great deal on entertainment practice. But in connection with Los Angeles we made two major acquisitions. Let's go off for a minute.

(recorder stopped)

Ms. Grigg: Here we go. Now we're on.

Mr. Vieth: Among the acquisitions, I should mention by the way, I think I had mentioned this earlier because it happened in the early days, but in 1960 we had a major acquisition. It was certainly major to us at the time; I think we jumped by about eight or nine lawyers, almost doubled the size of the firm. That was when we had Carol Agger and her partners and associates from the Washington office of the New York tax firm — Paul, Weiss — led by Carol Agger, who joined us and gave us a tax capability. This was in 1960. Almost doubled the size of the firm at the time.

Ms. Grigg: Was she your first female partner?

Mr. Vieth: She was the first female partner, yes. Did we discuss that before?

Otherwise, I'd —

Ms. Grigg: No.

Mr. Vieth: Oh yes. She was clearly the first female partner. Actually we had female associates prior to that. The first female associate lawyer we had was Patricia McGowan, who married Robert Wald and became Patricia Wald, and ultimately served as an Assistant Attorney General and then Judge of the United States Court of Appeals for the District of Columbia Circuit, and I believe she resigned from that, and served for a while in the International Tribunal, whatever its formal name is, at the Hague in the Netherlands, having to do with the Bosnian war crimes. But yes, Carol Agger was our first female partner.

Our initial acquisition in Los Angeles was the Quinn, Kully & Morrow firm, headed by John Quinn. I think there were 23 lawyers in that firm that joined our firm. At that time we had a Los Angeles office that we had opened on our own and we employed some people. But the Los Angeles office at that time had 18 lawyers and suddenly it had 41 with the addition of the Quinn, Kully people. Major acquisitions here in Washington, and this one really was Los Angeles, Washington and New York, was the Hughes Hubbard firm. A number of partners in the Hughes Hubbard firm left there and joined us; I don't remember now exactly the date of that. The real estate firm of Dannels, Duvall here in Washington also joined us as a group. Acquisitions like that led to major jumps each time. Since then we have also had a large number of smaller acquisitions; people where a partner or several partners would come with several associates, particularly people who are skilled in certain areas, specialists in certain areas of the law. And we added them to the firm to increase our capability in those areas. Virtually all of those acquisitions have worked out very well. They have done well to broaden the scope of our practice and people have, to the extent that there still is a firm culture, they have joined into the

culture very well. We also had a fairly large acquisition in London and have grown that office by the addition of associates and younger partners also who started by a fairly major acquisition. So that gives you some idea of how the firm has grown with regard to that.

Ms. Grigg: Is that your only international office?

Mr. Vieth: Yes, until this year. We have opened an office in Brussels. I should, in the interest of making your history complete, we did, sometime in the 1980s — late '80s I think — opened an office in Japan. We had two of our partners staff that office and after three or four years we ultimately had to close it. It just didn't seem to work out. Japan is a very difficult place to practice law, very expensive. You win a couple, lose a couple; that was one that just didn't work out. But I believe it is safe to say it's the only one that didn't. We at one time had a relationship with a lawyer in Moscow, sort of like a branch office, but he was not really that close in the firm, and I don't believe that relationship continues either. But we now do have a substantial office in London and one that is going to grow, I am sure, in Brussels.

Ms. Grigg: You mentioned firm culture. How would you describe the Arnold & Porter culture when you took over, and how did it evolve?

Mr. Vieth: Well, when I took over, it was just the culture that we had in a sense when I speak of the fact that we were not organized into departments and we were very informal and friendly with each other. That's part of the culture that I think characterized the firm then — the idea of consensus-building, which I think was also part of the culture, instead of having someone from the top lay down the rules and so forth. Particularly in more recent years. I think we always have been somewhat diversified in the sense that we were early on. Believe it or not, there weren't many women in the law when I started. In my law school class — I don't

believe that — there were just two women in my entire law school class. Women just didn't practice law to a great extent. We, and this had a lot to do with Carol Agger, I think, but women were rather quickly brought in. She was the first partner, but we had a great many women come along. To the point now, of course, and this is not only true of us, it is true of most firms, and I think virtually half of the large firms that have large incoming classes every year, they are roughly 50-50, women and men. But we certainly tried to be friendly towards that. We also have been, more in recent years, I think, due in large measure to our current managing partner — I told you, we have this dichotomy now: Mike Sohn is the chairman of the firm and our managing partner is Jim Sandman, and he is absolutely an outstanding, just an outstanding individual. When it comes to leading the firm and trying to, as best you can with a firm as big as we are, over 700 lawyers, to have a culture that still is friendly and, well let's say not stuffy, let's put it that way.

