

ORAL HISTORY OF WILLIAM BARNETT SCHULTZ

This is the second interview conducted on behalf of the Oral History Project of the District of Columbia Circuit. This interview of William B. Schultz was conducted on Wednesday, February 17, 2021, by Stephen J. Pollak via Zoom.

Mr. Pollak: Good morning, Bill.

Mr. Schultz: Morning, Steve. Nice to see you.

Mr. Pollak: We were last time finishing up on your experiences as an undergraduate at the Yale College – Yale University. I wanted to ask if you had anything to add to what we covered, or clarify what we covered in the first interview?

Mr. Schultz: I don't think so. I think I conveyed what an extraordinary time it was to go to college because it was the middle of the Vietnam War. There was just constant student activity. There were labor strikes by the workers at the school. There was the relationship between the Yale community and the Black Panthers. Kingman Brewster, Jr., the president of Yale University was a national figure and very successful in keeping the students from taking over the library or the major buildings, as had happened at Columbia and other universities. I think for all students, it was a time for rethinking everything – rethinking what the role of government was; what your relationship was to government; and what your relationship was to authority figures. And then, of course, it was the beginning of drug use, marijuana, LSD, and other drugs, by college students too. I think my time at Yale was very different, for example, than the experience of people just five years older than I had.

Mr. Pollak: Bill, you identify changes in your trajectory that occurred in the period you were at Yale. When you began, did you point in one direction and when you finished did you point in another?

Mr. Schultz: I don't think I pointed in any direction when I began. I don't think I had any idea what I wanted to do professionally or how I would spend my life. I just wanted to do well academically and succeed that way. And yes, I think Yale had a huge impact on my values and how I spent my life and my view of authority figures. As I think it did for many, many people there.

Mr. Pollak: How did you spend your summers during college? Did you have a job or volunteer somewhere?

Mr. Schultz: It was different in different summers. I always had a job. I taught tennis at various times. I think the first summer I spent six weeks with a friend traveling around Europe. I probably spent the rest of the time teaching tennis. I worked at a law office one summer. I always taught tennis on the side.

My junior summer I worked on my Yale senior thesis. I had a grant from the National Science Foundation. I spent the summer studying an area of Capitol Hill, where private urban renewal had occurred, and Georgetown where it also occurred.

Mr. Pollak: Let's turn to graduation. You graduated and what then? What did you do?

Mr. Schultz: I applied to law school, but I also got a grant from the Ford Foundation for a year to do a project that was an expansion of the thesis I wrote in college. It was a project to look at neighborhoods around the country that had experienced private

urban renewal. We studied a neighborhood in San Francisco called Nob Hill; a neighborhood in Cincinnati; we studied the two neighborhoods in Washington, D.C.; and a neighborhood in Chicago. We interviewed many residents, many former residents, and studied the building permits. The idea was to try to figure out why this was happening and present it as an alternative to urban renewal, which was seen as a very destructive force, because it had so torn up inner city neighborhoods. Remember, this was really just following the riots in cities that followed Martin Luther King's and Bobby Kennedy's assassinations. There was a lot of attention being paid to cities, how to rebuild them, and how to do so in a way that was respectful to African American residents. We did that for a year.

We also traveled in Europe. I think I knew at that point I was going to go to law school the next year.

Mr. Pollak: You refer to "we." Were there more than you?

Mr. Schultz: I got married after college, and my wife and I did this project together. We wrote a book-length report. It didn't get published as a book, but I think there was one article that came out of it. We submitted it to the Ford Foundation. We also worked with a professor at Yale University, Peter Lupsha, who was very interested in it too, and I think was part of this Ford Foundation grant.

Mr. Pollak: I see. Do you want to offer a summary of what your conclusions were or what you found out from this work?

Mr. Schultz: It's a long time ago. There are a number of factors. The question was "Why did this happen in some areas and not in others?"

Mr. Pollak: Might I ask, just by way of example, what were the areas you studied in D.C. and did it happen in D.C.?

Mr. Schultz: Sure. The two areas were Georgetown and Capitol Hill. Georgetown was classic because it was really a very defined area which turned out to be an important factor. The neighborhood was defined by the Potomac River, Rock Creek Park, Dumbarton Oaks, and other park land. In the 1940s, Georgetown was a rundown area. And earlier in its history, the eastern half of Georgetown was occupied mostly by slaves and African Americans and the western side was a little wealthier, but it was not a particularly attractive or expensive neighborhood.

Another factor was the architecture of the neighborhood, and there were other factors that were difficult to describe.

There was a neighborhood in Chicago, Old Town, that got a reputation as a place for a lot of jazz and a lot of musicians and a lot of artists, and that attracted similar kinds of people. Of course, a major attraction was the convenience of the inner-city neighborhoods. In the 1950s and later many families, like my parents, lived outside D.C. and other cities and struggled with increasingly difficult commutes. There is a lot of attractiveness to living in the city. But we were trying to figure out why some neighborhoods had experienced this spontaneous renewal and others had not.

Mr. Pollak: I see. So along the way you got married? Did you get married while you were in college?

Mr. Schultz: Right after college.

Mr. Pollak: Was this a classmate of yours?

Mr. Schultz: No, there were no women in my class at Yale. I was a member of the last all male class. My first wife went to Mount Holyoke College. But we had been classmates in 6th, 7th, and 8th grades. Then we went to different high schools. We re-met sophomore year of college. Her name is Cathy Cresswell.

