

## **Oral History of Honorable Richard Roberts**

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is Michelle Jones Coles, and the interviewee is Honorable Richard Roberts. The interview took place on Friday, April 20, 2018. This is the fourth interview.

MS. COLES: We're going to turn to the law school years. So, Judge, can you tell me, how did you conclude your period in Kenya and how you decided to take your next steps, what you decided to do next.

JUDGE ROBERTS: Well, the good news is that I had decided on my next steps before I took that previous step. When I was in college, I may have mentioned to you that I intended to major in mathematics. I went through the initial set of college courses, calculus one, linear algebra, multivariate calculus, set theory, and so on. It was taught in a very theoretical way that prohibited me from understanding or feeling how I can use this to help people or to help black folks in their struggle. I think I told you that the Attica uprising, which occurred at that point in the prison in Upstate New York persuaded me that I wanted to be a criminal defense lawyer. So I already knew by the time I was a senior in college that I wanted to apply to law school, and I did.

I applied and got into Columbia and accepted their offer, but I also asked them if I could defer my admission for a year because I wanted to pursue the graduate program that I entered into at the School for International Training in Brattleboro, Vermont, and I knew that that would take a minimum of a year. That was the program that my history professor and black studies professor Norman Hodges had recommended.

So the master's program in International Administration was what took me over in the second half of that year to an internship in Kenya. So I already knew that the following year I would be entering Columbia Law School. So that decision had been made before, so I didn't have to wrestle while I was in Kenya with the idea about what comes next because I already knew.

MS. COLES: You had deferred your admission?

JUDGE ROBERTS: I deferred my admission for a year. I asked to do it, and Columbia agreed to it. So I was originally admitted into the entering class in 1974 that would have graduated in 1977, but I deferred my admission to the entering class in 1975 that graduated in 1978.

The one thing I had not, however, known or planned on was that there's a program called Council on Legal Education Opportunity. That organization was formed a number of years ago, the CLEO program. The way it was structured then, the goal was to increase the number of people of color and working-class people going into law school and then to the legal profession. The way they structured it, people who would apply to the program would have to commit to attending an institute, a summer institute, for six weeks. The summer institute was staffed generally by law professors or lawyers, and the plan was to have pre-law students take some pre-law courses in the very kinds of disciplines that we would have to study in law school, in addition to legal writing instruction. I had applied at some point, and I can't quite remember when, to enter the

CLEO program. It had a very good track record, a very good reputation. The additional benefit was that they provided, if you successfully complete it, a stipend each of the three years of law school, and that was very helpful for someone who would otherwise have to carry a big debt load or scrape his way to be able to pay tuition in law school.

So I applied at some point for entrance into the CLEO program. I didn't find out until I was in East Africa that I had been accepted and that I would be placed into the program's institute that was in Boston. They had institutes placed at that point maybe in six different locations throughout the country. So I got word when I was in East Africa that I would be going to CLEO and that the institute was going to start I think it was in June or July. That somewhat cut short my planned time in East Africa, but it was an opportunity I could not pass up.

When I left East Africa, I got back to the States and quickly bundled up what few clothes I had left that were wearable in Boston, although it was the summertime so it wasn't that bad. I went up to Boston College Law School's campus where that institute was being run. We lived in the dormitories that were provided I think for Boston College law students or maybe Boston College graduates, I'm not certain. But we lived on the campus for six weeks. We took a variety of courses, including legal writing, but I think we also took instruction in property, we took instruction, I think, in civil procedure, perhaps criminal law topics.

The faculty was comprised of law professors and practicing lawyers. The director of the Institute that summer at the Boston College location was Walter Leonard. Walter Leonard was the special assistant to President Derek Bok at Harvard University. Many of the affirmative action in higher education cases that made their way to the Supreme Court cited the so-called Harvard Plan. The Harvard Plan was an affirmative action in higher education plan that was designed to increase the number of people of color, and the Supreme Court cited that as an appropriate way to do it when at the time you might remember the conflicts raised in the *Bakke* case and other cases where people thought that affirmative action was so-called reverse racism. The Harvard Plan emphasized that they were taking a holistic look at someone's background, and race could be taken as a factor in considering how attractive a particular candidate might have been, in addition to many other factors. That plan was drafted by Walter Leonard. Walter Leonard was an African American scholar. At the time he was a law professor, but I think he was assigned to be the special assistant to the President of Harvard. So to get to Boston College Law School's CLEO Institute and to learn that the director of the institute that six weeks was going to be Walter Leonard was an exceedingly exciting shock, but a great opportunity to meet someone who had drafted a universally accepted plan for enhancing and increasing affirmative action in higher education. The expectation that I had of having some positive interaction with Walter Leonard was not at all let down. I was fortunate

enough to be able to continue my acquaintance with Walter Leonard through last year, unfortunately when he passed away, but we ended up both here in the Washington area, and we were both members of the Boulé in the Washington area, so I had the good fortune of seeing him with some frequency.

Anyway, he was the director of the program. You may know that Walter Leonard at later times I think was selected to be the President of Fisk University. Fisk University was one of the HBCUs that was legendary in putting out legions of scholars and high achievers, but it had fallen on difficult financial times. Walter Leonard took the unusual step of taking out a loan for the university to shore up its finances backed by his own life insurance policy. He had done that and many other things. He later went to become executive director of an organization called Cities in Schools that also worked on educational promotion among younger people.

Anyway, so I'm prefacing my story about going to CLEO by making sure you understand who was heading up the program. The other reason I'm emphasizing Walter Leonard a lot is because he brooked no nonsense. Not that he was a difficult person, but his standards of excellence were high and unforgiving. He told us that if we were to proceed in his institute, he expected nothing but the best from us, and he had a favorite mantra that rather shocked me when I first heard it, but I appreciated it more and more throughout the program and candidly more

and more in life. His mantra to us was, again, if you're going to be a successful lawyer or if you're going to be successful in life, his mantra was "you must have a fetish for preparation." Now understand this was the 1970s. The 1970s social scene was a little loosey-goosey. We had Woodstock and the hippies up there floating around on a farm and that kind of environment was not unusual in the 1970s. So when this professor, highly esteemed and well-groomed and well-spoken black lawyer and professor told us of his mantra in his very precise and measured cadence and it began with telling us we must have a fetish, I was about to fall out of my chair saying my goodness is he going to get into some X-rated conversation here? But he quickly turned it around to let us know we must have a fetish for preparation. And when I reflect back on my life and my professional work sometimes, or I'm asked about what has been an interesting or useful influence, that is one thing I always go back to, Walter Leonard's insistence that we have a fetish for preparation. When I got into practice in my various capacities, that is something I always remembered. Preparation is key. CLEO within the past few years has sponsored something of a reunion, they actually sponsored a hall of fame ceremony, and I was fortunate enough to be named to their hall of fame entering class, and I was asked to reflect back upon the value of CLEO and my experiences there. The first thing I thought of was Walter Leonard and his mantra about fetish for preparation. I tried to make sure that when I explained that, my cadence was a little quicker so nobody

would almost fall off their chair the way I almost did with his measured cadence when we heard “fetish,” and we were wondering what was coming next.

