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Commonwealth Court of Pennsylvania

Reminiscences of

Daniel R. Schuckers, Prothonotary

Friday, September 28, 2007, 9:30 a.m.

Irvis Office Building

Harrisburg, Pennsylvania

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1 My name is Daniel R. Schuckers, and I am the
2 Prothonotary of the Commonwealth Court, here in Harrisburg
3 Pennsylvania. Today is September 28th, 2007. I am hoping in
4 the next few minutes to give my recollections of the
5 Commonwealth Court.

6 I do this as a former law clerk here in the 1970s
7 and as Prothonotary of the Commonwealth Court for the last
8 20 years, and I do it for purposes of posterity, hoping that
9 whoever picks this up gets some idea of the Commonwealth
10 Court and its first 37 years.

11 My personal background is that I was educated at
12 Colgate University, Stanford University, and was a member of
13 the Peace Corps in the late 1960s. While teaching in
14 Delaware County, I met a woman named Mary Edwards who was a
15 prominent leader in the black community in Media, Delaware
16 County. I went to law school in September of 1970, which is

17 the same month the Commonwealth Court opened its doors.

18 After my first year, I was looking for a job, and
19 Mary Edwards had mentioned to me, if I was ever in
20 Harrisburg, to look up Ted Doyle, who had just been elected a
21 state representative from Delaware County. And I did contact
22 Representative Doyle, and in the summer of 1971, I worked as
23 a summer intern in the office of K. Leroy Irvis, who was the
24 then majority leader in the House of Representatives. And
25 the building that we're in right now is the K. Leroy Irvis

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1 Office Building, which is right behind the Capitol.

2 After my second year in law school, I clerked for a
3 law firm in town, Handler and Gerber, and they represented
4 the AFL-CIO. I had done well in law school, and in the fall
5 of 1972, the dean of the law school called me into his office
6 and asked if I would be interested in a clerkship with Judge
7 Roy Wilkinson of the Commonwealth Court. The dean, Dean
8 Laub, was a very good friend of Judge Wilkinson.

9 I told the dean I was interested, and I

10 interviewed. I got the job, and I immediately went out and
11 bought the first 8 or 10 volumes of the Commonwealth Court
12 reports and tried to get an idea of what the Commonwealth
13 Court did. I started in August of 1973 and clerked for one
14 year -- it was a one-year clerkship -- until August of 1974.

15 My clerkship, as I mentioned, was a one-year
16 clerkship. Judge Wilkinson was a very bright judge, very
17 bright man. He had been on law review at the University of
18 Pennsylvania Law School. In the early '70s, each judge had
19 one law clerk, and I was Judge Wilkinson's only law clerk.
20 But we noticed that Judge Crumlish in Philadelphia had two.

21 By about 1975 or '76, the authorization for
22 clerkships for each judge was expanded to 2, but then we
23 noticed that Judge Crumlish had 3. Somehow in the 1980s,
24 that was expanded to 3, and then in -- I believe in the
25 1990s, it was expanded to 4.

1 And for each judge, there was an opportunity in the
2 1990s to have a professional, permanent law clerk. And I
3 think now, the judges have a chief administrative law clerk

4 and a deputy chief administrative law clerk and then two
5 regular law clerks.

6 While I was with Judge Wilkinson, during that year,
7 I wrote 17 opinions with Judge Wilkinson writing 34 opinions.
8 He always divided the work that way. He would take
9 two-thirds, and I would take one-third. So there were 51
10 opinions authored by Judge Wilkinson that particular year.

11 He was always very, very current. Fifty-one
12 opinions a year doesn't sound like much, but that's all we
13 had at that time. And now each judge does about 120 or 130
14 opinions a year, but of course it's with a much greater
15 staff. As I mentioned, back in '73, '74, each judge only had
16 one law clerk.

17 Judge Wilkinson's philosophy was that he did not
18 want any law review articles. His opinions were usually 4 to
19 6 pages long. He disliked long opinions. His view was that
20 the Commonwealth Court was an intermediate appellate court
21 and if we got it wrong, the Pennsylvania Supreme Court would
22 correct our mistakes.

23 Judge Wilkinson was a Republican. He had been
24 appointed by Governor Ray Shafer, and his secretary, Sara
25 Fry, had been Governor Shafer's personal secretary. Judge

1 Wilkinson was from Bellefonte and while he was in private
2 practice had been chief attorney for Penn State University.

3 Judge Wilkinson had the greatest respect for
4 President Judge Bowman, and he always deferred to him on
5 administrative matters. Wilkinson was also particularly
6 close to Judge Rogers. They had served together on the Penn
7 Law Review back in the late 1930s. He also had great respect
8 for Glenn Mencer from McKean County, both were from rural
9 counties and had somewhat similar philosophies.