Mr. Schultz: Her father was the administrative assistant to Senator John C. Stennis. At the time of the Vietnam War, this was a very interesting relationship to navigate. I became very close to her parents and learned a lot of woodworking from her father. We talked about politics but did so carefully.

Mr. Pollak: I think Stennis had a significant position on the committees concerned with national defense.

Mr. Schultz: Yes, and he was a strong supporter of the Vietnam War. Stennis was a segregationist but like a number of them, or some of these southern senators, he veered toward defense and national policy and away from domestic politics. It didn't change the positions they took. Unlike the other senator from Mississippi, James O. Eastland, who really was a rabid racist. Stennis was chairman of the Arms Services Committee and he was a dignified old southern figure.

Mr. Pollak: Well, so you had the year of the Ford Foundation funded research and writing of the report and in that year, you applied to law school?

Mr. Schultz: Right.

Mr. Pollak: Did you apply anywhere but the University of Virginia, which you attended?

Mr. Schultz: I applied to Chicago and Pennsylvania. The University of Virginia was very attractive to me because of tuition. I was married so I wanted to support myself. The tuition was \$630.00 a year. They gave me a \$500 scholarship. My wife taught school the first year and then she went to architecture school. We were able to completely support ourselves based on her salary, which was \$6,000 the first year, and then what I made in summer jobs.

Mr. Pollak: Did you live in Charlottesville during that period?

Mr. Schultz: We did. In our first house the rent was \$140 a month, and then we moved across the street where the rent was \$90 a month. We lived in Charlottesville so I could walk to law school or ride my bike.

Mr. Pollak: When did you make the decision that you would go to law school?

Mr. Schultz: I don't really know. I majored in economics. I always had in mind that law school was a possibility. At some point in college, I made the decision. It wasn't a moment.

Mr. Pollak: Other than the tuition and cost of living, were there other reasons you chose the University of Virginia School of Law?

Mr. Schultz: Not really. It was a very good law school. I grew up in Virginia. I would never have considered going there for college. But I did not have any particular connections or people I knew there. It was an adventure.

Mr. Pollak: Speak generally about the law school experience – the law school years. Did you do well?

Mr. Schultz: Yes. I got good grades throughout but did extremely well during the last year and a half, getting the top grade, which was an A, in every class. It's interesting. A lot of people hate law school in their first year, but I really liked it. I thought the teachers were extraordinary, on average much better than the teachers I had in college. I was taken by the whole process. In college, I took many English and history courses where I read literally thousands of pages a semester. We were always trying to keep up with the assignments. I remember in law school the first assignment was a couple of cases. It was maybe five pages of a textbook, and I went to my first class which was a contracts class. Stan Henderson, a terrific teacher, gave the lecture, and as I listened, I realized while I had read the cases, I hadn't thought about the issues and had missed so much. It wasn't just reading and getting through it and maybe memorizing the material. It was stopping and really trying to figure it out. And I loved that. I felt like I was being taught a new way of thinking.

Mr. Pollak: Tell us about your law class. It's diversity, the number, and whether you've stayed close to those people in the years since.

Mr. Schultz: There were 280 students. There were twenty-one women and just a handful of African Americans. It wasn't very diverse, but that began to change by my third year, when, I think, there were sixty women in the first-year class. So, it began to change quickly. I made a lot of good friends in law school.

I was pointed to a public interest career, and there were only a small group of people at Virginia who had the same idea. I don't know that any of

them went to Washington. I haven't kept in contact with a lot of friends from law school. Probably more from college.

Mr. Pollak: Where did you get the idea that you were pointed to a public interest career?

That was unusual, wasn't it?

Mr. Schultz: It was, but I was influenced by my time in college and the controversy over the Vietnam War and many discussions I had with classmates. Public interest law was where I was pointed when I went to law school. I had no doubt about that.

I had a lot of good friends in law school who wanted to work at law firms – New York law firms or others. That's not what I wanted to do. I spent my time with a post-conviction assistance project where we went to local prisons and represented inmates in disciplinary hearings and working for Legal Aid Society. I ended up being head of the Legal Aid Society. I could have been head of either organization because I think I was by far the most active student in both.

The summer of my first year I worked half the time at that project and half the time with the Public Defender Service in D.C. I didn't know what I was going to do. I think I probably thought it was most likely I would do legal aid after law school. That's all I was ever interested in.

Mr. Pollak: What was the atmosphere at the law school? Was it a conservative place? Who were your mentors there?

Mr. Schultz: I think the students were pretty conservative. The faculty wasn't. I think probably half the students were from Virginia. There were a lot of people there I really liked. It was competitive – the students were ambitious. I did my best to

stay away from that. I didn't join any study groups which were popular. I just studied on my own.

Mr. Pollak: Did you serve on the Law Review?

Mr. Schultz: No, I did not.

Mr. Pollak: Was that a choice of yours?

Mr. Schultz: I didn't try out for it because it wasn't how I wanted to spend my time. I had other interests.

Mr. Pollak: Were there particular professors that you marked as significant mentors to you?

Mr. Schultz: Not so much mentors. There were some I admired or got pretty close to. Stan Henderson was my contracts teacher and I have kept in touch with him. That was just mostly because he was such a fabulous teacher. I took a legislation course from Alex Bell, and I worked with him on a law review article he was writing. I took administrative law from Ernest Gelhorn, and I worked for him through law school on his articles and books. He later became dean of Case Western Reserve and then left teaching to join Jones Day.

He was a somewhat prominent figure in administrative law. Another professor I became close to was Dick Howard, and he is still at the law school. I took a seminar from him my third year for which a friend of mine, Phil Howard, and I each did papers on the Supreme Court.

