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Commonwealth Court of Pennsylvania

Reminiscences of

G. Ronald Darlington, Esquire

Executive Administrator for the Commonwealth Court

Wednesday, January 16, 2008

Judge Robert Simpson's Chambers

Irvis Office Building

Harrisburg, Pennsylvania

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1 JUDGE SIMPSON: This is Wednesday, the 16th of
2 January 2008. We're here in my chambers in the Commonwealth
3 Court on the fifth floor of the Irvis Office Building, and
4 I'm talking to Ron Darlington, who recently retired from a
5 long and productive career with the Commonwealth Court. The
6 purpose of the interview is to memorialize some of his
7 recollections regarding the Court and its history.

8 I think first, it would be helpful for me to
9 remember how you got to the Court. Where did you go after
10 law school, and how did you start here?

11 MR. DARLINGTON: After law school, I went with a
12 small -- it couldn't be smaller, myself and one other
13 person -- law firm in York. I had an offer to go to a large
14 firm in Philadelphia. I turned that down. I was born and

15 raised in Philadelphia and didn't want to go back to work and
16 live there. And I had worked for this fellow part-time
17 during law school.

18 And after awhile, it became obvious that he was
19 more interested in partying than lawyering. For example, he
20 was never in the office on a Monday because that was the end
21 of the weekend. He was never in the office on Friday because
22 that was the beginning of the weekend. And for about six
23 months, he was never in the office on Wednesday because that
24 was Rose Tree Fox Hunting Day.

25 So, you know, what came in got filed and

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1 immediately got bounced to me. I couldn't even find the
2 Prothonotary's Office, let alone know what to do with a file
3 or a client, and got no help from him whatsoever.

4 He was an outstanding businessman and had an
5 uncanny ability to get cases in the office, but once they got
6 there, had no clue what to do with them.

7 And in 18 months, I handled and settled three major

8 medical malpractice cases. Now, this was before all the
9 nonsense that goes on today. You know, I went down and
10 called the hospital and said, Can I look at this person's
11 records? I mean, I had no subpoena. We hadn't even filed a
12 lawsuit. And they were major cases. One was a death case.

13 And after awhile, I got tired of it. I mean, we
14 were doing everything that walked in the office and competent
15 to do maybe 50 percent. So I went there in probably -- it
16 was August of '72. By the summer of '73, I was tired of it.
17 I wanted to look around.

18 And it just was fortuitous. Bill Lakates, who was
19 Judge Bowman's first administrative assistant, after two
20 years with the Court, he was looking to move. Bill's wife
21 has a mutual friend who was also a friend of ours whose name
22 is Maryann Russell. Russell finds out Lakates is leaving.
23 Russell knows I'm looking. She calls Diane. Diane tells me.
24 I go --

25 JUDGE SIMPSON: Diane is your wife.

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1 MR. DARLINGTON: Diane is my wife.

2 I put in an application with the Judge and a
3 resume. And again, fortuitously, at the time, Grainger
4 Bowman was his law clerk, and I later learned that his law
5 clerks screened the resumes. And Grainger and I went to
6 college together. We played football at Princeton together.
7 We were in the same dining club together. We went to law
8 school together. The night before graduation, he had a
9 graduation party at his house and almost killed me. I got
10 food poisoning. I barely made it to graduation. But I'm
11 sure my resume came to the top of the pile when Grainger saw
12 it.

13 I interviewed with the Judge, got the job as
14 administrative assistant and was administrative assistant
15 until Ed Barker, who was the first Prothonotary, retired in
16 1976.

17 JUDGE SIMPSON: Let me just stop you for a moment.
18 What year did you start with the Court?

19 MR. DARLINGTON: '73, November of '73.

20 JUDGE SIMPSON: And you started with President
21 Judge Bowman?

22 MR. DARLINGTON: As his administrative assistant.

23 A lot of people thought I was a law clerk. I wasn't.

24 JUDGE SIMPSON: What was your age at the time?

25 MR. DARLINGTON: Twenty -- 24. I was born in '47.

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1 JUDGE SIMPSON: And you were already married to

2 Diane at that point?

3 MR. DARLINGTON: Yes.

4 JUDGE SIMPSON: Did you have any children at that

5 point?

6 MR. DARLINGTON: No. Beth was born in '74. Todd

7 was born in '76.

8 JUDGE SIMPSON: Was Diane expecting at that point?

9 I'm trying to picture --

10 MR. DARLINGTON: Yes. Yes.

11 JUDGE SIMPSON: I'm trying to get your family

12 situation when you started with the Court.

13 MR. DARLINGTON: Yes. Yes. I came here in

14 November of '73, and Beth was born in February of '74. So

15 she would have been pregnant when I started here.

16 JUDGE SIMPSON: Interesting. You worked with

17 President Judge Bowman the entire time he was here?

18 MR. DARLINGTON: Right.

19 JUDGE SIMPSON: From your --

20 MR. DARLINGTON: Every day.

21 JUDGE SIMPSON: From your beginning.

22 MR. DARLINGTON: Every day.

23 JUDGE SIMPSON: Before I ask you about President

24 Judge Bowman -- and I will come back to that, but just

25 describe the physical plant here.

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1 MR. DARLINGTON: Well --

2 JUDGE SIMPSON: And at that point, it was the South

3 Office Building. Now it's the Irvis Office Building, but

4 it's the same building. What floor was the Court on?

5 MR. DARLINGTON: The Court was only on the sixth

6 floor. We had none of the fifth floor and none of the fourth

7 floor. We also did not have on the sixth floor where the

8 computer department is now because that was a

9 telecommunications office for somebody, DER or something like

10 that. They had stuff in there, whatever it was. We didn't

11 have it.

12 And, of course, there were only seven judges, so
13 each judge had a chambers on the floor. Judges in those days
14 didn't have four law clerks either. I think they had two.
15 They started out with one and then two and three and four.

16 You know, the library is where it is now.

17 JUDGE SIMPSON: So there was one common library for
18 all the judges?

19 MR. DARLINGTON: Right. Plus, I mean, they started
20 out the concept, which continues today, that each judge has a
21 working library in chambers and also a, quote, main library.
22 You know, and anything esoteric you just walk across the
23 street to the State Law Library.

24 And over the years, we began to acquire -- and
25 there was only one courtroom, and that was where the brief

1 and records room is now, across from the Clerk's Office.
2 That was Courtroom 1. So we only had one courtroom, so it
3 was easy to find. And over the years, we bit by bit acquired
4 part of the fifth floor. Then we got more of the fifth

5 floor. Then we got all of the fifth floor. Then we got the
6 corner down on the fourth floor.

7 JUDGE SIMPSON: Let me just talk for a moment about
8 some of the quirks of the sixth floor of this building, since
9 the Commonwealth Court may not be here more than just a
10 couple more years. Can you describe the view out of the
11 windows of the sixth floor?

12 MR. DARLINGTON: Yeah. I spent 34 years staring at
13 a brick wall. For reasons that I'm not familiar with,
14 because I'm not an architect, there is a parapet built around
15 the top of the building. I'm thinking it's maybe because if
16 the bricks came lose, they'd fall in there and they wouldn't
17 go down and whack somebody on the head on the ground. I
18 don't know. But we often joke, we'll paint a view on the
19 window, a scene of the Susquehanna so you have a view of
20 something. But on the sixth floor, there is no view. It is
21 just a brick wall. It doesn't matter what office you're in
22 on that floor, because it goes around the entire perimeter of
23 the building.

24 JUDGE SIMPSON: When you started, were there
25 security badges or other security precautions?

1 MR. DARLINGTON: No. Didn't exist. In fact, we
2 put security in here at the Court -- I don't know whether it
3 was pre-9/11, but it was certainly before General Services
4 started doing anything in these buildings in terms of
5 security. In other words, we had these elevators secured
6 before the House employees had security. We were a step
7 ahead.

8 JUDGE SIMPSON: And the rest of the building is
9 filled with House of Representatives employees?

10 MR. DARLINGTON: Yes.

11 JUDGE SIMPSON: There are two interesting clocks on
12 the sixth floor. What can you tell us about those?

13 MR. DARLINGTON: Well, if you're referring to the
14 one in my office -- I can't speak to the other one, but
15 apparently that was built, according to Clock Man -- if
16 you're not familiar with Clock Man, the guy who has the best
17 job in state government worked for DGS. And they're in the
18 Capitol Complex. There are probably a hundred or so clocks
19 that need wound once a week. And his job is to walk around
20 the Capitol Complex carrying his key, wind the clock, go to

21 the next place, wind the clock. So that's what he does.