So that’s the man who directed the program. He taught in the program. There were a number of people who taught in the program. There was a professor from Boston College Law School. I think his last name was Berney . There were practicing lawyers. Wayne Budd, an African American who had been, I believe, Attorney General of the State of Massachusetts, was one of our professors. Wayne Budd went on later on I believe in the Bush Administration, one of the Bush Administrations, to become the number three official in the United States Department of Justice. I think he became the associate attorney general. But we had the good fortune of having him as one of our instructors as well. There was a very bright African American woman named Marilyn Ainsworth who had principally been in private practice, but she was involved in fairly progressive political bar association activities as well. She was on our faculty. So we had a number of really outstanding role models. We had some stellar scholars who were taking this bunch of uninitiated youngsters who thought that they wanted to become good lawyers to expose us to not only the need to be taking this stuff seriously and to be well prepared, but who also sort of opened the veil that was covering this mystique of law school, of legal education, and they did it in a caring way. As I say, they

were unforgiving because we couldn't shuck and jive. We couldn't just turn in any crap.

They also had teaching assistants, for example, in the legal writing program. I may have mentioned before, I'm not sure, one of the teaching assistants later became a judge on the Superior Court here in Washington, D.C. Sue Holmes Winfield is the name of this judge, and she might be on senior status now. I can remember definitely when Sue Holmes collected our written work during this legal writing period that we were assigned to do and whenever she looked it over and saw something less than superlative efforts, that index finger went up in the air, right in our faces, and wagged from left to right, very slowly, and said, "Oh no, no, no, no. You take this back and you do what Professor Leonard said. You get prepared, and you write up to the standard of excellence." Not surprisingly, fast forward whatever it is, forty years, Sue Holmes, later Sue Holmes Winfield, got on the bench in Superior Court, and I would not at all be surprised if she had appearing before her lawyers who were less than sufficiently prepared, I'm sure that that index finger went right back up from the bench, wagged left to right, and said don't you come into my courtroom arguing in anything less than a fully prepared way. So we can recess this if you want, or you can just fall on your inadequate work now. But she too was a disciple who said you have to have a fetish for preparation, and she brooked no nonsense. So they put together a team that held us to high expectations and enforced it, but they also did it

knowing that they were doing this because they needed to prepare a cohort of young inexperienced people for a very rigorous profession.

I came from a family where we had no lawyers in the family. We didn't sit around the dinner table the way some other of our colleagues in law school did where lawyers were in the family and heard discussions that involved legal vocabulary or various transactions where legal experiences were sort of the norm for them to hear about. We never sued anyone when I was growing up. We never got sued. I didn't know any lawyers. And so there were many of us like that, and to have the opportunity to have this veil over the mystique of law practice lifted by people who actually cared for you in a way that might not have been the case once you got to law school was for me a very valuable experience, wholly in addition to the stipend we got, I think back then was \$500 a year for three years to help you get through law school. You had to pay rent if you were living in an apartment. You had to buy books. Back then the legal books were very thick, 500 pages each, and you had to get at least one per class. I'm not sure if that's the same way these days. They probably do a lot more electronically online. I just don't know.

But that program, I found, was instrumental for me in building up in me the confidence in being able to go into an alien environment and pursue and achieve. As I say, I came from an environment, my parents were English teachers, so I could go in there to law school, and I knew grammar, I knew syntax, I knew punctuation, but to go into the first year

of law school and be hit with concepts about in rem jurisdiction, inchoate crimes, the rule against perpetuities, where you had to measure a life in being plus 21 years against the vocabulary of a codicil. All of these things were completely alien to me. I had no clue about what any of that stuff was, but the preparation that CLEO put us through allowed most of us to be able to tackle it without fear. It gave us a little bit of a heads up about what some of those things meant. Now it wasn't a full semester course, but six weeks was long enough for us to be able to I guess build up some confidence and feel as if we were not marching into some other planet when we started law school.

MS. COLES: So how did you feel when you finally started law school at Columbia? What were your first impressions?

JUDGE ROBERTS: Columbia presented what I thought I wanted, which was very new concepts, some which were completely alien to me, but an environment that did require hard work. I had become accustomed in college, in high school, and before that, to try to work hard on academics, so I did have to work hard. I was not the best law student. I did not pick up some of these concepts as quickly and easily as I would have wanted to, but I tried to give it my best. So law school was indeed an alien environment. It was brand-new concepts. There were some courses that engaged in concepts that I could grasp and some I enjoyed. Some I did not enjoy whatsoever. Particularly, as I was intent upon becoming a criminal defense attorney, there were some issues in corporate law, contracts. I had to study them.

It's important that lawyers be well rounded when they get out, but those were not necessarily the kinds of things that grabbed my attention, as did, for example, criminal law, some of my civil rights classes, criminal procedure, evidence. I actually took a liking, frankly, to torts, property, but some of the other ones just weren't necessarily up my alley.

Columbia was a challenging environment. Columbia was not unlike other law schools at the time, a majority white population among the students, overwhelming majority white faculty. I think we may have had one tenured black faculty member, Kellis Parker, who incidentally is the brother of Maceo Parker, who is one of James Brown's saxophonists. Kellis himself played the trombone, so there were times when Kellis would let his hair down, and we would enjoy little musical interludes with Kellis Parker. He sort of by default became the professor to go to among black students when we were encountering challenges. We were happy that he was there and able to perform that for us. But when we think back on it, not only Kellis Parker at Columbia, but black faculty in other institutions of higher learning were hired to do teaching, but by default, they ended up doing two jobs. When you were in a majority white environment, they also had to take on a role of being somewhat of a sounding board for black students or a mentor for black students. That's a little unfair because the white faculty did not have that kind of extra burden to carry. The black faculty did not get any extra recognition for it. They didn't get any extra pay for it. It did not help them in advancing

through the tenure track. I don't think that was acknowledged in most institutions when people came up for tenure. Kellis fortunately was bright enough and hard-working enough, he had published enough, so he got tenure, so that wasn't a problem for him, but I do think it points out an unfairness about academic advancement on faculty in predominantly white institutions in the United States.

So the environment there was a challenging one not only academically but socially. There were many students who could speak up in class in response to some arcane issue, and they knew it because mommy or daddy worked as a partner in some law firm, and they discussed it at the dinner table or in some other circles.

MS. COLES: Probably daddy.

JUDGE ROBERTS: Probably daddy. I'll give you that. That's true. We had then-Professor Ruth Bader Ginsburg on the faculty.

MS. COLES: Did you take her?

JUDGE ROBERTS: She taught civil procedure. I was in her class. I didn't do very well in the class because that was one of the more arcane sets of principles for me to tackle. I really don't think I got civil procedure until I later went out a little bit in practice, and we can talk about that later in private practice, and certainly when I got on the bench, I had a great appreciation for how it works and why it's important. But as a law student, the whole concept of jurisdiction, personal jurisdiction, subject matter jurisdiction. What? Excuse me?

