

CENTER FOR FLORIDA HISTORY ORAL HISTORY PROGRAM

ORAL INTERVIEW WITH: The Honorable William Terrell Hodges

INTERVIEWER: James M. Denham

PLACE OF INTERVIEW: U.S. Courthouse
Gainesville, Florida

DATE OF INTERVIEW: May 29, 2012

M= James M. Denham ("Mike")

H= Judge Hodges

M: My name is James M. Denham. I'm in the chambers of Judge William Terrell Hodges in Gainesville. Judge Hodges, how are you?

H: Good morning.

M: We're going to be talking about a few things about your career and we're going to try to stay chronologically as best we can but we may divert a little bit from time to time. I just wanted to say that I've read your oral history and what I'd like to do is talk about a few of the personal instances and also some of the cases as they come up. I remember I think it was at the dinner, you told me about your father in Perry, Florida and how he lived in Perry, Florida, who during his early adulthood was a World War I veteran; is that correct?

H: He was.

M: And his early years in Perry, I guess maybe when you were a little boy or maybe even earlier, I'm not sure.

H: It was well before he met and married my mother and I was born, 20 years earlier in fact. He was born in Hahira, Georgia, in 1890. If he was alive today, he'd be 122 years old. Anyway, he was 44 when I was born. He went off to the First World War. When he got back from the First World War, he went to barber school in Atlanta in 1919. He moved first to Jasper, Florida and spent a short time there and moved to Perry. He either rented or purchased a building on the main square there in Perry and opened a barber shop with some rooms upstairs that he rented to a young lawyer by the name of Claude Pepper.

M: That's what I thought. I thought I remembered at least a business relationship with Claude Pepper. Of course there's a lot of stuff out there now on Claude Pepper recently. There's a lot of new books, for example, on the race with he and [George] Smathers and of course there's a book, kind of a dual

biography on he and Ed Ball, antagonistic obviously.

H: That's all I know about him. He mentioned one time that Claude Pepper had his law office there. I'm not even sure if that's so or not but I don't know why it wouldn't be. I had occasion to hear Pepper speak extemporaneously in Miami down in the Southern District a long time ago. Charlie Fulton was the chief judge presiding as I recall, and he noted the presence of the congressman, who was not expected, but he invited him to come forward and make a few remarks. It was one of the best put-together short extemporaneous speeches I've ever heard. He was quite an orator.

M: When you were growing up in Lake Wales, you went to the University of Florida, and your other oral history, all of that material is pretty thorough. Can we jump ahead to the time when you were a new lawyer with Macfarlane Ferguson and your partner, is it Edward J. Kohrs?

H: Ed Kohrs.

M: Ed Kohrs approached you about the possibility of being a federal judge. Did that come out of nowhere?

H: Came right out of the blue. When did Ed Gurney run for the Senate, 1968?

M: That would have been 1968.

H: Along about 1969 I guess it was, maybe even '70, in Ed Gurney's campaign for the Senate, my recollection is he had two campaign managers, divided the state into north and south. And my partner, Ed Kohrs, was one of the campaign managers. Ed was close to the senator, whom I had never met. Judge [Joseph P.] Lieb at that time was approaching 70 years of age or maybe had already become 70, and it was anticipated that he was going to be taking senior status one day. It was commonly thought among a great many lawyers that if and when that happened and a vacancy occurred in the district court, that it was Ed's job for the asking if he wanted it and most thought that he would. What they didn't know was Ed was a real estate lawyer who did not like to go to court, had no aspiration whatsoever of being in the courtroom either as a lawyer or a judge, though I had never given it any thought in that way. He came into my office one morning, it was either 1969 or 1970, a year or so before Judge Lieb passed away, and asked me if I had any ambition to be a district judge or if I would like to be a district judge. It took me completely by surprise. I told him, well, why was he asking. He explained what I just said about the expectations, and I said, "I would have thought you would seek the appointment." He said, "I'm not interested, don't want it but I would be willing to do what I can with the senator, I can't promise you anything obviously, but I would be happy to speak to the senator on your behalf if you would be interested." So I said, "Well, let me think about it." I did and I told him after some time that under certain conditions, I

would be interested. But then nothing happened. Judge Lieb did not take senior status at first eligibility. And then all of a sudden one morning, the headline was that he had passed away in his office. I think it was November 1, 1971 or thereabouts. He had gone to mass at Sacred Heart Church across the street as he did every day at lunchtime and came back and told Ms. Donovan he was going to lie down on the couch in his office and to wake him for a 2 o'clock hearing that he had that day. When she went in to wake him up, he had passed away.

M: As I recall, that was a very stressful time for him. He was in the middle of a very difficult trial, stressful trial. I think it was a mob trial of some sort if I'm not mistaken.

H: I have no idea what he was into at that time. That's interesting, I had not heard that.

M: Did you ever practice in Federal Court before?

H: Yes.

M: So that was one of the reasons why Mr. Kohrs probably mentioned that, other than his obvious regard for you. So you were in Federal Court as a practicing attorney quite often and you were with Macfarlane Ferguson, what, four years, five years?

H: No, I was there 13 years.

M: Okay. 13 years, I'm very much off target.

H: Graduated from law school in the summer of 1958 and started with my former firm the first day after Labor Day in September of 1958.

M: You were so young when you were appointed, I guess I got mixed up. Did you ever practice before Judge Lieb?

H: Oh, yes.

M: Do you have any courtroom memories of him, any cases that you might have had any experience with him? What was his courtroom demeanor, what was he like in a courtroom?

H: Well, he was a gentleman's gentleman. I never knew him to be discourteous to anybody. He was not an active participant from the bench, he didn't ask a lot of questions or interrogate witnesses but he would listen and make his ruling or take it under submission and that was that. He was deaf in one ear, I've forgotten which one it was. All of the local lawyers knew to get on one side of

table or the other, I've forgotten which side it was. You had a better chance of having your argument heard sitting on the right side. I can sympathize with that now with my own loss of hearing. I practiced before Judge Lieb. I probably had more appearances before Judge [George] Whitehurst.

M: That was my next question, Judge Whitehurst, what was he like in the courtroom and what was his personality like?

H: Well, first of all, Judge Whitehurst had spent most of his life as judge. As I recall, he had been county judge at age 28, circuit judge at age 32, and then was appointed as district judge after he had already retired as a state circuit judge. So he was a very experienced judicial officer and knew how to control his courtroom and his hearings. He was a big man physically, very fit, huge hands, avid outdoorsman. He did have one idiosyncrasy I remember, speaking about the advantage of being local counsel and knowing the judge. He would listen to your argument and with his huge hand, he would point his index finger toward the ceiling at the end of the argument and begin to sum up the pros and cons of what he had heard.

M: In other words, thinking out loud in a sentence.

H: Thinking out loud with his finger up like this, pointing toward the ceiling about shoulder height. Then his finger would start arching down toward the top of the table. Whatever he was saying at the moment was about to be it because once that finger reached the top of the table, lord help the lawyer that wanted to interrupt him or begin to argue with him at that point, because he had decided. But in the instant before that finger touched the table, if you didn't like what he was saying, if you interrupted him, got his attention somehow and suggest to him that you weren't sure that you had made the argument the best way you could and stated it again, you might get that finger to come back, which I saw happen once or twice. But I've seen lawyers from out of town sit there nodding their head as the judge's finger was coming down in a way that they weren't going to appreciate much and it got to the top of the table and then they wanted to argue, but it was over. He was a wonderful gentleman. The first time ever I appeared in district court, his secretary called and appointed me, which was common in those days, call up the youngest lawyer in town and appoint him or her, although there were few hers at that time, to represent a defendant in the district.

