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Law Alumni Service to the Public and the Law School

LAWYERS TALKING: UNC LAW GRADUATES AND THEIR SERVICE TO THE STATE

WALTER H. BENNETT, JR. AND JUDITH WELCH WEGNER

Walter H. Bennett, Jr., is a member of the UNC law faculty and co-founder (with Judith Wegner) of the UNC Law School Oral History project. Bennett was born in September 18, 1943, in Tuscaloosa, Alabama. He attended public schools there and worked during the summers as a construction worker and on his grandfather's tobacco farm near Danville, Virginia. He graduated from Washington & Lee University and served in the United States Army as an artillery officer in Vietnam. He received an M.A. in English from the University of North Carolina at Chapel Hill and a J.D. from the University of Virginia in 1972. He subsequently received an LL.M. from the University of Virginia.

Bennett began his legal career with the Charlotte law firm of Casey and Daly, P.A., engaging largely in the practice of constitutional and environmental law. He left the firm in 1977 to become a North Carolina district court judge for the 26th judicial district in Mecklenburg County. He devoted a good deal of his judicial service to juvenile cases. He later returned to private practice with the firm of Bennett & Lawson. Bennett joined the UNC law school faculty as a clinical supervising attorney in 1986. He teaches in the areas of civil lawyering process and professional responsibility and oversees the work of law students in the school's civil clinic. He has adopted a novel approach to teaching professional values through a seminar on the oral histories of lawyers and judges. He recently received a major grant from the W. M. Keck Foundation to expand his "intergenerational legal ethics" program and to disseminate information about the program to law schools across the nation.

Dean Judith Welch Wegner is profiled elsewhere in this symposium. She has worked closely with Professor Bennett in developing the "intergenerational legal ethics" program, and has been privileged to know a number of the outstanding

lawyers and judges whose lives are discussed in the following article.

This history of the University of North Carolina School of Law would be incomplete without a sense of the students who passed through our doors and the lawyers they have become. These students—and the contributions they have made throughout their lives to people of diverse communities, states, and nations—are our reason for being. The opportunity to know and work with them is one of the many gifts the state and its people have given to those of us lucky enough to live a part of our lives affiliated with our University and its School of Law. One of the gifts we and our students wish to give the state, the legal profession, and indeed the world, is a compilation of life stories of those lawyers who began their professional lives here at UNC. Our hope is that these stories will provide insights, inspiration, entertainment, and education to our colleagues at the bar and future generations of law students—just as they have done for us.

This essay has two parts. In the first part we will discuss the genesis and development of the UNC Law School Oral History Project, an effort begun in 1992 to learn about (and document) what makes some lawyers “good lawyers,” and to share these insights with our students. This effort grew and flourished. Initially, it took the form of an oral history seminar taught by Professor Walter Bennett. It has subsequently blossomed into the UNC “intergenerational legal ethics” initiative, as we have reflected upon the profound learning that has occurred. We now see this initiative as an intriguing way to learn and teach about professional values, a wellspring that has touched our students’ hearts and minds with insights into the true nobility of the legal profession. The W. M. Keck Foundation has recently awarded a substantial grant to the UNC School of Law to support our efforts to expand the program design and share core ideas with colleagues at law schools around the country.

In the second part of this essay, we include short histories of thirteen UNC law graduates, all of whom have contributed in significant ways to the legal profession, their clients, and the state. All of these lawyers (and more than forty others)¹ were interviewed by

1. North Carolina judges and lawyers interviewed to date as part of the UNC Law School Oral History Project include the following: Judge James H. Pou Bailey, Raleigh; Judge George Foust Bason, Raleigh; Judge Dexter Brooks, Lumberton; Judge Franklin T. Dupree, Jr., Raleigh; Judge Sam Ervin, III, Morganton; Justice Henry Ell Frye, Greensboro; Judge Shirley L. Fulton, Charlotte; Judge Hamilton Hobgood, Louisburg; Judge Robert H. Lacey, Newland; Justice I. Beverly Lake, Wake Forest; Judge Patricia

Professor Walter Bennett or by UNC law students serving as research assistants or participating in the law school's oral history seminar during the last three years. Space does not permit us here to recount the life stories of all those interviewed to date or to identify the many other distinguished lawyers and judges who have been suggested for future interviews. Instead, we have selected a range of lawyers and judges whose lives exemplify different forms of public service in hopes that these colleagues reflect the diversity and range of contributions made by UNC Law graduates over the years. Each short history includes Professor Bennett's summary of salient observations drawn from oral history transcripts as well as excerpts from those transcripts themselves. We only wish that we could convey on these pages the rich tone and nuance of the life stories shared by these fine lawyers in their own voices. We hope in years to come to publish a more comprehensive compendium of life histories and to share lawyers' (and our own) reflections in other varied media (including talks, tapes, and "reader's theater" productions).

Love, Chapel Hill; Justice Harry C. Martin, Chapel Hill; Judge James B. McMillan, Charlotte; Justice Burley B. Mitchell, Jr., Raleigh; Judge Elreta M. Alexander Ralston, Greensboro; Judge William Scarborough, Charlotte; Judge Frank W. Snapp, Jr., Charlotte; Judge Hiram Ward, Denton; Judge Gregory A. Weeks, Fayetteville; R. Mayne Albright, Raleigh; Charles L. Becton, Raleigh; Daniel T. Blue, Jr., Raleigh; Doris R. Bray, Greensboro; Marcellus Buchannan, III, Silva; W. H. S. Burgwyn, Jr., Woodland; Albert A. Corbett, Smithfield; Roy W. Davis, Jr., Asheville; James K. Dorsett, Jr., Raleigh; James E. Ferguson, Charlotte; James C. Fuller, Raleigh; Ellen W. Gerber, Winston-Salem; Joseph Grier, Jr., Charlotte; Fred B. Helms, Charlotte; Katherine S. Holliday, Charlotte; Horace R. Kornegay, Greensboro; Robert A. McMillan, Raleigh; Barry Nakell, Chapel Hill; B. B. Olive, Durham; Anne R. Slifkin, Raleigh; Norman B. Smith, Greensboro; McNeill Smith, Greensboro; Wade M. Smith, Raleigh; H. Hugh Stevens, Raleigh; Mary Ann Tally, Fayetteville; Howard F. Twiggs, Raleigh; D.J. Walker, Burlington; Melvin L. Watt, Charlotte; James A. Wellons, Jr., Smithfield; Claud R. Wheatley, Jr., Beaufort; and Leslie J. Winner, Charlotte. These judges and lawyers hail from numerous law schools, live in diverse communities, and engage in different forms of law practice. Many are well-known; others are not. Some are retired; others have many years of professional service yet before them. Readers who wish to suggest other candidates to be interviewed as part of the UNC Law School Oral History project or who are interested in how this model could be adopted in other locations are invited to forward recommendations or inquiries to Professor Walter Bennett at the UNC School of Law. Transcripts of all oral history interviews are available through the Katherine R. Everett Law Library at UNC and through the Southern Oral History Collection at UNC's Wilson Library.

I. THE UNC LAW ORAL HISTORY PROJECT: TEACHING
PROFESSIONAL VALUES THROUGH
INTERGENERATIONAL CONVERSATION

As part of its traditional emphasis on legal ethics, the UNC Law School has had a well-established policy that legal ethics should be taught both on a pervasive basis (as an integral part of core courses in torts, contracts, and so forth) and in an advanced course in "professional responsibility," which must be taken by all students as a requirement for graduation. Success in both these areas has varied greatly, depending upon the emphasis given to ethics in individual classes and the attitudes of students. Over the past several years, a consensus developed among the faculty that new ways should be explored to enhance the teaching of legal ethics, both by intensifying efforts in the classroom and finding new ways to connect ethical issues with real life experience.

Toward that end, in 1992 the faculty completed a revision of the curriculum and made a significant commitment to improving the core curriculum in legal ethics. All students were then required to take professional responsibility in their second year of law school in smaller classes conducive to discussion. Students were also urged to select a section of the course that corresponded to their particular interests. A broader array of options were made available, ranging from sections of the traditional course to sections focusing on criminal practice, public interest practice, law and morality, and civil litigation.

At the same time, Professor Walter Bennett, with the encouragement of Dean Judith Wegner, began experimenting with a significantly different instructional approach. Professor Bennett had joined the law faculty in 1986 as a clinical supervising attorney after a number of years as a practicing lawyer and trial court judge. He had incorporated instruction in legal ethics in his clinical teaching and had taught a section of the traditional professional responsibility course in which he had incorporated a variety of supplemental readings and other strategies for increasing the level of engagement within the class. While he met with some success, he found that in the traditional classroom setting there remained among students a strong resistance to discussion of moral and ethical problems beyond the narrow context of professional rules. There seemed to be a learned wariness toward value-laden issues and a belief that such issues only confused legal thinking and hindered opportunities for success both in law school and in the profession as a whole. Further, there seemed to be among students either a lack of (or lack of ability to express) a

moral vision of their own lives and of their futures in the legal profession and a cynicism about the moral stature of the profession and their ability to change it.

During this same period, Dean Wegner began more intensive efforts to work with practicing lawyers and judges to understand the "professionalism problem" being discussed by both practicing lawyers and legal educators across the country. Dean Wegner undertook a number of initiatives on this theme, including use of oral history techniques to understand the personal and professional development of ninety-five-year-old alumna Katherine Robinson Everett, experimentation with mentoring programs that matched law students and practicing lawyers, study of adult learning theory and its bearing on successful approaches to continuing legal education, and commencement of empirical studies relating to lawyers' perceptions about sources and responses to the problem of professionalism.

In 1992, Professor Bennett and Dean Wegner decided to try a nontraditional approach to teaching law students about the values of the profession. After consulting with other members of the law faculty and with UNC faculty members in the Department of History, Professor Bennett developed a seminar in the "Oral History of Lawyers and Judges." The seminar has now been offered on four occasions, with quite extraordinary results.

As originally conceived, students enrolled in the seminar undertake field work in gathering oral histories of selected North Carolina lawyers and judges. Students are instructed in the techniques of gathering and maintaining oral histories, drawing on the expertise of UNC history faculty. Each student selects a lawyer or judge of particular interest to him or her, keeps a journal of reflections and experiences, researches and interviews that individual, helps refine tapes and transcripts for deposit in UNC's Katherine R. Everett Law Library and the UNC Southern Historical Collection, makes an oral presentation to the class, and writes a seminar-quality paper on the life story collected.

The seminar began with three basic goals: to expose students first-hand to the lives and work of lawyers and judges; to engage students in the real-life ethical and moral dilemmas of working lawyers and judges as told by them; and to gather and store professional history and the life stories of members of the profession in North Carolina. While the seminar achieved these objectives, it was soon obvious to Professor Bennett that something much more powerful was occurring as well. Student resistance to discussion of values and moral issues, which had been so stultifying in the tradition-

al professional responsibility classroom, dissolved in the intimate setting of the oral history interview. The interviews themselves and the process of synthesis and critique that occurred afterward forced students to look at their future in moral terms and engaged them in a deep examination of the nature of the profession, their own reasons for becoming lawyers, and their own moral stance vis-a-vis the person they interviewed. Frequently the experience for the student was inspirational and invigorating in terms of career and life purpose. In every case, it was cause for serious reflection.

We believe that the key to this success is the intergenerational connection in the oral history interview between the interviewing student and the practicing or retired lawyer or judge. In that setting, where the professional tells his or her life story, discusses parents, ancestors and mentors, and relates hopes, aspirations and failures, issues of personal morality and professional values naturally arise. Interviewees discuss where they learned their values, what moral and ethical qualities lawyers should possess, and the reasons for the decline in ethical standards in the profession. It is almost impossible for a student who takes his or her life and career seriously to see and hear these matters discussed by a member of the profession without engaging those issues personally.

Professor Bennett has also discovered that the tapes and transcripts of the oral history interviews provide an excellent resource for introducing ethical and professional value issues in continuing legal education courses for practicing judges and lawyers. Hearing the voices and reading the words of their fellow lawyers and judges on these very basic issues seems to encourage people attending CLE courses to reflect more openly on issues of professional ethics and values and to share opinions with their peers.

II. SELECTED LIVES: UNC LAWYERS IN SERVICE TO THE STATE

This essay provides an opportunity to turn the rich and growing resource of oral history transcripts to yet another use—that of crafting and sharing history itself. Indeed, this use is the more usual one for histories such as these. Oral history techniques have been used in recent years by historians as a way of recreating events, or at least capturing perceptions of key events that have shaped our lives and times. Such techniques are particularly useful in portraying events not generally captured by means of a paper record. Professor Jacquelyn Hall and her colleagues involved in the Southern Oral History Program at UNC have used such techniques with great success, for

example, in their prize-winning study of mill town life in North Carolina, *Like a Family*. While lawyers are in many ways members of a "public profession," their private thoughts and insights are often veiled from view in the interests of their clients. They are often observers of critical events in the personal lives of their clients and the public life of their day. Within the constraints of confidentiality, much can be learned of history by tapping their insights.