Anyway, yes. Professor Ginsburg was on the faculty, one of very few women. Vivian Olivia Berger was on the faculty at that time, and I think the others were probably adjuncts or part time. Harriet Rabb was also on the faculty, and I'll tell you about that too. She was running some clinical offerings as well, but I think you're right. Not only in academia and legal academia, but also certainly in the high-powered law firms, your guess that it was daddy who was discussing these things at the dinner table, I would put money on it. Absolutely. So it was a challenging environment.

MS. COLES: How many African American students were in your class?

JUDGE ROBERTS: My class entering in 1975 probably had about 20-ish, and I have the book. We had picture books that showed the names and pictures of every member of the class that entered, and I think we had 200 or 300 students entering, and our number of African Americans rarely exceeded the 10% mark and probably was usually under that. But the atmosphere was challenging.

I will point out some pictures in that set of books. I kept the picture books of all the classes that I interacted with during my three years at Columbia, and I think you see Kellis Parker's picture in one of the early pages from that first book, and Ruth Bader Ginsburg's picture is also in there, and you can see that smile from back then still reflected today, on the smile that you will encounter when you get a chance to see her. It's quite an experience. I got there in 1975, so I have the picture book from

the class graduating in 1976, 1977, 1978, 1979, and 1980. There are some pictures in there that I will point out to you that you might recognize at some point.

One of the things that helped particularly African American students was to be able to retire from the rigor of the classroom where we had to encounter some of these bizarre and arcane theories new to us. We also had to encounter sometimes outward and sometimes more subliminal friction from those whites, both on the student body and the faculty, who looked at us as affirmative action admits who were taking up some other good white student's seat, which was far from the case, particularly with some of the folks whose pictures I'll show you in a moment. But those kinds of pressures, we encountered also in undergraduate schools, particularly majority white undergraduate schools. There was an overwhelming sense among some of the whites in those environments that we were not up to snuff, that we could not perform, that we should not be there and that we were wasting a spot for a more deserving white student, which in most instances was the furthest thing from the truth.

What you're holding now, the picture book for the Class of 1976. I'll ask you to turn to the pages in the H's, the students with the last names that start with the letter H, and if you find the H category, go to H-O, and if you see an H-O, do you recognize anyone?

MS. COLES: I see the Attorney General Eric Holder on this page.

JUDGE ROBERTS: Yes indeed. And you will see the hair styles back in the 1970s were a little different from how the hair styles appear these days.

MS. COLES: I notice somebody in a picture is smoking a pipe. Is that common?

JUDGE ROBERTS: At that time, no. He was the only one who had his picture taken while he was smoking a pipe. I guess he perceived himself to be quite erudite, although he later went on to become a law school dean, down I think in the Carolinas. He may have only recently retired, but he was a gifted writer. He became an academic, and I suspect he still smokes his pipe. We had heard something of him somewhat recently. But to anyone who had some notion that that gentleman whose picture you just pointed out who was our former Attorney General, 82<sup>nd</sup> Attorney General of the United States, at that time was wasting some deserving white student's seat and did not belong there and didn't have the goods to pursue a student career at Columbia University was sadly mistaken, and I think history has certainly proved that. The reality was that Eric Holder, a New York City native, was admitted through a very competitive process, testing process, to Stuyvesant High School, perhaps the most selective academic public high school in the City of New York. I tried to get in there, and I couldn't, but I did get into another specialized high school. I probably already told you about Music and Art. So he went to Stuyvesant High School on merit. He was admitted to Columbia undergrad on merit. He did very well there. He was admitted to Columbia Law School and did very well there. He was one of the pioneers among us who started in the public service by

going down to Washington, to the Justice Department, and he worked for twelve years as a public integrity prosecutor. There was a series of prosecutions of public officials that was labeled the ABSCAM cases, and he was one of the prime prosecutors doing that. He obviously went on to higher things after that. He was selected and nominated by the President, confirmed by the Senate, to become a judge on the Superior Court in the District of Columbia. He went from that to being appointed by yet another president to be the United States Attorney for the District of Columbia, appointed yet again by a president to become the Deputy Attorney General of the United States, then another president comes along and says please be my Attorney General. In between he was hired, not hired, he was asked to come in as a partner at Covington and Burling, which was then and is now one of the more respected firms in Washington. So the notion that these black students coming in here really don't deserve to be here is refuted furiously and often by other examples of people who have come in there.

MS. COLES: I have a question about David C. Clarke. I noticed that's the name of the University of the District of Columbia's Law School. Is that a coincidence?

JUDGE ROBERTS: Coincidence. It's a different David Clarke. David Clarke that went to Columbia Law School in the Class of 1976 had a nickname of Atiba at a time when many African Americans were reconnecting with our African roots and took on African American names and nicknames, but that David

Clarke is not the David Clarke after whom the University of the District of Columbia Law School is named. That David Clarke was a member of the City Council. He was a white male who was very progressive and I believe was quite a force behind making sure that the UDC Law School flourished. UDC's law school, the David A. Clarke law school, I think was a successor to the Antioch Law School that existed perhaps for ten years or so. After it folded, I suspect that David Clarke, the City Council member, was one of the public officials to make sure that the spirit of the Antioch Law School would continue and got folded into the UDC Law School. Sharon Pratt was another one who was a faculty member at Antioch Law School. She later became the Mayor of D.C., I believe the first woman to become Mayor of Washington, D.C. But that's a different David Clarke.

MS. COLES: Did you end up establishing any close relationships or friendships with your peers at Columbia?

JUDGE ROBERTS: I did, and I was going to tell you that one thing that we were able to do, I guess to cope with some of the microaggressions, as they're called today, or some of the stress about coming from a non-lawyer family or being a person of color in an overwhelmingly white institution, was to repair to the BALSAs Office. The Black American Law Students Association, was able to get an office to conduct the affairs of the organization. Tutoring went on there, when some of us really needed to go over some of the curricular offerings, try to fine-tune what we had learned. There were

many of us who volunteered to do coaching and tutoring of our own classmates, but also those behind us. But that was not all that went on in the Balsa office, I'll be candid. Some of the ways we relaxed and created good friendships was playing bid whist. That was the location where bid whist was played fast and furious. Trash talking was refined to a fine art, and frankly that enabled us in a more relaxed environment to establish very warm relationships that continued into the future. The man who retired just a year or so ago as the chief judge of the District of Columbia Court of Appeals, Eric Washington, was one of the bid whist players, and you'll see his picture.

MS. COLES: Was he in your class?

JUDGE ROBERTS: No. He was in the Class of I think 1979. So if you pull that book out and turn to the W's, you may recognize now Chief Judge retired Washington's photograph, and you will see that the hairstyle's slightly different as well. But Eric Washington, I think he was a Tufts graduate, undergrad, and came to Columbia Law School, was one of the better bid whist players, if not one of the better trash talkers.

MS. COLES: I see Ted Shaw is on that page as well.

JUDGE ROBERTS: He was the distinguished head of the NAACP Legal Defense Fund, President and General Counsel, before going down to the University of North Carolina and being the Julius Chambers Distinguished Law Professor and head of their clinic where he is now in Chapel Hill. He too followed the footsteps of Eric Holder and several of his colleagues who

beat a path down to Washington after graduation to work in public service. Ted left in the Class of 1979 and came down to Washington, D.C., and was working in the Education Section of the Civil Rights Division of the U.S. Justice Department, and he and I overlapped. We were down the hall from each other.