M: Pro bono, right?

H: Pro bono, yes.

M: And I guess there was a list that they had that they could select. They kind of kept a running list of some of the rookie lawyers, right?

H: Oh, yes. There was a secretary. So did Judge [Larry] Grayson down in the

state court, which may not be well known. Hillsborough and Escambia Counties in those days had criminal court of record, the only two counties in Florida that had a criminal court of record so that all felonies in Hillsborough County, not capital offenses, were prosecuted not in the circuit court but in the criminal court of record. And the judge there was Judge Larry Grayson who was judge for years and quite a colorful figure. Long before Gideon v. Wainwright, every defendant that came through the Criminal Court of Record in Hillsborough County had a lawyer. May not have been the best representation in the world or the most experienced lawyer, but he had a lawyer. And of course federal judges were doing the same thing.

H: So my client on the occasion before Judge Whitehurst, had sold a crate of cucumbers down at the Farmer's Market in Ruskin on April 1st, I want to say I think was the date, which was in violation of the Agricultural Marketing Agreement, which had the force of law and in fact was a misdemeanor offense to violate it which raises constitutional issues I thought, but I wasn't about to make a constitutional case out of it. So we're there and my client had done the deed so we were going to enter a plea of guilty. And I'll never forget Judge Whitehurst looking at the prosecutor, and my recollection is it was the United States Attorney, which shows you how much they had to do in those days, his name was Nunez as I recall, Judge Whitehurst said, "What is this case about?" "Well, this man sold a crate of cucumbers the day after it was permissible under the Agricultural Marketing Agreement." "Well, what was wrong with the cucumbers?" "Nothing, sir. As far as we know, the cucumbers were proper." "Did he charge an exorbitant price?" "No, it was a fair price." "You're telling me you brought this man in here for selling a crate of cucumbers that were not spoiled, they were good marketable cucumbers and sold them for a fair price and that's a federal crime?" I'm sitting here thinking "I think I'll just keep quiet." That went on for several minutes and finally the judge said, "Well, I don't have anything I can do but find you guilty but I'm going to fine you \$10. Have you got \$10?" "Yes, sir." "Well, I fine you \$10." Something like that is the way it went. We marched out of the courtroom arm in arm, I felt that I had won a major case.

M: I guess that would have been in the '60s, correct?

H: Yeah, 1960 or '61.

M: Eddie Boardman was U.S. Attorney at that time, correct?

H: If I'm not mistaken, I remember Eddie Boardman but it was not Eddie Boardman, it was someone else.

M: Do you remember Boardman?

H: Sure.

M: Do you remember any specific stories or incidents or descriptions of him? What was he like? Was he a political guy?

H: No, if I remember Eddie Boardman, I knew him both socially and professionally but I can't say that I have any recollection about any of his attributes. I do remember one of the first cases I picked up after I had been appointed. Mr. Boardman, as the United States Attorney had secured a judgment against a gentleman for nonpayment of an SBA loan, Small Business Administration loan. The judgment was for \$6,000 as I recall which went unpaid. And after two or three years, the judgment debtor's lawyer wrote to Eddie Boardman as United States Attorney and offered to settle the matter, satisfy the judgment if the government would take 50 cents on the dollar or \$3,000. There was an exchange of correspondence and then Boardman, in the last letter on the subject, agreed to that and then accepted and negotiated, or the SBA did, a check for \$3,000. But they never issued a satisfaction of the judgment. Here it is now in early 1972, Oscar Blasingame was the Assistant United States Attorney, sends a notice of the taking of the deposition of the judgment debtor in aid of execution to collect the balance of the judgment. His lawyer makes a motion to strike the subpoena on the ground that the matter had been settled. Like Judge Whitehurst, that got under my skin. I said to Blasingame "Is this correspondence authentic?" "Yes, sir." "The government agreed to settle this for \$3,000, took the man's check and negotiated it?" "Yes, sir." I said, "Well, why isn't he entitled to a satisfaction rather than being deposited in aid of?" "It's the government's position that Mr. Boardman didn't have the authority to settle this matter." I said, "You've got to be kidding? Wasn't he the United States Attorney?" "Yes." "And he was counsel of record in the case?" "Yes." "Why didn't he have the authority to settle?" "Well, because it's Department policy that a United States Attorney cannot satisfy any claim against the United States in excess of \$2,000 so it's null and void." We went around and around about that. And that's my last memory of Eddie Boardman.

M: Did he actually appear?

H: No. When I was appointed, Eddie Boardman was no longer United States Attorney, it was John Briggs.

M: When you were with Macfarlane, did you ever practice against Mr. Boardman's U.S. Attorneys?

H: Yes.

M: Do you remember any that were memorable that you practiced against? When I say practiced against, I mean Assistant U.S. Attorneys that were in the office that you confronted in the courtroom, let's just say that, and if you have any memories of those. There were not that many back then obviously.

H: No. There were only two or three.

M: There was Arnold Levine, there was E.J. Salcines, there was Mr. Hirsch.

H: Oscar Blasingame I think was.

M: So you don't really remember that many of them then?

H: Well, I know all those people that you just mentioned. I know them well. I knew them as lawyers and later on as lawyers appearing in the court. I just saw EJ here not long ago for the first time in many years.

M: I saw him Thursday. He says hello by the way.

H: Well, it's a small world.

M: That's what I would kind of like to ask you about before we go on to your time on the bench. How would you summarize or say maybe in a paragraph or so what it was like to practice law in Tampa from '58 until '71 as a practicing attorney? What was the nature of the Bar like then, what kind of relationship did you have that were available to young lawyers? Any of those kinds of things?

H: Well, it was a wonderful time. It was when law was still practiced as a profession and I'm not sure you can say that anymore. These are my recollections which may be faulty based on the numbers but they won't be far off.

H: My recollection is when I went to Tampa the day after Labor Day in 1958, by the way, I didn't become a member of the Bar until the following May I think it was in 1959, because I had graduated the week after the Bar exam was given in 1958 in the summer and had to wait until the next, which caused me some difficulty in finding a job. But anyway, when I got to Tampa, my recollection is that the Tampa Hillsborough County Bar Association consisted of about 300, maybe 350 lawyers. But 50 or 60 of those were trust officers of the bank when you still had trust officers in the bank. So the actual practicing Bar in Tampa was somewhere around 300. I think I knew all of those 300 people by the end of the first six months. If I had occasion to correspond with a lawyer early on in 1959 after I was admitted and started actively practicing--up until that time, I was brief writing and doing research and so forth--if I hadn't already met the lawyer, he would ask me to come by the office and let's go to lunch or something like that. And when I'd go to court, we only had four circuit judges and one of them was essentially retired, Judge Tillman, my seniors at the Bar would go out of their way to introduce me to the judge and so forth. So it was friendly. I can remember years later the first time I was asked by a lawyer from out of town to sign a stipulation, I agreed that he could have an extra week to file an answer or something and he said, "Well, I'll send you a stipulation." I said, "What?" "I'll send you a stipulation." I said, "What for? I just told you you could." It was an insult. If I had

asked any of those lawyers for a written stipulation in 1961 or '62, they would have called me out to the woodshed. And rightly so. So it was friendly.