22 JUDGE SIMPSON: It's a wall clock? It's a pendulum

23 clock?

24 MR. DARLINGTON: Uh-huh.

25 JUDGE SIMPSON: And it functioned perfectly in your

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1 office for the entire time you were there?

2 MR. DARLINGTON: The entire time I was there. The

3 history, as best I know it, is Judge Wilkinson got it from --

4 I'm losing it -- Maurice Goddard, who in the sixties was

5 Secretary of Department of Forest and Waters. That turned

6 into DER; that turned into DEP.

7 When Wilkinson left, he gave it to Cliff Leftridge,

8 who was Deputy Prothonotary. And when Cliff retired, he gave

9 it to me. I can't trace it back much earlier than the late

10 '50s, maybe early '60s. But according to Clock Man, it was

11 built probably somewhere in 1915 or 1916. If I hadn't had a

12 worry about going to jail, that would have gone with me when

13 I left.

14 JUDGE SIMPSON: Now, there is a similar clock.

15 It's now in what are Judge McGinley's chambers on the fifth
16 floor, which would be catty-corner from your office on the
17 sixth floor. And --

18 MR. DARLINGTON: I don't remember the history of
19 that one at all.

20 JUDGE SIMPSON: -- it appears to be the same clock.

21 MR. DARLINGTON: No, it's not. Actually it's
22 larger, much larger.

23 JUDGE SIMPSON: Let me just get back to your
24 situation when you started with the Court. What were your
25 duties initially?

1 MR. DARLINGTON: Barker is dead, so I guess I can
2 actually tell the truth. Ed Barker was known as Jim Bowman's
3 folly. And it was a great ploy that you often see in state
4 government. They're looking around, and he was with
5 Department of Property and Supplies, which later became
6 Department of General Services. He applied for the job. He
7 got glowing recommendations from everyone in order to get rid

8 of him. And he pulled one over on Bowman, and he wasn't here
9 that long.

10 Bowman decided he didn't have the heart to fire the
11 guy. I mean, he wasn't -- he just was incompetent. It
12 wasn't willful misconduct or anything. He was just
13 incompetent. So he totally isolated him, created the
14 position of administrative assistant. So the administrative
15 assistant did a lot of what the Prothonotary should have been
16 doing. And what Ed Barker basically was relegated to was
17 looking at prisoner cases.

18 So, you know, every day, once in the morning, once
19 in the afternoon, I would meet with Judge Bowman and present
20 motions, like we present motions now or I used to. I would
21 review all the motions, answer calls from, you know, the
22 press or attorneys as to how to do things once I learned how
23 to do things.

24 I worked directly with Judge Bowman on putting
25 together election court. He did that personally and then had

1 the audacity to die in February of 1980 at the beginning of a
2 presidential election year. Crumlish wanted nothing to do
3 with it, so I had to put together election court for the
4 first time by myself in a presidential election year when you
5 have the largest number of cases.

6 JUDGE SIMPSON: So you're doing everything except
7 election court when you started?

8 MR. DARLINGTON: Well, Bowman -- I would analyze
9 the case. And then Bowman would say, okay, well, we get this
10 many challenges, these types; this ought to take a couple
11 hours; Simpson is free this day at 10:00; we'll schedule it.
12 So I did the initial screening, and then he did the final
13 scheduling and whatnot.

14 I learned the business side of the Court because
15 anytime Cliff Leftridge, who was the Deputy for
16 Administration, or Dick Schaffer, who was the fiscal
17 administrator, anytime they met with Bowman, he would call me
18 in. I never said a word. But I listened, and I learned,
19 because, you know, when I came here, not only did I know
20 nothing about the law that this Court does, I didn't know
21 anything about running a business. And Bowman specifically
22 set up the Court to run like a business. There's a legal
23 side of the Court, and there's a business side of the Court.

24 I knew nothing about personnel administration,
25 budget preparation, inventory control; learn on the fly.

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1 JUDGE SIMPSON: You spent a lot of time with Judge
2 Bowman. Can you describe him?

3 MR. DARLINGTON: Bowman. A man of Central
4 Pennsylvania, conservative Republican, extremely hard worker,
5 loved his bourbon.

6 JUDGE SIMPSON: Virginia Gentleman, as I recall.

7 MR. DARLINGTON: Virginia Gentleman. You are
8 absolutely correct. I had to steal the stuff more than once
9 at a party to make sure he got home safely, literally.
10 Spencer Hall and I did that.

11 There was a law clerk reunion down in Philadelphia.
12 It had to be years ago because Spencer is dead probably 25 or
13 so years. But we're in some hotel room down there, and I'm
14 on one side of Spencer. The Judge is on the other side at
15 dinner. Well, dinner was preceded by the cocktail party that
16 never ended. I think Bowman probably drank half a bottle of

17 bourbon there. And they would bring wine around at dinner.
18 And I would get the Judge's attention, and Spencer would
19 steal the wine. And then, of course, the person would come
20 and fill the glass up again. And Spencer would get his
21 attention, and I'd steal the wine. He partied hardy.

22 JUDGE SIMPSON: And my recollection is that his
23 booming voice boomed even louder when he had a glass or two
24 of Virginia Gentleman.

25 MR. DARLINGTON: You know, he was an imposing

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1 presence. He was probably six foot three, probably weighed
2 220 pounds, thereabouts, if not more. He was a tiger in
3 court. You better be prepared if Bowman is sitting there,
4 because if you're not, he'll tear you to shreds. It ain't
5 personal. But he'll rip you up. His demeanor in chambers
6 was totally the opposite, calm, mild, easygoing, friendly.
7 But on the bench, it was all business.

8 I remember that he had a famous quote from the
9 bench, and I don't know whether it was Grainger Bowman's
10 sister or somebody put the quote into embroidery. And the

11 quote was, Don't tell me about equity; don't tell me about
12 fairness; tell me about the law. And that's the way he was.

13 I mean, there were two lawyers that just trembled
14 when they came to Bowman's Court. And I don't know whether
15 it was personal with them or not, but they got reamed. One
16 was Sanford Kahn from the Human Relations Commission, and the
17 other was Bart Eisenberg from the Insurance Department. And
18 it was like -- they'd get together, and it was like mixing
19 oil and water. You know, they just wouldn't mix.

20 JUDGE SIMPSON: How did Judge Bowman react with the
21 other judges at the time? And I'm talking again about the
22 time when you first came to the Court.

23 MR. DARLINGTON: How did he react to them?

24 JUDGE SIMPSON: How did he work with them? What
25 was the chemistry like?

1 MR. DARLINGTON: The chemistry was, it was an era
2 of World War II judges. He was the leader; they were the
3 followers. If he said jump, they said, how high, and didn't

4 think, oh, well, why are you making me do this? He tells
5 them to do something; they do it.

6 It's not like -- and this is not meant to offend
7 anyone, but it's a lot different now. You know, I
8 characterize it as the Vietnam era of judges, where you
9 question the order before you follow it.

10 The original seven -- you know, I'm sure Bowman,
11 when he told the Court that I was going to be Prothonotary,
12 didn't ask for a vote. He told them what he was doing. And,
13 of course, nobody raised any question. Bowman ran the Court.
14 They knew it. Most of them were probably happy that they
15 didn't have to be involved in a lot of this stuff.

16 But, you know, he was the leader, and they were the
17 followers.

18 JUDGE SIMPSON: The next senior was Judge Crumlish.
19 Is that right?

20 MR. DARLINGTON: Yes. Bowman died in February, and
21 the next senior was Crumlish. He became President Judge in
22 February of 1980.

23 JUDGE SIMPSON: And then you worked with Judge
24 Crumlish frequently?

25 MR. DARLINGTON: From a distance, yeah.

1 JUDGE SIMPSON: What was that like?

2 MR. DARLINGTON: He was rarely -- he did not like
3 to come to Harrisburg. And, in fact, when they picked their
4 chambers originally, his chambers was next door to where the
5 library is now. And I came to learn that there was a reason
6 for that, because he could sneak out and get on the elevator
7 without Bowman seeing him and "get out of Dodge."