My paper was on Supreme Court voting patterns. This type of analysis is commonly done now, but I don't think anybody had done it then. I analyzed voting patterns of Justices, depending on different case categories. Phil did a

more descriptive paper. We combined the papers into an article that was published in the New York University Law Review the year following my graduation from law school. Originally, Dick Howard was going to be a coauthor, but he pulled out of it and Phil and I got it published. We worked on that third year and then the following year while I was clerking.

Mr. Pollak: Did you have moot court experience? Did you try out your advocacy?

Mr. Schultz: It's interesting. My friend, Dora Saharuni and I participated, and we won the first two rounds but then we didn't pursue it, probably because I felt I was too busy doing other things.

Mr. Pollak: Did you take to it? Did you think you would become an oral advocate?

Mr. Schultz: I had done so much debating in high school. I was always pretty confident I could be comfortable in court.

Mr. Pollak: I thought that the contemplation of oral argument before judges was terrifying and anxiety producing, but once the argument began, I was never – I always found that fun.

Mr. Schultz: That's similar to my experience. I remember it was anxiety-producing until I got the first question. Up to that point, you didn't know what was going to happen. But once you got the first question, then you're focused on that and then the anxiety dissipated.

Mr. Pollak: What were your favorite classes in law school? Subject areas?

Mr. Schultz: I didn't have any, but I did have favorite teachers. I took civil rights, a seminar from Julius Chambers, who later became head of the NAACP Legal Defense

Fund. I have to say, I didn't fall in love with it. I don't think he spent a ton of time preparing. Then, I took a housing seminar. But the school offered very little that connected to public interest law, which is what I was interested in.

Mr. Schultz: The classes I liked best were the ones that really had the best teachers. There was a terrific constitutional law and federal courts teacher, Peter Low. Former University of Alabama Dean Dan Meador, an Assistant Attorney General who was blind, was an excellent teacher. The courses I was attracted to really had to do much more with the teachers than the subject area. I liked tax and took income tax and then two semesters of corporate tax from Mortimer Caplin. I suppose I also liked it because it combined policy with some math.

Mr. Pollak: How significant in your learning experience were your fellow students who recited and were participants in dialogue that occurred in the classes?

Mr. Schultz: I think probably very significant, not that I thought about it at the time because we were constantly talking about legal issues and our classes after class and in between classes and at lunch. There were some very talented students that became very good friends.

Mr. Pollak: Did you, being a married student, influence people you socialized with?

Mr. Schultz: I don't think so.

Mr. Pollak: Were there many other married students?

Mr. Schultz: No, there weren't. But I don't think it made much difference. I don't think it was any different than somebody having a girlfriend really. It was a very close

community. I loved that time. There were a lot of parties and socializing, and I had a number of friends that I felt very close to. I just really enjoyed it.

Mr. Pollak: Did they go on and stay in the law for their careers?

Ms. Schultz: Most had careers in law. One friend became a federal judge in Virginia, Anthony Trenga. Most of them went on to law firms. Some of them accepted clerkships, but their whole focus was practicing law in a law firm.

Mr. Pollak: What did you do in the summers?

Mr. Schultz: So, the first summer I received a stipend to work at the post-conviction assistance project at the law school. The second half of the summer I worked at the Public Defender Service in D.C. I was hired specifically to work on a case that the Public Defender Service had brought challenging the conditions in the D.C. Jail. I learned about the job because a lawyer in Hollin Hills where I grew up, Ron Goldfarb, was involved in that case and he made the connection for me. I wrote some legal memoranda, but I spent most of the summer in the D.C. Jail taking affidavits from inmates.

I would spend the whole day and have appointments – one inmate after another – and I would interview them and then write up affidavits about what the conditions were like. It was interesting because every one of them told me that they were not guilty of the crime that they were in jail for. Although many of them admitted they were guilty of other crimes, they were quite adamant that they were not guilty for that particular crime. Most were awaiting trial.

The most memorable part of the summer occurred when I noticed there were some dressed up, Hispanic women visitors and some commotion. They were visiting a couple of Hispanic men who had been arrested the night before. It was just an unusual thing to see anybody that dressed up and also not African American in D.C. Jail. It turned out it was the day after the Watergate break-in, and these were wives of “the plumbers” who broke into the Democratic National Committee headquarters. At this point, the Watergate break-in was being reported inside the Metro section in *The Washington Post*.

Mr. Pollak: Who was the public defender when you worked there?

Mr. Schultz: I worked with Bill Taylor, who was one of the founders of Zuckerman Spaeder, and Pat Hickey, the Director of the Public Defender Service. They were in charge of the D.C. Jail case. It was an important case, pending before Judge William B. Bryant, and it went on for many years. The name of the case was *Campbell v. McGruder*.

Mr. Pollak: Do you think your public defender work on that case was influential in your getting the clerkship with Judge Bryant after graduation?

Mr. Schultz: I don't know. I don't think it was a big factor.

Mr. Pollak: What did you do your other summers after year one?

Mr. Schultz: The second summer I worked for a law firm – Wald Harkrader & Ross.

Mr. Pollak: Oh, sure.

Mr. Schultz: I think my father thought I should try it out. I remember I had an offer to work at the U.S. Attorney's Office that summer, which would have been very interesting.

The firm had 25 lawyers. It was a chance to make some money and to try out a progressive law firm. It took me years in public interest to reach the salary I had made that summer. It was a great experience.