M: Now, was it clickish, clannish, were the different firms kind of clannish or was there none of that?

H: The practice of law is an adversarial undertaking especially in litigation. So there's often times when everything is not entirely friendly but, no, there was not a competitive atmosphere among them.

M: Were there some bad apples, did certain people know there were some bad apples?

H: One or two. Not many.

M: We don't have to mention any names.

H: No, I won't mention any names. .

M: When it was pretty obvious that you were going to get a call from the Whitehouse about your appointment, did you ever interact with any of the Whitehouse staff or did you meet any of those people at all?

H: No.

M: Did you ever speak to President Nixon?

H: No, never met the man. All of my contacts in the appointment process were with Senator Gurney's staff and with the Department of Justice. There was a man there whose name was Duffner as I recall in the Department of Justice, whose principal duty was in the Office of the Deputy Attorney General I think. One of his principal duties was to vet the nominees and shepherd us through the process.

M: So he was kind of your person that told you what was going to happen next and that kind of stuff?

H: After I was nominated, yes.

M: Did you get a sense that they were really checking around, people calling you up and telling you they were around and asking questions and that kind of stuff?

H: Well, the sequence of events which would be absolutely impossible today and this is of no credit to me, I mean this is just the way it was at the time, Judge Lieb died on or about the 1st of November, 1971, I received a call from Senator Gurney on November 10, 1971. In the meantime, I had been to Washington to

see him because I had never met him. The irony is I knew Lawton Chiles but did not know Senator Gurney.

M: I was going to ask you about him in a minute.

H: And they were both present at my hearing. So I went to see him. He called me on the 10th and said he was sending my name to the Whitehouse but time was of the essence because in those days, the Senate would have already adjourned in most years and the next year was election year so if it went over, if I didn't get confirmed before the Senate adjourned, I'd have to be re-nominated and it would be an election year and who knows. So I will say several people went to bat to get the background investigation done as quickly as possible. At one time, I think they had 30 agents on the street. I kept getting phone calls every few minutes. And they had a brilliant technique. I'm not sure whether they still do this or not. The agents would go in, "We have reason to believe that you know Terry Hodges who is considered for a possible appointment to a position of trust and we assume you would only have good things to say about him so we're not going to take your time or ours to discuss it with you. We have one question and that is if you had to make a list of the people who you think might have something bad to say about him, justified or not, name two of those people." Well, so they would get the names of those two people and they'd go and see them. God only knows what that report looked like.

M: Have you ever seen your file?

H: Oh, no.

M: Have you ever thought about even trying to look at it?

H: I don't think it would be available to me but, no, I wouldn't want to see it. Anyway, that was on the 10th, and then I was nominated and I was confirmed on December the 10th. It was just over a month after Judge Lieb died that I got confirmed and the commission was dated December 15, 1971, which happened to be the same date that a Justice of the Supreme Court of the United States got confirmed.

M: Justice [William] Rehnquist.

H: Justice Rehnquist.

M: That must have been really unusual.

H: I've forgotten how the subject came up but I asked him --

M: And this is Chief Justice Rehnquist's aide?

H: Yes.

M: And you were talking to him?

H: I've forgotten his name. I said, "You know what? I have a photograph of the Senate in session taken at the end of the debate on his confirmation, does Chief have one?" "What are you talking about?" I said, "Well, I've got a photograph." He didn't know it existed. So I took that photograph down to one of these printing shops and asked them to copy it. "We can't do that, it's probably copyrighted material."

M: That ought to be public record.

H: That does not exist, the government does not have that anywhere. The one you see hanging there and the one that --

M: So that was taken by a private individual then?

H: Well, I don't know. They couldn't find it, they didn't have it, they didn't know it existed but they still wouldn't give me permission to copy it except on the condition, and Barbara has the letter somewhere, on the sole condition that one copy be made and that it was intended to be delivered into the hands of the Chief Justice of the United States for his private collection. I said, "Yes, yes, yes, that's what we'll do." So I had it copied, I took it to Washington at one of our meetings before the judicial conference and gave it to the chief and he was tickled pink. He didn't even know it existed.

M: Well, I could tell you some stories about picture copyrights. It's the most frustrating thing in the world when you try to do a book or something like that. It's just amazing. In fact, that's one of the things I wanted to ask you about is my understanding is you have a lot of pictures, a lot of photographs; is that correct, or did somebody tell me that incorrectly? A lot of photographs of court?

H: Well, no. Yes and no. I did have and I took them with me when I left Tampa. We found these photographs when we were refurbishing the old building in Tampa in about 1980 I guess, a whole stack of them that were in the clerk's office stuck away in drawers, some of them in this piece of furniture over here. Incidentally, I salvaged all of the trash, unwanted items.

M: That's a beautiful piece.

H: That was the original old intake desk in Tampa and before that, it came out of a customs house. That piece of furniture is over 200 years old. Except I never did find the foot rest. Anyway, I did have that collection of photographs but I took them with me to Jacksonville and I left them with the clerk there.

M: Those might have been the ones I saw up there then.

H: Probably.

M: I'll track those down.

H: Madam Clerk out there, they're now in her custody.

M: I'll track those down. Can you tell me a little bit about Lawton Chiles? Did you know him before at all as far as you grew up in Polk County at the same time. Are y'all about the same age?

H: He was older than I was.

M: So did you know him when he was growing up in Polk County?

H: No. I knew him at the University of Florida.

M: Okay. Did you go to law school together?

H: No.

M: Or just kind of overlap at all, either undergrad or law school?

H: Well, we were there at the same time but he was in law school and I was in undergrad. I think he graduated either the semester before I started law school or before my first semester. If we overlapped, it was only for a very short period of time.

M: But you didn't know him in high school?

H: No.

M: Or in Polk County growing up?

H: No.

M: Didn't play baseball against him or anything like that?

H: No.

M: Did you know him when he got into politics, is that when you got to meet him?

H: I think I knew him at the University of Florida just the way students know each other, more by sight. We weren't friends. We didn't move in the same circles

and he was ahead of me. Then I knew him, I never practiced law or anything with him or against him but I guess I met him in his political campaigns.

M: Well, he would have been a brand new senator when you were appointed basically?

H: Yes.

M: Within months almost, right?

H: He hadn't been there long.

M: From what you could tell, did he and Gurney get along?

H: Oh, yeah.

M: Okay. As far as you could tell?

H: Oh, yes. And big Jim Eastland, who was the chair of the Judiciary Committee, and they were different parties, but they were friendly and cordial. That's when the Senate functioned the way it should.

M: That's not surprising.

H: As I said, they were both at my hearing. Lawton had absolutely no reason to do that except out of common courtesy. He's there and said to Jim Eastland, I can remember, "The President has made a wise choice and I'm here to support him."

M: Now, we get into your first year or so on the bench, was it difficult for you not being a judge before coming in? I know there's the great story you told to Dr. Julian Pleasant about your first weekend as judge. You don't have to go back to that, that's an amazing story.

H: Every word of it was true.

M: Have you ever had anything like that happen since?