Ms. Grigg: Let's stop the tape for a moment. (recorder stopped)

Ms. Grigg: All right, we were going to talk about when Abe Fortas stepped down from the Supreme Court.

Mr. Vieth: Yes. When Abe Fortas stepped down from the Supreme Court, naturally there was a question of where would he go to practice law and would he return to this firm. It did create one of the serious crisis in the firm in this sense: that a number of partners, certainly his two fellow founding partners, Thurman Arnold and Paul Porter, very much wanted him to come back to the firm. Although I think that Paul recognized that there might be some problems in connection with that. There were several other older partners, I was one of them, that very much wanted it to happen. But I realized that we had a serious problem on our hands.

The problem simply was that Abe had, while he was here, as I mentioned before, totally dominated the firm. In the period after he left, a number of the men who were younger under him had developed their own practices, and they were very proud of that, and very determined that they wanted to continue to practice that way, and not to be at the beck and call of a senior like Abe. My role in the thing was to try to come up with some arrangement whereby I could get the firm to agree to have Abe come back and get these partners to agree to it. As I mentioned before, my whole modus operandi was consensus and I tried to work out a consensus on that. I came up with several elaborate schemes. But I can recall the final meeting with regard to one of those when a lot of people had made a lot of accommodations, but still there were so many partners then, important partners in the firm, that were totally opposed to it that it just, just didn't work out. I think that's about as far as I want to go on that. But, it was, it really was a very critical time.

Of course, there was another critical time in the firm. I guess it was around the time Fortas resigned, and that is, the unfavorable publicity that Fortas got at that time. This was before the question of whether Fortas would come back with us. The question was the so-called scandals involving Fortas and whether they would reflect somehow or other on the firm. And a number of us undertook to get in touch with our clients. I called several meetings with my own, and that sort of thing, because these were almost crisis meetings, just to make sure that we all knew what was going on and would do our best to continue to practice, and we did and the firm didn't suffer that seriously at all. You see, at the time Fortas resigned in the first place, the reasons for his resignation — there were a lot of people who were upset about that. But in addition, there were some of these hate magazines and so forth — I have never forgotten, came

out with articles. I guess they weren't all that widespread, but we got copies of them and it certainly upset us. It appeared that it was a real assault on us as a firm, and I think that was one of our finest hours when we got together and worked to overcome it then, and did. That was before the question of whether Fortas should come back came up; that didn't come up until six or eight months after he had — well, maybe not that long — but several months at least after he had resigned from the Court.

Ms. Grigg: Where did Abe Fortas end up? I just don't recall.

Mr. Vieth: Abe Fortas ended up setting up his own law firm, law practice I should say, in Georgetown. He lived in Georgetown and had a nice office there, and he had an association with a firm in Chicago headed by a man named Cohen. (tape ends)

Ms. Grigg: This is side B.

Mr. Vieth: I should mention, in that connection, that while Fortas continued his practice, I stayed very friendly with him and we worked together on a couple of things; not too many. Carol Agger, his wife, stayed in our firm and continued to be the head of our tax practice until she retired, and things worked out. Obviously, there was always some tension and it was too bad it worked out that way. But that's the way life is.

Ms. Grigg: Did Carol Agger marry Fortas while he was still at Arnold & Porter or while he was on the bench?

Mr. Vieth: Oh no, she had married Abe Fortas, I think while she was still a student at Yale.

Ms. Grigg: Oh.