10 Interestingly, Judge Wilkinson also had a great
11 respect for Genevieve Blatt, who was a Democrat on the Court
12 and who had been appointed by Governor Shapp in 1972. Judge
13 Wilkinson had been on the Penn State University Debating Team
14 back in the 1930s, and Genevieve Blatt had been on the
15 University of Pittsburgh Debating Team back in the 1930s.
16 And they got along extremely well.

17 Judge Wilkinson was always very, very kind to me,
18 but I must admit he could be aloof and sometimes austere. I
19 don't think he was particularly close to Judge Harry Kramer.

20 And I know he was not particularly close to Judge Jim
21 Crumlish who he somewhat distrusted because Judge Wilkinson
22 regarded Judge Crumlish as being a Philadelphia Democratic
23 politician and Judge Wilkinson always had the view that
24 Philadelphia was somewhat different from the rest of the
25 state.

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1 Judge Wilkinson had a desire to make sure we never
2 had a backlog, and it got to the point during the summer of
3 1974 that he was able to persuade Judge Rogers and Judge
4 Mencer to go to Philadelphia to hear ten cases. The Court
5 rarely had any sessions in July and August, but at the end of
6 July of 1973, those three judges, Judge Wilkinson and Judge
7 Mencer and Judge Rogers, went to Philadelphia to hear ten
8 cases just so they would help clean out the very small
9 backlog.

10 I know that Judge Mencer, who was from McKean
11 County, an upstate county, was not particularly enamored by
12 the idea of being in Philadelphia at the end of July. But

13 the ten cases were heard, and decisions went out fairly
14 quickly.

15 In those days, the administrative staff was quite
16 small. Ed Barker was the Prothonotary. He was an attorney,
17 but he was not a particularly effective Prothonotary.
18 President Judge Bowman was not close to Ed Barker. As I
19 understand it, when Ed left in 1976, there was a huge backlog
20 in his office of cases to be handled.

21 Much of the administrative duties for the Court
22 were handled by Cliff Leftridge, who was the Deputy
23 Prothonotary. He was very, very close to Judge Bowman and
24 was very effective in terms of running the Court and making
25 sure that everything was handled in an efficient fashion.

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1 In terms of Judge Bowman's leadership, my
2 experience was that all the judges deferred to him. It's
3 interesting that all the judges with, of course, the
4 exception of Judge Blatt, were World War II veterans, and
5 they deferred to Judge Bowman as the captain of the ship.

6 Judge Bowman was a big man. He was about 6-foot-3

7 or 6-foot-4, with a dominating personality, with a very, very
8 sharp mind. He was adored by his staff, particularly in the
9 Chief Clerk's Office. They were very loyal to him. He was
10 very kind to his staff.

11 I remember the only time that Judge Wilkinson was
12 ever angry with Judge Bowman. We had a party in
13 Philadelphia -- I think the fifth anniversary of the Court in
14 1975 -- and Judge Wilkinson was very upset that Judge Bowman
15 was smoking, something that Judge Wilkinson greatly
16 disfavored and something Judge Bowman was to not do.

17 In 1974, I left to become an Assistant Attorney
18 General, representing the Unemployment Compensation Board of
19 Review. And in the following 6 years, I argued about 160 to
20 170 cases in the Commonwealth Court. In those days, all
21 unemployment compensation cases were argued. In fact, in
22 those days, pro ses were allowed to argue. That, of course,
23 has greatly changed. Today, very few unemployment
24 compensation cases are argued, and pro ses are not allowed to
25 argue or rarely are allowed to argue.

1 The Court in those days -- and this has continued
2 to the present -- was a hot court. Judge Wilkinson and Judge
3 Rogers were so current sometimes that when introducing cases
4 they, particularly Judge Rogers, would read the first 2 or 3
5 paragraphs of the opinion. The Court always read the briefs
6 before argument and occasionally had read the records.

7 I remember being involved in a case where I argued
8 in front of the Court, and the attorney on the other side
9 said that something had been in the record. Judge Wilkinson
10 interrupted the attorney and specifically said that he had
11 read the record and the something that was alleged to be in
12 the record was not there.

13 In those days, the Court had one courtroom on the
14 sixth floor of the South Office Building. Arguments were
15 Monday through Friday three times a year here in Harrisburg.
16 En banc days were Tuesdays and Wednesdays with 3-judge panels
17 being on Mondays, Thursdays and Fridays.