H: Nothing approaching that and I wouldn't expect to. I mean that was just awful. Yes, it was difficult at first. I don't think not having judicial experience would have made much difference. I mean, you have to start somewhere.

M: At that time, Judge Lieb was gone of course and Judge Krentzman would have been -- did you find yourself talking to him a lot?

H: Oh, yes. Judge Krentzman and I served together there, just the two of us for

a long time, would have been right at 20 years just the two of us in the building. And there were times when we could only talk to each other about some things. We developed a good relationship.

M: Now obviously the Claude Kirk debacle is very well known and very well documented. Are there any other personal insights about Judge Krentzman that you can recall that you'd like to share that maybe some people might not immediately know other than everybody knows he had great character and was a kind generous person but are there any stories particularly that you can remember about knowing Judge Krentzman? And of course his wife just passed away last week.

H: Yes, Wilma just died last Monday was two weeks ago I understand. She was a great lady and a good friend.

H: I don't know that I can think of any events involving Judge Krentzman. He didn't have the most expansive sense of humor in the world so there weren't any pranks going on. He took everything seriously as he should. Whatever he did, I can tell you, he was trying to get it right. He may not have done so in the view of some but it wasn't because of lack of effort or bias or prejudice against anybody.

H: I can tell one story about Ben. I've got a book here somewhere of University of Florida in the 1930s and there's a picture of Ben Krentzman in there as a young undergraduate student, although he isn't identified as Ben Krentzman. Ben had a first name which he abandoned somewhere along the line. Benjamin was his middle name. Anyway, it showed him as a cheerleader in 1935, Florida field when it was an all-male institution, they were all males, male cheerleaders. Down on the far right was young Mr. Krentzman anyway, and I took it to him. I said, "Look what I found" and showed it to him. "Oh, no, no, no. Put that away." For some reason, he was embarrassed about having been a cheerleader, didn't want anybody to know it and there it was.

H: Judge William McRae presided at my investiture which was held on December 28, 1971. And I had occasion then from that point until his death in February of '72 or '73 to sit with him on a number of occasions because in those days, the statute still provided for a three-judge court whenever the constitutionality of a state statute was drawn in question on the language of the statute. The case had to be brought to the attention of the chief judge of the circuit who would appoint a circuit judge and two district judges to sit. And there were a lot of election law challenges in those days. And I sat with Judge Krentzman and had the privilege of sitting with Judge McRae on a number of those cases from that time until the time he died. [He had a drinking problem when I came on the court.] And he was an absolute gentleman in all respects, a brilliant lawyer and judge. To the best of my knowledge, close observation, he never had another drink for as long as he lived. He was obedient to his pledge in every respect and died an honorable death.

M: He died not long after your investiture; is that correct?

H: About a year I think.

M: Did you ever have occasion to practice before him in court before you were a judge, do you remember?

H: I'm sure I did because I have a memory of when I first saw him as a judge when he came to my investiture but I think it was at a time when he was sitting with the Court of Appeals. I think it was a case that I argued in the Court of Appeals and he was sitting as a designated district judge with the circuit at that time.

M: This is a question kind of out of context a little bit. One of the people that's always around when it comes to law in Florida, is Chesterfield Smith. Do you recall either before or after your appointment anything specific about his role in terms of suggesting judges or any kind of communication that he might have had with the Justice Department about recommending people, that kind of thing?

H: No. I have no recollection of Chesterfield ever having any communication with me about recommending anybody.

M: I was thinking mainly of various administrations, say the Kennedy or the Johnson administration or the Carter administration. Chesterfield is obviously a Democrat I'm pretty sure, do you think he would have had influence before the Graham/Mack Committees were formed?

H: Well, I never thought about it but I'm sure if he wanted to exert some influence, he would have certainly had a platform. He was well acquainted with Smathers I know. I just never thought of it one way or the other. All I know is he never said a word to me nor I to him about any judicial influence. Never in 40 years, has anyone ever called me to get my suggestion or recommendation about a judicial appointment which is just as well. I'm happy to have it that way.

M: Is that just not done with sitting judges or is that something that even though you haven't had it, is that something that just never happened or would it be extraordinary or would there be any way for you to know?

H: I wouldn't know. I think there may be some places in the country, one or two places where sitting judges have been consulted by senators about whether Joe Smith would make a good judge or not because in my career, I've had an opportunity to move about the country a bit. And I've heard tales told a time or two that would suggest that but I've never had that experience and I don't know anybody in Florida who has.

M: One of the people that would come on the court pretty soon after you would be George Carr. Obviously I've heard that you were very close to Judge Carr.

H: Miss him every day.

M: Would there be anything that you would be able to recall about Judge Carr that maybe you haven't seen in the record or anything like that that you would like to explain about Judge Carr? Maybe his personality, maybe anything?

H: Well, if it exists, on that subject I would refer you to a transcript of the memorial.

M: Yes, I've already read that. It's quite touching and extremely forthcoming with information.

H: I'd had occasion to try to recite Rudyard Kipling's *If* because if I ever met anybody to whom that work of art applied, it would be George Carr. He was utterly without guile, he had no, and I think they used these same words then, no unseemly ambition about anything, what you saw was what you got, he was just a good, good person and a good man. I miss him every day.

M: Did you know him before he was on the bench?

H: Yes, but only casually. I bumped into him a time or two. And he reminded me after we became friends about the occasion we had first met that I had forgotten. He and I and a couple of other friends had flown out to Oxford, Mississippi one time to see a football game which is when I think I first met him in retrospect. So I had known George and I had known [J. Hardin] Peterson, his law partner, probably better than I knew George before he was appointed. There is a story, maybe you've heard it, not to speak of Lawton Chiles, but Lawton consulted Peterson about making his walk as a means of garnering some media attention when he didn't have the money. Have you heard that story?

M: I've heard it attributed to many, many different people. I think what you're going to tell me is he thought it was a bad idea, right?

H: Yeah, bad idea.

M: So many people go around saying that. They claim to be the one that said that. But Peterson...

H: I think Peterson. So when they were watching the returns come in and he had told him he thought it was a terrible idea to make a fool of himself. And Peterson leaned over to Chiles when it was obvious it was a landslide in his favor, "Think of the margin you would have had if you hadn't made that silly damn walk."

M: Well, I think they said that about Chesterfield Smith or at least he used to like to say that. And Burke Kibler I think the same thing.

H: Well, Kibler was, but I don't think Chesterfield.

M: One of the first cases that was pretty well covered in the media or whatever that you heard as I recall was in 1976, the Diecidue trial, is my recollection correct?

H: Well, I remember the case, I don't know about its relative notoriety. But I do remember the case.

M: Was that your first big criminal case that you recall or was there a bigger one?

H: Well, it was certainly one of them. From September of 1974, according to my recollection, until March 15, 1977, I spent every day, every single day on the bench trying criminal cases one after the other, and most of them during that period were long, multi-defendant RICO type cases. There were a whole bunch of them. The Diecidue case was certainly one of them. There was the Richardson interstate transportation for purposes of prostitution case that I remember that went on for a long time. There was a case involving a Tampa realtor named Marino, there was a case against Lieutenant Bland with the police department with Arnie Levine defending that went on for a long time. There were a bunch of those in that era.

M: One of the other incidents you were involved in, I'm not sure if you want to talk about it or not, but was the Alcee Hastings case. Would you be able to say anything about that or would you rather not talk about that?