8 JUDGE SIMPSON: And he was a former Philadelphia
9 DA, as I recall.

10 MR. DARLINGTON: Former Philadelphia DA. Totally
11 different from Bowman.

12 JUDGE SIMPSON: In what way?

13 MR. DARLINGTON: Philadelphia, Irish, Democrat.
14 Here you've got Bowman, Central Pennsylvania, conservative.
15 I don't know whether he's Pennsylvania Dutch or what he is.
16 But in terms of geography and certainly politics, those two
17 were diametrically apart. That's not to say they couldn't
18 work together, but, you know, different philosophies,
19 different backgrounds, different upbringings.

20 JUDGE SIMPSON: What about demeanor?

21 MR. DARLINGTON: It took Judge Crumlish and I
22 probably two to three years to figure out we weren't a threat
23 to each other. You have to understand the turmoil at the
24 time when Bowman died. And deals were cut, some of which I
25 know, some of which I don't know. People were protected.

15

1 There was a fear that Crumlish would relocate the seat of the
2 Court to Philadelphia. That got taken care of, shall I say.

3 I was always looked upon as a Bowman protege;
4 therefore, I was distrusted by Crumlish when he became
5 President Judge initially, that I would not have loyalty to
6 him. And it took us a good two or three years for him to
7 find out or realize that I was not a threat to him, I worked
8 for him. And, you know, likewise, it took me awhile to
9 figure out that Crumlish wasn't going to ruin Bowman's Court.

10 And perhaps into his fifth year as President Judge,
11 not only did I think we had a good professional relationship,
12 we also developed a close personal friendship. But that took
13 time to develop.

14 JUDGE SIMPSON: During his absences, who was really
15 running the Court on a day-to-day basis?

16 MR. DARLINGTON: I was. But -- and he let me do
17 it, but he had a couple of standing rules. Anything that
18 comes in involving Philadelphia, he wants to know about it
19 first. It doesn't get assigned without him knowing about it.

20 And the man was -- the man was Lyndon Johnson-esque
21 in the use of the telephone. He would call me three or four
22 times a day, every day. And I dreaded when his vacation came
23 and he would go to Ireland because I would get eight calls a
24 day from Ireland. But, you know, keep him informed. You
25 know, he wasn't a hands-on person, managing the Court in

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1 Harrisburg. I did the day-to-day management. But you keep
2 him informed. That's all he asked for.

3 JUDGE SIMPSON: Let me just jump back to where we
4 started before, which was a discussion of the situation of
5 the Court when you started. Who was next in seniority after
6 Crumlish when you started of the seven?

7 MR. DARLINGTON: Crumlish -- Bowman, Crumlish --
8 well, it went R, D, R, D, R, D, R. It was four Republicans
9 and three Democrats, I think. So it would have been Bowman,
10 Wilkinson, Crumlish -- or Bowman, Crumlish, Wilkinson,
11 Kramer, Mencer.

12 JUDGE SIMPSON: Was Barbeiri here when you started?

13 MR. DARLINGTON: No. When I came in '73, Barbeiri
14 and Manderino had already gone to the Supreme Court. So when
15 I came in '73, it was Ted Rogers and Gen Blatt.

16 JUDGE SIMPSON: Okay. So the next in seniority
17 would have been Judge Wilkinson from State College -- not
18 State College.

19 MR. DARLINGTON: State College, Bellefonte.

20 JUDGE SIMPSON: What do you remember about Judge
21 Wilkinson?

22 MR. DARLINGTON: Smart guy; standoffish to staff.
23 He really didn't associate much with the staff, although
24 that's not to say he treated them badly. But he probably
25 wasn't all that accessible, although his law clerks might

1 dispute that. I don't know. I didn't have much personal
2 dealings with Judge Wilkinson.

3 JUDGE SIMPSON: Dan Schuckers was one of his law
4 clerks.

5 MR. DARLINGTON: Right. Dan was here when I
6 started.

7 JUDGE SIMPSON: As a law clerk?

8 MR. DARLINGTON: Uh-huh.

9 JUDGE SIMPSON: I remember Judge Wilkinson as being
10 a small but meticulous man.

11 MR. DARLINGTON: Very meticulous.

12 JUDGE SIMPSON: Not of great patience.

13 MR. DARLINGTON: Well, yeah. And the joke about
14 him always was that he'd start an opinion by saying, This is
15 a case of first impression involving a major interpretation
16 of the first amendment to the United States Constitution,
17 period; affirmed, period. He didn't waste words. His
18 opinions were concise, to say the least.

19 JUDGE SIMPSON: And issued very promptly, as I
20 recall.

21 MR. DARLINGTON: Oh, I can remember, he came over
22 to see Judge Bowman one time. And, of course, in those days,

23 this is pre-computer, almost pre-typewriter. Obviously they
24 had typewriters, but it was the old Underwood typewriter.

25 And Bowman would -- when he was writing an opinion,

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1 he would leave his desk. He had a table off to the side with
2 a chair, a large table. And he would write out the opinion
3 in longhand on yellow legal tablets and then give them to the
4 secretary who would type the opinion.

5 And Wilkinson is in Bowman's office one day and
6 walks out, and he sees two or three opinions, longhand,
7 sitting on the secretary's desk. He went back in, and he
8 started hollering at Judge Bowman, "Do you realize you've got
9 opinions there and they're not being worked on, yada, yada,
10 yada." "Roy, yeah, I know it. I'll get them. You'll get
11 it." But, you know, that's the way he was; no dust under his
12 shoes.

13 JUDGE SIMPSON: And, of course, Judge Wilkinson
14 later became Justice Wilkinson.

15 MR. DARLINGTON: Right.

16 JUDGE SIMPSON: One of three of the -- or one of

17 the three of the original members to become commissioned to
18 the Supreme Court.

19 MR. DARLINGTON: Yeah, Manderino and Barbeiri.

20 JUDGE SIMPSON: Judge Kramer was from Pittsburgh.

21 I recall him being a large man.

22 MR. DARLINGTON: Very big man. Very big man.

23 JUDGE SIMPSON: Now, what I remember of him, during
24 my clerkship, he was ill and, of course, lost all his hair at
25 that time.

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1 MR. DARLINGTON: Right. He developed, I think,
2 brain cancer.

3 JUDGE SIMPSON: But you knew him a couple years
4 earlier than that.

5 MR. DARLINGTON: Again, not too much contact with
6 him. The thing I remember most about him was the way he
7 would go over a record, a reproduced record. And he had a
8 system. And he would have, like, seven or eight different
9 colors of pens, and he would highlight something that he

10 wanted to call or go back to find. But each color
11 represented a different concept. Like, red might be "this is
12 critical." Green is "I need to ask a question about this."
13 And then he would tab each page that he highlighted. I mean,
14 he would go through a record like crazy.

15 The closest one to that, I think, was much later, a
16 senior judge, Silvestri, from Pittsburgh. He knew the record
17 better than the lawyers. But Kramer knew the record.

18 JUDGE SIMPSON: Of course, Judge Mencer once told a
19 story about the way in which the original judges of the
20 Commonwealth Court escaped a regular election and were able
21 to stand for a retention election. He attributed some of
22 that to Judge Kramer and his facility with the Democratic
23 caucus.

24 MR. DARLINGTON: That could be. I can't speak to
25 that because, of course, that happened -- probably that

1 legislation would have been passed in '69, I think, creating
2 the Commonwealth Court Act, which provided for the method of
3 selection and that the original appointees could serve their

4 staggered terms and then be elected by a retention election
5 rather than having to stand for a partisan election, which
6 was later overturned by the Supreme Court.

7 JUDGE SIMPSON: Yes. Yes. But not until everybody
8 had already been retained. But they were -- that was the
9 only group that benefitted from that little fold in the law.

10 MR. DARLINGTON: Well, I'm not sure about that,
11 because Blatt and Rogers might have benefitted from that. I
12 just don't remember.

13 JUDGE SIMPSON: Let me ask you about Judge Mencer
14 for a moment. What do you remember about him?

15 MR. DARLINGTON: You know, the thing I remember
16 most about him -- well, two things. One, he was the only
17 judge that I recall when he came to town, he made it a point
18 to go into the Clerk's Office, say hi to everybody. He would
19 pop into every office, talk to some other judge's law clerk,
20 pop in to see me. Extremely friendly, extremely amiable.