18 It's interesting that my recollection of the Court
19 in 1970s -- and this I think continues to the present -- was
20 that it rarely split along Republican and Democratic lines.
21 An example of that is Judge Blatt, a Democrat, could often be
22 very conservative on certain matters and Judge Wilkinson and

23 Judge Rogers, both Republicans, could be somewhat liberal on
24 certain cases. The Court rarely split along political lines.

25 The Court expanded in 1977 with Judge MacPhail and

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1 Judge Craig being elected. I am sure that Judge Wilkinson
2 thought very highly of both. I know he greatly admired David
3 Craig, who was a former public official in Pittsburgh and
4 probably the leading expert in Pennsylvania on zoning
5 matters, which was also Judge Rogers' area of expertise.

6 Judge Kramer was a very feisty member of the Court,
7 a very hard-working judge. And he passed away in 1977 after
8 a long illness.

9 Judge Bowman passed away in 1980, and it was a
10 shock to everyone. I remember the funeral was a very large
11 funeral here in Harrisburg. Judge Bowman was greatly
12 respected as a jurist, as an administrator and as a person.

13 Within the Court, the question arose concerning the
14 means of succession. Of course, there would be by a vote of,
15 at that time, eight judges. And the question came down to

16 whether seniority would be followed or not.

17 I know that Judge Wilkinson strongly believed in
18 seniority, as established by Governor Shafer and the
19 Legislature in 1970. What's interesting there is that Judge
20 Bowman, a Republican, was chosen as the President Judge.
21 Judge Crumlish, a Democrat, was number two, and Judge Kramer,
22 a Democrat, was number three in seniority -- and, of course,
23 he passed away in 1977 -- and Roy Wilkinson, a Republican,
24 was fourth. I have heard from at least one judge that Judge
25 Wilkinson was approached about running for President Judge

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1 but that he declined. I know that he believed in the
2 seniority system. And Judge Crumlish was chosen as President
3 Judge.

4 Interestingly, Judge Wilkinson left the Court soon
5 thereafter to take a short appointment to the Pennsylvania
6 Supreme Court, and Judge Mencer left the following year to
7 take a position as a U.S. District Court Judge in the Western
8 District of Pennsylvania.

9 There always have been rumors -- and I don't know

10 if I can characterize it by anything more than saying that
11 there were rumors -- concerning the selection of Judge
12 Crumlish. One prominent rumor was that the offices of
13 Commonwealth Court would remain in Harrisburg with the
14 selection of the new President Judge in 1980, but, of course,
15 that provision is actually statutory.

16 From 1980 to 1984, I had very little contact with
17 the Commonwealth Court. I became a Deputy General Counsel in
18 Labor and Industry in 1980 and did that for a couple of
19 years, and then I became a Deputy Attorney General in 1982
20 where I remained until 1984. I served under Attorney General
21 Leroy Zimmerman who ran a very efficient, professional
22 office. I was assigned to the general litigation division.

23 I did have three cases, however, assigned to me
24 which were in the Commonwealth Court's original jurisdiction.
25 The first case involved an action involving a discharge or

1 some sort of discipline of a black employee in the Department
2 of General Services. That case was before Judge Doyle. A

3 lengthy hearing was the result, and the Department was
4 successful. Judge Doyle had been elected in 1981 in a
5 partisan election in which he defeated Madaline Palladino who
6 had been appointed by Governor Thornburg to replace Judge
7 Bowman.

8 I was before Judge Williams, who was elected in
9 1979, in a case involving a denial of an elevator inspector's
10 license by the Department of Labor and Industry.

11 The third case that I was involved in when I was in
12 the Attorney General's Office was a case in which I was
13 second chair. And that case was before Judge MacPhail, who
14 was appointed to the Court in 1977. The case involved the
15 defense in Pennsylvania courts of Pennsylvania's 1982
16 Abortion Control Act. Of those three cases, by far, the most
17 interesting case was the defense of the Abortion Control Act.

18 I came back to the Commonwealth Court in 1984. In
19 June of '84, I was arguing a case before the Court en banc in
20 a complicated unemployment compensation case and was asked by
21 Ron Darlington and Tom Brogan, who was Deputy Prothonotary at
22 that time, if I was interested in returning to the
23 Commonwealth Court as an administrator.

24 I told them I would talk to my wife, and I did.
25 And she said that I should take it. I interviewed with

1 President Judge Crumlish and got the job.

2 Tom Brogan was leaving as Deputy Prothonotary in
3 August of 1984, and I returned to the Commonwealth Court in
4 August of '84, ten years after having left it in August of
5 '74.

6 From 1984 to 1987, I was Deputy Prothonotary. And
7 then in 1987, the Administrative Offices of Pennsylvania
8 Courts, AOPC, created the position of Executive
9 Administrator. And Ron was chosen for that position, and I
10 was promoted to Prothonotary.