H: Let's go off the record for a minute.

H: [Alfred P.] Murrah, who had been for years the Chief Judge of the 10th Circuit, was the director of the Federal Judicial Center when I was appointed. The building in Oklahoma City that was blown up was named for Judge Murrah.

M: Yes, of course.

H: He was in Oklahoma. He went on the District Court in Oklahoma when he was 32 years old, then went on the 10th Circuit three or four years after that and was chief judge of the 10th Circuit for 35 years and was then named the Director of the Federal Judicial Center just a year or two before I was appointed. Judge Murrah moderated and conducted the new judges' orientation, which is where I first met Judge [Anthony] Alaimo in the Federal Judicial Center. He's one of two or three people that I met in my life where, I do not exaggerate, you could be

standing with your back to the door and you would know when he entered the room. He just had that kind of electricity about him.

M: Right.

H: Frank Johnson was, in a much more subdued way, had that same kind of strength of character that just exuded. You knew you were talking to somebody who could be relied on when the wind blew.

M: Well, there's so much been written about him. He's almost like a legendary larger-than-life figure in a way. So you think he really represented that in human flesh too when you saw him?

H: He was a very quiet person. I mean you could walk in a room with Frank Johnson there and you would not know it maybe because he's not going to draw attention to himself. Judge Murrah, he was an icon. Frank Johnson was an icon.

M: Can we go back a little bit and then we'll obviously go forward. One of the people that I forgot to mention and ask you about was Judge [William] Barker. Do you recall practicing before Judge Barker?

H: I do not. Judge Barker had essentially retired or left the court or whatever became of him, I frankly don't know, at about the time that I started practicing. He was still in the building I think and still holding court but I never had anything before him. I'm sure I'd remember it but I don't. There were a lot of stories about Judge Barker at that time who had lost his hearing, and I'm now losing mine. There were occasions apparently when he didn't hear lawyers when they rose to object in court so they took turns apparently in making sure the judge was still paying attention by approaching the bench every five minutes or so and just shouting objection no matter what was going on. That's the way it was related to me.

M: He had a very, very reliable clerk; is that correct, or a stenographer?

H: Ted Mack.

M: Yes, Ted Mack, I've read his own oral history which is quite interesting.

H: Ted Mack was an interesting character. I knew Ted well. He was one who composed limericks. He was a master at it. As a matter of fact, I may have one of his limericks. I did have. Ted always had a limerick for something. He graduated from law school in 1932 or thereabouts in the height of the depression, couldn't make it as a lawyer, no place to go as a lawyer, but he picked up shorthand somewhere along the line and he got a job as a court reporter taking down the judicial proceedings in pen and ink and shorthand and continued in that career for the remainder of his life.

M: Another person I want to ask you about, and again, this is all been really documented and I've read a lot of the published reports and newspapers and it's an item stacked very, very big, Bob Merkle. I'm not sure if you'll even talk about him or if there's anything more to add or just your own thoughts about him or what you could add to whatever's been written.

H: I will say that Mr. Merkle appeared to be a person who never saw anything that was gray in color. It was either black or it was white, there was no in between which was a bit unusual. There aren't many people that are absolutely. I'm not sure what the word for that is.

M: And I would suppose, and I'm not sure about this, I would suppose that's not a very common trait among lawyers. Most lawyers I would imagine --

H: See nothing but gray.

M: So with him that would have been kind of a peculiar characteristic.

H: I haven't thought of it that way but you're exactly right, that does make him stand apart. I never saw him in court but once. He tried one case before me, maybe two, towards the latter part of his service as U.S. Attorney. And I will say that he did a bang-up job on those cases. He came impeccably prepared and was able to make his opening statement, cross-examine witnesses and examine witnesses, make his closing argument without note one and never missed a beat. So he was capable as a trial lawyer but he didn't go to court very often. He was an administrator and he had some ideas about the way criminal justice ought to be administered.

H: I suppose I can tell this without stepping over the bounds of propriety. When he was first appointed, he asked Judge Krentzman and I to have lunch with him one day which we were happy to do. At the end of the lunch, he announced that his main reason for asking us to lunch was so that he could come to an agreement with us that anybody who got convicted, we would give consideration to imposing maximum punishment in every case. That way justice would be served and there was a likelihood that more crime could be prosecuted. I sat there in some wonderment. In fact, Judge Krentzman just got up and left the table as best I recall. That was the last time we had a conference with Mr. Merkle. I don't say that to denigrate the man, he had his idea about what his function was and he intended to zealously pursue it, which he did. He rubbed a lot of people I think the wrong way in the process.

M: There's a case that is quite sensational for Polk County but I'm not sure if you'd remember it that I'm pretty sure that you presided over. It was a case involving a man named Donald Kramer Peterson, who was a drug smuggler in a dramatic airplane situation. He was coming over Polk County and landed the

plane and he had lots and lots and lots of cocaine and DEA had actually spotted him coming from the Bahamas. He actually landed in very rural Polk County not far from Lake Wales really. Do you remember anything specific about that case?

H: If it's the one I'm thinking about, yes, it was an interesting and unusual case.

M: This was in 1981 roughly.

H: The DEA or some agency had launched an aircraft to pursue him and they were using night-vision goggles when these night-vision goggles apparatus was relatively new, it was still classified stuff. They could actually see in the dark of night that whoever was in the airplane was tossing kilos of cocaine or bags of cocaine out. And the challenge was they had to go back and find all that stuff on the ground. And my recollection is they found about two-thirds of it, what they estimated to be two-thirds of it. It was multiple kilo quantities if that's the same case.

M: Now, if you don't mind, I'd like to talk a little bit about the desegregation. I've covered the Polk County. That was a long one you inherited from Judge Lieb, correct?

H: Yes.

M: And then also what other counties, was it Hillsborough?

H: No, Judge Krentzman had the Hillsborough case because I had briefly in my law firm appeared as counsel in that case for the School Board and actually John Allison, one of my senior partners had been counsel of record and then Dave Kerr and I came in in the latter stages of that litigation to try and settle it, which we ultimately did, or actually Dave did most of that ultimately. But I was disqualified clearly from handling anything in the Hillsborough case. So Judge Krentzman was kind enough to recognize that and keep the Hillsborough case and give me all the others which meant that I had Polk County, I had Pinellas County. He had the Manatee case. It was the Manatee case in which he had the confrontation with Governor Claude Kirk.

M: And then later on, you inherited part of the Jacksonville or the Duval case, right?

H: I did.

M: But that was about a decade after. What I'd like to do is talk about very early when you came on the bench, the situation with the Charlotte case coming back in '71, I think it was. And you inherited all of those cases at a very difficult time, very difficult time.

H: Believe me, it was.

M: What were some of the biggest challenges and obstacles at that time? Of course, you had covered it as a lawyer before so you knew the law I would imagine pretty well.

H: In one sense, yes, in another sense, no. I'm not sure anybody knew the law from one day to the next during those times. That was part of the problem. The cases were going and coming from the Court of Appeals. There were slightly different issues in the different cases. There were all kinds of suggested remedial approaches, clustering and busing and reconfiguration of attendance zones and all kinds of things.

M: How much of your time was spent out of court working with the plaintiffs and the defendants spread out on a table with maps and all that kind of stuff? Was that the way it worked?