21 And the other thing that -- my impression of him
22 was he gave -- he gave the impression of being just an oh,
23 backwoods country lawyer, aw-shucks kind of a guy, and you
24 never knew you were stabbed until you saw the blood on the
25 ground. Not speaking literally, of course, you know. You're

1 in oral argument, and the lawyer is going on and on. And
2 then all of a sudden, ba-zing. But you get lulled into this
3 false sense of security because you think you're talking to a
4 country bumpkin and you ain't.

5 JUDGE SIMPSON: Judge Rogers was from Chester
6 County.

7 MR. DARLINGTON: Yes.

8 JUDGE SIMPSON: What do you recall about him?

9 MR. DARLINGTON: Intellectually, one of the
10 smartest judges on the Court, I think, in its history. I
11 would rate him probably in sheer brain power in the top three
12 or four. Funny as hell. Just funny as hell.

13 And I would once a month get a phone call, and I'd
14 pick it up. And the person didn't announce who it was, but I
15 could tell by the West Chester twang. And there wasn't even
16 a hello. You pick up. Ron, this Smith case, I just don't
17 understand this. What is -- I mean, he would go on. I just
18 loved Ted Rogers. What a tragic loss.

19 I think the best Ted Rogers story, Crumlish used to

20 have a party down at the shore -- I want to say at Avalon --
21 every summer. He had a place. I think it was in Avalon. He
22 had a house. And next to the house -- and I don't know
23 whether he owned it or not, but there was a vacant lot. He
24 put up a big tent, and there were all kinds of Philadelphia
25 politicians there and whatnot.

22

1 And I was invited this one time. And Crumlish had
2 moved, I think, from an apartment in downtown Philadelphia.
3 I could have my geography wrong. In any event, he moved from
4 one apartment to another. I think the one he moved to was
5 out on City Line. And he had this giant Bouvier dog with
6 black hair, and he gave it to Ted Rogers, who has this big
7 spread out in Chester County and a lot of ground. Crumlish
8 couldn't keep the dog.

9 So Rogers drives down to the party and brings the
10 dog. So Diane and I and the Judge, Judge Crumlish, and
11 Mrs. C were up in the house. You've got to go up a flight of
12 stairs to get to the living area. There might have been

13 another couple there.

14 And Rogers comes in and brings up the Bouvier, a

15 nice dog. Jim, speaking to Crumlish, get over here.

16 Crumlish is looking at him. Get down on the floor. Get down

17 on your hands and knees. Smell that dog. Isn't that the

18 best-smelling dog you ever smelled? He just had a bath this

19 morning. I did it. He smells good, and you're going to

20 smell him. There's the President Judge of the Commonwealth

21 Court and Ted Rogers down on their hands and knees smelling a

22 dog.

23 JUDGE SIMPSON: That's a good story. I like that.

24 I've never heard that story before.

25 Judge Rogers was also -- he was an older gentleman

23

1 by the time I got to know him, which was in the mid '70s.

2 Very, very friendly.

3 MR. DARLINGTON: Uh-huh.

4 JUDGE SIMPSON: I never saw --

5 MR. DARLINGTON: In fact, he had a law clerk by the

6 name of John Snyder. And I always got concerned because

7 Snyder had the same West Chester twang that the Judge did.

8 And a lot of times, the first 15 or 20 seconds when they

9 called, I wasn't sure if I was talking to the Judge or

10 talking to the law clerk.

11 JUDGE SIMPSON: Let me ask you about Judge Blatt,

12 who I guess was one of the judges when you started but was

13 not one of the original seven judges.

14 MR. DARLINGTON: Right.

15 JUDGE SIMPSON: What do you remember most about

16 her?

17 MR. DARLINGTON: Well, certainly her religious

18 faith was a big part of her life. She was very, very active

19 in the Catholic Church. But otherwise, her generosity and

20 her kindness.

21 Now, I'm not going to say this is put on because I

22 think it's sincere, but it may have come from years of public

23 service. But you got a card on your birthday. If you had a

24 baby, you would get a card and you would get flowers. She

25 must have had an address book with dates on it that filled up

1 drawers and drawers. I mean, she would never miss an event.

2 And she worked hard. I think Bowman had some
3 doubts about her legal ability when she came here because she
4 really had no legal background. All of her background was,
5 you know, in the political arena. And I think she did fine.

6 I can remember being in here one Saturday night at
7 midnight -- it probably had to be in the '70s -- because
8 AFSCME was just beginning to flex its muscle and Act 195 and
9 unionization and everything. And one of the types of or
10 classes of employees who were preempted from striking were
11 prison guards. And the prison guards at SCI-Pittsburgh went
12 out on strike.

13 So we had injunction hearings going on at midnight.
14 And, of course, Blatt was -- you know, lives down in Grayco,
15 two blocks away, so she gets the nod. Kris Brown was here
16 representing the state. I don't know who represented AFSCME
17 at the time; probably Yvette Kirschner. And she enjoined
18 them. Then she fined them for violating the injunction.
19 They figured, oh, big deal, go collect it.

20 Well, I don't know whether this was Kris Brown's
21 idea or somebody in the Governor's Office, but they were
22 shrewd. What she did was, they had the monetary fines

23 reduced to a judgment and entered the judgment against each
24 individual union member who went out on strike.

25 So six months down the road, some guy wants to try

25

1 to sell his house; and all of a sudden, he sees a judgment he
2 didn't know he had. And word quickly got around, and all
3 that money was paid. All the fines were paid, and the
4 judgments were satisfied.

5 JUDGE SIMPSON: Let me preface this question by
6 saying that there may have been no judge more beloved than
7 Judge Blatt. She did have a certain quirk, an illness
8 probably.

9 MR. DARLINGTON: Yeah. It was an illness. It was
10 physical. She had narcolepsy.

11 JUDGE SIMPSON: And it resulted in her falling
12 asleep sometimes in the middle of work.

13 MR. DARLINGTON: It would appear that she was
14 asleep. She wasn't actually -- as I understand it medically
15 -- and I'm no doctor, so I could be wrong. But my

16 understanding was it was more like a trance-type thing where
17 she could actually hear what was going on, but to the
18 observer, she'd be sitting on the bench with her head down
19 and her eyes closed, appearing to be sleeping, which is why
20 as that progressed, she was no longer sitting for oral
21 arguments. And, you know, all of her assignments were SOB
22 cases. I mean, there came a point --

23 JUDGE SIMPSON: Submitted on brief cases.

24 MR. DARLINGTON: Yeah. There came a point where
25 they just couldn't let her sit on the bench. I mean, the

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1 appearance was just not good.

2 JUDGE SIMPSON: Now let me shift gears a little bit

3 and just ask you to focus on some of the President Judges.

4 We talked about the first two President Judges.

5 MR. DARLINGTON: Right.

6 JUDGE SIMPSON: Who was the --

7 MR. DARLINGTON: Dave Craig was third; began the

8 World War II era, although didn't -- didn't hold the

9 leadership thing over people's heads. And again, we're

10 migrating towards younger judges anyway. But I was told that
11 he lied when he enlisted in the Air Force and told them he
12 was 19 or 18 or something. He apparently was the youngest
13 person to fly B-17s or B-29s or something over Germany in
14 World War II because he lied when he got in.

15 He would be among my top three, four, five in terms
16 of pure intellect. He analyzed a legal problem as an
17 engineer would, you know, dissect it, get out the slide rule
18 and do whatever you do with a slide rule. But very, very
19 smart.

20 JUDGE SIMPSON: And some of his opinions reflect
21 that type of detail.

22 MR. DARLINGTON: And very down to earth. When he
23 would call me -- and again, you've got to realize that Bowman
24 was the only President Judge that I ever worked for who was
25 in residence in Harrisburg. Every other one was virtually

1 never physically present in Harrisburg. Now, I'm not
2 suggesting that that was necessary for them to do their job,

3 running the Court. You know, you pick up the phone, and you
4 get somebody instantaneously.

5 But, you know, the phone would ring. I'd pick it
6 up. It wasn't, This is President Judge Craig or this is
7 Judge Craig. "Ron, this is Dave here," and then he would
8 launch into what he called about.

9 So absolutely no pretense. You know, there's an
10 old shoe about, you know, Philadelphia judges and attitudes
11 and whatnot that I won't go into. But, you know, Craig is
12 one of those -- and I think it's a Western Pennsylvania
13 attitude. You know, whether you're a judge or a coal miner,
14 you put your damn pants on one leg at a time and nobody has
15 got to kiss your rear end just because you happen to have a
16 robe.