11 In terms of reflections on the Court's
12 jurisdiction, it's a very unusual court. We do have unique
13 jurisdiction in that we essentially deal with administrative
14 law, governmental law, public law. There's only one other
15 court in the country that has this type of jurisdiction, and
16 that is the Federal D.C. Circuit which deals with
17 administrative agency appeals involving federal
18 administrative agencies.

19 We also are unique in terms of our original
20 jurisdiction. Ten percent of our cases are in our original
21 jurisdiction, and that has been a statistic which has
22 remained fairly constant over the years.

23 The staff and the judges of the Commonwealth Court
24 have to know not only the appellate rules, which involve
25 90 percent of the work we have, but also have to know the

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1 civil rules, which are applicable in about 10 percent of the
2 cases in light of the fact that the civil rules do come into
3 play in original jurisdiction matters.

4 In terms of reflections on the President Judges,
5 we've had six President Judges, Judge Bowman being the first
6 and serving for ten years. As I mentioned, he was a very
7 tall individual with a dominating personality, very kind and
8 considerate and beloved by the Court and, as far as I could
9 see, an outstanding administrator.

10 Judge Crumlish did not like to come to Harrisburg.
11 He lived in Philadelphia where he had been a district
12 attorney, and I think his father had been very prominent in

13 Philadelphia. But he was always very kind to me, but I do
14 know that there were some sharp divisions between him and
15 some of the other judges. Judge Crumlish served as President
16 Judge for ten years.

17 Judge Craig became President Judge in 1990 and
18 served for four and a half years. A brilliant man, an
19 excellent judge who could have made a considerable amount of
20 money in private practice because he was a walking
21 encyclopedia of zoning law and just a very bright, brilliant
22 jurist.

23 He could be somewhat austere, but he was extremely
24 analytical. He was always very kind to me. And I think at
25 times, he became very frustrated with being President Judge

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1 because he had to sometimes deal with irrationality. And
2 Judge Craig was an extremely rational individual, and he
3 could never quite understand irrationality, particularly if
4 it came from the Pennsylvania Supreme Court.

5 Judge Colins served two five-year terms as

6 President Judge from 1994 to '99 and then from 2001 through
7 2006. What's interesting to note concerning the selection of
8 Judge Crumlish and Judge Craig is that they were the most
9 senior members of the Court and they were selected President
10 Judge, Judge Crumlish in 1980, Judge Craig in 1990.

11 When Judge Craig left the Court in 1994, the
12 question came up once again concerning succession and whether
13 seniority would be used as the main criteria. It was not.

14 There were two judges who were interested in
15 becoming President Judge. Judge Doyle, who had been elected
16 in 1981 and was the more senior, got four votes at judicial
17 conference, and Judge Colins, who had been elected in 1983,
18 got four votes at judicial conference. And as a result, the
19 matter had to be decided by the Pennsylvania Supreme Court,
20 and the Pennsylvania Supreme Court selected Judge Colins. He
21 served for five years until 1999; very friendly, gregarious
22 individual, very quick on his feet, very quick to make a
23 decision. And occasionally he could be mercurial.

24 In 1999, at the end of Judge Colins' five-year term
25 -- and parenthetically, by that time, the Pennsylvania

1 Supreme Court, through its rule-making powers, had decided
2 that a President Judge could serve only for five years. But
3 in 1999, Judge Colins stepped down as President Judge, and
4 Judge Doyle was selected as the President Judge. And he
5 served for 28 months as the President Judge until he turned
6 70. Judge Doyle was a very thoughtful individual, but I
7 think he found being President Judge very frustrating. He
8 was always very kind to me and very considerate to me and to
9 the staff, but I think he found being President Judge very
10 frustrating.

11 In the beginning of 2002, Judge Colins was
12 re-elected as the President Judge and served five more years.
13 There was a question concerning that election. As I
14 understand it, at judicial conference, Judge Colins received
15 six votes and Judge Pellegrini, who had been elected in 1989,
16 received three votes. And that decision was made in early
17 2002 when the three new judges came on the Court because of
18 the election of 2001, and those judges being Judge Simpson,
19 Judge Leavitt and Judge Cohn Jubelirer.

20 At the end of 2006, Judge Colins' second term as PJ
21 ended, and Judge Leadbetter, Bonnie Leadbetter, who had been

22 appointed by Governor Ridge in 1996 and who was elected to a
23 10-year term in 1997, was chosen as the new President Judge
24 for a five-year term. The staff has worked with her for the
25 last nine months; a very pleasant individual, very

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1 analytical. She's a graduate of Rice University and the
2 University of Pittsburgh Law School where she served on law
3 review. She has been extremely considerate of staff, always
4 willing to take into account their concerns, very
5 even-tempered. I've always found her to think legally first
6 and there's no need for a second explanation; a very bright
7 individual.