The life stories that follow are drawn from student interviews that sought to tap those insights about lawyers' and judges' own personal and professional lives, rather than about those of their clients. Student interviewers spend at least two sessions with an interviewee, inquiring about a host of topics: their background and training (ancestors, parents, childhood influences, education, teachers, law school, mentors); lawyers' work; judges' work; what makes a good lawyer or judge; professionalism; sources of character and values; issues of gender and race; thoughts on balancing personal and professional lives; failures, flaws, and critical events; the image of the profession; pride in the profession; memorable cases or events; and war stories of various sorts. Interview transcripts may exceed 100 pages. Of necessity, the stories that follow can touch only a few high points. They are framed to capture critical themes and insights and to illuminate the development and values of those discussed. Much more lies preserved in the tapes and full-blown transcripts, available for further study and for future generations.

Thirteen lawyers and judges are profiled here, in alphabetical order: Robert Mayne Albright, Judge George Foust Bason, Judge Dexter Brooks, James K. Dorsett, Jr., Judge Franklin T. Dupree, Justice Henry Ell Frye, James C. Fuller, Ellen W. Gerber, Judge Patricia Hunt Love, Robert L. McMillan, Jr., Justice Burley B. Mitchell, Jr., Wade M. Smith, and Judge Gregory A. Weeks. Each has contributed in a different way to the public life of the state—through service as a judge, private practitioner, public defender, corporate attorney, legislator, legal aid lawyer, prosecutor, criminal defense lawyer, litigator, civil rights lawyer, or architect of law reform. Each summary seeks to capture something of the forces that shaped the subject's values and influenced his or her life's work; each also includes some important observations in the subject's own words. We hope that these brief life histories and other future publications featuring other lawyers and judges will intrigue and inspire you. Reflect on the lives of these lawyers and the way those lives were shaped by the School of Law. Remember, along with the storytellers, and enjoy.

ROBERT MAYNE ALBRIGHT: A "PROGRAM FOR PROGRESS"

Robert Mayne Albright was born in Raleigh on April 5, 1910, and grew up in and around Raleigh. His mother was one of the few women he knew who had a college education (she graduated from Women's College in Greensboro) and was a great dreamer and lover of books. She instilled in him a reverence for education and the virtue in helping those less fortunate than oneself. Though Albright's father was not as highly educated as his mother, he also had a reverence for education. He was a skilled writer and helped his son learn how to write and to speak publicly. He also instilled in Albright ideals of high achievement and service to the state and to others.

In Raleigh, Albright grew up in close proximity to the state government and people who worked in it. He developed a great respect for the workings of government and a belief that he could help people. He went to college at UNC and described UNC as being a hot bed of political activism when he was an undergraduate. Dr. Frank Porter Graham was there, and Albright credits the influence of Dr. Graham and the University of North Carolina with shaping his political ambitions and ideology.

Albright felt Chapel Hill was a great training ground "in the nuts and bolts of political activity, both in the schools, in the classroom, in the campus organizations, and the opportunities that you have to participate in real politics." He served as secretary and later as president of the student body while he was there. He formed the UNC chapter of the Young Democrats Club of America, and members of that group, including Albright, were allowed to attend the National Democratic Convention when Franklin Roosevelt was first nominated for President.

The Roosevelt presidency also had a great impact upon Albright's political outlook and ambitions. He felt that Roosevelt's New Deal "was a marvelous program that came along and touched all phases of political, social, and economic life. . . . [H]aving an opportunity to work with it and watch it develop and see what it was is enough to inspire you to at least try in politics."

Albright described Dr. Frank Porter Graham as "a small rather unkempt figure with a wonderful personality and mind, completely unselfish and dedicated to the state and the nation and the individual citizens. He was an inspiration for more people than anybody I know of, unless it was FDR." Albright said further of Graham:

He could have done anything and did not want any honor at all. A more modest man never lived than he did. But a

more faithful public servant would be hard to find than . . . Dr. Frank. I think I was most fortunate in being very close to him through my undergraduate years and graduate years both in Chapel Hill and in knowing him there.

Albright attended law school at UNC and graduated in 1936 at the age of twenty-six. He was then appointed to the position of Director of the North Carolina State Employment Service. At that time, he was the youngest director of such a state agency in the United States. He was in charge of 500 people scattered throughout seventy-five offices around the state. He describes his work as "matching jobs with men."

Albright left that job in 1942 for the United States Army. He served as an officer in Europe in the civilian personnel division of the Army, working with the supply, classification, and training of troops. He also acted as an intermediary between the Allied military government and the Italian government established by the Allies in opposition to Mussolini. He was decorated by the new Italian government and rose to the rank of Lieutenant Colonel in the army, receiving four battle stars during his stay in the army from 1942 until 1946.

When he returned to the United States, Albright resumed his post as the Director of the North Carolina State Employment Service and stayed there approximately a year. In 1947, he married Miss Frances Stanley.

Both Albright and his wife joined the United World Federalists Organization. The slogan of that organization—which counted a number of prominent North Carolinians as members—was "world peace through world law." Albright was the North Carolina director of the group in 1947. He said of his work in the group: "Its ultimate purpose and aim, of course, is world peace and how it can be brought about. And law can do a great deal about bringing it about, and does, I think. [The group] encouraged the ideal of world law."

In 1948, Albright decided to run for Governor. To do this, he had to challenge powerful party bosses and the state political machine. As described by Albright, Furnifold Simmons and O. Max Gardner were running the political machine in the state at the time. Albright wrote a number of articles for the *State* magazine attacking Max Gardner and the Simmons "machine." His main target was the old, back-room politics method of selecting gubernatorial and other candidates handled by the political machine.

Albright's campaign slogan was "Program for Progress." He urged public debate on all issues, a higher salary for teachers and

greater investment in the state education system, a state minimum wage law, wider coverage of workmen's compensation and unemployment compensation, repeal of the anti-closed-shop law, and a comprehensive health program. He campaigned by hitching a trailer to the back of his car, and he and his wife traveled to every county in the state. Soon he adopted the additional campaign slogan, referring to his trailer: "Hitched to no machine."

Of the 1948 campaign, Albright said, "It was the impossible dream, but it was worth trying. And we gave it a good try. . . . We covered the state thoroughly and met all the kinds of people there are. There are all varieties here. It was a marvelous experience." Albright also spoke about espousing liberal causes in the campaign: "There's always been a liberal streak in North Carolina. It's always been secondary to the main one, but it's kept the main one honest, and it's kept them moving forward." Albright also felt that his campaign brought a lot of young people into politics for the first time and that "his greatest contribution for the state political history was to bring eager young people, mostly Democrats, into the political light of the state."

After the gubernatorial campaign, Albright entered the practice of law at age thirty-eight with the Raleigh law firm of Arendell, Albright & Green, and continued to practice law for thirty-four years. He spent a good deal of his time as an attorney representing some of North Carolina's trade associations and, particularly, architects. He authored the bill that made it possible to create trade corporations in North Carolina. Albright felt that this bill went a long way toward improving professional practice among a number of professions, including architects, engineers, contractors, and veterinarians. For his efforts in that area, he was awarded the Jefferson Lauriat Award by the North Carolina Association of Professions in 1979.

Albright was also active in lawyers' professional organizations. He was president of the Wake County Bar Association, and he feels that through the work of such professional associations, the standards of the professions are raised and maintained. He strongly endorsed the ethical codes of the professions and urged lawyers to support and heed the Code of Conduct governing the bar.

Part of Albright's work during this time was with the American Civil Liberties Union; he helped to found the North Carolina Chapter of the ACLU. Almost all of his ACLU-related legal work was pro bono and focused largely on racial integration of churches and schools. As a result of that work, he received the W. W. Finlater

Award in 1986 from the Wake County Chapter of the North Carolina Civil Liberties Union.

During the racial turmoil of the 1950s and '60s, Albright was frequently in the forefront. He was one of the first persons to speak out publicly in support of the *Brown v. Board of Education* decision, and he did so in front of a large audience at Broughton High School in Raleigh. His statement was considered bold at the time, and he believed it had a calming influence on some of the feelings of the people who were there. He was instrumental in raising money (through his church in Raleigh) to establish the Malcolm X Liberation University in Durham, an enterprise that ultimately failed. Albright saw it as a good way to provide equal opportunity for black North Carolinians and to promote a "peaceable world." He was also a member of the Urban Crisis Committee in Durham during the 1960s, a group formed in a number of southern communities in an effort to improve relations between the races by working primarily through churches and schools.

In 1963 Albright ran for Congress in the Fourth Congressional District against Congressman Harold C. Cooley. He recollected that Cooley was a thirty-year veteran of Congress who was hard to beat and had unlimited money. Albright espoused the liberal principles of tolerance and public service, and again he felt that he brought a lot of young people into the political process who would not have been there otherwise. Once again, he lost.

Albright has been a very devoted alumnus of UNC-Chapel Hill. He was the first chairman of UNC's Annual Giving Campaign, the fund that is now the Carolina Fund. In 1985, as a result of his dedication and work for the University, he was awarded the Distinguished Service Medal from UNC for his lifetime devotion.

Albright had a few words to say about lawyers and public service:

Albright: [T]he commitment to public service has been growing generally throughout the whole population, and the lawyers of course have had their part of it. They haven't been outstanding. They haven't been the great leaders of the liberal part of it, but some of them have been. All of them have moved forward a great deal from where we were. The law is not a liberal profession, exactly.

I mean, you don't look to the lawyers for great liberal leaders. The general bulk of lawyers are more conservative. It's a rather conservative profession. It feels it has a role in conserving the values that we have and does not want to experiment. There's always been a streak in North Carolina of lawyers who were more liberal than most and who

colored the water. They influenced the general times. [O. Max] Gardner was one. [John C.B.] Ehringhaus was one to a limited degree. Of course Jim Hunt, Terry Sanford are conspicuous examples of those that moved ahead of the legal profession.

Interviewer: What do you feel are some of the reasons why lawyers often defend the conservative tradition? Do you think it's due to legal training or law school?

Albright: No, I think it's because money plays such an important part in liberal movements. . . . I don't mean you don't have wealthy liberal leaders particularly. But I mean, there are the money issues that attract the lawyers, and [those] issues are not always liberal issues by any manner or means. We've moved slowly. I think we've moved along well in North Carolina. I'm proud of our North Carolina record generally, but we have been a conservative state.

Today, Albright is in his eighties. He is still revered among the older liberals in the state who were active in the 1950s and '60s during the civil rights days as one of the pioneers in pushing progressive ideas and as one of the leading disciples of Frank Porter Graham.

JUDGE GEORGE FOUST BASON: CHAMPION OF CHILDREN

George Foust Bason provided remarkable service as a juvenile court judge in Wake County and was probably the leading juvenile court judge in the state over the last ten to fifteen years. He is now retired and living in Raleigh.

Bason was born on February 9, 1926, into an old North Carolina family. His mother was Hannah Ashe, and through her, he is a descendant of Samuel Ashe, who wrote the opinion in *Bayard v. Singleton*.² Bason grew up in the home of his grandfather, S. A. Ashe, who was a lawyer who practiced little, spending most of his time as a newspaper editor and historian. There is a monument to S. A. Ashe on the State Capitol Square. He was the last surviving commissioned officer of the Civil War and lived to be ninety-seven years old.

Judge Bason is characterized by commendable modesty. In describing his family and its history in North Carolina, he said that

2. 1 N.C. 5 (1787). This was one of the earliest cases in United States history in which the provisions of a state statute were challenged as contrary to a state constitution. By ruling in favor of the North Carolina Constitution, Samuel Ashe and the North Carolina Supreme Court established the principle of judicial review in North Carolina fifteen years before *Marbury v. Madison* established it in federal constitutional law.

though he grew up learning a lot about his family, he "tried to turn it all off because it is not good for a young person. It's something to be proud of, but it can cause wrong attitudes." Bason went to Broughton High School and upon graduation entered the Navy and took tests to qualify for Officer Candidate School during World War II. As part of his training as an officer, Bason was sent to Georgia Tech to study engineering and was commissioned as an officer after the end of the war. Thereafter, he was discharged from the Navy and transferred his college credits to the University of North Carolina.

At UNC Bason changed his focus to pre-law and law. He earned his bachelor's degree in 1949 from Chapel Hill and his law degree in 1951. Thereafter, he clerked for Judge Don Gilliam, who was the only federal court judge for the Eastern District of North Carolina. After clerking with Judge Gilliam, Bason went into practice with James H. Pou Bailey (later, Judge Pou Bailey) in the firm of Bailey & Bason. Though they were very different people, George Bason and Pou Bailey had a mutual respect for each other. Pou Bailey was quoted in a newspaper article concerning his old law partner: "George is a person of almost infinite patience. He also has got more concern for people-as-people than any other person that I have ever known."

When the court reorganization occurred in North Carolina in 1966, five district court judgeships opened up in Wake County. In 1968, George Bason ran for one of the positions. He was elected, and thereafter Chief Justice R. Hunt Parker of the North Carolina Supreme Court appointed him Chief District Court Judge. As was the practice at the time, all of the district's judges rotated through the various civil and criminal courts. For the first six years that he was a judge, Bason did the same thing. However, after experience in juvenile court, Judge Bason determined that it would better serve children if judges with a particular interest in juvenile court remained there. Judge Bason took himself out of the rotation to other courts and began doing all of the juvenile court work in Wake County. Because of the emotional toll juvenile court takes on judges, this was quite an undertaking for one person.