17 There are different attitudes I would suggest in
18 the east than there are in the west, and Craig was definitely
19 of the west.

20 JUDGE SIMPSON: He was from the Pittsburgh area,
21 did a lot of real estate -- zoning-type litigation and land
22 development litigation.

23 MR. DARLINGTON: Right.

24 JUDGE SIMPSON: I remember seeing him argue. He
25 was a tall man and --

1 MR. DARLINGTON: Tall, very slender.

2 JUDGE SIMPSON: -- very slender.

3 MR. DARLINGTON: Sort of --

4 JUDGE SIMPSON: He was a runner.

5 MR. DARLINGTON: -- reddish hair. Yeah, he jogged.

6 JUDGE SIMPSON: His staff would tell me that he

7 would be -- years later, his law clerks would tell me that

8 they could tell the days when he would go out running because

9 he would be particularly sharp and ready to get to work.

10 MR. DARLINGTON: Yeah. It made a difference for

11 him.

12 JUDGE SIMPSON: And generally, Judge Craig's tenure

13 was from mid '80s to early '90s?

14 MR. DARLINGTON: No. Bowman died in '80. Crumlish

15 went from '80 to '90. And then they put in the Crumlish

16 rule. The Crumlish rule and the Cirillo rule, as I

17 understand it -- I could be wrong on this. But my

18 understanding was that either Crumlish or Cirillo or both

19 pissed off a couple justices on the Supreme Court and adopted
20 a rule that a president judge can only serve five years and
21 can't succeed himself. Before that, there would be a
22 president judge for life.

23 But Craig would have been, what, '90 to '95, I
24 guess, somewhere in there. Then you had Colins. Then you
25 had Doyle for a couple years. Then you had Colins for

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1 another term and, of course, Bonnie.

2 JUDGE SIMPSON: I worked with Judge Colins, and I
3 was obviously here when Judge Doyle was President Judge. But
4 I was not here for Judge Colins' first term. How would you
5 describe that?

6 MR. DARLINGTON: If Dave Craig had an equilibrium
7 that equalled a straight line, Jim Colins' would look like
8 the machine where somebody has a heart attack where it's
9 blipping up and down. It's never a stable, straight line.
10 You were never quite sure from one day to the next which buzz
11 saw you were going to run into. It was going to be one of
12 them, but you didn't quite know which one.

13 You know, he had days that weren't so good, and he
14 had days that were okay. But the thing that characterized at
15 least my relationship with him was that, you know, he was
16 always accessible, but it was also the volatility. I mean,
17 the man fired me twice. You know, it took me 20 minutes to
18 talk him out of firing me, but he fired me twice. But I
19 learned later I wasn't alone. He fired Sandy four or five
20 times.

21 JUDGE SIMPSON: Sandy is his secretary.

22 MR. DARLINGTON: His Philadelphia secretary, who
23 has been with him since she was, like, 18. But she's been
24 fired at least five times.

25 JUDGE SIMPSON: Would it be fair to say that Judge

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1 Colins is full of life?

2 MR. DARLINGTON: Perhaps overly.

3 JUDGE SIMPSON: Let me --

4 MR. DARLINGTON: But he's a good guy. You know,

5 what I had a difficult time doing -- and people tried to

6 counsel me, don't take it personally because tomorrow he will
7 forget what he said yesterday. But, you know, it can be
8 hurtful, and it's difficult to train yourself not to be hurt
9 personally.

10 JUDGE SIMPSON: Are there --

11 MR. DARLINGTON: And that's not to say he didn't do
12 a good job as PJ, but he would just occasionally fly off the
13 handle. And he'll admit that. It's not something that...

14 JUDGE SIMPSON: I think he will admit that.

15 MR. DARLINGTON: He and I ran in the primary for
16 this Court in 1983. Had I won, I could be PJ today.

17 JUDGE SIMPSON: I forgot that you ran in the
18 primary. Tell us about that.

19 MR. DARLINGTON: I ran in the Republican primary.
20 He ran in the Democrat primary.

21 JUDGE SIMPSON: Did you have to withdraw from work
22 for awhile to do that?

23 MR. DARLINGTON: Well, that's a story in and of
24 itself.

25 JUDGE SIMPSON: Can you tell us?

1 MR. DARLINGTON: Yeah. There were some ill-defined
2 regulations of the Supreme Court on political activity by
3 court employees that were subsequently more crystalized.

4 But I kept -- it probably would have been Abe
5 Gaffney, who would have been the acting court administrator
6 at the time; you know, I kept him informed as to what I was
7 doing. I kept him informed when I filed nomination petitions
8 and whatnot. And I get a call from him about --

9 JUDGE SIMPSON: From whom?

10 MR. DARLINGTON: From Abe Gaffney, the court
11 administrator, about three weeks before the primary. And he
12 said, "Don't hate the messenger, but the message is you're no
13 longer employed there."

14 And once I gathered my wits about me, I said,
15 "Okay, here's the deal. The primary is three weeks away. If
16 I lose the primary, I come back to work. I go on an unpaid
17 leave of absence for three weeks. If I lose, I come back.
18 If I win and go on to the general and lose, I come back if I
19 want to. If those terms are not agreeable to the powers that
20 be, I will see you folks in federal court tomorrow morning.
21 You've got two hours."

22 And I got a call back, said you got a deal. I

23 lost, but I came close to being out of a job.

24 JUDGE SIMPSON: What was it like running for the --

25 MR. DARLINGTON: I didn't enjoy it. A lot of

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1 people enjoy it. You know, I'm running on a wing and a

2 prayer. I bet I didn't raise more than 13,000, 14,000, but

3 that was -- I actually raised a little bit more than some

4 other people. I mean, there were three Republicans and seven

5 Democrats running for three seats. And everybody in those

6 days -- you could; everybody cross-filed.

7 But, you know, I don't have any campaign staff. I

8 don't have somebody to drive me around. God, is it a big

9 state, as you have learned if you didn't know it before. And

10 you can't -- you know, there's only so many rubber chickens

11 you can eat. And I didn't have any kind of personal

12 resources to throw into the campaign. I mean, the biggest

13 donation I got was a thousand dollars from Tommy Brogan's

14 father.

15 And for reasons I still can't figure out, in the

16 last week, two weeks after everything had been bought and
17 paid for -- because I had one rule in the campaign, if we
18 don't have the money, if the money is not in the treasury,
19 you don't buy it. I was not going to run on a deficit. And
20 in the last couple of weeks, I got three or four thousand
21 dollars that I couldn't spend because it was too late to do
22 any mailings, too late to get any palm cards and whatnot.

23 So I was actually written -- the political writer
24 for the paper used to be the dean at Capitol Hill, Carmen
25 Bruto. I don't know if that name means anything to you or

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1 not. And Lloyd Person, who was my treasurer -- you know
2 Lloyd. He practices here. "What the hell are we going to do
3 with this money?"

4 So under the Election Code, one of the things you
5 can do is return it to your contributors on a prorated basis,
6 and I did. And according to Carmen Bruto, I was the first
7 candidate in the history of Pennsylvania that ever returned a
8 nickel to a contributor. I mean, some of the checks were as

9 small as a buck. But if you made a donation to my campaign,
10 you got a pro-rata amount back.

11 And, you know, I got beat primarily -- I came in --
12 I think I came in dead last on the Democrats, but I came in
13 fourth on the Republican primary. The first three go on to
14 the general. And Madaline Palladino came in first.

15 JUDGE SIMPSON: Who later was on the Court.

16 MR. DARLINGTON: Right. A guy by the name of
17 Kelly, who was later on Superior Court.

18 JUDGE SIMPSON: Okay.

19 MR. DARLINGTON: And wouldn't you know it, Fran
20 Barry from Pittsburgh, a Democrat who cross-filed as a
21 Republican, he came in third. So I got bounced in the
22 Republican primary by a D.

23 JUDGE SIMPSON: And, of course, Fran Barry
24 ultimately was on the Court as well. Interesting.

25 MR. DARLINGTON: Yeah. Well, he got elected that

1 year. Palladino got elected that year, and Colins got
2 elected that year.