H: No.

M: Walk me through the process of how that worked as far as dealing with the different plaintiffs out of court.

H: First of all, I came into those cases at a point when at least some form of desegregation decree had already been entered. Of course there were constant modifications and all kinds of petitions for additional relief and so forth, approval of new construction, voluntary faculty recruitment and all kinds of things. But that was done not as a result of any kind of ex parte, or for that matter informal meeting with the parties, it was all done as a result of evidentiary hearings conducted in court and then either grant or deny whatever specific motion it was. Eventually, Polk County case for example, my recollection is that the Polk County litigation, which is true of a number of the desegregation cases at that time, had been resolved pretty much by agreement of the parties. Sooner or later by the time I got the case, the parties had an agreement with respect to the form of the decree to be entered. At least that was true in Polk County. The problem with that was when it was worked out by compromise, that way there was a tendency to simply ignore the insoluble issues in the case. The schools just didn't lend themselves to any kind of remedy that was being conducted. There was a middle school in Lakeland somewhere that was just troublesome. Issues throughout that litigation, I must have had I don't know how many hearings all involving in one way or another that school or the collateral consequences of trying to deal with that school.

M: Now in one of these hearings, was the general public attending?

H: Oh, yeah, sure.

M: And of course very contentious. Did you have a hard time settling them down?

H: Well, no, the lawyers, managed to control the lawyers. There was a lot of public discontent obviously but I was lucky I think. In terms of personal attacks against me or security threats to my family and so forth, one or two problems but nothing like Tjoflat for example, or Bryan Simpson or Judge Krentzman for that matter.

M: I'm going to try to get up to Washington, but there's FBI files in Washington that are huge hate mail files that Judge Krentzman got, just huge. Boxes and boxes of stuff.

H: Most of that probably made out of anonymity.

M: Absolutely.

H: If I remember, that's been 40 years ago. You don't remember the unpleasant things anyway. I had some of that but it wasn't that bad.

M: Of course Mr. Boswell was one of the main counsels.

H: In the Polk County case, yeah. And his son after him as I recall.

M: Right. Are there any specific things that a reader would not really appreciate that you think is important for covering those cases in the '70s, what issue do you think was the one thing that a reader looking back at it now would be interested in knowing that maybe they wouldn't discern perhaps in terms of historical, about from your perspective and then maybe even the plaintiff or the defense perspective?

H: There is something that I've thought of frequently coming out of that brouhaha that I think's instructive about our judicial system, our whole constitutional concept of liberty and the respect that people have had for the judiciary. There's some question as to whether they still do I think, but the respect that our culture has produced for the judicial system. And the enlargement of the judiciary is a matter of concern to me in the respect that I'm about to mention. If you will remember, how old were you if I might ask in 1972?

M: 1972, I was a sophomore in high school.

H: In Orlando?

M: Yes, so Orange County.

H: There were signs everywhere "Impeach Earl Warren."

M: Of course that was a decade earlier, "Impeach Earl Warren."

H: Yes, but it's part of the same, the Vietnam conflict, public upheaval and discontent, and you add the school cases on top of that, it was a volatile public atmosphere to start with when we got into the school litigation. Brown v. Board of Education was decided in 1954 I believe and it wasn't until the early '60s that we began to get active litigation in the school system in the south, generally, in this circuit, and in Florida in particular. So it was a challenge to the judicial system whether or not our constitutional system as we knew it, and now know it, was going to survive at least in this part of the world. But in the end, there was Governor Faubus in Arkansas and Governor Wallace in Alabama, Governor Kirk in Florida for that matter, but in the end, the judgments were enforced without a shot being fired. People ultimately accepted it. However deeply they may have felt about the issues, I don't think any politician could have survived an open challenge to the courts. People respected, they didn't like but they respected the system and the process. We got through it. The same way we more recently got through Bush v. Gore, a lot of people didn't like that but they accepted it. I think they did so out of respect for the system and for the judges, not as persons but from an institutional standpoint.

H: This is important to me because there is a push, and we're sometimes guilty of this on the judicial side, to increase the size of the judiciary and when you do that, you inevitably diminish or erode the respect that the people have for the courts because what people fear is the unknown. I think that's just true in life generally, what we're afraid of is what we don't know about. And you can see that in the state courts. When I first went to Hillsborough County to practice law, we had four circuit judges, I think there are 80 or 90 of them down there now. There's not a lawyer in Hillsborough County that can name all of the circuit judges. I doubt you can name all the circuit judges in Polk County. You might have to struggle a bit. That's not good. It may be inevitable, especially in the state courts but it's not inevitable in --

M: And in order to handle the slack from the population growth that obviously occurred in Florida in the last four years, you appointed and created positions to really support the Article III judges like magistrates.

H: Yes.

M: Who are doing a lot more than they used to do and all that, right?

H: Sure. I think it's important at the end of the day that the United States District Courts be recognized and confined both in function and in size to our real ultimate purpose and that is the protection of the Constitution of the United States, and anything else that's given us to do I think is a little much because people have to respect their institutions. And when they get unwieldy and they

do unsavory things.

M: Well, that speaks to another issue and that is the extreme politicization of the confirmation process, which you fortunately preceded in a way.

H: No question about it.

M: Within a decade after the time you were confirmed, everything kind of went out the window as far as partisanship.

H: No question about it.

M: Even with, my reading of the situation is, even with Senator Graham and also Senator Mack's bipartisanship. Even with Senator Graham and Senator Mack's attempt to really be bipartisan when it came to suggesting nominees, the situation got really, really partisan.

H: My experience has been that the best-intentioned ideas paradoxically have a perverse effect and result. They end up accomplishing in the end exactly the opposite of what they were set up to do.

M: What I'd like to ask you now about is obviously the BCCI case. Was that a case that you remember as far as being one of your most interesting cases?

H: It was certainly the longest case I've ever tried. It started early January and got over the end of July as I recall.

M: Incidentally, there's been a lot of books written on that whole thing, the BCCI Bank, the BCCI Bank, several major books on the whole thing and you're in like 20 pages of it.

H: Really? I wasn't aware of that. Well, I was aware that the agent, Mazur I think his name is, had written a book. He sent me a copy, which I read some time ago. But I wasn't aware there had been a lot of others.

M: It had all the major players in it globally in a way. It had Senator [John] Kerry and of course his committee, it had the old lawyer --

H: But none of that got involved in any case that I was trying.

M: Obviously not.

H: I think it was an interesting case more from the standpoint of law enforcement and undercover investigative work and technique than anything else. This agent spent the better part of two or three years of his life without any respite or interlude playing the role of a money launderer who actually laundered \$30

million as I recall that the government was content to let go through the process in order to identify those involved and so on. The way it was carried out was fascinating and the way it was brought down was almost comical. I'm sure you're familiar with that story.

M: Right, the wedding and all that, yeah.

H: I can still see it, he was an amazing witness. All those hundreds of hours of telephone and personal conversations of course had been recorded and then transcribed. It took a long time to do that. They were stacked up three or four feet high in these loose-leaf binders all around the witness stand. And he would be asked by some very good lawyers, the lawyers on that case were the cream of the defense bar.

M: I can imagine.