I worked a lot on a court-appointed criminal case with Selma Levine, who was quite a figure. She was a single woman and graduated from Yale Law School at a time when there were just a few women in each class. She did very well and clerked for Judge David Bazelon at the D.C. Circuit. Even with these credentials, there were no jobs available to her and she hung out her own shingle, and then later joined Wald Harkrader & Ross.

Selma had a great sense of humor. When she went to law school graduates were awarded an L.L.B. degree, although in recent times they get the more prestigious sounding J.D. or juris doctor. Sometime during this transition, Yale Law School sent its graduates a letter offering to convert their L.L.B. to a J.D. for \$25. Selma thought this was ridiculous and wrote a letter to the dean of the law school, Abe Goldstein, who was also a friend of hers. In the letter Selma offered \$50 if the school would award her the J.D. degree in Hebrew. The dean had a degree printed up in Hebrew and Selma hung it on her wall, her Yale law degree in Hebrew. She was a delight.

We had a case representing Mr. Baker, as she always called him. Mr. Baker was a criminal defendant who had been convicted. The jury instruction read that if you find the elements of the crime AB&C, you *must* convict the defendant. We argued that the instruction took away jury nullification and should

have read you *may* convict the defendant, because the jury always must have the ability to nullify a verdict. I did a lot of the work on this and she was just an exacting editor.

I can remember one time I had to write a letter for her, and I wrote it and she didn't have a single edit on it. She wrote me back and said excellent or something. That was a remarkable thing that on a short letter there would not be any edits. She argued the case before Judge Harold H. Greene. He granted our motion and Mr. Baker got a new trial. I think he may have ultimately been acquitted.

I also did a lot of regular law firm work. I remember the first day somebody was taking me around and introducing me. They took me to Bill Ross, one of the name partners, and Bill Ross said, "Oh, this is terrific. Let's get Bill on the consumers case." And I thought, "Wow, how wonderful. You know it's a law firm but I'm going to work on a consumers case."

Well, it turned out it was a big antitrust case involving Consumers Power. Getting involved in that case would have probably been reviewing documents all summer. But somehow it didn't happen. I did a lot of small enough projects and they were very interesting. It was a great experience. I really liked the people there.

I do remember I had what may be a typical law firm experience on a Friday afternoon when we were planning to take the weekend and go to the beach. At about 3:00 p.m., one of the partners, Joel Hoffman, who didn't have the

best manner, walked into my office and said: “Here’s the project. I need the answer first thing Monday morning.” No question such as: Are you available to work this weekend? I think there were only two summer associates, and in his defense, he didn’t have a lot of options.

I said, “Okay.” And I got to work. The first thing I did was look at the Federal Rules of Civil Procedure and I found the answer. So, I was able to give him the answer that afternoon and enjoy my weekend.

I’ll tell you something else I remember about that summer. I was in the barbershop getting a haircut. It was the summer of the Watergate hearings, which were on TV. Alexander Butterfield was called to testify as a witness and he was asked, “Were there ever tape recordings done in the White House?” He said, “Well, I’ve thought about how I would answer that question. Yes, the president recorded all his conversations, and those tapes are stored at the White House.” I’ve since read that this had all been planned in advance and the staff and Senators knew what the answers were going to be. It looked to me like it was spontaneous, and it certainly was momentous. I liked everything I did at Wald Harkrader. That was a great summer job. I made a lot of friends there.

Mr. Pollak: Did your summer experiences influence you later on?

Mr. Schultz: I don’t think so. I mean, everything you do is a growing experience. But I don’t think that they influenced me except for the fact that I met Bill Taylor. Many, many years later when I was interested in Zuckerman Spaeder, that was a connection.

Mr. Pollak: Right. What was your living arrangement during the summer? You had a home in Charlottesville, but you were working in D.C. at Wald Harkrader & Ross.

Mr. Schultz: We lived in Kalorama in an apartment on 18th Street.

Mr. Pollak: I see. You rented something?

Mr. Schultz: Yes. I either biked or walked to work.

Mr. Pollak: So, what did you do for exercise in law school?

Mr. Schultz: I played a lot of tennis. I think I biked to school, but it wasn't very far. And I played squash.

Mr. Pollak: Yeah, yeah.

Mr. Schultz: I'll tell you something else I did in law school. I started rebuilding Volkswagen engines.

Mr. Pollak: You didn't?

Mr. Schultz: I always had Volkswagens. A friend of mine told me about a book that was written by the famous naturalist John Muir's son, who was also named John Muir. The title was something like: "How to Keep Your Volkswagen Alive: A Manual of Step-by-Step Procedures for the Complete Idiot." The manual covered every possible VW repair. It had an entire chapter on changing a flat tire. I had an old Volkswagen and with this book, I was able, with very few tools, to not only tune it up but take the engine out and completely rebuild it. I also rebuilt the front end and made many other repairs. Usually, to rebuild an engine, you have to have a lift to lift the engine out of the car which requires heavy, professional equipment. But this book explained that what you could do is put a jack under

the engine, release four bolts and a few wires, lower the engine, raise the car, and then pull the engine out. This was something I enjoyed and did in the summers and I guess during the school year too.

Mr. Pollak: Am I correct that your wife was pursuing architecture school while you were pursuing law school?

Mr. Schultz: That's right.

Mr. Pollak: Did she go on and have an architecture career?

Mr. Schultz: Yes. She had one more year after I graduated so we commuted back and forth from Washington to Charlottesville. Then she worked as an architect, which is a tough profession. She moved from practicing to teaching architecture.