3 JUDGE SIMPSON: Interesting.

4 MR. DARLINGTON: I'll never do it again.

5 JUDGE SIMPSON: Let me just ask you about, again,
6 your position with the Court. How did it change from the
7 time -- how did the duties change from the time you started
8 until the time you finished?

9 MR. DARLINGTON: Well, they obviously expanded. I
10 mean, I had everything to learn. I knew nothing about this
11 place, as I told you. I knew nothing about the kind of law
12 it did. I certainly knew nothing about appellate procedure.
13 I certainly knew nothing about running the business side of
14 the Court. And having the mentorship of Bowman, Cliff
15 Leftridge, Dick Schaffer, you know, you learn. And you learn
16 by doing. And you learn by sitting in, and you learn by
17 listening.

18 And again, you know, you have to remember, I was
19 it. I was the only staff person to the President Judge. I
20 mean, I didn't get a person to work with me -- it would have
21 been when Bowman died because Kevin McKeon, who was a law
22 clerk for him at the time, came with me. And he stayed for
23 two years, and then Tommy Brogan came. I think he was with
24 me from '82 to '84, somewhere in that time frame.

25 But, you know, for, like, the first eight or

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1 nine years, I was the staff. I mean, we got, what, three,
2 four, five lawyers, whatever it is now. I was it. And I was
3 doing the law side, and I was doing the business side. I
4 mean, I had to learn a lot in '76 when I was appointed
5 Prothonotary, a lot quickly, a lot of management skills and a
6 lot of humble pie.

7 You know, I'm -- '76, I'm 29. I am guessing -- no
8 way to prove it -- that when I was appointed Prothonotary, I
9 was probably the youngest Prothonotary of an appellate court
10 in the history of Pennsylvania. I was Prothonotary at 29.
11 And my two main deputies, the Chief Clerk, Frank Barbush, and
12 the Deputy for Administration, Cliff Leftridge, were probably
13 both in their late 50s, and they're both reporting to this
14 greenhorn. So I had a lot to learn fast.

15 And it evolved in the sense that once I started to
16 develop a staff, I could start to delegate some stuff, you
17 know, that I did personally, to some other people.

18 It's like I think I may have mentioned at one of

19 the retirement speeches I gave, you know, one of the
20 management concepts that I learned early and quickly is hire
21 good people and get the hell out of their way. And I tried
22 to do that, particularly with the people on my immediate
23 staff.

24 JUDGE SIMPSON: I think another philosophy you have
25 is promote from within if possible.

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1 MR. DARLINGTON: Exactly. If possible, promote
2 from within, especially in a small organization like this
3 where you simply don't get that many vacancies popping up
4 because you don't get that many people leaving.

5 JUDGE SIMPSON: How has the niche of judicial
6 administration changed during your 30 years with the Court,
7 30-some years with the Court? Thirty-five years, I guess.

8 MR. DARLINGTON: Well, you know, I think everything
9 is much more complex. You know, running the Court back in
10 those days was probably not as difficult as it is today,
11 although, again, part of it is a different generation of the

12 people who are wearing the robes.

13 I think technology has totally transformed the
14 Court. I mean, you would write an opinion in longhand. And,
15 you know, a secretary who might type 80 words a minute -- and
16 Becky can probably relate to this. When you're typing on an
17 old Underwood that obviously doesn't have spell check and you
18 get down to the next to the last line -- when you started it,
19 you were typing 80 words a minute -- you were now typing
20 three words a minute because God forbid you do a typo,
21 because some judges wouldn't let a secretary use white-out.
22 You'd have to type the whole page all over again.

23 You know, there was no such thing as fax machines
24 then; obviously no such thing as e-mail then. You put an
25 opinion in the mail. It would take five days to go from

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1 Philadelphia to Pittsburgh, take another five days for the
2 vote to come back.

3 I think the biggest change in judicial
4 administration is technology, although sometimes I think
5 we're too connected. We've got too many damn BlackBerrys,

6 too many damn cell phones. You know, if somebody wants to
7 get ahold of me, they can do it. I don't need to be wired.

8 I hate it when machines tell me something to do.

9 I bought a new car three weeks ago. The damn car
10 makes me put on a seat belt. Now, I know I should, but I
11 also know I shouldn't smoke. But I don't need my car to tell
12 me I'm going to keep beeping until and unless you hook up the
13 seat belt.

14 JUDGE SIMPSON: My sense is that since I was a
15 clerk in the Court in the mid '70s until now, there has been
16 an increase in career opportunities --

17 MR. DARLINGTON: Right.

18 JUDGE SIMPSON: -- in judicial administration that
19 just didn't exist when I was there.

20 MR. DARLINGTON: Well, in the old days, in your
21 era, I think the rule of thumb -- and I think just about
22 everybody followed it -- a law clerk was hired for a one-year
23 commitment with an option to renew for the second year if the
24 law clerk wanted to and if the judge was satisfied with their
25 work product.

1 Now I think the only judge that does that is
2 probably Pellegrini. Just about everybody else has a cadre
3 of permanent clerks. Now, I guess Pellegrini's theory is I
4 want somebody fresh; I'll train them; I'll mold them.

5 I would tend to go the other way. I would like to
6 have somebody seasoned because, you know, the first six
7 months you're here as a clerk and you're trying to find the
8 water cooler and where Purdon's is in the library. You know,
9 you're not going to be real productive, in my opinion.

10 JUDGE SIMPSON: What do you think are some of the
11 most important cases or most interesting cases --

12 MR. DARLINGTON: Glad you asked.

13 JUDGE SIMPSON: -- since you've been at the Court?

14 MR. DARLINGTON: This is by no means all-inclusive.

15 Okay.

16 I think you have to start out -- when you're
17 talking about the most important cases, I think what you
18 really have to add is a caveat to begin with, is every case
19 is important to every litigant. Obviously every case doesn't
20 develop a body of law, create a new trend, declare a statute
21 unconstitutional. But even the most run-of-the-mill

22 substantial evidence, unemployment case, if it's mine, is the
23 most important case the Court has.

24 Okay. Some of the cases I wrote down are important
25 because of their magnitude of their legal reasoning or

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1 whatever. But I have been asked that question before. And I
2 think it's important in attempting to answer it, even the
3 most potentially insignificant unemployment or workers' comp
4 case is important to the parties to that case, and I think
5 you have to make that caveat before you start naming other
6 cases.

7 JUDGE SIMPSON: Good point.

8 MR. DARLINGTON: A very early case, *Amidon v. Kane*,
9 which is probably '70 or '71 -- [2 Pa. Cmwlth. 367 (Pa.
10 Cmwlth. 1971) rev'd by 444 Pa. 38, 279 A.2d 53 (1971).]

11 JUDGE SIMPSON: A tax case.

12 MR. DARLINGTON: -- declared the first Pennsylvania
13 income tax unconstitutional. Dah. They passed the graduated
14 income tax, enfacing the uniformity clause to the

15 Pennsylvania Constitution. [Article VIII, Section 1.] It
16 didn't take too long for the Courts to strike it down.

17 JUDGE SIMPSON: Well, my recollection, though, is
18 that the Commonwealth Court majority upheld it. I think
19 Bowman --

20 MR. DARLINGTON: That may have been, and maybe we
21 got reversed by the Supreme Court. But I know the tax was
22 declared unconstitutional.

23 JUDGE SIMPSON: Yes. I think Bowman and Mencer
24 dissented and their position was vindicated by the Supreme
25 Court.

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1 MR. DARLINGTON: To me, that would have been a
2 no-brainer, but then I don't wear a robe.

3 Another early case -- and I don't remember the
4 issue in the case, but it's an early important environmental
5 case. And it was Barnes and Tucker probably versus the
6 Department of Environmental Resources, or something like
7 that. I remember it being a big deal at the time, but I
8 really don't remember what the legal issues are. I'd have to

9 look it up.

10 JUDGE SIMPSON: I'll check it out. [Commonwealth
11 v. National Gettysburg Battlefield Tower, Inc., 302 A.2d 886,
12 (Pa. Cmwlth. 1973), aff'd, 454 Pa. 193, 311 A.2d 588 (1973).]

13 MR. DARLINGTON: The Gettysburg Tower case. I
14 think that case involved an interpretation of the
15 environmental amendment to the Constitution, if I'm not
16 mistaken. [Article I, Section 27.] In fact, I'm pretty sure
17 that Judge MacPhail was the trial judge in that case.
18 Whatever he did, I think we affirmed him here.