There was much work to be done, and Judge Bason pursued it with remarkable energy and persistence. He soon found there was a serious inadequacy of mental health facilities for children in Wake County. Dorothea Dix Hospital had an adolescent unit by 1976, but there were only ten beds there. He began to see in juvenile court a never-ending procession of children with special needs and no way to deal with them. As a result, many of the children languished in

detention facilities with no treatment component. Judge Bason appointed attorneys to represent those children so they would at least have their day in court. Though he pushed state and county agencies to provide appropriate treatment, because there were still virtually no treatment facilities available, he eventually, "in despair," had to send many of the children to training school. However, he did not rest with this solution.

Judge Bason called a press conference in his courtroom for two o'clock one Monday afternoon to decry the lack of treatment facilities for juveniles. (He picked Monday afternoon because the General Assembly did not come back into town in Raleigh until eight o'clock Monday evening, and court reporters were looking for something to do on Monday afternoon.) This ploy gave him the exposure he wanted, and his message was delivered to the citizens of Raleigh in the Tuesday morning papers. His action eventually resulted in a legislative initiative that addressed the problem of lack of treatment facilities for children across the state. Unfortunately, the bill died in committee.

Having failed adequately to address the problem through his own judicial powers and the state legislature, Judge Bason took a bold and imaginative step for a state district court judge: He persuaded a group of attorneys to institute a class action suit against the state to force the state to provide treatment for disturbed children. The result of this endeavor was the famous *Willie M.* case,³ which was brought against the State of North Carolina in Federal District Court in Charlotte before Judge James B. McMillan. Based upon the woeful lack of treatment facilities for juveniles, the state eventually settled the case, and the *Willie M.* program was initiated to provide residential and non-residential treatment for children who were mentally ill, retarded, or emotionally disturbed and who had an accompanying behavior disorder characterized by aggressive conduct.

Another innovative action taken by Judge Bason as a juvenile court judge was his ordering the county to pay the cost of treatment in an out-of-state institution for a child when the county and the state failed to provide appropriate treatment. He based this action upon his authority to order the state or county to provide or pay for appropriate treatment for a child when the parents themselves were financially unable to do so. Facilities for such treatment were often

3. *Willie M. v. Hunt*, 90 F.R.D. 601 (W.D.N.C. 1981), *aff'd*, 681 F.2d 818 (4th Cir. 1982).

very expensive. The county appealed his order to the North Carolina Supreme Court, and Judge Bason was eventually reversed, though there were strong dissenting opinions.

During Jim Hunt's first term as Governor, Judge Bason was instrumental in passage of a bill setting up the Juvenile Code Revision Committee to rewrite the juvenile code for the State of North Carolina. Judge Bason was appointed by the Governor to chair that committee. The resulting revisions were among his best work. The new North Carolina Juvenile Code was a great advance over the old version and, when it was adopted, was a very progressive code for its time. One of the most important features of the code was the prescription that juvenile court judges impose the least restrictive, appropriate treatment for the juvenile. Only after all other options had either failed or were found to be clearly inappropriate could a delinquent juvenile be detained in a training facility. The impulse of some juvenile judges to use incarceration as the "easy" solution was ended. Judge Bason continued his diligent work in juvenile court for many years, serving as the principal judge handling juvenile cases in Wake County from 1974 until he retired on September 1, 1991, at the age of sixty-three.

Judge Bason admits that the time he spent as a juvenile court judge took an emotional toll. He explains one of the situations which led to his retirement:

One very traumatic experience was in the '80s, early '80s. I had an occasion to put a young black boy in a detention home—I can't remember if it was pre-trial or after the hearing and waiting for some disposition alternatives to appear—anyway, he wasn't stable. . . . And he attempted suicide by hanging. His defense attorney, a very outstanding woman, and I tried very hard to get him transferred to the adolescent unit out at Dorothea Dix where they had suicide precautions. They denied him admission, even after a fresh suicide attempt. Two days later, he succeeded. . . . Anyway, that had a profound effect on me.

Judge Bason's compassion made him an outstanding judge, but the toll it took on him emotionally led eventually to his decision to step down as a juvenile court judge.

Judge Bason received a number of awards for his work on the bench. In 1990, he was recognized by the Governor's Advocacy Council on Children and Youth as one of the state's leading advocates for children. He has also received the highest award given to judges by the National Court Appointed Advocates through Wake County's

Guardian Ad Litem Services. He was the first judge honored, on November 2, 1990, for outstanding contributions to the needs of children by the Friends of Black Children.

At the time of his interview, Judge Bason was serving on the Board of the North Carolina Center on Crime and Punishment and examining ways that organization could reduce the present prison population. He also chaired a task force to study the developmentally disabled in the adult criminal system and in the juvenile justice system and to make recommendations for change. He has been the vice-chair of the North Carolina Supreme Court Society, a group that collects mementos associated with the Supreme Court of North Carolina. He said of his work as a juvenile court judge: "I have had a wonderful opportunity to do exactly what I wanted to do—the opportunity to try to serve in what clearly is an area of need. I will never regret it."

JUDGE DEXTER BROOKS: LOYALTY TO COMMUNITY, SERVICE TO
THE STATE

Judge Dexter Brooks, a Lumbee Indian and Superior Court judge from Robeson County, North Carolina, was born on May 15, 1943, in a very small community called Union Chapel, about five miles north of Pembroke. His father taught at the Union Chapel School, and the family resided in a home on property that was originally owned by a man named John Brooks—a white man who was a soldier in the Continental Army, and who had purchased the property with a pension he received from his service in the Revolution.

The Brooks family moved into Pembroke shortly after Brooks was born and lived next to a church called The Gospel Hall. The pastor of that church was Venus Brooks, a first cousin of Dexter Brooks. Judge Brooks described the family as "very close-knit." Two uncles lived in the neighborhood as well as Reverend Venus Brooks. There were a lot of other relatives in the area around Pembroke.

Judge Brooks described his mother as "amazing."

Back in those days, everybody was poor, and so you didn't buy a lot of things from stores because you tried to produce in some fashion pretty well everything you needed. For example, my mom would can a lot of vegetables and tomato juice and all kinds of foodstuffs. She would make her own soap, and she would make a lot of jams and jellies. The family would go huckleberry picking or hunting and we would go out into the woods and pick these huckleberries and she would make them . . . into jam.

His mother was from a place called Saddle Tree, about ten miles from Pembroke. She was raised on a farm and taught never to throw anything away. He recalls that his maternal grandmother had several grapevines on her farm, and the grandchildren were taught that when they ate grapes, they were to save the hulls for use in jams.

During his childhood in the triracial community in Robeson County, the schools were strictly segregated on the basis of race. South of Brooks's community on Jones Street, there was a neighborhood of black people who attended a separate school, and across the railroad tracks there was a neighborhood of white people who had their own separate elementary school. Judge Brooks described life in the triracial setting:

As far as social relationships between the people of different races, they were generally quite limited. There was a little between us and the black kids because they were right down the street. And there was a Black church and an Indian church that kind of backed up to each other. And there were a lot of pine trees in the back of the Indian church. And I remember sometimes playing with those little black kids there under those pine trees.

Judge Brooks recalls that when he was growing up, there was quite a bit of discrimination against Native Americans, and many jobs and professions were closed to them: "People used to say that an Indian could be a teacher, or a preacher, or a farmer. And you had to find yourself, or fit yourself, into one of those categories as far as your life's work." Later he began to hear about a category called a "public worker," referring to people who were good at carpentry and other odd jobs and who could hire themselves out to neighbors to assist in building houses, barns, and outbuildings. However, during his childhood it was unheard of for a Native American to think of being a lawyer.

Judge Brooks recounts a story of the career limitations that affected him as a child. He remembers a man named Brantly Blue, a very prominent Lumbee Indian, who grew up in the town of Pembroke, served in the Second World War, and thereafter attended Pembroke State University and received a bachelor's degree. Blue wanted to attend law school, so he wrote to the University of North Carolina to apply for admission. He was told that Carolina did not accept Native Americans. Blue had to leave the state to attend law school, and never returned. Judge Brooks said this story was typical of Native Americans seeking professional training in the first half of

the twentieth century. As a result, Brooks never met a Native American lawyer or a judge when he was growing up.

The triracial community had some benefits. Judge Brooks explained that the Lumbee Indians were able to insulate themselves from discrimination in Pembroke because it was predominantly an Indian community. However, if an Indian from Pembroke went to Lumberton to a movie, he or she was required to sit upstairs, and upstairs there were two sections—one for Blacks and one for Indians. In the triracial community, even the segregated were segregated.

Judge Brooks's description of the Indian schools in his area further illustrates the disadvantages he and other Native Americans faced. Though his parents both taught in the public schools, his father had not finished college and his mother had completed only the eleventh grade. This kind of educational background was very common among teachers in the Indian schools. He explained:

The reason for this is that the Indian schools back then were quite poor, and they were basically only what the Indians themselves could piece together. And because most people worked on the land, they were not always able to attend school. And so [my father] was even a little late getting started to school because of the pressures on his family—his dad's family—as far as poverty. . . . And in the Indian schools back in those days, you could teach without having a college degree. So it was kind of like bootstrapping. As the Indian schools got better, the requirements for teaching correspondingly increased.

Brooks performed well in high school, particularly in mathematics and sciences. There was a good deal of emphasis on space exploration and science education at the time, and he began to think he might pursue an education in those areas. In addition, his father took a keen interest in math and encouraged his son to pursue that field. Because Brooks had visited North Carolina State University as a member of the 4-H Club in his community, he became interested in it as a place to attend college.

Brooks also considered Pembroke State University, the primarily Lumbee Indian school in his community. Most Pembroke students went there to prepare themselves to teach. He compared the catalogs at Pembroke and North Carolina State and felt North Carolina State had more to offer. It took some courage, however, to leave his community at that time to go to school in Raleigh. He knew of no one else who was planning to leave the community to attend college, though he tried unsuccessfully to persuade an acquaintance to attend

North Carolina State with him. When he attended North Carolina State, blacks were not admitted. Brooks found himself "one of two brown faces" and the only Lumbee Indian on the campus. The only other minority students were a few Asians.

Being such a small minority apparently helped. When asked whether he experienced discrimination at North Carolina State while he was there, he said:

No, not really. Although this was in the early to middle '60s, and so it was at the height of the civil rights movement there. I remember a lot of the business establishments on Hillsborough Street would not serve blacks. I remember one in particular . . . where they were adamant about not allowing black people to patronize their business. But I guess being Indian . . . there was just so few of us, I guess, nobody was concerned about it.

Brooks graduated from North Carolina State in 1965 with a degree in electrical engineering and volunteered for the Army. He took basic training in Fort Leonard Wood, Missouri, and then artillery training at Fort Sill, Oklahoma. He was assigned to the First Cavalry Division and shipped out to Vietnam as a Private First Class. He says of his service in Vietnam:

The conditions were quite hard. I mean, life was tough. . . . Sometimes you felt like an animal because of the dirt and the grime and such. And then in the monsoon, that was really bad. . . . I don't regret going, and I know there's a lot of people didn't go. But I personally know that everybody owes an obligation . . . to the community . . . or their country.

While in Vietnam, Brooks decided he wanted to return to graduate school in math rather than engineering. He wrote to a professor at North Carolina State, was admitted and subsequently enrolled. He completed a master's degree, and began work on his doctorate. This was in the early '70s when the civil rights movement and antiwar movement were very active on college campuses. The Cambodian invasion occurred, and protesting students were slain at Kent State. Brooks was very affected by all of this. He became more aware of civil rights issues and, in particular, how they pertained to Native Americans.

One of the events that sparked Brooks's interest most strongly in the late 1960s was the protest-invasion of Alcatraz Island by a number of Native Americans. One of them was a Lumbee Indian named Dean Chavers. Brooks knew Chavers's family. The basis of the

protest was the Indians' claim that the title to the island should have reverted back to Native Americans when the government closed Alcatraz Prison and ceased using the island. They also wanted to start an Indian university on the island to study Native American history and culture. The incident heightened Brooks's interest in his own identity and heritage, and he began to study Native American culture and history. He also began to recall stories that he had heard as a child from his elders.

This process led Brooks to conclude that he was wasting time studying math. What really interested him was his "Indianness." He devised a plan to travel across the country and teach at various schools, but he eventually realized that what he really wanted to do was to return to Robeson County and work to improve the conditions for people there. He dropped out of North Carolina State and got a job teaching at Southeastern Community College in Whiteville, North Carolina, the closest job he could find to Robeson County. He then began to involve himself in some of the issues surrounding his people and their heritage. He was particularly interested in a controversy that developed at Pembroke State and in which he later took a part:

"Old Main" was the first brick building in the Indian community. [It had been] a centerpiece in the Indian culture because the funerals of leaders were held there, and any time they had meetings to talk about important issues, that was generally where they met. [And all] of the Indian schools would converge on [Old Main at] Pembroke State College and we would have all kinds of contests like athletic contests, spelling contests, reading contests, math contests So Lou Barton, who was an Indian historian, wrote an article for the *Robesonian*, and it was entitled the "Indianization of Pembroke State University." And when I read that article, I saw that the point he was making is that there seemed to be a conscious effort on the part of some people to divorce the school from its roots or tradition, and that's when I realized the importance of the building. Had they been successful with its destruction, you, in effect, would have been saying there was no real attachment of the school anymore to the community and that there was no real reason for the University to even memorialize any Indian tradition at all. . . . For example, in '72, Jim Holshouser came to Pembroke and he was running for governor on the Republican ticket. . . . It was a very dramatic—a very dramatic night. We had an overflow crowd. . . . I made a speech that night, and I remember agonizing over what I was going to say all day because back then I'd never

considered myself a very outgoing person. . . . So I remember when I spoke that night, the crowd was on its feet chanting. It was an incredible feeling on my part, and I remember after I spoke, Dennis Banks, who's one of the founders of the American Indian Movement, he came up and he spoke. And Dennis is very, very articulate and quite the orator. And he gave this great speech, and then he gave a challenge to Jim Holshouser, sort of to the effect, "Are you willing to tell the people tonight that you are going to work to save this building?"