H: They were all employed by the bank to start with. But he held his own. He could be asked about "Well, did you have a conversation with such and such?" "I believe I did." He'd reach down and pull it out and open it up, "Yes." It was amazing. He was on the witness stand for direct and cross-examination about three months.

M: Every day?

H: And he wasn't asked the same question twice.

M: Day after day?

H: Day after day. Since I've started trying long cases, I tell the jury we're going to take every other Friday off. You're going to have a long weekend every other Friday, try and make good use of it; otherwise, we're going to be here until it's done. That's the only way to do it. Otherwise the people start, especially when you have a dozen lawyers involved, if you don't keep them together, you'll never get them back. I used to tell them, I would say it in good spirit, and they knew I meant it, too, "There are five possibilities when I've got a dozen lawyers and 15 defendants. I can only conceive of five possibilities with respect to your whereabouts on the morning I call this case for trial. First is you're going to be seated there in your proper place as you are now. The second is that you're going to be ill and in the hospital being treated by a physician of my choosing. The third is you're going to be a fugitive with a marshal in close pursuit. The fourth is that you're going to be in the custody of the marshal and produced in court properly restrained; and the fifth is God forbid, you'll be dead. Now if anybody can conceive of any other possibilities, I'd be glad to hear them and add them to my lexicon. But that's it, that's the way it's going to be." And everybody would laugh but they'd know that that was it.

M: And that's what you would tell the attorneys?

H: Yes.

M: Or that's what you would tell the jurors?

H: No, not the jurors. The jurors might not be wise to the ways of the world. What I'd tell the jurors is, I fell into this one day just, I don't know, it just jumped into my head, long cases, you know when you ask would it be inconvenient for you to serve, you're going to get a lot of --

M: Another case I want to talk about is the Florida death penalty reinstatement case—Proffitt v. Florida.

H: Have you Googled Proffitt recently?

M: No, not recently. His sentence was commuted by the Supreme Court of Florida.

H: Yeah, on the grounds that it was disproportionate or the facts of the case did not justify a finding of an aggravating factor or a particularly heinous, atrocious, cruel offense, it was a crime of impetuosity. My recollection of the facts are that he was drunk, he came out of a bar, broke into the home or the apartment of a young wrestling coach, he and his wife were sleeping in bed. Proffitt had no idea they were there. He was interrupted red-handed. The man came awake in the bed and Proffitt grabbed a kitchen knife and stabbed him to death. Those were the facts as I recall them. So it's obvious there's no such thing as a nice murder but it didn't involve many, if any, of the aggravating factors. But anyway, it's sort of ironic that Proffitt serves the legal vehicle for a constitutional adjudication concerning the constitutionality of the Florida bifurcated death penalty regime when he at least until recently was alive and well all these years over at the Florida State Prison.

M: So the decision restored the Florida death penalty per se, that was the effect of it.

H: I think that's right.

M: I think it is too. Can you help me understand the dynamics of things. When Furman occurred or Furman came down, were all the death penalty people voided, were their death sentences voided or how did that actually work?

H: Well, no, they just became constitutionally unenforceable is what it amounted to.

M: So they're still on death row, those individuals?

H: Well, yes and no, to the extent that many of them simply remain in custody pursuant to what would become a life sentence but the state could elect to retry them and may have done so in many instances.

M: So I guess my question is in the interim period between Furman and Proffitt, did the people on death row, were their sentences voided in terms of being sentenced to death? Did they have to go through another process of being tried to be sent to death row after Proffitt?

H: That's an interesting and obvious question. I'm not sure I can fully answer it.

M: Obviously, they're not let go.

H: No, no, no.

M: Were their sentences reduced to life under Furman?

H: In practical effect, yes, because the death sentence could not constitutionally be carried out if the governor signed a death warrant so in a lot of those cases I think, I'm just speculating now, I don't know. What would have happened is the governor just never signed the death warrant and they were effectively serving a life sentence. On the other hand, if the state wanted to really see the death penalty enforced, it would have been free to retry the case and seek the death penalty under the bifurcated regime that was enacted by the legislature after Furman and it was approved in Proffitt. I don't have a memory one way or the other as to whether that occurred or how often it occurred. The question is a good one. I just don't know.

M: Special memories of the old courthouse in Tampa, do you have any specific recollections of any interesting characteristics of the old courthouse in your chambers and what it was like to leave there and that kind of thing?

H: Well, we started out in about 1974 trying to get a new building in Tampa because first of all, we were going to get some new judges, we needed new judges, we only had two courtrooms. The one I was in was a make-shift courtroom in the northwest corner of the building with these support columns in the middle of the courtroom, made it a nightmare to try cases with witnesses trying to hide or defendants trying to hide. That didn't get anywhere. I finally got some support for refurbishing the old building and putting some new courtrooms in there including one on the ground floor under the atrium in the middle of the building. It had the postal observation mezzanine around where the postal inspectors used to stand and watch the postal workers sorting the mail on the first floor. That was sort of interesting trying to build a courtroom in that space because we were constrained by the fact that it was on the National Register of Historic Buildings and we couldn't do any structural changes. It was a nightmare.

But we finally got it done and I thought it was as good as anyone could do with what we had to work with. The new courtroom on the first floor was a very nice functional courtroom. The restoration of old number one was successful. There was a drop ceiling in there that somebody had put in there for no reason that anyone could explain over the years. You took that away and there was this beautiful mosaic up on the ceiling that Judge [William] Castagna discovered somehow.

M: I've talked to him about that. His face lights up when he talks about that old courtroom. It's almost like it's his pleasure, this visual.

H: It was a temple of justice. There was a lot of history in that old room. I felt good about that. I felt we did as well as we could. I hated to leave it but it was time for me to go on to something else. And I'm sorry that it's just sitting there now. I think it's empty not being used for anything.

M: I don't know the future, I don't think the future is good. They've tried their best to try to figure out a new use for it.

H: I remember sitting there one day, there was a gilded eagle, not that one, but there was one that was up on the wall over the bench chair in old number one and the lawyer was making an argument to the jury, I won't say who it was. He warmed to his own remarks and said something like, "If this jury should convict my client, it would be an injustice that would cause that eagle to fly off the wall." And I sort of flinched like that and the jury started laughing and it took me about five minutes to restore order in the courtroom.

M: I really don't have any more specific questions to ask you but I would like to ask you to just let me know what, in your mind, should be some of the most important points in a book like this, which is going to be a narrative history of the court and the people and the activities of the court. What are some of the things that you think might not necessarily be covered that you think should be covered or what are some of the most important things you think should be gotten across?

H: I think the best but most unsatisfactory answer I can give is I don't know. It's a shame to me to some extent that the history of the District can't, and I think "can't" is the right word, can't really capture and include the human side of the judges. Some of the things I've talked about and a lot of things you just wouldn't want to print in a book, you're going to give somebody some offense. A lot of the circumstances surrounding the latter part of the career of Judge McRae for example and what might have been and that sort of thing. It would be nice if all that could be preserved. And it would tend to some extent trivialize the court which is an institution and not a collection of people.

M: I think you can appreciate those are the kind of things that I'm trying to do

without going too far.

H: You have a hard task.

M: I'm glad you appreciate that because you can read the newspaper copy, you can even read the oral histories and you can certainly talk to all the judges and you can talk to the people around them but, you know, it's very, very difficult to capture the essence of what daily work that you were confronted with. But even so, that's what my goal is. That's what I want to do.