19 JUDGE SIMPSON: Of course, Judge MacPhail was an
20 Adams County Common Pleas Judge who later came on the
21 Commonwealth Court in the early '80s, as I recall.

22 MR. DARLINGTON: Right. '77.

23 JUDGE SIMPSON: Earlier.

24 MR. DARLINGTON: I think he came when Craig came.

25 JUDGE SIMPSON: Okay.

1 MR. DARLINGTON: I don't know whether this case is

2 even over now -- it started in 1973 -- the Philadelphia
3 School desegregation case, which was handled most of the
4 years by Judge Smith. I can't remember who had it before
5 she.

6 JUDGE SIMPSON: As a common pleas judge?

7 MR. DARLINGTON: No, as Commonwealth Court Judge.

8 It was a suit brought here to desegregate the
9 Philadelphia School System, and it just went on forever and
10 five, six appeals up to the Supreme Court and back. I mean,
11 it was -- if you look at the files, if we still have them
12 from that case, they'd fill up your office.

13 JUDGE SIMPSON: My goodness.

14 MR. DARLINGTON: The two big -- the two biggest
15 insurance liquidation cases, which are Mutual Fire and
16 Fidelity Mutual. Mutual Fire probably went on for 20 years,
17 involved billions of dollars, as I think Fidelity Mutual
18 does. You know, major, major bucks. Not going to get sexy
19 headlines in a newspaper, just like a bankruptcy won't unless
20 it happens to be IBM going bankrupt or something.

21 I think one of the biggest cases -- and perhaps I'm
22 being selfish because I had a lot to do; I was involved in it
23 -- was the Nader election case. You know, I was involved in
24 coordinating all the schedules and making sure we had lawyers

25 and courtrooms and judges having courtrooms to be in. And we

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1 had everybody, I think, except Leavitt sitting all over the
2 Commonwealth simultaneously taking testimony. Major
3 endeavor.

4 I think it worked much better this last go-around,
5 and I can't remember the candidate's name that we threw off.
6 But we had the people over at the Department of State,
7 instead of being in court and is he registered, no; is he
8 registered, yes, we had the parties over at the Department of
9 State where they spent literally three solid weeks going over
10 signatures on the electronic registration system instead of
11 taking the time of 12 or 13 judges in 8 cities simultaneously
12 for 2 weeks taking testimony.

13 MS. TONER: That was Romanelli.

14 MR. DARLINGTON: Romanelli. That's exactly
15 correct. But Nader/Romanelli, I think, are certainly two big
16 cases. [In re Nader, 865 A.2d 8 (Pa. Cmwltth.), aff'd, 580
17 Pa. 134, 860 A.2d 1 (2004), cert denied, 543 U.S. 1052

18 (2005); In re Nomination Papers of Rogers, 908 A.2d 942 (Pa.
19 Cmwlth.), aff'd, 589 Pa. 86, 907 A.2d 503 (2006).]

20 And election law is an area that I like. I follow
21 it. Kevin McKeon once said that there's law and there's
22 election law. And there's something to be said for that.
23 But I find it very interesting.

24 I know he's a thorn in a lot of people's sides, but
25 I think some of the Gene Stilp cases are very important.

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1 Certainly, the pay raise case that he brought is very
2 important. [Stilp v. Commonwealth, 588 Pa. 539, 905 A.2d 918
3 (2006).]

4 I don't know the man, never met the man. But I
5 think he knows the Pennsylvania Constitution probably better
6 than a lot of lawyers in this state. And he can come up with
7 -- I don't think his theories are frivolous. Most of his
8 cases he didn't win, but I don't think they're frivolous. I
9 think there's a basis in law to bring them. Now, whether he
10 has standing to is another story. But I think sometimes
11 courts will duck a hard issue by finding a lack of standing,

12 but that's my own personal view.

13 A much earlier case was the Sun Oil case which Sun
14 Oil was trying -- there was a finding -- I think it was by
15 the unemployment authorities -- that the work dispute that
16 the Sun Oil Plant was a lockout and not a strike and,
17 therefore, thousands of employees were entitled to
18 unemployment comp benefits. And Sun Oil was trying to get
19 some sort of an injunction enjoining the benefits from going
20 out right away on the theory that they shouldn't go out until
21 the appellate process had run its course. And we said no.

22 And pretty much the U.S. Supreme Court in a case
23 called Javo versus California had said no, interpreting the
24 federal -- I think it's the federal Social Security Act, said
25 for unemployment comp benefit purposes, they are paid when

1 due. And "when due" was defined to be the initial
2 determination of eligibility so that, you know, Sun Oil gets
3 made whole by readjusting its experience ratio or something
4 like that but the benefits go. So that was a big case.

5 [Unemployment Compensation Board of Review v. Sun Oil Company
6 of Pennsylvania, 338 A.2d 710 (Pa. Cmwlth. 1975), aff'd, 476
7 Pa. 589, 383 A.2d 519 (1978), appeal dismissed sub nom Sun
8 Oil Company of Pennsylvania v. Unemployment Compensation
9 Board of Review of Pennsylvania, 440 U.S. 977 (1979).]

10 More recently I think the Sheetz beer case. You
11 know, if you're a beer drinker and you can buy beer at a
12 takeout store as opposed to going to the distributor, that's
13 an important case to you. So I think that is important.
14 [Malt Beverages Distributing Ass'n v. Pa. Liquor Control Bd.,
15 918 A.2d 171 (Pa. Cmwlth. 2007).]

16 I think the Verizon/MCI case was very important.

17 JUDGE SIMPSON: The merger case?

18 MR. DARLINGTON: Right.

19 JUDGE SIMPSON: Just overruled by -- just reversed
20 by the Supreme Court. [Popowsky v. Pennsylvania Public
21 Utility Com'n, 917 A.2d 380 (Pa. Cmwlth. 2007), rev'd, 594
22 Pa. 583, 937 A.2d 1040 (2007).]

23 MR. DARLINGTON: And they reversed Pellegrini.
24 They were right, and he was wrong. I think the merger
25 created a benefit. Every other regulatory body in the world

1 that looked at it said yes, including the United States
2 Justice Department, the FCC.

3 A single judge opinion that's not non-precedential
4 but I think is important was a case called AFSCME versus the
5 Commonwealth. Elaine Williams of Willig, Williams and
6 Davidson, I think, from Philadelphia, one of the best lawyers
7 in the state, brought the case.

8 And it had to do with when many years ago, there
9 was no budget, so nobody was getting paid. And she brought a
10 lawsuit on behalf of her union membership saying even though
11 Pennsylvania doesn't have a budget, under federal law, you
12 have the money in the treasury; you just don't have state
13 authorization to spend it but under the Fair Labor Standards
14 Act, which trumps state law under the supremacy clause, for
15 any member who is covered by the Fair Labor Standards Act,
16 they are entitled as a matter of federal law to be paid and,
17 in fact, not only paid salary but penalties for not paying
18 them.

19 And Craig said, well, yes and no; they're going to
20 be paid but this is like a case of first impression and I'm

21 not going to -- the penalties are optional and I'm not going
22 to exercise that option. I think that was an important case.
23 [Council 13, American Federation of State, County and
24 Municipal Employees, AFL-CIO v. Casey, 626 A.2d 683 (Pa.
25 Cmwlth. 1993) (single-judge opinion by Craig, P.J.)]

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1 An older case and the last case on my list is a
2 case called Beckert versus Warren, which is one of the cases
3 that established I guess you'd call a constitutional
4 principle that the judiciary is entitled to be funded to the
5 level that either it or some other court determines in order
6 to be able to function as a coequal third branch of
7 government.

8 Beckert versus Warren was a lawsuit by -- I think
9 Beckert was a President Judge of Berks or Bucks, one of those
10 counties, and Warren was the county commissioner. So the
11 judges sued the county commissioner over the budget, and we
12 had that.

13 And I'm missing probably hundreds. But when you
14 asked the question and I sat down to -- that's what came out

15 of my brain.

16 JUDGE SIMPSON: You've listed or you've mentioned
17 major tax matters, constitutional matters, election cases,
18 matters that deal with the interaction between state and
19 federal law, massive insurance litigations, cases that aren't
20 handled by any other court and largely are not handled by any
21 other court in Pennsylvania. What are the things that you
22 think makes the Commonwealth Court special?