Mr. Pollak: Was law school worth three years?

Mr. Schultz: That's an interesting question. Yes, I really enjoyed law school. I know a lot of my friends were ready after second year to start working. But I never felt that way. I felt I was always learning. Between Legal Aid and the post-conviction assistance project, I did a lot of work outside the classroom that was law related.

Mr. Pollak: And were those your extracurricular law school activities?

Mr. Schultz: Yes.

Mr. Pollak: Post-conviction and what?

Mr. Schultz: The Legal Aid Society. We had a Legal Aid Society.

Mr. Pollak: What did you handle for the Legal Aid Society?

Mr. Schultz: The last year I was head of it. And we had different projects. We had a housing project and a family unit. There was a Legal Aid office in Charlottesville. A lot

of the work was assisting the legal aid lawyers there with the clients who came in. It was mostly pretty routine work. None of it was criminal.

Mr. Pollak: But because of your post-conviction work, you had both civil and criminal extracurricular experience.

Mr. Schultz: Well, that's true. But most of the post-conviction work we did were administrative hearings. We travelled to prisons all over Virginia and represented inmates in administrative disciplinary hearings. It was a civil proceeding but in the criminal context. We lobbied the legislature, and we wrote legislation. In both positions I worked with their law professors.

Mr. Pollak: Do you have anything else about law school?

Mr. Schultz: No, I don't think so.

Mr. Pollak: And what was your military status? Your draft?

Mr. Schultz: I had asthma growing up and Yale was very good about encouraging you to document it. Every time I went to the health clinic there, they would document it in my medical records. That was the time of the lottery and everybody who was in college at that time remembers their lottery number. Mine was 166, which wasn't high enough to avoid the draft. I got the required army physical, but I was given an out because of the asthma. But the asthma cut both ways. After college what I really wanted to do was go into the Peace Corps. I applied to the Peace Corps, but I had to disclose to them too that I had asthma. My asthma kept me out of the Army, and it kept me out of the Peace Corps.

Mr. Pollak: When did you get the idea of clerking and how did you pursue that and how did your clerkship come about? First of all, as a matter time, did you commence it right after your graduation?

Mr. Schultz: Yes, I studied for the bar after graduation and began clerking during the September after my graduation. Clerking was something a lot of law students considered. I don't remember exactly how I got the idea. It just seemed very attractive. I think it probably connected to a vague interest I had in being trial lawyer.

Mr. Pollak: Did you point toward the district court as distinguished from the appellate court?

Mr. Schultz: I did. I applied in both D.C. and Virginia, because my wife was going to have to stay in Charlottesville. I got an offer from Judge James Turk in Virginia. The truth is when I interviewed with Judge William B. Bryant, I was so taken by him that I just knew that I had to figure out a way to do that clerkship. I had lunch in the judge's courtroom. He was just so remarkable.

Mr. Pollak: Well, put some meat on that bone. On first meeting him, what was remarkable about him?

Mr. Schultz: Well, it's a little hard to describe. I can't really tell you. We talked about his cases and about cases I had worked on. He treated me, as he did everyone, as an equal, and he was unusually insightful. I think the reason he probably offered me the job was because I disagreed with him on some things, which he liked.

He was completely self-effacing. For example, after the interview, he took me into his law clerk's office and he said to his law clerk, "Now tell him everything bad about the job." And he walked away. Who would do that?

He had so much personality. He was so interested in the law and what he was doing and just so interesting to talk to. He was also interesting to talk to about life – but I can't really remember what we talked about in that interview. I do know I was just totally taken with him.

Mr. Pollak: Did you take the Virginia bar?

Mr. Schultz: Yes, and as a break from studying I played tennis every day.

Mr. Pollak: You did?

Mr. Schultz: Yeah, I was at the peak of my tennis playing.

Mr. Pollak: Tell us about the clerkship or what you want to say about the clerkship in both the experience while you were doing it and its significance to you over your law or life.

Mr. Schultz: I was the only clerk. Judge Bryant didn't like to socialize with the other judges, so he had lunch with his law clerk every day. He was very old-fashioned, and he insisted on paying for my lunch every day. The only time I paid for my lunch was the day after he had stayed up all night writing jury instructions. When we went to lunch the following day, he walked out and forgot to pay for the lunch. So, I was able to pay for his lunch that day.

We also occasionally had law student interns work for us. I remember one time we had a woman law student and she insisted on paying for her lunch.

He was really hurt by this and ultimately, she let him pay. Occasionally, I would say to Judge Bryant, “You have to let me pay for lunch. How about just letting me do it this time?” He would look me in the eye and say, “I promise you; you can pay for the lunch tomorrow.” He was such a delight.

But he was very old-fashioned. He had never had a woman clerk and he would say the reason he didn’t want to have a woman clerk is because he cussed, and he thought a woman would be uncomfortable with that. But ultimately, he did have many women clerks.

His secretary was Mrs. Riggs, who had known him from their time in the Army during World War II, and had worked for him during the ten years he had been a judge.

Judge Bryant was appointed by Lyndon B. Johnson. He had gone to Howard University School of Law where he was first in his class of about ten students. After law school, he had worked for Ralph Bunche, who had been his favorite teacher, on the Gunnar Myrdal study on race in America (*An American Dilemma: The Negro Problem and Modern Democracy*).