And so Jim Holshouser came up to the stage, and he pledged to the group that if he were elected governor, that Old Main would not be destroyed.

Brooks's interest in political change eventually led him to law school. He was the first Native American to enter the UNC School of Law, and the first to graduate. His real passion while he was in law school was working on a project with Professor Barry Nakell—work that enhanced the significance of what he was learning in class because he was putting his knowledge to immediate use. Brooks also tried to recruit other Lumbee Indians to come to the UNC law school. Two of those he recruited were Arlie Jacobs and Gary Locklear.

When asked whether he liked law school, he stated, "I did, because I felt like I had finally found something that I really wanted to do in the sense that I saw that the years I had put into studying the political situation in Robeson County, learning the politics, I decided that law was the ideal profession for me if I was going to effect any kind of change."

Judge Brooks was asked about the values that he felt were important for a lawyer or a judge. He responded:

The first is integrity. So many people in the legal profession kind of lose their way. And I guess it's kind of like there is so much pressure to succeed or so much pressure to win, sometimes some people succumb to this idea of winning by any means or winning at any cost. Maybe it's because we see so much of that in society. I guess . . . some people have this philosophy in sports that winning is everything. I mean, kids don't participate in sports simply to enjoy what they do. They're driven to win.

So you take that kind of attitude and put it in the legal profession, you can see people cutting corners. That's the worst thing you can do because if an attorney loses his reputation for integrity, he really has nothing left. . . . I've always felt that the worst thing that could happen to

somebody was that they lost a reputation or were perceived as being dishonest. Because if you're litigating against a person who you feel is dishonest . . . there's no camaraderie. And also, you never extend any courtesies. You know that you can't trust the person, and you know that anything they say can't be believed. So you hold a person like that at a distance.

Brooks practiced law from 1976 until 1989, when he was appointed Superior Court judge. He views his appointment as the result of a compromise between former Governor Jim Martin, the General Assembly, and the Lumbee community following the murder of Julian Pierce, a Lumbee Indian who was running for Superior Court judge. The Governor and General Assembly agreed to create an additional judicial seat for the district and to appoint a Native American to that seat.

Judge Brooks is a devout Christian. He said of his faith:

I would hate to be a judge and not be a Christian. And I'm not saying that everybody has to be a Christian to be a moral person. I'm very tolerant of religious beliefs. One of the bedrock principles of Christianity is the doctrine of free will, that you can't force that choice on a person. So, if a person wants to be a Jew or a Muslim or Buddhist, you know, I respect that decision. . . . I think that the essence of Christianity is the Golden Rule, "Do unto others as you would have them do unto you."

Judge Brooks also discussed the changing racial dynamics in Robeson County. He noted the desire and need of the Indian community to maintain some racial identification and explained that as the basis for the Native American preference for separate schools and separate churches. He also noted the growth in opportunities for Native Americans in Robeson County.

[T]here's more freedom in the country now. People feel freer to talk to all kinds of different people, and there's more communication between the various racial groups. I know when I grew up as a kid in the town of Pembroke, you had almost no contact with people of other races. If you [have] more communication between the different groups, you [have] more understanding in the way everybody thinks, and so the mood can only improve, and if you know a person and sit down and break bread with them, it's a little harder to dislike them.

JAMES K. DORSETT, JR.: "IT IS POSSIBLE TO LIVE GREATLY IN
THE LAW"⁴

James Dorsett was born on November 15, 1916, in Spencer, North Carolina, where he lived until he was eleven years old. His father was the owner of a small bank in Spencer, and Dorsett grew up in the house that his father built. He talked about the grammar school he attended in Spencer and the emphasis there on doing your schoolwork and on good behavior:

I believe that it's important to have instilled in you behavior and courtesy and that school is a privilege and that you're to take advantage of it. I might add that my mother had been a Latin teacher. She was a strong believer in reading and in studying and doing your homework.

Dorsett described his parents as being very devoted and kind and said the family was very close. Both parents took pains to instill values in the children:

I think they put very substantial effort toward inculcating in both my sister and myself what they deemed to be very important values. One that I quickly remember is they did not believe in gossip. They emphasized that at our table. We did not gossip. I think that has been a helpful thing. My mother, having been a teacher, believed strongly in the value of reading. Both of us developed habits of reading a good many books. Of course, in those days, in the summer-time, in a small town, there was not too much in the way of distraction. There was an opportunity to read books. My father was a great believer in not exaggerating and not falsifying in any way. I know he was constantly saying, "Do not deviate from the truth, even if it hurts."

4. The quotation is taken from James K. Dorsett Jr.'s oral history interview and is a slightly modified version of the original by Oliver Wendell Holmes in a speech to the undergraduates of Harvard University on February 17, 1886, entitled "The Profession of the Law." *THE OCCASIONAL SPEECHES OF JUSTICE OLIVER WENDELL HOLMES* 29 (Mark DeWolfe Howe ed., 1962). The Holmes quote is worthy of repeating in context:

Of course, the law is not the place for the artist or the poet. The law is the calling of thinkers. But to those who believe with me that not the least godlike of man's activities is the large survey of causes, that to know is not less than to feel, I say—and I say no longer with any doubt—that a man may live greatly in the law as well as elsewhere; that there as well as elsewhere his thought may find its unity in an infinite perspective; that there as well as elsewhere he may wreak himself upon life, may drink the bitter cup of heroism, may wear his heart out after the unattainable.

Id.

Dorsett's parents also believed in the value of travel, and a trip the family took out West when he was a child made a lasting impression upon him: "I think [travel] certainly livens your curiosity and interest in different places, different types of people, particularly in the West, just the beauty and rarity of the country, the mountains and the great parks." He recalled his times in high school and later at Davidson College as some of the happiest times of his life even though, in some respects, they were the most trying because they occurred during the Depression. He observed that the Depression "promoted some understanding between people and consideration. . . . Because in those days when people were in [a] desperate plight, they tended to reach out to each other and try to be helpful."

Dorsett talked a lot about the close community at Davidson College, the close relationships between students and professors and the professors' spouses and families. He was later a trustee of Davidson for eleven years and in that position opposed Davidson becoming co-ed. When the co-educational issue arose, his son, who was a Davidson student, told him that he was wrong to oppose co-education, that a number of students were leaving Davidson because of that, and that his son was likely to be one of them. His son's comments caused him to reconsider his position. He is now glad that he did and that Davidson made the decision to admit women.

After Dorsett graduated from Davidson, he indulged his love for travel with a trip to Europe. This was just before the outbreak of World War II. Conditions in Europe made a lasting impression upon him, particularly those in Germany where he observed that the country had become very militaristic. He recalled sitting and talking to some Jewish people in Vienna when members of the Gestapo—they were plain-clothed, but Dorsett now realizes that was what they were—came and took the people away. He saw Hitler Youth marching in Germany. He heard the chants of "Il duce, il duce," at the outdoor opera in Italy when Mussolini came dressed in his white uniform decorated with ribbons and trappings. Dorsett found all of this very frightening, fascinating, and at times infuriating (particularly when the Gestapo took away the Jewish people). He left Europe with a feeling that battles and wars lay ahead.

He was not certain he wanted to be a lawyer, but he decided to go to law school with the idea that it seemed like a good option and that if he didn't like it, he could quit. He did not like the grind of his first year, but he liked his professors. He referred to the "great seven" or "unmatchable seven," professors who had been at Carolina for a long time and had the reputation of being outstanding teachers.

Dorsett does not think that law schools do a good job of teaching ethics and professionalism to today's students. He believes his own ideas on professionalism sprang from a jurisprudence course he took at the law school from Dr. Frank Hanft:

[Dr. Hanft] was superb in everything he taught. It was a course that really stimulated in me a strong pride in the legal profession, going all through history and what it stood for. We read in that course a great many of the opinions of the great judges like Oliver Wendell Holmes and Cardozo and Brandeis that I might not have read. It gave me an excitement about the profession and its importance and pride in it that I might not have had without that.

After graduation, Dorsett took the bar and accepted an offer to go to Washington, D.C., to work in the legal department of the Southern Railway. He had just begun his job in Washington when the Japanese attacked Pearl Harbor. He remembers hearing Franklin Roosevelt's radio address following the attack. Dorsett held an ROTC commission in the infantry from his days at Davidson, and the day after Roosevelt's speech he received a telegram from the War Department telling him to report to the infantry school at Fort Benning, Georgia.

Dorsett recalled his training at Fort Benning as grueling. He was a "hundred day wonder": up at four, four-thirty in the morning and training hard all day in order to complete all basic training in a hundred days. He graduated from infantry school in April of 1942 and went to Chicago for an intensive course in military intelligence. He received a "top secret" clearance and was assigned to the Seventh Corps. He did not know it at the time, but the Seventh Corps, as part of the First Army, was already selected to be one of the corps to land at Normandy. He joined his unit in early summer of 1942 and soon shipped out for England on the Queen Mary, which had been temporarily converted to a troop ship.

When he arrived in England, it was immediately obvious to Dorsett that preparations for some unknown event were very intense. He recalled events of Christmas Eve of that year (1942): "Those of us who . . . had top secret clearance were called by the General and the Chief of Staff to a room where a huge map was unfurled and where [we] took a pledge of honor to keep totally secret what [we] were about to hear." When the map was unfurled, it showed that there was to be an invasion of Normandy. Dorsett was made chief of the counter-intelligence attachment for the Seventh Corps. He crossed the English Channel in a landing craft and landed on the

beach at Normandy. He later received a Bronze Star from the United States Army and the Croix de Guerre from the French government for his actions on D-Day.

Dorsett's unit also participated in the liberation of Paris. The Seventh Corps went through Brussels and were the first American troops to enter Germany through what he called the "secret line." They ran out of gas near a little German town where the Battle of the Bulge soon erupted. He recalled his unit going through Liepzig, seeing the horror of some of the concentration camps, and finally ending its march at the Elbe River with Russian troops on the other side. Seeing the concentration camps had a profound effect on him:

It was really a feeling of absolute horror and disbelief. I remember in one that we went into and stayed awhile, just simply looking through, there were—and this was still mid-spring—it was quite cold, and there were human bodies stacked up in rows. I couldn't begin to tell you how many bodies there were, but they were just simply out there without any clothing whatever, frozen really because of the weather. They were just like firewood, just piled one on top of the other. It was so horrible that it was hard to just absorb it in your emotions. . . . But it really gave you a feeling of horror and of hatred of the people who could have done such a thing.

After the war, Dorsett intended to return to the Southern Railway legal office in Washington, D.C. but was sidetracked by Dean Maurice T. Van Hecke of the law school who persuaded him to talk to Willis Smith in Raleigh who needed help in his law office. This began Dorsett's association with what is now Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, the firm that has been Dorsett's professional home throughout most of his professional life.

Dorsett described the firm, which had five lawyers when he joined, as a small firm by today's standards but large for the standards of the time. He said of law practice in Raleigh:

It was a time when all of the lawyers knew each other well, and you spent time talking with each other. There was, I would say, a very high element of trust between lawyers that you did many things, such as continuations, just on a telephone call without going through legal documents. You never had any worry about that. I think then because there was less a sense of pressure that lawyers enjoyed each other and enjoyed their practice more. At that time, the billing was not strictly from the standpoint of billable hours. The tempo was slower, and in the summertime in particular, it

was. But I think, too, that the lawyers knew the judges better. You saw them more often, and there was just time for more relaxed camaraderie than nowadays.

Dorsett stressed his view that this sort of closeness did not interfere with quality or competency of representation. Rather, he felt that lawyers' ability to get along with each other and with judges in a more congenial manner made lawyering a better profession and served clients better.

Dorsett noted the influence upon him of his elder colleagues in the profession. He spoke in particular of Willis Smith, who had been president of the North Carolina Bar Association and later became the only North Carolinian to be president of the American Bar Association. Smith was a great believer in careful preparation and strong ethical practice, and Dorsett feels that he was well tutored by Smith and local judges and other senior partners in his law firm on how to be a lawyer and maintain the standards of the profession. Dorsett credited two other members of the firm who were senior partners, Oscar Leach and John Anderson, both graduates of UNC law school, as important teachers. Leach "was just a man of the strongest ethics and a sense of seeking what was right, how something should be done, and how it should come out in fairness to everybody. He was a good tutor in that way." He credits John Anderson with teaching him how to be an excellent litigator.

Dorsett also credits his father's emphasis on honesty with serving him well as a professional:

I think it is an eternally valuable principle. And it was then, it is now, and I trust always will be, because it's been my experience at least that if your fellow lawyers or any person that you are dealing with, whether they are on the other side or not, that if they find that you do not mislead and you do not falsify and that you will abide by what you agree to, that it oftentimes not only promotes reaching a solution, but it saves a great deal of time. Now of course . . . everyone encounters some people that are just adversarial by nature and they aren't interested in factors like that and they're just trying to run roughshod. But I think that [honesty] was and is an important quality for all lawyers.