8 My reflections on some of the judges. Some were
9 brilliant. Three who jump out at me immediately are Ted
10 Rogers, George Kelton -- he was a senior judge here in the
11 1990s. He had been a common pleas court judge in Bucks
12 County, and he was an extremely bright, brilliant man. And
13 David Craig. Those would be the three judges I would
14 consider brilliant, and they could have served with
15 distinction on any court in the country.

16 Some were very bright; Judge Bowman, for example,
17 not only being an excellent administrator, he was a very
18 bright man. He was a walking encyclopedia of jurisdiction
19 and procedure. Judge Wilkinson was a very bright jurist;
20 also Judge Mencer, also Judge Pellegrini I would say. Judge
21 Pellegrini's understanding of government and the law and how
22 law affects government just amazes me. Judge Leadbetter is
23 very bright. Madaline Palladino was on the Court for a
24 little over ten years, and she also was a very bright judge.
25 A couple of our senior judges were very bright. Silvestri

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1 Silvestri was a senior judge with us for several years from
2 Pittsburgh, and Judge Jess Juliante from Erie was a senior
3 judge for several years, also very bright. Those judges just
4 did not miss very much. I also had the highest regard for
5 Emil Narick, who was a senior judge with us for 15 years; he
6 was a bright, practical judge.

7 Every judge that I've dealt with I've essentially
8 looked for three things, and invariably they've been there:

9 Hard-working, honest and bright. I think every one of our
10 judges has met that criteria. Every one of the judges, over
11 30 judges I've dealt with, met that criteria, and some of
12 them were truly outstanding.

13 Reflections on the size of the Court. Of course,
14 the original court was set up in 1970, and there were only
15 seven judges. That was expanded to nine in 1977 with the
16 election of David Craig and John MacPhail, and that was due
17 to increasing workload.

18 In the 1980s, mid 1980s, we began to use senior
19 judges. These were common pleas court judges who would be
20 appointed to our Court by the Pennsylvania Supreme Court.
21 And we also started to use visiting senior judges. These
22 would be judges who would come in and would not sit on panels
23 as the regular senior judges would do, but they would be here
24 to help out with duty week, usually 10 or 12 weeks a year,
25 help out with duty weeks, with motion court, that sort of

1 thing. The senior judges were always appointed by the
2 Pennsylvania Supreme Court, usually after a request by the

3 Commonwealth Court President Judge.

4 At the present time, we have nine commissioned
5 judges and three senior judges: Judge Flaherty, who was
6 elected in 1995; Judge Kelley, who was appointed by Governor
7 Casey in 1990 and elected in 1991 -- but they both attained
8 the age of 70 and are now senior judges -- and also Judge
9 McCloskey, who was a President Judge of Schuylkill County.
10 And we have two visiting senior judges: Judge Keith Quigley
11 from Perry County and Judge Barry Feudale from Northumberland
12 County.

13 In terms of reflections on the administrative
14 staff, what I have found interesting is the extent to which
15 the Commonwealth Court is a very centralized court
16 administratively. And that goes back to the origins of the
17 Court in 1970 with Judge Bowman being a very strong President
18 Judge from Harrisburg, always in Harrisburg, and he would
19 handle all matters -- all administrative matters here in
20 Harrisburg.

21 When he died in 1980, Judge Crumlish became
22 President Judge. He did not like to come to Harrisburg, and
23 he delegated routine matters in Harrisburg to Ron Darlington,
24 who had been the administrative assistant and later

25 Prothonotary to Judge Bowman, with Ron immediately to contact

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1 Judge Crumlish on any high profile cases or any cases with
2 statewide impact or any emergency matters. But routine
3 matters were to remain in Harrisburg with Ron being the
4 administrative head of the Court here in Harrisburg.

5 So from 1970 to the present day, it's been a highly
6 centralized system. I should add that that is unlike the
7 Pennsylvania Supreme Court, from what I can see, which seems
8 to be a very decentralized court, particularly within the
9 last 30, 35 years with each justice having what I would call
10 a fiefdom. And that was particularly true during the years
11 in the 1980s and into the '90s with Justice Larsen and
12 Justice Papadakos being on the Supreme Court.