23 MR. DARLINGTON: Well, it's special under a number
24 of respects. I think one thing that makes it special are the
25 people. You know, we can talk about the work later. But

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1 it's the people, both the people that have a "J" in front of
2 their name and the support people whose job it is to make the
3 J's job a little bit easier. At least that was my view of
4 the role of the staff. And, you know, that was Bowman's
5 rule.

6 I mean, people have questioned me about, well, why
7 is it that I can call your court and get you and ask you a

8 question on procedure or something whereas you can't get
9 through to anybody on some other unnamed court? And, you
10 know, part of Bowman's philosophy early on was, you know, if
11 staff can separate the wheat from the chaff so that the time
12 it gets to a judge or to a panel, it's a clean case and you
13 don't have all these subsidiary issues, you make the judge's
14 job a lot easier. And, you know, it's not that hard being
15 courteous and answering a question from a lawyer.

16 Now, it annoys me when they'll call out of the
17 blue; they've done no inquiry, done no research. I mean,
18 they're cold. But, you know, I'll answer the question. I'll
19 go more deeply if, you know, I know that somebody has done a
20 little digging before they've called me. But, you know, I
21 think part of what makes this Court tick are the people, both
22 the judges and the staff.

23 You're right, it is unique jurisdictionally, not
24 only in Pennsylvania but to my knowledge in the United
25 States, in terms of its jurisdiction. Not only unique in the

1 sense of it's essentially got to be governmental in nature,

2 state or local, in order to get here, but it's the only court
3 that has a not inconsequential segment of original
4 jurisdiction, notwithstanding it's primarily an appellate
5 court. You know, if you got stuck with Mutual Fire for
6 20 years, you'd realize it's got a lot of original
7 jurisdiction.

8 I think the other thing that makes it special -- a
9 couple other things, are the historical collegiality among
10 the judges. You know, these people might go to war during
11 the day. They get up from the conference table. They shake
12 hands, and then they go out to dinner that night. I'm sure
13 that's not the case in some other places. I'm pretty sure.

14 And I think the cooperation among the judges. You
15 know, everybody wants to get their opinions out in a
16 reasonable amount of time. Some people get backed up, but,
17 you know, I think there are -- I'm probably leaving five or
18 10 other talking points out that I could, but those are what
19 jumps into my mind at the moment.

20 JUDGE SIMPSON: Which of your personal
21 accomplishments while at the Commonwealth Court are you most
22 proud?

23 MR. DARLINGTON: Well, one I would say is not

24 necessarily a Commonwealth Court accomplishment, but it was
25 accomplished while I was here. And that was writing and

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1 publishing, along with three coauthors, the only treatise on
2 Pennsylvania appellate practice that exists.

3 I had an idea, a germ of an idea in 1984, wrote a
4 sample section or two, sent it out to four publishers,
5 thinking I'd never hear from anybody. And to my amazement,
6 three agreed to publish the book. And, you know, we got
7 together, and the first edition of appellate practice came
8 out in '86. And the second edition came out in '96. And
9 three years ago, it has now gone to a soft-bound kind of a
10 thing. I don't know whether you have a set in here or not.

11 You know, I think -- I think my major
12 accomplishment probably is learning about a place that I knew
13 nothing about. I mean, I literally knew nothing when I came
14 here. I never had an appeal in private practice. In fact, I
15 had -- I didn't have that many cases in common pleas. I had
16 more D.J. work or master's work and divorce cases. I never
17 personally handled an appeal in my life.

18 So I had to learn all that. I had to learn the
19 Court's jurisdiction. I had to learn, you know, the
20 management side of the Court. You know, I may have said
21 during the dinner that the judges gave that, you know, one
22 thing I did to learn about this place was I was here a couple
23 months and I decided I would take home one a week a volume of
24 the Commonwealth Court reports -- there were probably 13 or
25 14 in existence at the time -- and read them. What's this

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1 place do? What better way to do it than to read the
2 opinions. You know, the widget you make is the opinion. So
3 I read every opinion. And, of course, at that point in time,
4 there was no such thing as an unpublished memorandum opinion.
5 Every opinion was reported. And we had our own reporter. I
6 read them all. And I'm still scratching my head.

7 JUDGE SIMPSON: Diane must have loved that.

8 MR. DARLINGTON: It kept me out of her hair.

9 JUDGE SIMPSON: Now, having mastered the appellate
10 practice and certainly the appellate rules, you then went on,

11 like in the evenings or in some of your free time, to teach
12 law school in this area. Isn't that correct?

13 MR. DARLINGTON: I taught probably 11 years,
14 12 years over at Widener; the first five years probably both
15 semesters, fall and spring semester. And the last five or
16 six was just fall or the spring but not both. But, yeah, it
17 was about 10 or 11 years, 12 years maybe, over at Widener.

18 JUDGE SIMPSON: How did you like that?

19 MR. DARLINGTON: I liked it initially. I got tired
20 it of later. I got tired of the whining by some -- not all;
21 in fact, a very small minority. But it seemed like every
22 class, I would have one or two whiners complain about this,
23 complain about that, complain about oh, I can't write a
24 25-page paper for a two-credit elective, I've got other --
25 then don't take the course.

1 One of the rules they laid down in the initial
2 class is this is a paper course; there's no exam, no final,
3 no midterm; your entire grade is based upon your paper. Here
4 is the due date for your paper; it is December 7th at 5:00 in

5 the faculty secretary's office. If you're running up against
6 a deadline, call me. I can't help you if I don't know you
7 have a problem. We'll work something out.

8 This one guy doesn't turn in a paper. He gets an
9 F. About a week after that, I get a three-page,
10 single-spaced, totally rambling letter with an eight-page
11 attachment, which is total psycho babble. But it all boils
12 down to this psychiatrist opinion's that this person has
13 difficulty meeting deadlines and his wife divorced him and
14 his mother had a heart attack because I gave him an F.

15 JUDGE SIMPSON: Well, I understand. I understand.
16 Let me just -- as we wind this up now, let me just --

17 MR. DARLINGTON: Time does fly.

18 JUDGE SIMPSON: Let me just paint a picture of what
19 I recall your last days were like or some of the highlights
20 of your last days at the Commonwealth Court.

21 You had an office on the sixth floor with the view
22 of the wall and the clock that always ran.

23 MR. DARLINGTON: Uh-huh.

24 JUDGE SIMPSON: It was also smoke-filled. It was
25 the only place on the sixth floor, perhaps in the entire

1 building, where, you know, smoking was allowed.

2 MR. DARLINGTON: Other than the lawyers' lounge.

3 JUDGE SIMPSON: Other than the lawyers' lounge.

4 And you're a fellow that enjoys a cigarette every now and
5 then.

6 MR. DARLINGTON: Yeah, I do.

7 JUDGE SIMPSON: And over lunch hour, the staff and
8 sometimes a judge or two would come in, and you'd just talk
9 about what's going on with the Court. And that's where you
10 could be found.

11 MR. DARLINGTON: We were there every day.

12 JUDGE SIMPSON: You could be found --

13 MR. DARLINGTON: It would be the rarest of rare

14 days that I'd go out to lunch. And the staff joins me.

15 They're not on orders to. We just do. I mean, when it's

16 12:30, it's time to get something to eat and come into my

17 office.

18 And it's -- you know, it could be law. It could be

19 football. It could be politics. It could be religion. It

20 could be anything. But that's an hour.

21 JUDGE SIMPSON: And in that room were the
22 photographs of you and law clerks, primarily Bowman law
23 clerks, from various stages, certainly early on.

24 MR. DARLINGTON: Right.

25 JUDGE SIMPSON: So you were surrounded by the

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1 smoke, by the staff and by the memorabilia of 35 years in --

2 MR. DARLINGTON: Of course, I wasn't the only
3 person who smoked in that office. John Moyer smoked in
4 there, and Susan Kuba smoked in there.

5 JUDGE SIMPSON: But that's where I remember seeing
6 you.

7 MR. DARLINGTON: Once in awhile, Rich Thomas would
8 wander in and light up.

9 JUDGE SIMPSON: Is there anything else that you
10 think that we should include in these reminiscences?

11 MR. DARLINGTON: No. I think this has been very
12 thorough, and I thank you for all the time you've taken with
13 me.

14 JUDGE SIMPSON: Okay.

15 (Concluded at 2:37 p.m.)

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