Dorsett believes that the principle of honesty and straightforwardness also helps in dealing with clients and impressing upon clients the necessity to be truthful in their own accounts:

[A] lawyer must always have and preserve a certain degree of independence from his client. It's not his mission to humor a client or tell his client what the client may want to

hear. Because certainly there are clients many, many times who have a completely overboard interpretation of their rights and of the wrongs, the assumed wrongs, of the people on the other side. There are also ones who have motives that go beyond the point of justice and fairness. And I think it is not that this is always an easy thing. But I think it's very important to try to calmly but clearly give your client your true version of a case, of its rights and wrongs and of its probabilities of success. And I do believe that following that course preserves your own integrity and your duty as a lawyer—it preserves some independence. Because you are, after all, a member of the bar. And you are, that important phrase, an officer of the court. I think clients do—certainly the clients you want to have and keep—respect you for that.

Dorsett was a corporate lawyer in the truest sense, representing business and business interests, not only across the state but nationally and internationally. He was an executive vice president and general counsel of Wachovia, and represented other banks as well. He was also general counsel for the Flu-Cured Tobacco Cooperative and believes that one of his main accomplishments in that capacity was negotiating with tobacco companies a stabilization system to avoid tobacco surplus and fluctuating prices.

Dorsett spoke very powerfully and poignantly about ethics and the teaching of ethics. He lamented the shifting image of lawyering from being a profession to being a trade. He said, "That's a dangerous shifting because our whole obligations and our code of ethics are based on being a profession." He expressed concern about billable hours and the tendency in law firms to run up hours unnecessarily, particularly through abuse of the discovery system. He was also very concerned about the image of the profession.

I think very few of the American people have a real understanding of the role of lawyers and . . . how essential it is to carrying out a democratic society and having a system of legislatures and congresses we have and just what lawyers—not that they're perfect by any matter or means—but what they have truly contributed to our whole democratic system and its preservation in this country. It's just immense. And I think that there are of course those that do fully understand it. But by and large, many do not.

Sometimes I get in a little joust with people about the thing of criticizing lawyers. I say, "Well, I want you to think about something. I want you to sit down quietly and just ask yourself, 'suppose we had no lawyers and no judges, what would our country be like?' Would you like to live in

that kind of country?" And if you say, "Well, I still don't like the system," then my question is, "What system would you propose to take its place and what country in the world has a better system, even with its imperfections?" And it's a little bit like the jury system. We all know there are miscarriages of justice, some of them by judges and by juries and some misunderstandings. But by and large, no one has come up with a better system.

Dorsett also believes that the adversarial nature of lawyers' work makes attention to civility and courtesy among lawyers particularly important and requires lawyers to balance their work with a sense of fairness and reason:

I believe, too, that the more we can emphasize this thing of civility toward each other and fairness, that we really will enjoy our practice more, and we will ultimately benefit our clients more. Because . . . [t]he thing about the law that oftentimes is not properly understood and is in great contrast to medicine—the doctor after all, when he has a patient in a case, he is not in an adversarial position at all. And he is dealing almost in a mysterious field, where the patient knows essentially nothing about medicine, and they just tend to take whatever he says; whereas most individuals think they know right much about the law and have strong ideas about it. . . . [I]t's just part of the system of justice to have the adversarial sides presented to that impartial judge. But it can stir a lot of emotions, and there are a lot of clients who carry those emotions with them. They dislike lawyers on the other side, and they dislike their opponents on the other side without realizing that the role of the law, when you think about it in all its phases, is to be the mediator of very controversial difficult questions and issues. That's our job. That's why it's so important that we come to it with a sense of fairness and broadmindedness.

Dorsett ended the interview by referring back to the jurisprudence course he had at Carolina, which had such a tremendous effect upon him. He said:

I would like to mention two sayings that have always stuck in my mind. Again, I'm grateful for that course in jurisprudence, because it broadened my thinking about the law and gave me a pride in it. Again, I would urge that the colleges, the law schools, try to emphasize that. Because that will stick in the minds and emotions of lawyers. They will have a sense we are a part of something that has gone

on for many, many centuries and without which the great things would not have been accomplished.

The two [sayings] that I was thinking about—again, going back to that course—Justice Oliver Holmes said, “It is possible to live greatly in the law.” And then the one I have often used because I think it is so true and so sweeping, and this is . . . from Dean Roscoe Pound. He said, “The law is the greatest inheritance that the sovereign people have. Because without the law, there would be no inheritance and no sovereign people.” Anyone who will think on that point will realize that the law has a great obligation and deserves understanding and respect.

JUDGE FRANKLIN T. DUPREE: DOING JUSTICE “REGARDLESS OF WHERE THE CHIPS FALL”

Franklin Dupree was born on October 8, 1913, and raised in Angier, North Carolina, a town twenty miles south of Raleigh. He lived in Angier until he was fifteen years old, when he left to attend his last year of high school in Buies Creek because there were only eleven grades available in Angier. Dupree then attended the University of North Carolina and graduated in 1933. He searched for a job teaching school or digging ditches or anything he could find, but there was nothing to be had because of the Depression. In August of 1933, he talked to his father, who was a lawyer in Angier, about going to law school. His father said that if Dupree was sure that was what he wanted to do, “I’ll stake you to it.” Tuition at the UNC School of Law was seventy-five dollars a semester, but that was a big expense for someone in the 1930s in Angier.

Judge Dupree described his father and grandfather as genuinely self-made men. His grandfather had been a businessman running a sawmill and a gristmill, and his father helped run those businesses for Dupree’s grandfather. The two of them also ran a cotton gin. Judge Dupree’s father never attended grammar school. He attended high school when he was twenty-one years old, then went on to the University of North Carolina School of Law for two years, took the bar examination, and became a lawyer. He practiced law for fifty-five years in Angier. Judge Dupree described his father’s relation to the town:

He became something of a patriarch. Everybody knew him and relied on him. He was just a good solid citizen. And he had an opportunity to come to Raleigh and join a big firm here, and he turned it down because he wanted to be a lawyer for all those people, and that’s what he did.

After Dupree graduated from law school, he went to work with his father. Because it was during the Depression era, he said, there was really nowhere else to go. He handled collection work for his father for a couple of years, and when his father decided to open a branch office in Dunn, Dupree went there. The idea was that he would soon become self-sustaining there, but there was very little business in Dunn. Judge Dupree described these as very hard times for lawyers, and particularly lawyers just starting out like himself, because few people had any money to hire a lawyer. Lawyers' bills for fees, as well as other debts, went unpaid. Judge Dupree described an incident that occurred when he was practicing law in Dunn that illustrates the prevailing attitude toward personal debts during the Depression. He was stopped at a filling station to fill his tank and one of the more affluent citizens of Dunn came up, put his foot on Dupree's running board and said, "Dupree, somebody was telling me that when anybody sends you a bill, you haven't got any better sense than to send him a check for it."

The Dunn project failed, and Dupree went back to Angier to help his father and his father's partner. His father suggested that Dupree might be interested in insurance defense work. He referred Dupree to A.J. Fletcher, a lawyer in Raleigh, and Fletcher got Dupree an interview with Colonel Dautry, head of the Atlanta office of the Hartford Accident and Indemnity Company. Dupree bundled up his bride-to-be and her sister, who went along as a chaperon. They boarded Dupree's Ford coupe and went to Atlanta where he interviewed with Colonel Dautry. Dautry told him that what he really needed to do was to return to Raleigh and work for Mr. Fletcher's law office, and he sent Dupree back to tell Fletcher that. Dupree and Fletcher struck an agreement whereby Fletcher would begin to give Dupree some of his work. One thing then led to another as Fletcher started to give him more and more work. Gradually Dupree worked his way into the practice of law with Fletcher.

Apparently this occurred more through surprise than planned advancement. Judge Dupree recalled an incident when, as part of his work for Fletcher, he was watching court calendars for Fletcher to tell Fletcher when cases were calendared for trial. Dupree returned to the office from court to tell Fletcher that a case was coming up on the calendar and would soon be called. He offered to go down to the courthouse and wait until the case was called so that he could inform Fletcher and Fletcher would not have to lose valuable time waiting in court. Dupree went to court and when he returned to the office to tell Fletcher that the case was set for eleven o'clock, Fletcher said,

"That's fine, you go down there and try it and let me know how it comes out." And that's what Dupree did.

Dupree continued the relationship with Fletcher until 1943, when he went into the service during World War II. He was characteristically understated about the details of his military service but had what he called "a very distinguished career." He was in the Navy in World War II, serving in both the Atlantic and the Pacific, and rose to the levels of ship executive officer and navigator.

As an executive officer in and around England and Scotland, he was second-in-command of a flotilla of ships, moving them in and out of harbor for repair and dry dock. He also had fairly extensive service in the Pacific, from Pearl Harbor to Midway, to Guam, and to Okinawa. He spent much of his time supplying fire support from ships to infantry who were on the beaches. He witnessed kamikaze attacks and was off the coast of Japan when the first atomic bomb was dropped.

After the war, Dupree resumed his work for Mr. Fletcher and stayed there until 1948 doing exclusively Fletcher's work. He also began to take over as the lawyer for some of the businesses which Fletcher was starting. This legal work expanded rapidly, and in 1955 it was necessary for Dupree to take on a partner, G. Earl Weaver. Additional partners were added and by the time Dupree left the firm in 1970, the firm had six lawyers.

Judge Dupree said that his family had always been Republicans, dating back to before the Civil War, when they were avowed abolitionists. His great-grandfather voted for Abraham Lincoln and had to do so by write-in ballot because in 1860 Abraham Lincoln was not on the ballot in North Carolina. When the vacancy for a federal judgeship came open in 1970, Judge Dupree said,

[i]t happened that . . . Mr. Nixon, a sometime Republican, had been elected to the Presidency, and so I put my name in the pot for this position. And one day when everybody was looking the other way, I reckon somebody made a mistake and appointed me, which resulted in that commission which you see up there, which is signed by the said Mr. Nixon.

Actually, the appointment process was quite involved. There were many meetings of Republicans in North Carolina, presided over by Jim Holshouser (a UNC law school alumnus who later became Governor) to decide upon a nominee. Senator Sam Ervin introduced nominee Dupree to the Senate Judiciary Committee. After he was appointed, the new judge wasted little time getting to work. The

swearing-in ceremony and the luncheon that followed were held at the Raleigh Civic Club on top of the Sir Walter Hotel. Judge Dupree participated in the festivities, speech-making, and glad-handing for a while, then finally stood up and said, "As a citizen and taxpayer, I don't think a federal judge ought to be down here wasting time and money. I'm going to work." He left for his office and signed his first order that afternoon.

Judge Dupree talked about why he became a judge and what he likes about the job:

I had done everything [as a lawyer] that I was ever going to do. I was just doing the same thing over and over again. I could draw pleadings off the top of my head in all the stuff that I was doing without ever looking at a statute book or anything and just cite them book-by-book and page, if necessary. And it was just old. It was a good living. I was doing all right. Well, you don't get rich practicing defense law, and that's what I did. But, I was sort of living out what Dean Van Hecke told me when I was a freshman in law school over there. He said, "You will work hard, live well, and die poor." The only thing that remains for me to do, which in the light of the present condition of my exchequer, the only thing I have failed to do is to die poor. But when I die, I will be poor. But I have worked hard, and I have lived well, and one of the finest things about this position—the thing that I treasure more than everything else put together—I don't care anything about whether people regard you as being a judge; that doesn't mean anything to me. The thing that has meant so much to me has been the opportunity that it has afforded me to associate on a daily basis with young men and young ladies. . . and it's been just a completely rejuvenating process. And for me it's been an entirely different world that I have enjoyed separate and apart from the law practice."

Judge Dupree said of his work as a judge and his work as a trial lawyer, "When I go in the courtroom, I feel like I am at home. And I love juries. I love jury trials. And I love the court family." He ascribed to his father and to A.J. Fletcher, with whom he practiced for so many years, the roles of mentors in teaching him how to practice law and manage cases.

Though he was active in Republican politics and served as Chairman of the Republican Party in Wake County before becoming a judge, he said that it makes very little difference, ultimately,

whether someone is Republican or Democrat when he becomes a federal judge:

That doesn't make a lot of difference; when you take this position, you cast aside all considerations of party affiliations, because if you're going to be a judge, you have got to approach every case with the same open mind and the same search for justice that you do in any such endeavor. There is something that when you get appointed to this position that sort of comes over you and imbues you with a desire to do justice, to reach the right result, regardless of where the chips fall. This is what I have striven for. I may not have always done it, but this was what I was trying to do, and this is what I believe all the other judges are trying to do.

Judge Dupree also spoke about the qualities one needs to have to be a judge and a lawyer:

I think integrity, the will to be fair and apply the law as written, regardless of the outcome of the thing. Probably I would put that paramount. A judge needs to be intelligent, not necessarily brilliant, he can use his law clerks for that. But he needs to be intelligent. He needs to have a good analytical mind, so that he can pinpoint the issue in a case. There are so many lawsuits that give rise to a variety of questions, but at the central core of most lawsuits there is one overriding issue, the answer to which will give the correct result. So a judge needs to be able to cut away the chaff and go straight to the heart of the case, the issue which the outcome really turns on. A judge needs to be considerate of all court personnel, the bailiffs, the marshals, the clerks, and the deputy clerks, and the court reporters; he needs to be considerate of the welfare of jurors. You know a juror comes to this court, not because he had in mind that this is something he wanted to do; he comes because he gets a summons that says, "You will be there!"—the penalty for noncompliance being, maybe, a jail term. So they come kicking and screaming into court, but when they get here, they perform a service which is essential in the administration of justice, and they deserve to be treated like human beings, and every consideration should be given to their comfort and welfare while they're here.