13 Ron came to the Court in 1973 as an administrative
14 assistant to President Judge Bowman. He was appointed
15 Prothonotary in 1976 and became Executive Administrator in
16 1987. He's got a very good legal mind, very analytical, and
17 he is a walking encyclopedia on procedural matters and on
18 jurisdiction. But perhaps even more importantly, Ron is a

19 very good administrator. He delegates extremely well. He's
20 able to keep track of things that he does delegate and keep
21 track of various motions and cases and knows exactly where
22 they are at any time. And he's been very successful in
23 building a team of which I'm proudly a member; Kris Brown,
24 John Moyer and Carol Kosik being part of that team also.
25 Many outstanding attorneys have been hired by Ron

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1 to help with the visiting senior judges and with the prisoner
2 work, and I mention particularly Marcy Waldren, who is
3 presently the Chief Clerk of the Third Circuit; Anita
4 Shekletski, she is now with the Department of State; Margaret
5 Cannon Miller, who is now running for judge in Lancaster
6 County and was able to get the nomination of the Republican
7 Party in Lancaster County; Gail O'Neil, who is now a member
8 of the Workers' Compensation Appeal Board; Mike Alsher, who
9 is now with PennDOT; and Janice Anderson, who left here to go
10 with the Attorney General's Office and now is raising three
11 teenagers.

12 In 1984, '85 and '86, Kris Brown and Ron and I,
13 along with Kevin McKeon, who had been a law clerk to Judge
14 Bowman in the late '70s, worked on a two-volume treatise
15 entitled Pennsylvania Appellate Practice. And in 1994, we
16 expanded it, and it became a three-volume treatise on
17 Pennsylvania appellate practice.

18 I think to a considerable extent, that book
19 established the reputation of the central legal office, that
20 we were really experts on jurisdiction and appellate
21 procedure. And that's certainly helped us not only with the
22 judges of the Court, but it also established a reputation for
23 us with the practicing bar.

24 All functions in Harrisburg were operated with Ron
25 at the top. Frank Barbush had been Chief Clerk from 1970 to

1 1984, and he was replaced by Chip Hostutler, a retired Marine
2 Corps Colonel. Chip was with us until he retired in December
3 of 2006, and he's been replaced by Mike Krimmel.

4 Cliff Leftridge left and was replaced by Ward Adams
5 as Deputy Prothonotary for Administration. And he was

6 replaced by Nick DiLorenzo, who's done a wonderful job being
7 in charge of administrative matters and fiscal matters as
8 Deputy Prothonotary as well as being in charge of computer
9 operations.

10 In the Prothonotary's Office itself, essentially
11 there has been me and Kris with John Moyer, although being
12 assigned to Ron, being part of our legal team.

13 The administrative structure of the Court is really
14 a function of the relationship between the President Judge
15 and the Executive Administrator and Prothonotary and Chief
16 Clerk and also the fiscal office.

17 After Ron and I leave, I'm sure structural changes
18 will be made. For an efficient operation, it's very
19 difficult to have one definitive structure. What will happen
20 is, I think, that the structure will depend upon what the
21 President Judge wants and also depend upon her faith in
22 various individuals in terms of assigning them various
23 functions.

24 One of the great changes that has occurred in the
25 last 20 years in the Court has been computerization. That

1 began slowly in the late 1980s and accelerated into the
2 1990s, and it's continued to the present day.

3 What I have found is that lawyers who were trained
4 in the 1960s and '70s were not prepared for computerization,
5 and initially there was turmoil in the computer staff. We
6 had one leader of the computer staff who was fired and one
7 who quit, just did not show up for work one day. But Nick
8 DiLorenzo has done a wonderful job in the last several years
9 of being in charge of the computer staff, which now has five
10 people on that staff, with those people reporting to Nick,
11 and I think things have greatly settled down there.

12 In the early 1990s, some judges were very receptive
13 to computerization: Judge Pellegrini, for instance; also
14 Judge Craig as President Judge was very much interested in
15 computerization. But I think some others were less willing
16 to adapt to computerization. The newer, younger judges have
17 been very receptive to computerization.

18 In the last several years, Nick has been in charge,
19 and he's thrown himself into the computer operation. And he
20 now is definitely in charge, and I think the judges are
21 fairly happy with the computers we have.

22 I'd like to mention some outstanding employees
23 we've had. I'd like to mention 4 or 5 of them. Kris Brown
24 is the Deputy Prothonotary for Law. She's not only a very
25 fine attorney, but she's a walking encyclopedia of the rules

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1 of appellate procedure. There's no attorney in the State of
2 Pennsylvania who better understands the rules of appellate
3 procedure.

4 John Moyer is one of the 4 or 5 most brilliant
5 attorneys I've ever run into; extremely bright, talented
6 individual. And I hope he and Kris remain with the Court for
7 several years to come.

8 Michelle Proper is the Deputy Chief Clerk. She has
9 been with the Court about 20 years. She's an outstanding
10 employee with the judges and with the public, with the
11 lawyers and the staff, but particularly in terms of
12 computerization. Her technical skills are excellent.