Mr. Vieth: They had been married for many years. She, I can't remember

exactly when they got married, and of course I didn't know them at the time, but indeed, I think she had been a student of Abe's. They either married while she was still in school or not long after she graduated. Carol was an outstanding tax lawyer. The Washington office of Paul, Weiss — Paul, Weiss itself is a large New York firm; Randolph Paul was an outstanding tax expert. He was really a great guru when he came. His name is the first one in the firm, but he always had his office in Washington. His office, the branch office of Paul, Weiss in Washington, was strictly a tax firm headed by Randolph Paul. This merger that took place between the Washington office of Paul, Weiss and us in 1960 was after Randolph Paul had died, and Carol — then the head of that office — she came over with us.

Ms. Grigg: Were you about to say something?

Mr. Vieth: Nope.

Ms. Grigg: You may want to just think about this one for next time, but do you want to talk about some of your most memorable moments as a lawyer, whether they be funny or very serious or —

Mr. Vieth: Well, is there going to be a next time?

Ms. Grigg: Let me stop the tape a moment, okay? We are going to stop for today, October 1st, and we will do a fourth wrap-up session in a few weeks. So that's it for the third interview, tape B.

**ORAL HISTORY OF
G. DUANE VIETH
FOURTH INTERVIEW - APRIL 29, 2004**

This interview of G. Duane Vieth is being conducted for the District of Columbia Circuit Historical Society Oral History Project, on April 29, 2004, at the offices of Arnold & Porter in Washington, D.C., by Traci Grigg. This is Tape Four.

Ms. Grigg: We were going to start today with your views on the D.C. Circuit.

Mr. Vieth: Well, the D.C. Circuit I have always thought was clearly the most important circuit court in the federal judicial system. I think very often newspaper commentators refer to it as the court that is second only to the Supreme Court. I think that is due in large measure to two factors. One, it's always been my impression that the administration, whatever political party is involved, is unusually careful about appointments to the D.C. Circuit and as a result, the judges there have always been of a very high caliber. I don't mean to denigrate the other circuit courts but that's just an impression that I have had. Certainly, the caliber of the judges on that court in the 50 some years that I have known it has been excellent. I think the real reason that that court is considered the number one circuit court is because of its location in Washington and the fact that so many administrative law cases and other cases involving the federal government end up in the D.C. Circuit. Now, we all know that games can be played with regard to that and lawyers are very good at playing those games. When they want to challenge an administrative regulation, for example, they'll be ready at the circuits around the country to file appeals or other appellate-type actions. But very often the major matters of that kind do end up in the D.C. Circuit. I've always had the highest regard for the circuit and I'm very pleased that's the circuit where I have spent my professional life and the one that is taking this oral history.

Ms. Grigg: Do you have any memorable moments from appearing before the D.C. Circuit whether funny or serious or outrageous?

Mr. Vieth: No, I haven't argued that many cases there. Not more than two or three. But always the circuit has been, in my judgment, very responsive to legal arguments. I'll tell you the one memory I have was being admitted to the D.C. Bar by a motion that was made just off-the-cuff by, my then senior partner, Paul Porter when I was a brand new lawyer. Back in those days it wasn't necessary to take the bar to become a member of the District of Columbia Bar, so he just off-the-cuff made a motion at the end of an argument where I was attending court with him, and I was admitted on that basis, which I thought was very convenient.

Ms. Grigg: Yes, indeed. Since we are in wrap-up mode here, what are some of your most memorable moments as a lawyer?

Mr. Vieth: Well, you can always think about the cases that you were able to pull off and that sort of thing. I can't point to any particular decisions or outcomes that I think are truly spectacular. I think I'd like to answer that question by saying that my most memorable moments are the ones involving trying to pull together a team to litigate a matter and to do it in the office and do it efficiently. As I think I indicated early on in this oral history, when I was new at the bar and working with the senior partners in the very small firm that I was in, we had no more than two people on a case and we managed to pull the whole thing together. As the firm grew and as it became necessary to staff cases with many more personnel, it was very often difficult to organize that sort of thing and because of my management position with the firm, it became my responsibility to make sure that management of cases worked. I did spend a lot of time on that. Generally speaking, it worked out pretty well. I think that's certainly one of the

most memorable memories I have of the practice of law. Of course, there always were cases that you won and that sort of thing. I can remember an antitrust case that I tried in Milwaukee involving Allis-Chalmers which had acquired another manufacturer of riding lawn mowers and small tractors. The acquisition was challenged under Section 7 of the Clayton Act by the Justice Department. We had a full trial on the case, and the court ruled right down the line with us. After the trial, I always thought that was a great victory. We were very pleased. I'll never forget the visit we received the next week from the general counsel of Allis-Chalmers who came in and said that he certainly very much appreciated what we had done in the case, and he was telling us that he was now going to use other counsel in regular matters for the company.