A judge needs to be courteous with the members of the bar. He needs to understand that he was once one of them and that judges can make it awful tough on a lawyer if they care to. But courtesy toward the bar I think is essential to being a good judge. Of course, this quality of courtesy should be practiced with witnesses. A judge should never

dress down a lawyer in open court in front of his client. If the lawyer needs dressing down, if it can't be done at the bench, then he should retire to the chambers with him and tell him that this conduct will not be tolerated, and usually that's sufficient. But never embarrass a lawyer before his client. And whatever you do, never forget that once you were one of them.

Judge Dupree also spoke about the importance of organizing and running courts efficiently, and about steps he took to eliminate waste of time by jurors who were summoned and not called. He prided himself in running courts precisely and promptly and having people where they are supposed to be. He said that in twenty-one years, he has himself been late for court only one time and that was when his car broke down. On that occasion, he was two minutes late. Judge Dupree said:

You can set your watch by the time we run this court. And I had people appreciate that—jurors. They know what to expect, and they do it. Well, these are little mechanical things, but these are things that I instituted here in an effort to correct what I perceived to be terrible shortcomings in the way it was done at the Superior Court level, and for that matter, it was done that way in this court. Back when they had just one judge and not a whole lot of work to do, this court was run like Superior Court. It's not run like that anymore—not since I have been here.

Finally, Judge Dupree said of his job and the work he does as a federal judge that he appreciated the opportunity to talk about that in the interview, but he thinks that law schools and other people—law students in particular—place more importance on his work than he does. With his usual modesty, he said, "I just don't, well, I just never thought of it as being anything but just getting up and going to work."

JUSTICE HENRY ELL FRYE: "THE IDEA IS SERVICE"—HELPING
THE STATE LIVE UP TO ITS CREED

Henry Frye was born in August, 1932, in Ellerbee, North Carolina, in a small white frame house on a tobacco farm of less than fifty acres, about a mile from town. He was the eighth of twelve children—six boys and six girls. His parents owned the farm where he grew up and also farmed land belonging to other people in an arrangement known as "farming by halves." (His parents furnished the labor, the other party furnished fertilizer, and the profits from crops were divided.) He and his parents, brothers, and sisters farmed

tobacco, cotton, corn, watermelon, cantaloupes, and beans—as Justice Frye says, “You name it.”

Justice Frye described his family’s ethic as one of hard work. According to his father, everyone was to work from “cain’t to cain’t” (which meant that you worked from when you “cain’t see in the morning until when you cain’t see at night”). Justice Frye recalled on occasion going to a saw mill early in the morning with his father to load lumber which they delivered for a fee, and they had to wait for the sun to come up so they could see to load the lumber. Frequently, he would take a load of lumber to some location before he would go to school in the morning.

Justice Frye recalled the principal of his grammar school who apparently took an interest in all of the 300-400 children who attended there. The school began a band, and Frye had a great desire to play saxophone. To his disappointment, he was instead assigned to play another instrument. He quit the band and was soon summoned to the principal’s office. He was afraid to go, and when he got there, the principal said, “What’s this I hear about you quitting the band?” Frye replied he didn’t like his instrument, and the principal said, “Let me tell you something. Winners never quit and quitters never win. Now you go back out there and get that trombone or whatever and start playing.” Frye rejoined the band and continued to play until there was a concert. After that the band instructor suggested to him that perhaps his time would be better spent concentrating on some other worthwhile endeavor.

Among the people in his community who influenced him as he was growing up, Justice Frye remembers a man named Walter White who was very active with the NAACP. He also admired Thurgood Marshall and Clarence Darrow, but generally had an unflattering image of lawyers since lawyers were not held in high regard around Ellerbe among the people he knew.

When he was in high school, Frye considered becoming a pharmacist or a dentist. He went to College at North Carolina A&T in Greensboro and took courses in chemistry and biochemistry, both of which he very much enjoyed. At A&T, he came under the influence of Dr. Isaac Miller, an excellent, young teacher who later became president of Bennett College. Frye was active in ROTC, participated in a number of plays that were produced between A&T and Bennett College, and graduated from A&T with highest honors. He was then commissioned as an officer in the Air Force.

While waiting to assume his commission, he tried unsuccessfully to find work around Greensboro and extended his search to New

York. He finally had to settle for a job with a meat packing plant owned by Armour & Company. There he worked in a slaughterhouse, handling the carcasses of slaughtered animals after they were killed, putting them on racks, and cutting up the carcasses for various cuts of meat. Justice Frye put a high value on this experience and said that he made good money, built up his muscles, and learned a lot about people.

It was after he entered the Air Force that he got his first positive view of lawyers. Justice Frye said: "I just got the wrong impression, I suppose [around Ellerbee], that most of them were very terrible people whose job it was, as a lot of folks around there said, to 'lie people out of trouble.' So I did not have a very high opinion, generally, of lawyers." The lawyer in the Air Force who changed his ideas about the profession was a young man who spent free time teaching prisoners (military prisoners who were in the stockade) to read and write. Justice Frye said, "This just sort of shocked me. Here this guy is, this was in Japan, and of course on the weekend, all the rest of us were going out and having fun, and this guy was spending his free time doing this. That sort of changed my idea a little bit." It sparked his interest about law as a possible career, and he began to read about lawyers and their work.

About this time, Frye talked with Kenneth Lee, the black attorney in Greensboro who was one of the first African-Americans admitted to the UNC School of Law and who handled a good deal of the early civil rights work in the Greensboro area. Lee further convinced Frye that law was an honorable calling. Frye told Lee that he had been discouraged about going to law school because he knew that he did not have any connections to bring him business when he got out to go into practice. Lee told him, "Don't pay any attention to that stuff. You go down, and you do well, and you'll be all right."

Based on Lee's encouragement, Frye applied to law school at Carolina and was accepted. He was the only African-American in his law school class, but did not feel that caused him major problems. He was married by that time and lived in Greensboro with his wife and commuted to Chapel Hill. Though he would have expected to be excluded from law school social life, he had no time for it anyway.

When Frye graduated from law school, he went to Greensboro to practice and was sworn in before Judge Richardson Preyer. He talked about some of his first cases, including one in which he represented cafeteria workers at UNC-Greensboro who were on strike and had no one else to represent them. He took the case for a relatively small fee, which he said was all they had to pay. He clearly

believes that a lawyer should be motivated by more than the prospect of a fee in deciding whether to take a case. He spoke about the importance of service:

[T]his is a little old-fashioned, I suppose, but I think of a lawyer as being a person who is performing a service and that your primary interest ought to be in performing a service for someone, realizing that you need to be paid for your work, but that you're working not just for the pay; you're working because you want to perform a service. And whether that's helping someone who needs to have a will drawn or handling their estate or advising them about various things or whether it's representing a big corporation, or whatever it is, that the idea is service. Of course, the servant is worthy of his hire. But the emphasis ought to be placed on service; then the money is another thing.

I recall this elderly woman who was getting ready to go to the hospital and she wanted a will drawn before she went to the hospital. And the undertaker . . . who was her friend . . . called me and told me that this lady wanted a will, said she had seventeen dollars, that's all she could afford, but he called and asked me if I would do it for her. I told him, yeah, I'd be glad to do it. So she came in, and I got all the information and everything and told her to come back in a couple of hours and I would have the will for her. And she came back, and she was a lady who made a living as a housekeeper, and so she brought the lady for whom she worked with her, along with another neighbor to my office, because she wanted them to be witnesses to her will. And we did. And she went into the hospital, and she lived after the operation, thank goodness. That lady sent business to me as long as I practiced law. People were always coming to me saying that this lady was the one who sent me. And incidentally, later, about two or three years ago, she was honored by Channel 2 [WFMY], the TV station in Greensboro, as a person who cares for the community. She was the kind of person who did a lot of work in the community, helping people and so forth, so she was one of the people who was honored by them. I was there, and she reminded me of that at that time.

He also spoke about other aspects of his practice in which his service went beyond what is traditionally considered "legal work" and in which the term "counselor" takes on broader meaning:

[T]hat was another enjoyable part of my practice—advising people concerning their estates and regarding

planning for the future and doing wills and estate planning and things of that nature. I had several people who sort of came to me on a regular basis, I think, not so much for legal advice, but for practical advice—elderly people whose children or grandchildren were not doing as they thought they should, and they were trying to decide whether to name them in their will, or whether to give the money to charity or something, and what they could do to work with them and to help them and that type of thing. I probably spent more time than I should dealing with things of that nature.

While Frye was practicing in Greensboro, he was persuaded to run for the General Assembly. At that time there had been no black person in the General Assembly in this century, and he decided it was time for somebody to try. Candidates ran at large for six seats. Frye came in seventh. The sixth person to win a seat, who was the lowest winning vote-getter, was James Exum, later Chief Justice of the North Carolina Supreme Court. Frye decided to run again, and the second time he ran he won, as he said, "fairly handily."

In the General Assembly, Frye found himself serving essentially as the legislator for blacks across the state. There was, he said, "virtually no dialogue between a lot of blacks then, and their representatives in the legislature." The first thing Frye did was to push through an amendment to abolish the literacy test as a requirement for voting, a bill that had special meaning for Frye because he had personally been subjected to such a test. When Frye was presenting the bill on the Senate floor, a white senator asked for the floor and said the amendment had nothing to do with race. When the senator finished, Frye rose to respond. He explained that the bill had very much to do with race, that race was the primary reason for the literacy test, and he gave his own, personal example to illustrate that. He felt that his speech helped to get the bill passed.

Justice Frye said that he made a lot of friends in the General Assembly and that a lot of people were very helpful to him. There were still times, however, when he had to fight for his rights. He remembered one incident in particular. Because of the seniority he had accumulated, he was entitled by tradition to seventh pick of the available offices in the General Assembly. The Chairman of the Senate, who was in charge of assigning the offices, ignored him in the pecking order, leaving him out of the office selection process altogether. Frye complained, and several members came to him and suggested that he not cause trouble. Frye said he was sorry, but he felt he had to pursue his rights. He continued to make an issue of his

exclusion, and finally the Chairman relented. Frye was allowed the seventh pick of offices. Of course this meant that another member, who had been allowed to choose that office in his place was ejected. Frye received criticism for this, but said he had no regrets about standing up for his rights.

While in the Senate, Frye was on the Appropriations Committee and was assigned to a subcommittee whose job it was to visit state-supported institutions and examine how money was being apportioned. He found that in regard to orphanages, white orphanages were receiving a disproportionate amount of the funds compared to black orphanages. His subcommittee devised a formula that corrected that.

In 1971 Frye organized the Greensboro National Bank. He had observed in Greensboro that in every business he knew, whites were in charge and blacks were either operating elevators or sweeping floors or, if the business was a retail store, coming in as customers. In banks all the tellers and officers were white. One day, he visited the North Carolina Mutual Life Insurance Company, a very successful black-owned business in Durham, and saw a very different situation. Black people were walking about in suits and working, not only as tellers, but as bank managers and executives. He visited the black-owned Mechanics' and Farmers' Bank in Durham and saw the same thing. The contrast between those institutions and what he had seen in Greensboro convinced him that something should be done. His friend Kenneth Lee had organized the American Federal Savings and Loan Association in Greensboro, which was controlled by black people. Using this example as further inspiration, Frye began to organize a bank that would be run by black people.

Justice Frye recounted the story of the bank's founding at some length:

To give you some idea how much nerve I guess I had—first of all, I didn't have any money, and everybody told me that if you're going to organize a bank you've got to have some money. I said, "Well, we'll get some money." So I started talking to people and trying to get some interest in it. The controller's office . . . for the region for North Carolina is in Richmond, Virginia. So [at] any rate, once I got a group of people, a small group who were interested enough to agree to put up a little money, I went to Richmond. I caught the bus, went up there, transacted my business; I had to spend one night up there and then caught the bus and came on back. At any rate, they told us we needed \$300,000 capital minimum in order to start. The

next time I went back, it was \$500,000. The third time, it was \$700,000. I said, "We better hurry up and get started because at the rate we're going, we never will get it." . . . I finally pulled some people together. I told them that what we needed was 10 people, and I said that everybody has got to have at least \$10,000 except me. The minimum you had to have according to the way we had it set up was \$2,500 in order to be an organizer. I said I would come up with \$2,500 somehow. So I got the other people, and I borrowed some money, . . . and we put the money in an account.