MS. COLES: Was he there as an honors attorney?

JUDGE ROBERTS: He was an honors attorney, as was I, and John Moore preceded us. John Moore was also in Eric Holder's class of 1976. John Moore was one of Eric's classmates. John Moore was one of the first ones to go into the Civil Rights Division Education Section. John Moore was a deputy chief in that section. He was a veteran, I think of thirty-some odd years. And this is a fellow whose hair, obviously, was of the style of the 1970s and later on a bit shorter, but John Moore was a fellow who grew up in Mississippi. This is an African American who was not going to allow the potential confines of his environment limit in any way his potential, so he ended up going, I think he was a Columbia undergrad and at law school and ended up with public service moving to Washington and going to the Civil Rights Division. He served out his entire career in public service. Sadly, he passed last year, but you would not believe the number of people who showed up at his memorial service here locally in Maryland, and they were colleagues from law school, friends from Mississippi, people who had worked with him in the Civil Rights Division, both staff and attorney levels, investigators who had helped put together some of these

desegregation cases. He was quite a fellow. Eric Holder showed up and spoke at John's service. So, again, the notion that some of these people occupying these seats didn't deserve to be there or couldn't hack it, particularly if they were from Mississippi. How could any black man from Mississippi do anything? Well John Moore showed them wrong.

There's another face in there you may not recognize, but I can tell you the significance in that book, James Whitlow. He was in the class also of 1976. He was one of the triumvirate from that class of black men who came to Washington. He worked at the Federal Aviation Administration. After he got there, the next president at the time was Ronald Reagan, who decided in a famous executive order to decertify the unionization of FAA Air Traffic Controllers. James Whitlow had been such a smart and trusted and able attorney at the FAA at the time, the task fell to him to draft the written orders that ended up decertifying the unionization of the air traffic controllers. Not a favored move on his part, but they turned to him because he was so good. But again, this is someone I suspect some of his classmates looked at him and said why are they bringing this guy in here when we could have had a more qualified white student occupying his seat. He was the African American man who because of his skills wrote up the required paperwork to achieve one of the presidential administration's goals during that time. Even though that might not have been his choice as policy, he carried it out and did his job.

Those three I believe forged a bond in undergraduate school, but that carried forward.

MS. COLES: Those three also went to Columbia?

JUDGE ROBERTS: I think they were all Columbia undergrads. They were double Columbians. But getting to know them in my first year, they were third-year students, I got to know them rather well and have continued close friendships with them, quite fortunate to be able to do that. Eric Washington, I told you about, is another one.

Another woman who was in my class was Della Britton, in the Class of 1978. We were very close friends at that time, and she, too, ended up coming down to Washington. There was some attraction about Washington that got lots of us to go down to Washington. She was hired to work at Covington and Burling. A very bright woman. She was one of the black women who would spend quite a bit of time in the BALSIA office and would work on matters with colleagues in the class and also matters with students who came behind us who were as befuddled by some of these weird concepts that we were learning for the first time. But she was very quick, very bright, very dedicated, as she was in undergraduate school at Princeton, in rendering as much help to black students as she could. I actually met her at Princeton when I took my one-semester exchange at Princeton. That was the first time we met, and we became good friends when we both entered Columbia Law School. But Della Britton, if you look her up today, her name is Della Britton Baeza.

She is now the executive director of the Jackie Robinson Foundation in New York, and there's a museum that's going to be built in honor of Jackie Robinson, and that will bear her thumbprint quite a bit.

There's another person in the next class of 1979, I believe. I know I'm jumping around in the books, but if you can find the book for the Class of 1979. There was a series of movies I've watched. One of them at the end when the credits roll, you'll see the name of Nina Shaw.

MS. COLES: I saw that. She was next to Teddy Shaw's picture.

JUDGE ROBERTS: Oh. Well then that's another Shaw in that famous class. Nina Shaw was a Barnard undergraduate. She went on to stay at Columbia. A very, very bright person. She connected with Della Britton in my class quite frequently to do coaching with other students. A brilliant woman. If you look up the top-rated entertainment law firms in Los Angeles, there's a firm called Del, Shaw and three or four other names that follow it. The Shaw in Del, Shaw is Nina Shaw, and one of the movies I recently watched, I can't remember if it was "I Am Not Your Negro," or if it was "Where Are You Nina Simone," or if it was "Black Panther," one of the more popular ones that came out this year. I generally sit through the credits to just pick up information, and I drew a lot of stares toward the time the credits were rolling when I saw attributed to counsel for the production Nina Shaw, and I shouted, "That's Nina Shaw, that's my friend." But she has done quite a bit of that and has been a major player in the legal community in Los Angeles and the entertainment law field. I

don't think it's private information to say that I understand that there is a production underway about Eric Holder's tenure at the Justice Department as Attorney General, but I understood that Nina Shaw is doing or has been doing some of the legal work on that production. So she is another star from Columbia and another one who put to rest the idea that these folks don't belong here.

You had asked initially are there any people with whom I was able to establish ongoing friendships, and these are just some of the African Americans, at least, with whom I've continued friendships and I am very grateful for those friendships. They were really bonded in the struggle of learning this stuff and learning it in that environment. But yes, there have been a number of other people with whom I've had some very good relations.

MS. COLES: Apart from the socializing, were you very active in BALSAs, or was that more tangential to your experience?

JUDGE ROBERTS: Activities in student organizations has to be tangential to your studies, but yes, I was active in BALSAs, and it was not a minor undertaking. If I remember correctly, I might have become co-chair of the BALSAs chapter in my final year, but at some point along the way, I was always active in BALSAs activities.

One of the final things we did in my final year in law school was attend the national BALSAs conference, which was in Chicago. The then-President of national BALSAs was someone whom I'm sure you've come

to learn about, a young fellow named Charles Ogletree, who is obviously now one of the tenured and scholarly more well-known professors at Harvard Law School. He was a Harvard Law School student. I think he went to Stanford undergraduate, but during my final year of law school, which was his final year of law school as well, he was the national BALSAs president. So, the spring of 1978, national BALSAs had its conference in Chicago. Teddy Shaw was at the time a second-year law student at Columbia. Teddy decided to throw his hat in the ring to run for national BALSAs president. He and Charles Ogletree had developed a good relationship, and Charles Ogletree had thrown his support behind Teddy when he announced that he wanted to run. Of course the Columbia crowd had to back its own guy, but we would have backed him whether he was at Columbia or elsewhere because he was so good, so talented, so committed, had been involved in so much involving African Americans nationwide. The New York delegation showed up in Chicago, backing Teddy Shaw. I tried to do what I could to boost his candidacy.

As fate would have it, however, it was time for a woman to become the first national president of BALSAs. All of the national presidents before that had been men, and I think BALSAs was first created somewhere around 1968 or 1969. A.J. Cooper, who went on to become the first black mayor of a particular Alabama city, the name of which is escaping me at the moment, was one of the founders of BALSAs. So from

1968 all the way up through I guess that year, 1978, all of the national presidents had been men.