Ms. Grigg: Oh my goodness.

Mr. Vieth: He was the general counsel, but he was going to choose additional outside counsel because of a change in management and also cost considerations. I always thought that was a wonderful way to reward you for what I thought was a good result. But, of course, it didn't bother me. It's just one of the vagaries of the practice of the profession.

Ms. Grigg: In-house politics.

Mr. Vieth: Yeah. That's right. See this is sort of in line of what I've told you about my career and that is the things that I really remember about the practice of law in terms of bringing together a group of very talented people and manage it in a way that they could handle the legal problems that our clients brought us, and do it in an efficient and successful way. I really think that was the accomplishment that I am proudest of.

Ms. Grigg: How do you think clients and your colleagues would describe you?

Mr. Vieth: Well, I hope they would describe me as someone who listens

carefully to their problems and then tries to devise lawful and legitimate solutions to them. That's pretty much what I've tried to do throughout my career. I hope they think I'm thoughtful. I try not to jump to conclusions, but to hear the client out fully and then try to apply what I know about the law or can learn about the law. In the early days, very often, we would meet with a client and we'd be on a subject that I didn't know anything about. I would try to ask the right questions, and then I'd hope I'd get a little time, a day or two, to go to the library and see if I could learn something about the law, and then come back and give some counsel and advice to the client. And that's pretty much the way we did it in the old days. As you go along, you sort of get a feel for the law whether you're actually an expert in that area of the law or not. By the way, I think there again, on something we talked about earlier, in our practice, particularly when we were small, we were called upon to try a case in one area of the law on one day and an entirely different one on another day. We had to, in a sense, be generalists like that. That really was a very entertaining part of the practice. I thought that was marvelous. The fact of the matter is you can't really do that anymore. Clients do not stand for it. They do not want to be paying you for your education. They want to meet with someone who is an acknowledged expert in this area immediately and can get advice from them. So this sort of thing that I enjoy doing in the old days simply can't be done anymore, but it was fun while it lasted.

Ms. Grigg: You have been described by your colleagues as masterful at giving general counsel to clients. You are thoughtful, reasonable, and sound. Is there really not a role for the Bud Vieths of this world today?

Mr. Vieth: Oh yes, I think there is. I think those comments are extravagant. But I appreciate them. Yes I think there is, although it is true that general counsels of major

corporations now very often have their own ideas as to how things should be handled, and they want to go into a law firm and in effect cherry pick. If they have a problem in a particular area, let's say intellectual property, they want to talk to the intellectual property expert. That contrasts with what I remember from the early days and particularly what I watched Abe Fortas do. For instance, when he would meet with a client and pretty much get under the clients' skin and find out everything that's going on. Very often the client was a general counsel, but nevertheless those general counsels were willing to listen to broad advice, and Abe was a master at that. We tried to do that when we represented Lever Brothers Company for so many years. Abe had done it, and then I ended up doing it, and of course other members of the firm handled some of their problems. But the general counsel at Lever Brothers Company in those days was a man who very much relied upon that kind of interaction with his lawyers and the law firm, and that was a very satisfactory relationship. Keep in mind I'm not actively practicing now so I don't know exactly how people do it, but my impression from just watching what's happening here and elsewhere is that you don't have that kind of a relationship anymore with your clients. It's, again, an unfortunate aspect of the current trends in the practice, but there it is.

Ms. Grigg: What advice would you have for lawyers starting out today?