We started working on it, and, after a period of time, we were able to find a person from Richmond, Virginia, who was a vice president of the bank up there—a black person, you know, who was going to come in and run the bank for us. We did our offering circulars and started distributing the offering circulars. He called me and told me that he was not going to be able to come because of some things that had occurred at the bank [in Richmond]. . . . So we had to start all over again. We had to tear up those offering circulars, had to find somebody else. . . . [S]o when I found somebody who was really qualified to do it, he said, "Well, do you have the money to open the bank?" And of course I said no. We can't get the money until we know who is going to run the bank because people are not going to subscribe to stock if they don't know who is going to be handling it. Again, to make another long story short, I talked with Tom Stores, who at that time was heading NCNB, which is now NationsBank. He told me that there was a retired person from his bank who would, he thought, . . . be happy to work with us in organizing the bank, who had a lot of great experience and that type of thing, that it would be worth talking to him, and so I did. So I talked with Mr. Witherspoon, that was his name. He agreed to come in and help us with the bank as really a consultant is what it amounted to. . . . So we finally found a person who was not near ready to run a bank but who at least had a good background and we brought that person in. . . . [W]e decided to make me the president of the bank even though I'm a lawyer . . . but with the idea of training this person to eventually become the president. So that's what we did, and Mr. Wheeler who was the president of the bank in Durham, Mechanics and Farmers Bank . . . agreed to take the person down there for three or six months prior to opening the bank to give him some experience in a small bank because the guy came from Chemical Bank in New York. He did

that. So . . . we finally opened with me as president (and working without pay, incidentally) and finally got started.

So it was \$700,000 that we had to have in order to open the bank; that is in the amount of stock actually paid in. So the organizers came up with a little over \$100,000, and then we got the rest of it from other people who subscribed. . . . So we opened it, and I served as president for ten years. Each year the income of the bank went up just a little bit, not much—very slow; but it was an increase, it was going in the right direction. . . . [It] was a real experience and one of the things when we opened, we opened in a trailer. I remember talking to a lady about putting some money in the bank, and she said that she wasn't going to put any money in there because the wind might come along and blow that trailer away, and when we got a permanent building, then she would put some money in that bank. She actually thought we were going to keep all the money . . . in that trailer. She didn't know that . . . it just flows through and that type of thing. But we had a lot of interesting experiences with that. That's one of the things that I'm glad that I did.

Frye was appointed to the North Carolina Supreme Court in 1983. When he was asked by Governor Jim Hunt to assume the seat, he thought it over and said he would need at least six to eight weeks to wind up his law practice. Governor Hunt said, "I need you to be on the Court in the next session," which was about three weeks away. Frye had that long to wind up a law practice of twenty-one years.

Because he had a history of strong opposition to the death penalty, when Justice Frye came to the Court he was confronted with the issue of how he would react to death penalty cases. He finally concluded that as long as the General Assembly had spoken and the death penalty was part of the law, it was his duty as a member of the Court to uphold it. That is essentially the approach he has taken. He stated:

I have voted and gone along with opinions which have upheld the death penalty in North Carolina and will continue to do that where I feel they have been tried in accordance with the law, and the law has been followed. . . . I think the question as to whether it should be part of the law is a policy question, which is for the Legislature. And the Legislature has made it fairly clear—not fairly clear, it has made it clear in North Carolina, as in some other states—that that is part of our law. So at any rate, the key now seems to be to have it administered so that only those

who commit the worst crimes get the death penalty. . . . And it's about as good a system as you could get, if you're going to have the death penalty as part of the law in North Carolina.

Justice Frye was asked what sort of advice he would give to a young judge on the Supreme Court, and he replied that it was good to have a thick skin. He told a story about his own experience as a young justice writing his first opinion. He wrote the opinion and circulated it among the other justices for comment. Shortly thereafter, Justice Harry Martin brought the opinion back to him. Justice Martin had marked it up considerably and made a number of suggestions and criticisms. He suggested that before the other justices had a chance to read it, Justice Frye should go around and collect the drafts and do a thorough rewrite. Justice Frye's first reaction was indignation. He thought, "Who are you to tell me to pick up my opinion?" But after he thought it over, he realized that Justice Martin was really trying to help him. So he followed Justice Martin's advice and picked up the opinion. He worked it over, following some of Justice Martin's suggestions, and then discussed it with some of the other justices before he resubmitted a draft. That draft was well received, and Justice Frye realized that part of his job was to learn to take criticism and suggestions from the other justices. He said:

I have to say that's not easy to do, because most people who come to this Court feel that they are pretty good, and they can write about as well as anybody else. So it takes a little humility to be able to accept the fact that somebody says to you, "You're not saying what you think you're saying."

Justice Frye concluded by commenting on his vision for the future of North Carolina:

[W]ith the right leadership, North Carolina should go into the twenty-first century as a more progressive state. I don't see any signs of any great movement right at this time, and by saying great movement, I mean great movement either way, but there's always hope. . . . I would like to see North Carolina live up to its motto, "To be rather than to seem" and to be, I mean, to do a better job of being fair and open in everything from employment in the state government to encounters in the cities and that type of thing, and I would like to see our industries do a better job of being open in terms, again, of employment and not just employment but promotion and that type of thing. I'd like to see us do a lot better job especially with our secondary schools in terms of

giving them the kind of support that is needed in those areas and just real leadership both at the local and the state level.

JAMES C. FULLER: THE DUTY TO "GIVE SOMETHING BACK"

Jim Fuller's story reflects the evolution of a "southern white boy," raised in the segregated south, who awakened to racial and social issues and eventually to a life of extraordinary service as an attorney. Fuller was born on July 19, 1942, in Salisbury, North Carolina, and later moved to High Point. His maternal grandfather was an engineer on the Southern Railroad, and he remembers riding in the cab of the train with his grandfather. "It's just kind of a hoot for a little five-year-old kid to get up in the cab of a train and blow the whistle. I probably didn't go 200 yards, but I can see it as vividly today as when it happened." The elder in his family, with whom Fuller had the closest tie, was a great aunt he called Mama Pearl, who had also raised Fuller's mother. He remembers Mama Pearl as "very traditional, affectionate and warm. She was the kind of quintessential white southern grandmother, fried chicken and gravy, who showed a lot of affection through family meals." Fuller said he learned a great deal from her.

In his interview, Fuller related that he was very affected by his religious upbringing and found wonderful messages in some of the religious teachings he learned as a child. But as he became a teenager, he became disaffected with the church and was particularly offended by the way some Southern Christian churches became impediments to the civil rights movement and social progress.

Fuller described himself as competitive even in his youth, a trait that in occasional excess brought him some valuable lessons. One of these was in humility. In high school he had a girlfriend named Nancy with whom he competed for grades. He describes her as "one of those . . . perfect people who always made 100. She's the one where you both would do the report and she'd draw flowers around the corner of hers; I'd make an A; she'd make an A+; I'd make a 97, [and] Nancy would make a 99." On an upcoming test he was determined to outperform his sweetheart and worked extra hard to score 100. He indeed scored 100, but Nancy received bonus points for something extra she had done and scored 102. Fuller saw these results as he went through all the papers on the teacher's desk where they were placed for the students to pick them up. He was so annoyed he threw the papers down on the desk and walked out of the room. Behind him, he heard some of his fellow students saying to the teacher, Ms. Shaw, "How can you let Jim do that?" Ms. Shaw never

looked up from her writing on the board. She simply said, "He'll be back." By the time Fuller reached the bottom of the stairs, he had begun to regret his behavior. He knew Ms. Shaw was a good teacher, and that he was wrong and she was right. He went back upstairs and picked up all the papers off the floor, put them back on the desk, and sat in his seat. Ms. Shaw, still without looking up from her writing, said in a loud voice, "I told you he would."

Fuller told his interviewer a story about his mother and how she affected his attitudes about race. He was then a sophomore in high school, and his mother had begun to work as a program director for the YWCA in High Point. As part of her job, she was to attend the national convention for program directors and staff. The YWCA was racially integrated on a national level, but an issue arose concerning attendance at the convention by the one black program director in the YWCA system in High Point. The assumption was that since the High Point YWCAs were segregated, the black director would be told she couldn't go to the national convention. These questions arose in a staff meeting to which the black program director was not invited. Fuller recounted the story as follows:

My mother said, "Don't be silly. If we are going to go, she's going to go, or I won't go." Somebody said, like it was a big deal, "Who in the world would room with her?" My mother said, "I will. Furthermore, if she doesn't go, not only will I not go, I'll quit."

Fuller continued,

[A]nd that doesn't sound like a brassy thing now, but that was in 1958, in a totally segregated town. . . . That's what I mean; my mother had a lot of courage when it came to individual people. She could not abide being hurtful or discriminatory as an individual [even though she basically accepted the status quo of racial segregation]. The end result of the story was that the black program director was invited to go to the convention. She went and apparently never knew there had ever been a controversy about whether she should be invited.

Fuller was a football star in high school, playing in the East-West all-star game which included the best players in the state. He also lettered in basketball and track. He fondly recalled the influence on him of his high school football coach who "worried more about playing fair than winning."

When he went to college at Davidson, he again played football, but in other respects his college career was not entirely smooth

sailing. ROTC was then a required course at Davidson and not Fuller's favorite subject. He had to return to Davidson for an extra semester to take and pass it. When he was asked about his major at Davidson (English), Fuller said, "There is some reason to believe I majored in fraternity, too. I had very good semesters and I had awful semesters. I can't tell you one from another."

Fuller did, however, spend some serious moments at Davidson. He took a course with a professor from India who taught "Psychology of the Color Problem." Fuller recalled that he learned there about the effects of racial discrimination in the context of the British Empire and about India's struggle for independence and the influence of Ghandi. In that course, he saw the effects of racism and began to think, "Well, wait a minute, it's even worse here."

After he graduated from Davidson and spent the extra semester to finish ROTC, Fuller had about eight months to wait before starting law school. He used that time to further his "real-world" education. A friend at Davidson suggested that he go to New York City to work with a minister she knew who ran a church in the Bedford Stuyvesant area of Brooklyn.

Fuller continued, "I got there right after some of the Bedford Stuyvesant riots, where some people had been killed about a half block from the site where the preacher lived. So I spent about eight months doing everything from running errands to walking around wild-eyed learning about life in Brooklyn." Fuller was in charge of the church's youth program and spent much of his time teaching basketball to kids from his neighborhood and supervising sports and other events. Reverend Knight, the minister for whom Fuller worked, was a charismatic man from a wealthy and prestigious family. The people in his church called him "Big Daddy." Fuller recalled a particularly memorable story about Big Daddy:

One . . . thing we were trying to do is take back the neighborhoods, and they were falling apart, and there were good people living there. We were forming self-help groups; that was one of the things the church did. They'd go to the bank and, dammit, get turned down. It was redlining before people even knew what to call it. . . . [Big Daddy] was a big old guy about six foot five, three hundred pounds and had this very affected way of talking about everything. So he says, "Well we've got to get some money for these groups; we've got to be able to repair and build up these houses." They were nice old brownstones that were worth a lot of money and certainly in good condition but needed repairs because they were old brownstones. The Dime Bank was

probably not three blocks away, straight down on Oxford Street, and Big Daddy went down there and tried to get a loan for this group, and the Vice President said he couldn't do it. So Big Daddy stood up and said, "Well, we all have to do what we all have to do." Stormed out and the next morning about eight o'clock in the morning three hundred people were standing out in front of the Dime Bank holding passbooks up in the air. They called a meeting of the Board of Directors by emergency conference call for [approval of] three million dollars right on the spot. It was the damndest thing I've ever heard about. [Big Daddy] said, yes, it was good that the timing had been such as it was, because once the first three people who really did have passbook accounts there were through, he didn't know what he'd do with the rest of them who'd never been in the bank before.

Fuller did not particularly like law school. He hated the classes and the paper chase. In his first year he left at Easter, and Dean Dickson Phillips left word that he wanted to see him. He went to see Dean Phillips, who strongly suggested that he finish the year. Fuller replied that he didn't want to be a lawyer, that he was going to drop out and go to English graduate school. Phillips told him, "Well, you may change your mind. You may get a little older and want to be a lawyer and if you drop out now, you will get straight "F"'s and you'll not get back in here or anywhere else." While Fuller was pondering Dean Phillips's warning, he went into a drug store on Franklin Street in Chapel Hill and saw for the first time the woman who would eventually become his wife. He fell "head over heels" in love and decided that staying in Chapel Hill was probably not a bad way to finish the spring. He remained in law school and was able to rescue most of his courses.

Fuller did well enough thereafter to win a clerkship with Justice Susie Sharp on the North Carolina Supreme Court. Fuller recounted: "In some respects working for Justice Sharp helped fashion or increase my interest in the effect of law on women. I actually sort of did my own little project that year and was very surprised to see the extent of discrimination."

After clerking, Fuller applied to the firm of Chambers, Stein, Ferguson and Lanning in Charlotte, the only firm he wanted to work for and the only firm to which he applied. He got his job there, he said, by badgering the firm to death. Fuller described his experience as follows:

Well, that's the only place I wanted to work, and I walked in and Mel [Watt] was grouchy as usual. [Jim] Ferguson

didn't know who I was and why I was there, and he must have had two hundred applications. He couldn't even find my application, and every time he'd turn a page, I'd see Harvard, Yale, Chicago. Finally, I got to meet with [Julius] Chambers, after waiting about an hour and a half. I didn't realize everybody waited an hour and a half to meet with Chambers. It was clear to me I didn't have any chance at this job. . . . Chambers was talking about starting a black savings and loan, which I did think was a good idea. One of the phrases then was, "Go from black power to green power." I thought it would be a great idea to have a primarily black-owned savings and loan. So, Chambers said, "One thing we could do to give a little economic stability to the firm and also help to get this project under way [is to hire] somebody to do property law." I said, "Well, Mr. Chambers, funny you should mention that, I really enjoy property law. I would love to get involved in property law."