A.J. Cooper, by the way, is related to the Christopher “Casey” Cooper, who sits today on the United States District Court for the District of Columbia, and I was fortunate enough to be the chief judge at that time who presided over his investiture. The sad footnote on that is Peggy Cooper Cafritz, who was a patron of the arts and was one of the founders of the Duke Ellington School of the Arts here in Washington, D.C., is also a relative who recently passed, sadly, here in Washington. But I was glad to see her when his investiture was going forward. In any event, 1978, as fate had it, was the year that it was time for a woman to become national BALSAs president. And so Theresa Cropper was a Georgetown Law School student at the time who ran, and she won. Teddy did not win. But we saw that it was a good thing that a woman, a black woman, became president nationally of BALSAs, and I think that set a milestone. I can’t tell you the history of the succeeding presidents, but it sort of broke that glass ceiling, and appropriately so. It certainly did not slow down Teddy Shaw, who went on to do amazing things afterwards, setting up the L.A. office of the NAACP Legal Defense and Education Fund, teaching at the University of Michigan Law School on the faculty there, becoming president, director-counsel nationally of LDF, joining the Columbia faculty after that, joining the faculty at UNC-Chapel Hill, and taking the chair named after Julius Chambers.

So, I may have given you more than you asked for. I'm not sure I remember what the question was.

MS. COLES: The question was getting into the activities you were involved in. So BALSAs. Were there any other activities, journals, any other law school activities you were involved in?

JUDGE ROBERTS: Yes. To finish out the BALSAs part, I think in my final year, I was co-chair or co-president, something like that, of BALSAs, and we had a full range of activities that we were sponsoring, and I worked fairly actively with the BALSAs chapter at Columbia. We also had a *Human Rights Law Review*. A number of us joined the staff of the *Human Rights Law Review*. I did. As best I can remember, I took some of the notes or articles. It was probably notes, student notes, and did some of the blue-booking and editing. So I did not rise to become editor in chief because I tried to devote most of my time to my studies, but I did want to support the work of the Columbia Human Rights Law Review. I'm straining now to try to recall other activities, but I think when the time made itself available, that other activity was playing bid whist in the BALSAs office. But it really was quite a bond for those wounded souls who felt oppressed by having to learn these new and bizarre theories of legal work.

MS. COLES: Was there any student activism that took place in your time at Columbia, any issues that you guys rallied around, either at the school or that was taking place in the larger environment at the time?

JUDGE ROBERTS: As I recall, the student uprising at Columbia University by principally undergrads had happened before I arrived at the Columbia Law School. Not that that solved everything. There were still issues afterward, but the principal activism that you might think of with respect to taking over buildings and making demands of the administration had occurred already at least on the main campus. The *Bakke* case, higher education case that went up to the Supreme Court involving affirmative action and the use of race in considering admissions, was, I believe, percolating up at that time, and so we were at least active in having exchanges or debates or lectures concerning those issues about affirmative action that were prompted not just by the *Bakke* case but by our own environment. There was a fair amount of activism around that.

The other regional BALSAs, NYU, Fordham, and so on, were also active in sponsoring programs, and the different BALSAs, regional BALSAs, tended to cooperate in those presentations. So there was activism to that extent. It was not the fiery activism that had preceded it with building takeovers and demands and so on. But we were at a phase where we had to really focus in on some of the academic, the intellectual, and the legal principles that we as practitioners would have to focus on in order to make sure that we made the right case.

MS. COLES: Where did you work during your summers?

JUDGE ROBERTS: I was very fortunate in my first year of law school. There was a legal writing instructor, not an instructor. I think he was a writing assistant who

graduated from law school and had gotten a position at Columbia assisting other professors with helping students in legal writing. His name was Bruce LaPierre. Bruce LaPierre oversaw some of the writing I did, and he would review it and give it back to me with constructive criticism. By the end of the first year, he had a relationship with Harriett Rabb. Harriett Rabb was an instructor at the law school, or perhaps a professor, who specialized in employment discrimination law and was a co-author of an employment discrimination case book, along with Professor George Cooper who was quite active in litigation, and with Howard Rubin, who was a lawyer practicing. So there was a casebook written by Cooper, Rabb, and Rubin on employment discrimination. But they didn't just write a case book. They actually ran a clinic, employment rights clinic, which represented at that time women who filed a lawsuit against *The New York Times*, and they petitioned for class status and won it. This clinic represented them. The clinic was operated principally by Harriett Rabb and Howard Rubin. They brought on in the summertime student interns to work, and it was a paid internship, to help them with these class actions that they were running. The principal one was the class action by women writers, women professionals, working at *The New York Times*, who experienced the kinds of things that were fairly common. They would get paid less for doing the same work that men did, and experienced other kinds of social interactions or problems at *The New York Times* as well. I mention Bruce LaPierre because Bruce LaPierre recommended to Harriett

Rabb that one of the interns they should consider hiring was me as a result of some of the writing that I had produced for the writing exercises we had to do and he had to review, perhaps as well as my interest in civil rights cases generally. So Harriett Rabb hired me. I worked in the employment rights clinic, which was housed in the Columbia Law School building for my first year.

MS. COLES: Throughout your first year? That's the summer after your first year?

JUDGE ROBERTS: That was the summer after my first year. I did not have any employment during the year, and I think that was probably wise because I needed to pour as much time as I could into making sure I got those classes right, although come summertime, you really do need to find some way to pay that rent. I was still paying rent. Interestingly, my roommate and I, we were connected by a woman I used to work with in a previous summer job when I was in college. I was the music director for a summer day camp in Harlem. The woman I worked with, who was running another aspect of the program, ended up going to Columbia business school the year before I got to the law school. She learned that I was going to be coming back to New York, and she said I know a young black man who is going to be moving to New York and needs a roommate, why don't you connect with him. Well, we did. We got along well. We got an apartment on West 122<sup>nd</sup> Street, and we remained roommates.

MS. COLES: He wasn't in law school?

JUDGE ROBERTS: He was in Columbia business school, which is a two-year program. We still had to pay rent that summer of my first year, and I needed some money to do that, and happily, Bruce La Pierre recommended me to Harriett Rabb, and she hired me to work in the Employment Rights project for probably the full ten weeks of that summer.

MS. COLES: So did you take actual cases? Was it like being a practicing attorney?

JUDGE ROBERTS: Well, it was not being a practicing attorney. I was not licensed, but I was working under practicing attorneys, which included Harriett Rabb and Howard Rubin during the course of the litigation of the lawsuit against *The New York Times*. They were in discovery. Depositions had to be taken. Some of the interns would summarize and digest the depositions. Sometimes we'd help interview witnesses or prepare them for the depositions. We'd do some legal research in case there was motions practice. So it was a very valuable experience having a bird's eye view of what does it really mean to practice. What does a lawyer do when working in a civil case? How does a lawsuit actually proceed? What are the kinds of things you have to do to prepare to be successful in discovery?

MS. COLES: Was it a large number of plaintiffs?