He did that and then he went into the Army. After the Army, he was many years out of law school and then he hung out his shingle and, I guess, represented African American clients on all kinds of matters. He was noticed and hired by the U.S. Attorney. He was an Assistant U.S. Attorney and was quite successful. And then he went to the famous Black law firm, Houston & Gardner, which later became Houston, Bryant & Gardner, and was a very, very accomplished trial

lawyer. He was also an appellate lawyer and argued the famous Supreme Court case *Mallory v. United States*. His practice was mostly criminal law, and when he became a judge he had very little experience in civil law. He was really a spectacular judge with a very broad range of knowledge and a keen interest in the law.

The year I clerked was the year of the Watergate trials. As a law clerk, I could go watch trials any time, including the trial of former Texas Governor and Secretary of Treasury John Connally. He was charged with accepting bribes, which was not part of the Watergate investigation involving President Nixon, the White House, and the Department of Justice. The famous Edward Bennett Williams was Connally's lawyer, and a DC jury found the Governor not guilty.

I also had access to the Watergate trials before Judge John Sirica. I would watch those trials, come back to chambers, and recount what I had seen to Judge Bryant. He would then act out how he would do a cross-examination or closing argument, which was always far better than what I had heard in the courtroom.

During my clerkship year, Judge Bryant presided over the trial in *Campbell v. McGruder*, the prison condition case that I worked on at the Public Defender Service. I had real questions about whether I should be working on this. I don't know whether it occurred to Judge Bryant, but I raised it with him, and he said, "Well, let me raise it with the lawyers." So, he called the lawyers in to his chambers and said, "Look, my law clerk took these affidavits for the Public

Defender Service. Here's how I use my law clerk, but I won't have him work on this case if one of you objects." Sure enough, the Corporation Counsel objected. So, I was recused from the case.

Mr. Pollak: What did he do for help?

Mr. Schultz: He didn't have any help. It was a trial. He didn't really need a lot of help during trials anyway. At one point, it was suggested that he visit the D.C. Jail, and he asked me to accompany him. It was a surprise visit. The officials were not told and we just all showed up at the D.C. Jail. We walked into the jail and it was a remarkable experience. He had sentenced many of the prisoners and the others knew who he was. It was clear from the visit that they all had tremendous respect for him – you could just feel it.

Then we toured various parts of the jail. We toured an area called the "Hole," a very small room with no windows and no light where prisoners were confined as a punishment. The jail officials had assured Judge Bryant in court that they had stopped using the Hole, but sure enough, there was a prisoner there. And we saw prisoners tied down in the infirmary. We really got a taste of what some of the conditions were like.

The thing that always struck Judge Bryant during his handling of the case was that two prisoners were confined to a cell that was 6' x 8'. I think they got one hour a day out of the cell. He was determined to somehow change these jail conditions. He was very proud that he had this case for approximately twenty

years, and he had been able to keep it out of the District of Columbia Court of Appeals. There was never an appealable decision, but he ordered many changes.

Because of *Campbell* and because Judge Bryant was seen as sympathetic to this category of cases, every jail condition case was filed as being related to *Campbell* and assigned to Judge Bryant. So were cases about the jail conditions at Lorton, at the women's detention center, and many cases brought by individual inmates. I suggested that maybe Judge Bryant should start turning down some of these cases, which he could do by returning them to the assignment clerk as not related, and he agreed. Other judges weren't as sympathetic and in one instance Chief Judge George Hart summarily dismissed dozens of these cases with brief orders.

He was never dismissive of any kind of case. I remember an experience with an employment discrimination case brought *pro se* by a plaintiff whose last name was Dormu. At one point, Judge Bryant was leaving chambers for the courtroom, when Mr. Dormu barged in – in those days you could just walk into the chambers, all of the doors were open – and he tried to talk to me. I was sort of abrupt and said, “I have to follow the judge to go to the courtroom.” And Judge Bryant turned around, and in this very kind voice, said “How can I help you?” and proceeded to spend five or ten minutes talking to Mr. Dormu. Then we went into the courtroom and later Judge Bryant said to me, “You never know what one of those guys is going to do. You've got to always kind of be very respectful.”

While he always treated litigants with the utmost respect, he could be tough on attorneys. We had several high-profile trials, attended by reporters. In one of these cases, he was being very dismissive to one of the lawyers, which didn't look good for a judge. This was difficult for me as a law clerk, but after we left the courtroom, I told him I thought he appeared overly critical. After the conversation, he completely changed his tone. As hard as it was, he was the kind of judge you could say something like that to if it was helpful to him. He reacted to it in a positive way.

Mr. Pollak: I don't know that it's really relevant to your oral history, but what do you suppose was the element that made him not want to have lunch with the other judges? Was there an atmosphere that wasn't so congenial for Black lawyers or Black judges?

Mr. Schultz: I don't know, but it's possible. There were a few judges that he liked, but he was uncomfortable with many of them. Occasionally, he would tell me about conversations that were problematic from an ethical point of view.

He had a good relationship with some of the judges on the D.C. Circuit. For example, he had known Judge Roger Robb in private practice. He thought Judge Robb was a good lawyer and I think he had a good relationship with him. He was very fond of Judge Bazelon, Judge J. Skelly Wright, and Judge Charles Fahy who were liberals on the court. Occasionally, Judge Bazelon would take him out to lunch outside the courthouse.

He never spoke of the racial prejudices of any of his colleagues or of the judges on the D.C. Circuit. I think Judge Bryant had some of the characteristics of Nelson Mandela. He obviously had experienced extreme racism. He grew up in segregated Washington. He never saw a white person other than the grocer until he was a teenager. But I never sensed a bitterness that he harbored toward anybody. And yet he had very strong feelings about race and some amazing stories.