13 Donny Wagner reviews the briefs and reproduced
14 records as they come in. Donny is a 35- or 36-year employee

15 of the Commonwealth Court. He's constantly talking to
16 attorneys. He probably, more than any other staff member,
17 interacts with attorneys on a daily basis. And in all the
18 years I've been here, I have never heard one attorney
19 complain about Donny Wagner or have any criticism of Donny.
20 He does an excellent job for the Court.

21 The other person that I'd like to mention as being
22 an outstanding public employee is Kathy Robertson, who has
23 been Ron's secretary for at least 20, 25 years. An extremely
24 loyal individual with excellent technical skills, she is
25 excellent with the public and excellent with the staff. One

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1 of the hardest working, most efficient people that I've ever
2 run into in state government.

3 I'd like to speak about collegiality in the Court.
4 The Court, of course, having nine judges often will have
5 sharp differences as to what the law is or how a particular
6 case should be decided. But I think any sharp differences
7 remain with the law, with the cases, and don't spill over
8 into relationships between the judges.

9 The judges try to get together each month for
10 dinner whenever they're in various cities as Pittsburgh,
11 Philadelphia and Harrisburg. And we have a picnic every year
12 and a Christmas party every year, and I think collegiality
13 certainly follows.

14 My recollection of the Court in the '70s was that
15 Judge Blatt and Judge Mencer were the two judges who did the
16 most to make sure that collegiality was established. Both
17 were very friendly individuals and outgoing. They never
18 allowed any disagreements to become personal. That tradition
19 has continued. I think Judge Colins has certainly
20 contributed to that, and now Judge Leadbetter is certainly
21 continuing with that.

22 I also have some reflections on the role of
23 attorneys in state government. In terms of reflections on
24 the role of attorneys in state government and what I've seen
25 over the past 30 years, I gave a speech at Widener Law School

1 in October of 2005, and I am going to attach that speech as

2 Exhibit A to these reminiscences.

3 I'd like to make some comments concerning the
4 future of the Commonwealth Court. I think John Moyer and
5 Kris Brown will be able to work very well with Judge
6 Leadbetter. All three are very professional, very
7 analytical, very accessible, and I think things should go
8 well, though there will be differences, I'm sure, as time
9 goes by. There will be changes, of course, but I think
10 things will work out well.

11 The election of 2001 with Judge Leavitt and Judge
12 Cohn Jubelirer and Judge Simpson being elected brought to the
13 Court three bright judges. They tend to be somewhat
14 conservative on the social welfare legislation. And I think
15 the Court has moved slightly to the right with their
16 election, but there's been no dramatic shift in the Court.

17 One of the things that's going to occur over the
18 next several years is the Chief Clerk's Office is going to
19 move towards e-filing, electronic filing. And I think Mike
20 Krimmel's appointment as Chief Clerk beginning in January of
21 2007 is the harbinger of things to come there.

22 I think his mandate to some extent is to make sure
23 that we move towards e-filing. The federal courts have
24 certainly led the charge on this, and I think with Mike,

25 e-filing will become a high priority when the Court moves

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1 into a new building on Commonwealth Avenue in the spring of
2 2009.

3 In terms of election of judges in Pennsylvania, the
4 question of whether we should have elections versus
5 nomination and confirmation of judges, such as in the federal
6 system, my reaction is nothing is going to change in
7 Pennsylvania. It's an issue that's constantly debated. I
8 used to think the federal system is better, but I don't think
9 we're going to see the adaptation of the federal system in
10 Pennsylvania in my lifetime.

11 Politics undoubtedly enters into both systems. At
12 the federal level, it might be a little more sophisticated,
13 maybe a little more elitist. But in Pennsylvania, it's more
14 grass roots, and it seems to have worked well for the
15 Pennsylvania Commonwealth Court.

16 In terms of security, one of the things I've
17 noticed over the years is -- and this is with some sadness I

18 say -- that we really have had to change the Court's concern
19 for security. The Court used to be very wide open. There
20 was no receptionist. There was actually no security cards,
21 no ID cards back in the 1970s and into the '80s.

22 The doors to get back to the Chief Clerk's Office
23 were unlocked, and there were doors which were not locked to
24 go back to the chambers with just a sign saying "Please Do
25 Not Enter."

26

1 But in light of the events on September 11th, 2001,
2 that changed. The Capitol Police now are on the ground floor
3 of the Irvis Office Building. Now we have a receptionist.
4 We now have security doors. To get from the receptionist to
5 the Chief Clerk's Office, you have to go through a security
6 door. To get from the Chief Clerk's Office into the
7 administrative offices and the chambers, you have to go
8 through more security doors. And now we have security
9 cameras. And that's a far cry from where we were with the
10 openness of the 1970s and 1980s.