JUDGE ROBERTS: That's a great question, and I can't remember the number. But they were limited to the number of women who were employed at *The New York Times* in a professional capacity who were willing to join the class. So I suspect that it was much larger than 10, but lower than 1,000. That gives

you quite a range but shows you I can't quite remember what the number was, but the numerosity requirement was matched by the number of women who had joined on as active members of the class of women. So I think it may have been 100 or so, maybe a little less, maybe a little more. But it was a significant number.

MS. COLES: What did you do your second summer, the summer after your second year of law school?

JUDGE ROBERTS: Well that was the all-important summer where you were supposed to work in a law firm with the idea that that would be your opportunity to get a full-time job once you graduated. My goal in going to law school was not to work in a law firm. My goal in going to law school was to become a criminal defense lawyer. One of the aspects of Columbia, the Columbia environment, that really did not match my goal, and that frankly I had not been aware of before I applied to Columbia, was that Columbia at that time, and perhaps still now, was very law-firm oriented. You go to the career guidance office. They were very well-connected with law firms. If you went to the career guidance office and said I really think I want to practice somewhere in the securities area or I want to do international trade or I want to do corporate transactions or I want to do whatever else law firms do or did, they would have six, seven, eight recommendations right off the bat on the tip of their tongues. Then in walks some kid from Jamaica, Queens, who has no lawyers in his background, has some scatter-brained notion he wants to be a criminal defense lawyer and work in

public interest and says well tell me about something like that, I want to work in public interest. And there was sort of a glaze that came over the face of the people in that office as if to say public interest, criminal defense, well, hmmm, let me think about that. I don't mean to be overly critical, but I think it's a fair statement to say that the placement activities there were very much law firm oriented. I realized, however, two things. One, if I wanted to keep options open and to be exposed to a breadth of activities, and number two, if I wanted to make enough money to continue paying rent both in my apartment in New York and in the apartment I ended up paying for in Washington, I better think about law firms. Washington had already drawn my attention, so Washington firms ended up being on the list of places to seek out for my second summer. I ended up applying to and getting accepted at a law firm here in town called Steptoe and Johnson, which at the time was another one of the premier firms. It wasn't as large as the Covington and Burlings or the Arnold and Porters, but it was one of the upper ranked places. So I moved down to Washington for that summer of 1977 and accepted the offer of a summer associateship at Steptoe and Johnson where I was involved in mostly civil litigation matters. Two others of my classmates from Columbia were summer associates as well and came down to Washington to work there. One of them, interestingly, and you might see his picture in the Class of 1978 picture book, went on to become a partner in a law firm, a smaller law firm, but then went on to become chairman, CEO, and president of

Washington Gas and Light. You don't do that if you don't belong in the Columbia Law School class.

MS. COLES: What was his name?

JUDGE ROBERTS: James DeGraffenreidt.

MS. COLES: That's a long name.

JUDGE ROBERTS: Yes, it is a long name. He probably had more hair then than he has now, and I've seen him more recently. He was a Yale undergrad. He got an MBA and a JD, very smart guy. Interestingly, he married while he was in undergraduate school to another Yale undergrad, a black woman who is now a physician and has done lots of patient care but also research. They live in Maryland. I think she has affiliation with Johns Hopkins, one of the premier medical institutions in the United States. They are quite a fun couple. They have biological children of their own, but they have also adopted black children who would never have had that opportunity had Michelle and James not taken them on. Michelle and James are quite well-heeled, not surprisingly, from professional activities of both of them. I heard lately that he's building a large house on the Eastern Shore of Maryland, and I put my bid in to make sure he hosts the first bid whist competition at that new house he's building. He probably will do that.

In any event, I worked in the summer of 1977 at Steptoe and Johnson. You want to do your best so that at the end of the summer you get the offer to return because that's yet another metric sometimes that future employers will use in determining whether to hire you later on. So

I was fortunate enough to have gotten an offer to return to them after I graduated. As you'll see, that didn't happen because I really had a commitment to public service, and while I appreciated the exposure and the experience, I ended up going to public service first. But I really valued my time at the firm. I got to meet partners at that firm and others, the associates at the firms, people who otherwise would have been sort of shrouded in mystery and mystique. You think about these big law firms as the gods of the profession, but to actually be able to work with them eye to eye, speak to them, see what their lives really are like, see what the practice of law is really like, see what the practice of law is like in big corporate law firms, to see how the skill sets of those people who were hired compared with the skill sets that you were familiar with and that you could see, helped you also to see that the mystique about how you have to be a super-god to be able to be hired in these institutions doesn't always match with reality. They were very able folks, but to think that, oh, I could never do that or I could never achieve that status or nobody would ever look at me as being able to achieve that kind of success was altered by my seeing who all these different people in these different firms really are, what they've done, what they haven't done. The kinds of lives they have lived, the breadth or narrowness of their life experiences. So it was a wonderful opportunity to open my eyes, to get exposure as I had in CLEO, to lots of different areas and the profession.

MS. COLES: This time of living in D.C., that was your first time living in Washington?

JUDGE ROBERTS: No. That was not my first time living in Washington. My first time living in Washington occurred in 1973 in the summer. I don't remember if I told you about that, but I did a semester exchange program at Princeton University. I was a Vassar undergrad.

MS. COLES: I don't remember us talking about that.

JUDGE ROBERTS: In my third year at Vassar, I may have told you that my first year at Vassar was 1970. We were the first class of entering freshmen men, so first, second, third, fourth semester, fifth semester at Vassar, through my junior year, I was on this campus, academically rigorous work, but still overwhelmingly female and the paucity of black men was really unusual for a kid growing up in Jamaica, New York. There was an opportunity to participate in an exchange program with Princeton. It wasn't truly an exchange because nobody from Princeton came up to Vassar that semester, but I applied and got into the program where I could go to Princeton for the spring semester of 1973, so I did. I went to Princeton that semester. I lived in a dorm where we had an eight-person suite. A two-story, eight-person suite, a cathedral ceiling. There was a bannister across the second floor, you could look down and see. There were eight rooms in an eight-man suite.

MS. COLES: Everyone had his own room?

JUDGE ROBERTS: Everyone had his own room, all black men, which I was quite grateful for because it was much easier to communicate, get a feel for what's going on, navigate the classes, and so on.

MS. COLES: The other roommates were actual Princeton students, not exchange?

JUDGE ROBERTS: Correct. They were all full-time Princeton enrollees. They were quite welcoming, I must say. I appreciated that they would welcome this outsider from this weird school up in New York. So I say that to mention I met a woman at Princeton, a black woman named Dorie Shorter, at Princeton and engaged her in some conversation, mentioning that I was going to be double majoring in black studies and political science after the notion that majoring in math really didn't quite compute. And she said, well you know, you should spend some time on the Hill and see what is happening down in Congress. I said that's a great idea. I'd love to do that. She told me, well, Senator Ted Kennedy's right-hand person lives two doors down from me down in Washington, would you want to be able to talk to him and see what possibilities there are there? I said, are you kidding, yes, obviously. If that's possible. She said I'll try to hook it up for you.

MS. COLES: This is a student you met at Princeton?