H: For example, little things pop into your head, I remember one time Judge Krentzman went out of town, he was gone for a couple of days. While he was gone, a reporter came over from the Tampa Tribune and interviewed his two law clerks. They should have known better but they didn't. So Judge Krentzman comes back to town and gets up, goes out to get his newspaper the first morning he's back and brings it in to his breakfast table and opens it up. And there in the Metropolitan Section, there's this big headline, *Shakers and Movers of Federal Court*. And the story was devoted to the function of law clerks and how they operate behind the scenes but how important they are to the function of the institution and what a role they play in the formulation of the blah, blah, blah.

M: With the major sources of the article being --

H: Oh, by name, His Honor's law clerks. And he read it as though the law clerks were being portrayed as and had portrayed themselves as assistant judges. I'm telling you, the roof almost came off the building that morning. And I still refer to law clerks as *shakers and movers*.

H: I had an experience one time with the press. I went up to Jacksonville to try a case, very early on. All the judges in Jacksonville had recused themselves, Tjoflat and Charlie Scott, anyway they had recused themselves. It was an interesting case. In those days, it was common for us to sequester juries in criminal cases, even run-of-the-mill criminal cases. The almost knee-jerk reaction was, in Federal Court anyway, you sequestered the jury. Well, this was going to be a fairly long case and we were trying to get out of that habit, cost containment even then among other things, expensive, I just didn't want to sequester this jury. I'm talking to Tjoflat even though he had recused himself, we weren't discussing the substance of the case, "What can I do to minimize the likelihood of a mistrial in this case if I don't sequester this jury?" I remember him saying, "Talk to Otis." There was a reporter named Otis Singletary who was the beat writer for the courts for the *Jacksonville Times Union*. I said, "What? You must be crazy." "Talk to him, he's a reasonable guy." So I send for Mr. Singletary. And I started beating around the bush. He said, "Judge, are you leading up to asking me not to publish anything during this trial that doesn't happen in the presence of the jury?" I said, "Frankly, that's exactly what I'm asking." He said, "Okay." I was flabbergasted. True to his word, every morning

there was an article on the front page of the *Times Union* but every single word of it was an accurate portrayal of what had occurred during the trial. Not a word about anything that was discussed out of the presence of the jury until the verdict came in. There was a lot of stuff, for example, one of the charges in the case involved the defendant's maintenance of a mistress and taking the expense of her maintenance as an ordinary and necessary business expense on the tax return. So there was a lot of sex involved and not a word until the verdict came out. Otis published a recap of the entire trial plus all the juicy stuff. I mean it was beautiful.

H: Well, I go back to Tampa. The next week or the week after that, I'm trying this case The United States v. Bland. Lieutenant Bland or Colonel Bland, had been second in command of the Tampa Police Department when he was indicted with these people involving a scam. I seated the jury. We're going on two or three days, and at that time, we had both the *Tampa Tribune* and the *Tampa Times*, morning paper and the afternoon paper. I happened to see the two reporters, one for the *Tribune* and one for the *Times*, the first day or so of trial sitting in the audience section of the courtroom. I just had this wonderful experience. So I tell the law clerk ask the reporters to come back at recess will you? They came in, "What's this about?" I said, "I'm going to ask for your help. This is a case that you're giving quite a bit of attention to and of course you should, but I would like to ask of you try not to publish anything that doesn't happen in the presence of the jury in order to minimize the likelihood of a mistrial and a miscarriage of justice perhaps, if you could do that." "You're instructing us not..." I said, "I'm not instructing you anything, I'm just putting it on your heart." "Well, we'll have to take it up with our editors." I said, "Of course you will." So that very afternoon, I go back in the court, the prosecutor calls a witness and starts putting into evidence or offering into evidence these registration cards of a Holiday Inn or motel out on Dale Mabry. Defense counsel asks to be heard at side bar. I got them to the side bar and said to the prosecutor, "What is the relevance of these documents, where is this headed?" "Well, Judge, I'm going to prove that this defendant has been cohabiting with prostitutes" and blah, blah, blah, had absolutely nothing to do with the case. I think I had excused the jury and that explanation was given and the reporters heard it. And I said to the prosecution, "Well, we're not having any of that. You should know better. I'm striking all these exhibits and you can call another witness and I'll instruct the jury disregard whatever they heard so far" blah, blah, blah. I come to my breakfast table the next morning, open up the newspaper, big headline in the Metropolitan Section, "Bland Cavorts with Prostitutes." And underneath that in a subtitle, Judge instructs *Tribune* or Judge instructs *Times* not to report. I'm not making this up. So that's the kind of thing that strains relationships.

M: Well, I think I've worn you out for the day.

H: I've told you just about all my stories.

M: I really do appreciate it. One more thing: Could you recall your memories of George Carr's illness?

H: I had asked George when we were holding hearings in the Ft. Myers about the situation in Collier County, about transferring the county to the Southern District, if he would like to drive down to Fort Myers with me. He told me he had not been feeling well and was going to the doctor. I went on to Fort Myers, when I got back, that Monday night I think it was, I received a phone message that George was in the hospital in Lakeland. I scurried over there but when I got there, they had had him in surgery. I mean it was just that quick. They had done a biopsy and discovered that he had a tumor and that it was inoperable. Although they took part of it, there was no promise of any cure. They gave him eleven to twelve months to live and that's exactly what happened. It was that weekend.

M: It was that weekend when you were going to attend that public event discussing splitting off the counties?

H: Yeah.

M: Wasn't that kind of over the holidays, like around Christmas or before or after Christmas, something like that?

H: I don't have that memory association but it probably would have been because he died in January of 1990 and he lived about a year so it would have been around New Years of 1989 I guess.

M: That must have just been an awful time, just excruciating.

H: Yeah. When he died, he weighed 80 pounds.

M: Wasn't he chief judge, kind of like a ceremonial chief judge for a month or two or whatever?

H: I resigned as chief judge in September of that year so he could die as chief judge. You know, bless his heart, he tried to be chief judge. I didn't expect him to, I mean, I told him whatever needs to be done, I'll take care of it, I'm not putting any pressure on you. I've just had enough of this and it's time for you to serve. And I think he appreciated that and he tried to be chief judge, and he made some decisions. It was October 26, 1989 that I stepped down. Just about everything brings back memories. This is the best job in the world, no question about it. There's no other job in the judiciary that is equal. I've had my taste of the Court of Appeals and it is not half the job that this is. There are a lot of good memories. I've been fortunate just being in the right place at the right time, the wrong place at the right time of serving in a lot of extracurricular ways in the judiciary which has been a lot of fun to me doing things that most people wouldn't

have the opportunity to do.

H: Just chatting with you makes me sort of want to ponder some of these things. When you stop and think about it, we started off talking about my father this morning. He had an eighth-grade education. He went off to the war, gassed in France, never talked about it. Came back, went to barber school, came to Florida to make his way as a barber, which he did for the rest of his life. He came through the depression so owing somebody money was just not in his being, he saved every dime he made. He bought five acres of ground here and five acres of ground over there and with what little help I could give him, we cleared it with our own hands and I put in citrus stock so when he died, he had about 20 acres of citrus and thought he did well, and he did.

M: Thank you very much Judge Hodges.

H. You are welcome.