I remember one time we went up the elevator with an African American woman who worked in the courthouse, and they started talking about Fire Department 17 or whatever it was. When we got out of the elevator, Judge Bryant explained that Black people had so little to be proud of that they all remembered that the segregated Black fire department was the first to a major fire, and this woman was still taking about it.

There was a library in the courthouse and the librarian, Mr. Juggins, had known Judge Bryant from when Judge Bryant practiced law. Judge Bryant told me that when he practiced law Black lawyers were not allowed to use the library, even though it was the only law library available. Mr. Juggins would let Judge Bryant in the library after hours so he could do his legal research.

Here's another memory. Judge Bryant was a terrific pool player. When he was a practicing lawyer, he would go home, have dinner with his family, go back to the office, work until midnight, and on his way home, stop at the pool hall on 14th Street, play pool to relax, and then go home and sleep and do the

same thing the next day. When he became a judge, he was told by somebody he really had to stop going to these pool halls, which he did. Near the courthouse, there was a lunch joint that had a pool table in it. So, occasionally, in the afternoon, he would take me there to play pool, and he would give me a few tips. He was always eyeing the guy who was running the place, hoping to be challenged to a pool game.

Judge Bryant had many friends who would visit him at the courthouse. I remember him saying to me one time that he knew his visitors would tell their clients they had an 'in' with Judge Bryant. He once remarked: "If I had a nickel for every friend of mine who said they had an 'in' with me, I'd be a wealthy man."

Mr. Pollak: What did you come away with, having seen D.C. lawyers before Judge Bryant, and did you have opinions about some of them?

Mr. Schultz: Yes, absolutely. I formed a lot of opinions. For example, Brendan Sullivan as a young, unknown lawyer had two trials before Judge Bryant, and he was spectacular. *Dellums v. Powell*, was tried my year. This was a famous case that grew out of the 1971 demonstrations against the Vietnam War during the Nixon Administration. During a demonstration at the Capitol, Congressman Ron Dellums spoke and a thousand people were arrested. The ACLU brought a class action, with Dellums as the named plaintiff. Warren Kaplan tried the case, and he did an excellent job. That was a fascinating case. It resulted in a very large verdict which was ultimately reduced by the D.C. Circuit.

I had cases where firms like Covington & Burling were involved. The big firms typically submitted long briefs with many footnotes that often weren't particularly persuasive. I learned the difference between an effective brief and a long, well-documented, tedious brief. Sometimes the lawyers from the big, fancy law firms weren't so good. I also saw a lot of bad lawyers, too.

The best cross-examiner I ever saw was Judge Bryant. Sometimes when the jury wasn't there, he would take over the cross-examination. He had an advantage being a judge because the witnesses are a bit more cooperative, but he was excellent. I got to see a lot of trials.

Mr. Pollak: What was it that Brendan Sullivan did that made you consider him superlative? What was he doing that was better than others?

Mr. Schultz: It's so hard to describe what makes a trial lawyer outstanding, and it was a long time ago. He had two cases. One of the cases was about a Datsun, where the gas tank had exploded after the car was hit from behind, causing severe injuries. After the accident the defect was eliminated in subsequent models.

Sullivan deposed the officials for the car company, and a key issue was when that repair had occurred in relationship to the accident. Under the subsequent repair doctrine if the revision occurred after the accident, the change in design could not be admitted into evidence. But if it occurred before the accident, then it could be admitted. He took these depositions and obviously the key issue was going to be when this happened. The depositions were in Japanese so there was a translator involved. After the deposition was taken, the deponent

reviewed it and made corrections. Subsequently the defendant made a motion to change the date in the deposition on the ground that the deponent had made a mistake. Under the new date the subsequent repair doctrine would have barred evidence about the subsequent design change which could have been used to argue that the gas tank hose had been defective. The subsequent repair doctrine bars a plaintiff from introducing evidence about a subsequent repair because otherwise a defendant might not make a repair fearing that the repair would be used against it in a product liability case. On the other hand, if the repair was made before the accident it could be introduced.

Brendan Sullivan argued against allowing the defendant to change the date and he did a terrific job. His argument was that first, the testimony had been filtered through an interpreter, so there had been plenty of time to consider the question and answer it. He also argued – and this was always a lesson to me – that in his initial review of the deposition the deponent had corrected minor grammatical errors. His point was that these technical grammatical corrections demonstrated that the witness had reviewed the deposition very carefully and that it wasn't credible that he should be allowed to correct the testimony about the date. It was a very effective argument and he won the motion.

In my law practice, I would always recommend to deponents and colleagues not to make any corrections unless they're essential because if you miss something and you make these little corrections, your meticulousness will

be used against you. After Brendan Sullivan won this argument, I think the case settled.

Brendan Sullivan had another case where a woman was raped in an apartment complex by a security employee. He got from the jury the exact award, to the penny, that he had asked for. He was always well-prepared and he was a very, very powerful advocate.

Judge Bryant heard another case where a fellow was driving down Rock Creek Park on a perfectly bright day and a tree fell on his car and he became paralyzed. The case had gone on for years and years. The lawyer who brought the case had to survive defenses of sovereign immunity and various other issues that the District raised. But he ultimately won the trial by demonstrating that the District had been negligent in not trimming their trees, and the experience turned Judge Bryant into a tree expert. Often after lunch Judge Bryant and I would go for long walks around Capitol Hill, and the judge would point out where limbs were in danger of falling because they had not been trimmed.

It was a great year.

Mr. Pollak: What work did the judge assign you to do?