JUDGE ROBERTS: This is a black woman from Washington, D.C., who was enrolled full-time at Princeton University. And so next thing I know, she told me Bob Bates is his name, he lives right down the street from me at home, but he said he'd be happy to talk with you if you want to come down and be interviewed and explore possibilities on the Hill. I jumped at that. I went down to Washington, D.C. I showed up at Senator Kennedy's office. I went and talked with Bob Bates who was in the office beside the

Senator's. We talked. For some reason, he thought I might be able to handle an internship down there. I got an offer from the Senator's office to be an intern in that office for the summer of 1973. Now happily my sister, who was a Howard University graduate Class of 1969 went into teaching, and she was a teacher in the D.C. public school system for a total of forty years. She just retired several years ago, but at that time, she was a teacher in the D.C. public school system, had an apartment in Washington in Northeast. I remember the address, 3911 Ninth Street Northeast. Why I remember that, I don't know, but I do. I guess it was a seminal time in my development and there were things that kind of stick with you. She said come on down, you can live with me. You can sleep on my couch. So I did. I lived in Washington. I had a car. Interestingly, I was able to drive my car to work during this internship and park in a Senate parking lot. How that happened, I'm not sure. I got a green sticker. There was a parking lot that was across from Union Station train station where staffers were able to park. I don't know many interns who were able to wiggle their way into that, but I got a green sticker. I was able to drive from my sister's house every day to work, park in the Senate staff parking lot and then walk up to Russell Senate office building to check in. So I worked in Washington and lived in Washington for six weeks during the summer of 1973.

MS. COLES: That's when the Washington bug bit you?

JUDGE ROBERTS: I suppose it did. Not suppose. It did. When I think about it, 1973, if you look back at that time, the Senate Watergate hearings were going on. Senator Sam Ervin from North Carolina was the chairman of the Senate Watergate Committee. He was calling witnesses before that Committee. Any number of witnesses that are part of history now, John Dean, Alexander Butterfield, and so on. By that point, I think the investigation had led to the discovery of the burglars and who they were and how they were being funded by the Committee to Re-elect the President, who was Nixon at that time. I will never forget seeing Sam Ervin in the chairman's seat questioning, it was either Dean or one of the people who had been an official in the Committee to Re-elect the President, the acronym was CREEP, and he sat up there with his southern drawl and said, you mean to tell me that the Committee to Re-elect the President constituted an eleemosynary institution constituted solely for the purpose of reimbursing the Watergate burglars? That was the Senator, one of his famous questions. I had never even heard the word eleemosynary at that point, charitable institution.

MS. COLES: You were in the room when that happened?

JUDGE ROBERTS: I don't know if I was in the room or in another room watching it on the screen.

MS. COLES: But you saw it live.

JUDGE ROBERTS: At different times, I was able to go into the Senate Judiciary Committee hearing rooms or the special committee investigating. All of that was

going on at the time. I met some of the staffers who worked on that. I would see some of the senators who were involved in that. There were times when the Senate Judiciary Committee was taking up legislation or they were vetting nominees to the judiciary. I remember when I was assigned to work on some matter that the senator needed some research on and some prep work on. If you look at those hearings televised on TV, you will, of course, see the senators sitting in the chairs right at the dais, but you will also see what might be called back-benchers, people sitting behind them that didn't get to sit in the chairs and ask questions but they were also passing notes to the senator or the senator would turn around and say get me this book or something. I got to be one of those back-benchers at a time I think that was televised involving some issue. I was so star struck by it all. I can't even remember what the issue was. My desk was in the office in the building across the street from the Russell Senate office building where they had the judiciary hearing room. Kennedy chaired the judiciary subcommittee on administrative practice and procedure. The chief counsel was Jim Flug. His associate counsel was Tommy Susman. I mention all that to say that some issue I think arose in connection with some potential pending legislation that Senator Kennedy would have to vet through his subcommittee that he chaired, and so when that matter resulted in some hearing, they dispatched me to assist the Senator with perhaps another aide to sit as a back-bencher. I was very anxious to make sure we had whatever was needed. Sometimes I

anticipated issues or anticipated questions, so I'd get up from my back-bench seat and go get what I thought would be important and come back. Well I remember at one point I was a bit overanxious and the aide whom I accompanied said why don't you just stay put for a while. At the time, my Afro stretched probably the width of any camera screen that was showing what was going on, and I can imagine it might have been a bit of a distraction to have this little lollipop-looking guy with this toothpick body with a lollipop head popping up and down in the TV screen, so I think it was a wise choice for the aide to say why don't you just hold off a moment.

MS. COLES: Did you get to meet Senator Kennedy?

JUDGE ROBERTS: Yes. He was very gracious with his time. He had young interns working for him. I wasn't the only one. Interestingly, though, he paid his interns, or at least he paid me \$50 a week.

MS. COLES: That's an issue even today.

JUDGE ROBERTS: And I tell you, \$50 a week back then was quite something. So getting a paid internship, number one, that was \$50 a week, number two, and with Senator Kennedy, number three, it was quite an experience. But yes, I did get to meet him. I remember one of the best times was when he set aside an afternoon and gathered all of his interns and staff people I suppose sat in as well, in his office. Not in a conference room, but in his inner office, and you can imagine he has all this memorabilia on his wall, his brothers and the president and his father and family and all that. So it was a little

overwhelming to be able to actually go in a place like that and a little distracting. In any event, he welcomed us all in for an afternoon where the interns got a chance to have a face-to-face Q and A with him, and we did ask him questions. I do remember that Clarence Kelley, who had been a police chief in either St. Louis or Kansas City, I think it was Kansas City, Missouri, was nominated to be the new FBI director. I can't remember if Hoover had just died or an intermediary had stepped down, but there was a vacancy in the FBI directorship. Clarence Kelley was the President's nominee to become the FBI director.

MS. COLES: Nixon was the President at this time?

JUDGE ROBERTS: Yes. Nixon was President in 1973. So Nixon's people were already under investigation for shenanigans. Nixon had already taken the new southern strategy as a way to win over conservative democrats to the Republican Party. Nixon had already adopted the mantra of law and order, which here in 2018 we're hearing more of in some politicians, but it had a very sharp meaning. It meant something very special, and it was intended to have a special message, particularly to people of color in this country. So I'm just setting the context for you. Okay, Nixon is President. The Watergate burglary and break-in had happened. Under investigation. Clarence Kelley is nominated. The research on Clarence Kelley was that he had been the chief of police during a time when those police had been very heavy-handed, had used a great deal of violence, particularly against people of color.

MS. COLES: He came from what city, did you say?