11 The last thing I want to mention is my particular

12 duties as Prothonotary of the Commonwealth Court.
13 Essentially my job was to review motions as they come in,
14 wait for answers and every day go to the duty judge with
15 proposed orders, which could range from 10 to 20 every day on
16 some mundane matters such as motions for extension of time,
17 dismissal orders for failure to file a brief, dismissal
18 orders for failure to file the reproduced record, rules to
19 show cause because of lack of any action in the last 6 or 9
20 or 12 months, but also on matters of considerable substance,
21 complicated matters involving supersedeas, motions to
22 dismiss, various motions which would come in which could be
23 handled by a duty judge.

24 I also help Ron with the scheduling for the Court.

25 I often receive calls from the public. In fact, if I'd make

1 any criticism of my job performance, I probably answer 10 to
2 15 phone calls per day. I probably spend too much time on
3 the phone talking to attorneys to get the case in the right
4 procedural posture.

5 That viewpoint goes back to Judge Bowman's
6 administration where he thought the job of the administrative
7 staff was not to decide matters of substance but to get the
8 case in the right procedural posture so that the case could
9 go forward on the merits.

10 I interact with the staff. I answer questions from
11 law clerks, from judges, from the public and from the press.

12 And finally, I just would like to say that if
13 you're going to work in state government, the Commonwealth
14 Court is the place to work. There are a lot of disadvantages
15 to working in state government, but if you are going to work
16 in state government, this is a small bureaucracy, a very
17 professional operation where things can be done very quickly
18 if need be.

19 And it's been a pleasure working with the
20 Commonwealth Court for one year in the 1970s and then since
21 1984 to December of 2007, the past 23 years.

22 I have attached to these reminiscences Exhibit B,
23 which is a list of judges from 1970 to 1999. To the best of
24 my knowledge, I think the following indicates which judges
25 replaced which judges.

1 Judge Kramer died in 1977 and was replaced by
2 gubernatorial appointment by Richard DiSalle. Judge DiSalle
3 remained on the Court for two years, but he lost the
4 Democratic Primary to Robert Williams in 1979. Judge
5 Williams won the general election and was sworn in, in
6 January 1980.

7 Judge Bowman died in February 1980 and was replaced
8 by gubernatorial appointment by Madaline Palladino. Judge
9 Palladino remained on the Court for 1 1/2 years, but in the
10 election of 1981, she lost to Joseph (Ted) Doyle.

11 Three judicial positions were on the ballot in 1983
12 because Judge Wilkinson became Justice Wilkinson in 1981,
13 Judge Mencer became a federal district court judge in 1982
14 and Judge Blatt reached retirement age in 1983. Francis
15 Barry won both the Democratic and Republican nominations in
16 the 1983 primary, and Governor Thornburg appointed him to the
17 Court in the summer of 1983. The other two winners were
18 Madaline Palladino (who returned to the Court) and James
19 Gardner Colins.

20 Two judicial positions were on the ballot in 1987

21 because Judge Rogers reached retirement age in 1986 and Judge
22 Williams resigned in 1985 to run for district attorney of
23 Philadelphia. The two winners were Doris A. Smith (now
24 Smith-Ribner) and Bernard McGinley.
25 Judge MacPhail decided not to run for retention,

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1 and his position was on the ballot in 1989. Dan Pellegrini
2 won the election.

3 Judge Barry reached retirement age in 1990, as did
4 Judge Crumlish. Governor Casey appointed Robert Byer, a
5 Republican, and James R. Kelley, a Democrat, to the Court,
6 and they joined the Court in 1990. In the judicial election
7 of 1991, Judge Kelley won and Judge Byer lost to Rochelle
8 Friedman.

9 Judge Palladino retired in 1993, and in the
10 election of 1993, Sandra Schultz Newman won. She was on the
11 Court for two years. In 1995, she was elected a justice of
12 the Supreme Court.

13 Judge Craig retired in 1994, and in the 1995
14 election, Jim Flaherty was elected to his position.

15 In light of the election of Judge Newman to the
16 Supreme Court in November 1995, a vacancy existed on the
17 Commonwealth Court. Governor Ridge appointed Bonnie Brigance
18 Leadbetter in 1996, and in the election of 1997, she won a
19 full 10-year term.

20 Three judicial positions were on the ballot in 2001
21 because Judges Kelley, Flaherty and Doyle reached retirement
22 age. Renee Cohn Jubelirer, Robert Simpson and Mary Hannah
23 Leavitt were elected in the 2001 election.

24

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