Mr. Schultz: Judge Bryant needed no help with trials. He needed no help with ruling on questions of evidence. He would rarely adjourn a trial so he could research an issue. But he found it valuable to talk issues through with someone, and that someone was his law clerk. I often watched the trial so he could talk to me. I had so much other work that there were also times when I didn't attend the trials.

Mr. Pollak: Your other work was what?

Mr. Schultz: My principal role was to draft opinions on motions for summary judgment and other motions. I would do the research and write draft opinions for Judge Bryant to review. For my first case, I did the research and drafted findings of fact and conclusions of law. After reviewing my work, Judge Bryant said, “Well, I disagree. I think it should come out the other way.” Following his directions, I wrote the opinion the other way and gave it to him. And he said, “You know, I think you were right.” So, he reversed himself again. Judge Bryant was very open-minded in that way and very interested in working things through by discussing them.

We would spend hours at his conference table, in a library area outside his office. We would be talking about something and he would pull down one of the case reports and start reading the case. He believed that if he could first figure out the just and fair outcome of a case, the case law would support it. It didn't always work out that way but that was his basic approach.

Judge Bryant was not concerned about being reversed. There were some judges – Judge Gerhard Gesell for example – who hated being reversed and would be upset and offended by it. But not Judge Bryant. He did enjoy the few occasions when he was reversed by the D.C. Circuit, which was then reversed by the Supreme Court.

Mr. Pollak: Did you personally have much contact with other judges on the court during your clerkship? Would you have comments to make?

Mr. Schultz: Judge Bryant introduced me to other judges, but I didn't form relationships with them. I got to know some of the other law clerks, but I didn't form the kind of relationships you might because I had lunch with Judge Bryant literally every day.

Mr. Pollak: Did you have any other activities during that year? Did you clerk for one year?

Mr. Schultz: Yes. In those days, most clerkships were for a year. Judge Bryant had this very strong feeling that two years was too much. Two years is a lot better for the judge, obviously, but he believed that after one year the law clerk should go out and practice law. He always had clerks for one-year.

For many years, district court judges had three employees: a law clerk, a bailiff, and a secretary. Eventually most judges converted the bailiff to a second clerk and today many have replaced the secretary slot with a third clerk. The bailiff's role was to be a personal assistant and Judge Bryant didn't want that kind of attention. Instead, he would hire a student from Howard University and allow the student to study in the office, in addition to attending to a few duties such as opening the courtroom and filing books in the library. By my year, he had decided to turn that into a second clerkship, but the bailiff took a long time to finish college. He realized he had a great job, and Judge Bryant was unwilling to tell him it was time to leave. So, Smitty stayed there for several more years after I left. Ultimately, he did leave, and Judge Bryant then started having a second law clerk.

Mr. Pollak: Did you have any other activities during your year as a clerk or was it all-consuming?

Mr. Schultz: I don't remember any. I'm sure I played a little tennis, but I worked every possible hour. There was so much work that I couldn't possibly do it all. Judge Bryant was an outstanding judge, but he had a failing: he was unconcerned about delays in resolving a case. As a result, he had the biggest docket of any judge in the courthouse.

A lot of his cases had motions pending for years. I set a goal that when I left there wouldn't be any motions pending that were more than a year old, which I believe I achieved. That sounds like a modest goal, since no motion should be pending for more than three months, in my opinion.

Mr. Pollak: You can speak if you wish about other cases you mark as significant that came through his court during your year.

Mr. Schultz: I think I've given you a pretty good sense of what the job was like and the significance of it and how he operated as a judge. It was a wonderful relationship, I'll say that. It really was the three of us – the judge, his secretary Mrs. Riggs, and me. In those days, I use to smoke occasionally, and every afternoon, Mrs. Riggs and I would smoke a cigarette in chambers.

Judge Bryant had smoked as a young lawyer and he said he quit by putting the pack of cigarettes in the other side of his coat jacket so that when he reached, he would hesitate, which forced him to think about his decision to stop smoking.

Judge Bryant's chambers treated every litigant with the greatest respect. Mrs. Riggs didn't have the highest skills as a secretary, but she had the highest skills as an ambassador. And that's what he really cared about. His courtroom clerk, Sophie Lyman, was tremendous. I think the chambers and the courtroom operated at a very high level. And the court's marshals stopped by occasionally. He had great relationships with all the court employees who weren't judges.

There were judges in the Superior Court that I got to know. One judge, William Gardner, had been a law partner of Judge Bryant's, and they were very close. He adored Judge Harold Greene, Chief Judge of the District of Columbia Superior Court, who was subsequently appointed to the federal district court. He had the greatest admiration for Judge Charles Fahy and some of the judges on the D.C. Circuit.

Judge Bryant was perceptive about people. I remember he told me when he first met Justice Harry Blackmun, they shook hands and Judge Bryant said he had a very good feeling about the new justice. He was disappointed and surprised when in the early years on the United States Supreme Court, Justice Blackmun voted in sync with Chief Justice Warren E. Burger. Judge Bryant used to say, "I just don't understand. I had such a good feeling about him." And then, of course, Justice Blackmun turned out to be a great judge, confirming Judge Bryant's instinct.

Judge Bryant never wanted to use the fact that he was a judge to any advantage. Outside the courthouse, he would introduce himself as Bill Bryant.

He was very religious, and regularly attended a prayer breakfast led by Chief Justice William Rehnquist. He was devoted to his wife Astarie. Personally, in his dress, his values, and the way he led his life, he was very conservative.