JUDGE ROBERTS: It was either Kansas City, Missouri; Kansas City, Kansas; or St. Louis. I think it was Kansas City. So Nixon picked him to be his new FBI director to follow J. Edgar Hoover. So that's the environment. So the nomination was pending before the judiciary committee, which had to vote up or down on sending his name to the full floor of the Senate for confirmation or not. Kennedy's announced position was that he was expected to support and vote in favor of Clarence Kelley. So, you know, young whippersnappers with Afros as wide as the street, and even some of the white students who had picketed against the Vietnam War were among, not surprisingly, the interns who were attracted to work in his office, and I remember a particular Q and A that has stuck with me. We asked Senator Kennedy, Clarence Kelley has a reputation of being quite violent, of running a police force that was in the mold of the law and order police force that Nixon has promoted and spoke positively about. How is it that you can vote in favor of making an FBI director someone with a reputation like that? How could you vote for Clarence Kelley? His answer was fairly simple. He said, Clarence Kelley is going to be a member of an administration run by a president. He said, the administration, the President, is entitled to select his advisors. The role of the Senate is one of advice and consent. We don't have to consent. We do give advice, but when a president wants to select his own cabinet and his own advisors under that cabinet, we have to presume that that

president is entitled to have the people who share his views around him unless there are some smoking guns in the background, unless, and he didn't say this at the time, unless there's some hot mic on where the president is talking or president-elect is talking about doing improper things to women or unless there's some scandal about paying off – I'm making all this up, but the exceptions, I think would probably fit some of the things we've heard in the news lately. In other words, his position was unless there's something that's clearly disqualifying about a president's nominee, unless there's some scandal associated, unless there's some unethical behavior, unless there's some criminal conduct associated with a nominee, the president is entitled to select his advisors. It was his at that time, not his or hers.

MS. COLES: It still is.

JUDGE ROBERTS: I'm not sure that the interns accepted that at the moment. We had to sit back and think about it. But, two conclusions I drew. One, his brother had been president 1961 to 1963. He saw how that worked. He saw how his brother selected the people that his brother thought would be the best ones to carry out his brother's administrative policies, the administration's policies. His brother also saw how there were forces that wanted to undermine what his brother wanted to do. I think Ted Kennedy took from that the notion that even if I don't like the candidate, even if the candidate is not someone I would have selected were I president, I have to accord

that candidate the presumption that that's someone who should be put in place.

The second, I guess takeaway, I thought about more recently, and that is in the face of so much vitriol, and so much resistance, and so much unproductiveness in Congress, in the Senate, that we've seen in the previous eight years where nominees, policies, have been stopped for purely political reasons, for reasons that have nothing to do necessarily with the quality and qualifications of a candidate, that have nothing to do with the virtue of a policy or a piece of legislation, if that attitude had prevailed in the previous set of congresses where a president is entitled to have nominees of his choice, or cabinet members of his choice, we might have had a different history in the past decade. That's not to say that at every point a senate is supposed to be a lap dog and take whatever happens and not raise up potential issues. But it is a different window on how I was confused back in 1973 with an answer coming back from this progressive senator to a question about how can you vote in favor of someone with a reputation that's contrary to what you believe in.

MS. COLES: Was Mr. Kelley ultimately confirmed?

JUDGE ROBERTS: He was confirmed, and I have to think back now how long he remained director. I don't remember if at that time it was a ten-year term or something different. I think I remember he did not serve a full ten years. I don't know if it was because of a change in administration and an opportunity that opened up before statutorily that position became a ten-

year position or he retired or what, but Clarence Kelley got confirmed by the senate, and if I remember correctly, with the support of Senator Kennedy's vote, among others. So I guess there was a stronger sense of bipartisanship in the senate at that time where senators from one side of the aisle would reach over to senators on the other side of the aisle to make sure that the government moved forward. No democrat was going to be able to nominate an FBI director, so the democrats were looking at, well is this person the devil incarnate or not. Can I make some progress or benefit somehow from saying to the other side of the aisle I tell you what, I'll vote in favor of this nominee, I'm going to come to you next time I need a favor. That kind of horse-trading, and pork barrel legislation, we frowned upon sometimes because you would have the bridge to nowhere being funded wasting taxpayer money, but I started to think back on how some of that enabled legislation to pass. You scratch my back, I scratch yours. Congress has now cut back a great deal on the ability to have this kind of back-scratching, and pork barrel legislation, and gridlock exists. I don't know if it's a direct relationship or a product of it, but I've heard commentators more often these days talking about well maybe we need to get back a little bit the ability for legislators who are elected from areas to say look I brought back some pork and maybe let them have some chance to have pork barrel legislation to give them more opportunity to compromise, whatever. Compromise really doesn't function any more.

So yes, I lived in Washington for the first time in 1973 for six weeks. The other six weeks I had a job in Princeton, New Jersey, at the Educational Testing Service as a computer programmer. The computer programming course I took at Princeton while I was at Princeton was taught by a senior official at the Educational Testing Service. I did very well in it, and he later asked me well why don't you come and be a programmer for the summer. So I had to split my summer because I definitely wanted to do the Kennedy work, but I did that only six weeks. I went back to Princeton, rented a room on campus, worked for six or eight weeks as a computer programmer at the Educational Testing Service making something like \$125 a week. That was something I couldn't turn down. Both the opportunity and the pay were quite attractive, so it was a fun summer.

MS. COLES: When did you learn how to program computers?

JUDGE ROBERTS: At Vassar. My first year at Vassar, one of the courses I took was a computer programming language called Fortran. They had a number of offerings. Fortran was one computing language that focused mostly upon mathematical calculations. PL One was another programming language that was more textual than mathematical. There were other languages like COBOL, Assembler and some others like Basic, that had more to do with the actual nuts and bolts of how a computer functioned. So I took Fortran my first year. I might have taken second-level Fortran after that. I'm not quite clear.

I took another computer programming course called APL, which was an acronym for A Programming Language. It happened to be an interactive computer programming language. What I mean by that is when you did Fortran or PL One programming, you did it by sitting at a keypunch machine, you fed these computer key punch cards into the top of the key punch machine, you had to type in the instructions one card at a time. They actually punched holes in the punch cards that a computer would read by shooting beams of light through it and interpreting the keypunch holes that you put in there to mean certain instructions, but usually a program took a two- or three-inch stack of program cards punched out. You'd have to feed those keypunch cards into a feeder on top of what we had then which was an IBM 360 30 mainframe that was probably 20 feet, 30 feet long by 8 feet wide. The feeder would individually feed the cards into the machine and read them and process the program that you had put in and eventually print out the results of it on green and white striped paper that would be generated by the output from the machine. If you got one keystroke wrong, the green printout would say error. You then had to go debug this thick stack of cards that you had fed in to find the one wrong keystroke or two or three and then reprogram it, re-punch that card, feed it again, and because there were so many people trying to use it, you usually had to wait a whole day before you got the results. I mention that only to say the APL that I took the next year, A Programming Language, was more like sitting at a computer keyboard

feeding in instructions and getting instant feedback from the computer. It was all on typewriter type paper. It wasn't on screens. So you could type in an instruction, and the computer would type out a response. That's what the APL program was, and I remember one of the projects I did for that class sophomore or junior year, whatever it was, was to write a craps program, the dice game craps. I wrote an interactive craps program for that class. Anyway, you asked how I got hired as a computer programmer. Well I had taken some computer programming language courses and programming work that we did at Educational Testing Service used those programming languages that I knew how to use. So that was a very fun second semester in the summer of my third year of college.

MS. COLES: This seems like a good place to wrap up.

JUDGE ROBERTS: Okay.