Mr. Vieth: Well, my advice would be that you better be prepared for being treated as more like an employee, I guess, of a major organization than as a practicing lawyer in the old small town sense. Of course, there still are small towns and there are still small town practices, but I'm thinking about people who want to come to the larger metropolitan areas. We talked a little bit, before we started here, about this recent merger which put together two 450-lawyer firms to make a firm of 900 or 1,000 — maybe they were 500 a piece — I forget now

how it was. I read about it. Now that 1,000 is not necessarily the largest — that would maybe make them maybe the fifth or sixth largest in the country. But when you have a 1,000 lawyers or 1,500 lawyers or, as some of them do, over 2,000, that kind of an organization is more like a major corporation. It is less like a congenial law firm, it seems to me, and an organization like that has to be very carefully managed. Indeed, in my own firm here, with now something in the area of 700 lawyers, it has come to that, too. It has to be managed as a business organization and so the partners in the firm or the associate lawyers are more like employees of a major organization. They still practice law. They still have the canons of ethics. They still have to know their specialties. But in terms of overall participation in the firm as the way you would do in a much smaller firm, that's not available anymore. So my advice to the young lawyer would be that you just better be prepared for that new world, and if you would be comfortable in that, it's a wonderful profession.

Ms. Grigg: Do you think these large mergers are a trend of the future or will the bubble pop?

Mr. Vieth: Well, I'm not very good at predicting that. My own feeling is it is a trend of the future. Even law firms like ours which started very small have grown to proportions that I would never have believed possible. It's got to be a trend for the future. Now, the only thing about that kind of thing and it was always something that worried me — I think I discussed this earlier, too — that is, as you get bigger, you run into terrible conflict problems. This recent merger of Hale and Dorr and Wilmer Cutler emphasized in the press releases about it and so forth, that they had complementary practices, and I'm sure they do. But nevertheless, there have got to be conflicts. Old clients, somebody's going to have to drop a client and that sort of thing.

That's very difficult and that's one of the difficulties of letting the firm grow as large as ours has. Nevertheless, those problems are handled and I think the growth is with us to stay.

Ms. Grigg: What would your advice be then for mid-career lawyers who didn't start out in this world?

Mr. Vieth: Well, that's a far more difficult piece of advice, I guess. If a mid-career lawyer is thinking of maybe leaving a firm because the relatively small firm he had started with has now become very big and very bureaucratic. Incidentally, bureaucracy naturally follows in these major organizations. I don't really think I have much advice other than better just roll with the punches and conform to the times, because that's the way it is. Unless you want to leave and, of course, a good many of them are leaving now, and maybe go back to a small town somewhere and practice law, but that's not really an option for a fellow who is in mid-career and whose got a family. So, my advice is to just do the best you can and make it work.

Ms. Grigg: Now what about for managing partners?

Mr. Vieth: For managing partners?

Ms. Grigg: Advice for managing partners?

Mr. Vieth: Well, a managing partner has to be — particularly as these organizations are getting so large now — has to be very tough and willing to stand by tough principles. But I still think my advice would be to the major extent, the maximum extent possible, try to manage by consensus rather than by fiat. That was certainly something I tried to do, but I have to admit, it was in a much smaller firm. I've always thought that is really the best way to manage an organization.

Ms. Grigg: I'll stop the tape for a moment. (recorder stopped)

Ms. Grigg: All right, switching a little bit here, how do you think your friends would describe you?

Mr. Vieth: Well, I would hope they'd describe me as someone whose always willing to listen, to give friendly advice, in the best way that I know how and who will always be with them through good times and bad. I have lots of friends and I enjoy very much being with them. They don't necessarily have to be the same political persuasion or anything like that. I just enjoy being with them and discussing issues with them. And I hope that they would describe me as someone who is fair-minded and congenial. That's about all I can say on that.

Ms. Grigg: How would you like to be remembered?

Mr. Vieth: Well, I'm rather comfortable with my career, I don't want to say I'm proud of it, but I'm comfortable with it. I've enjoyed doing it and I think I have been recognized very well for that. I would like to be remembered as someone who could bring together conflicting philosophies or conflicting goals and work out a compromise that would come close to being a consensus of the conflicting parties. That's what I've always tried to do. I think that's a very important part of life and I think I'd like to be remembered as someone who could do that and could do it rather well.

I wish, as a matter of fact, given the current state of our situation nationally that we had the ability to do that worldwide. I think it is a very important talent, I guess, and it's certainly not easy to do when it comes to the problems of the world. But the relatively small problems that I faced, that's the way I tried to operate and that's what I'd like to be remembered as.

Ms. Grigg: Thank you for your time.

Mr. Vieth: Thank you very much.