With his newly discovered interest in property law, Fuller returned to Chapel Hill and asked every law professor he had had to write letters to Julius Chambers and Jim Ferguson. He later learned that one of the firm's partners, at the meeting in which it was decided to hire him, remarked that he thought Fuller must be an SBI plant because nobody could have that many recommendations from people with establishment credentials and still want to come to that law firm.

Fuller recalled very fondly his time in the Chambers firm. He spoke of visiting the NAACP Legal Defense Fund in New York to work on a case with Jack Boger, a lawyer he did not know then but whom he had heard a lot about. As they worked on the case, Boger mentioned that he was from North Carolina. Fuller was astounded. He told Boger that he found it hard to believe that a white man from Concord, North Carolina, was in New York working for the Legal Defense Fund. Fuller related that Boger looked at him and said, "I hate to be the one to tell you this, Fuller, and maybe you just haven't looked in the mirror lately, but you're a white guy from High Point working with an interracial civil rights firm."

Fuller was clearly influenced by Julius Chambers and has a tremendous amount of respect for him. He recounted what it was like to work in the Chambers law firm:

As Chambers used to say, we were ripping and zipping. It wasn't unusual to have Saturday morning office meetings. Something would be happening in Wilmington, Elizabeth City or Asheville. We didn't have either the personnel or the mindset that you carry somebody's briefcases forever.

You go watch somebody one time and then you're supposed to go do it. It was a lot of energy and a lot of hard work. We sometimes gave the appearance of being better organized and prepared than we were, and a lot of people thought we must have been, to lay out a case like that, we must have had it ready for a month. That wasn't because I think we had sloppy work habits, we just had tremendous case demand and a tremendous financial demand. We were doing desegregation cases up until the mid-Seventies. They'd take forever to do and very little money coming from the Legal Defense Fund. Then, we were usually doing them, and not getting paid and a lot of the expenses coming out of our pocket. It was not unusual to miss a few paydays back then. That's something I don't think I ever mentioned to anybody. It's not something the firm talked about. You only got a certain amount of money; you pay the staff. If there's none left over for the lawyers, you wait until next month. It meant we really had to win about every case. And we did.

Fuller worked on a variety of cases as a civil rights lawyer with the Chambers firm, including criminal cases, housing discrimination cases, and school integration cases. One of the most intense areas of his practice involved representing teachers from the school system before the Charlotte-Mecklenberg School Board as well as professors at community colleges and other colleges in the area. After leaving the Chambers firm, Fuller worked with Bill Thorp's firm in Raleigh doing primarily plaintiff's work before forming his own law firm. But he continued his heavy involvement with cases with social issues. One was a case with Morris Dees and the Southern Poverty Law Center to obtain an injunction freezing the assets of the Ku Klux Klan. He also worked on death penalty cases and civil rights cases.

Fuller concluded his interview with reflections on lawyers and public service:

I think there are a lot of things that this type of job gives us the opportunity to do, to be of service. I thought it was nice when the lawyers built a Habitat house. To me that's a lot more important than getting together for a drinking reception, although it's nice also to go say hello to everybody once in a while. I guess you have to wait a long time to [know] whether, to what extent, things have worked out or not. It really was something I probably got from Chambers, but also from [Jim Ferguson] and everybody else. I think one of my favorite lines from *Ulysses* is, "I'm a part of all that I have met." I think one of the messages is that you're

supposed to give something back. I hope when all of the dust settles, I would have done a little of that.

ELLEN W. GERBER—REPRESENTING WOMEN AND THE POOR:
“DON’T FORGET OUR SPECIAL NEEDS”

Ellen W. (“Lennie”) Gerber graduated from the UNC School of Law in 1977. She was born on January 3, 1936, and grew up in a middle-class Jewish neighborhood in New York City. She attended Sargent College (Boston University) and received a bachelor’s degree in physical education. For approximately seventeen years she taught physical education at the college level in various places, such as the University of Texas in Austin, the University of Iowa, the University of Minnesota, and the University of Pittsburgh. During that time she earned a Ph.D. in the History and Philosophy of Sports and a master’s degree in English. She wrote a number of books and articles on sports and the philosophy of sports and co-authored the first college text on American women in sports.

Gerber recalled that as a child she was taught by word and example that men and women were equal. Her parents both worked and shared household responsibilities and made no distinction between themselves in these roles. She assumed that was the way it was everywhere. The same was true for the treatment of the races: her parents taught her to respect all people and not differentiate on the basis of the color of one’s skin.

Gerber described a trip to Florida with her mother and father when she was about thirteen years old. On the way south, they visited Williamsburg, Virginia, and went to the capitol building in Richmond. There were signs on the water fountains saying, “White,” “Black,” and “Indian,” and she had no idea what they meant. She asked her father to explain the signs to her. When he told her the purpose was to segregate the races, she was astonished. She said, “But this is a government building.” She recalled:

I couldn’t understand then, as I can’t today, how any government could ever segregate that way. And I remember from that time on driving south from that moment in Richmond, you know, noticing it. First understanding the notion of segregation, which of course, again, growing up in New York, it was not apparent, although I have come to think that it was there in other ways. I was just shocked.

When Ellen Gerber left home for college, she was again confronted with unequal treatment of people based on their race. She was also exposed to discrimination against women. As a result of

those experiences, she began, through her work in physical education and later as a lawyer, to devote her life to dealing with these inequities. Her work for justice in the legal system began in law school. She was one of a group of students who attempted to persuade Dean Robert Byrd and the law faculty to begin a clinical program. She also undertook an independent study with Professor Dan Pollitt, working to answer requests from prisoners for legal assistance. Through Gerber's efforts and the further work of a fellow student, Margot Freeman, the law school's Prisoners' Rights Project was ultimately developed.

Gerber was also heavily involved with Women in Law. One of the issues of particular concern to that group was the problem of law school bathroom inequity. The group started a lobbying campaign to do something about the lack of women's bathrooms in the new law school. They requested and had a meeting with the Associate Dean and another faculty member who came to hear the proposals of Women in Law. As Gerber described the meeting, the first proposal, made by Lenny Gerber, was that the urinals be taken out of the large men's bathroom on the second floor and stalls put in so that it could be either used by women or made into a co-ed bathroom, the way, Gerber observed, it was done in Europe and in most people's homes. Gerber said that the Associate Dean and the other faculty representative were outraged by this proposal. They walked out of the meeting and refused to do anything about the problem because they felt the proposal was absurd. Eventually, however, the agitation by the Women in Law group led to an increase in the amount of space devoted to women's bathrooms in the law school.

Gerber was also involved in an effort to protest against locking the door between the classroom area and the faculty lounge area in Van Hecke-Wettach Hall. When she was a student, that door was kept locked, shutting faculty off from students and making access to faculty and faculty offices more difficult. Gerber and other students protested that symbol of separation. Ultimately, the students' protests resulted in unlocking the door so that students could pass through from the classroom area to faculty offices.

After she graduated from law school, through the help of Professor Dan Pollitt, Gerber took a job with the Legal Services office in Winston-Salem. She saw her work as a fulfillment of her destiny to work for the rights of women and poor people and in opposition to racism and sexism. Gerber was a founding member of the North Carolina Association of Women Attorneys, a group that works for equal treatment of women in the bar and in the profession.

As a Legal Services attorney, she worked both as a litigator and as a lobbyist to further the position of women in the bar and in society in general.

Gerber was recognized by her peers as one of the best legal services attorneys across the state and as an extraordinary litigator. She served for many years as managing attorney at Legal Services in Winston-Salem, and the energy from her work there was felt throughout the state. She conducted numerous training sessions throughout North Carolina to train Legal Services attorneys in landlord-tenant law, consumer law, and various basic skills courses. She had a very high success rate in trying complicated Legal Services cases, including numerous jury trials. She prepared her cases meticulously, became a highly skilled negotiator, and reached many favorable settlements for her clients. She became known as one who was called upon for advice by Legal Services attorneys around the state who wanted to learn how to prepare cases for trial, how to try jury trials, and how to negotiate settlements.

Gerber was also very outspoken—and continues to be very outspoken—about women's rights and the obligation of attorneys generally (particularly women attorneys) to become involved in professional and community service. These concerns are reflected in her oral history interview:

Interviewer: What about any advice for a young female attorney entering the legal profession?

Gerber: Well, we haven't talked about one area, and that relates to this advice and that is, law schools almost all have Women in Law organizations. I think they're very important. The fact that we have almost fifty percent women in law schools does not obviate the need to have a group that you can identify with and start building systematic ties. I am a big, big believer in being part of the regular bar, you know. I go to bar meetings. I've taken part. I serve on committees. . . . I think that's important for anybody and it's part of service. And . . . I believe that if you're a professional, that you have to relate to your profession as an institution in addition to doing your work for your clients.

But the need for people to focus on women's issues is still there. Sexism has not disappeared and the legal status of women, while it's improved a lot, there are still many things, many issues of importance, that are more important to women than to others. Choice is a good example. You know, issues of choice, issues of family law. I mean God knows that in the next two decades we're going to be

focusing on this issue of when is a parent a parent. And while that of course is an issue for the male and the female, it is primarily a woman's issue, because it's women who are bearing these kids, whether they're inseminated or surrogate parents or the person who wants the custody and the child. . . . Those are enormously interesting issues. Interesting lesbian issues. . . . What happens now when you've got two lesbians and one of them has a kid? They decide, we'll have a kid, and one of them has it, and the other one thinks, I'm a co-parent, and then they split up. What are the rights and obligations of that co-parent? These are women-focused issues and they've got to be dealt with. And so, we need this now.

In the years since I got out of law school, and I was part of this group, we founded the North Carolina Association of Women Attorneys, and that group has become very vital over the years. It is an important group; it has lobbied the legislature [on] equitable distribution. I personally sat in Marissa Schoonmaker's office with another woman attorney and drafted the original legislation. It was modified of course, but, you know, I did that as then President of the North Carolina Association of Women Attorneys. We lobbied that issue successfully, and that was ours, the women attorneys. We're the ones that got that passed, and there are other issues like that. . . .

My advice to women graduating from law school is to be active in organizations like that, both locally and state-wide. Don't say, I've made it, I'm here, I'm equal, there's no such thing as a woman lawyer, I'm a lawyer. I believe that in the logic[al] . . . important sense, but in the political sense of getting the kind of solidarity and support that makes us count, that gives us a bigger voice in the legislature, that allows us to do something, you've got to have groups. I mean, that's why you have an AMA, you know. Doctors are people too, right, but they have a strong lobbying organization in Congress. Everybody does, and women don't have a lobbying organization, except for us. You know, we need to work on things like that, and so you can't come out of college, [and say] "I made it, I wasn't discriminated, I got here on my own, I'm a bright young woman and I've got a career ahead of me, and what do I need women's organizations for?"

The answer is you need them because we opened the doors to begin with, and we're going to open other doors. The battle isn't over, and women have to learn that the

same way that blacks have to learn it. Some of the most noted black activists I know mourn that their children are uninterested in these causes. They say, "Well, we don't have those laws that didn't allow us to walk on the side of the street, and you know, they're all gone, those Jim Crow laws." But the truth is, it isn't just laws. Laws have to be interpreted; they have to be enforced; they have to be changed, you know. It's an evolving process that will never stop. And maybe in a century we'll have more equality than we do now, but we do not have it yet by a long shot. And these large numbers of very bright, wonderful women graduating from law school owe it to their foremothers to keep on fighting for us, and that means banding together and getting in place to do that sort of thing.

It means running for the legislature; it means really stepping out in front and realizing that in addition, and this is the kind of speech that the judges like to give to lawyers, you know: "you owe service." When you get sworn in . . . in most counties, they have a big ceremony for everybody at once in the fall so, you know, forty, fifty lawyers get sworn in at once, and the presiding judge always makes nice speeches about service and stuff like that. Well, that's real. That is real! That is something lawyers, professionals, have an obligation for service. Maybe everyone does, but I can't speak to everyone. I think we would have a better country if we all were more community-minded. But I would speak to the women and say, when you're coming out of law school, remember that obligation of service, and if you don't care about women, who else is going to? So others may do something else; others may build houses for the poor; others may serve on corporate boards, and that's fine. I have nothing against that, and maybe women ought to do that too. But don't forget our special needs.

Gerber retired from Legal Services at the height of her abilities as an attorney and of her reputation among other members of the Bar and the Legal Services community. She has subsequently worked as an advocate for women's causes in the Winston-Salem area and around the state, doing legal work for and advising women's groups politically. She is a lesbian, which she freely acknowledges, and many of her efforts are devoted to gay and lesbian rights. She thus has continued her career of service in a somewhat different vein, following her retirement from Legal Services.

In general, Gerber's career from childhood on has been one of carefully nurturing fundamental values of open-mindedness and

tolerance, and promoting equal treatment and mutual respect between the races and the sexes. Her ideals were challenged as she went out into the real world and college and left the environment of her home and neighborhood in Brooklyn. From that time, she has been deeply aware of social inequities and has displayed growing determination to do something about them. Her life has been and continues to be dedicated toward that end. She has won the respect of other members of the bar by becoming an excellent attorney and remaining dedicated to high principles and to her own beliefs, which include a profound dedication to service.

JUDGE PATRICIA LOVE—TEACHER, LAWYER, LEGISLATOR:
WILLING TO “TAKE THE RISKS TO WIN”

Patricia Love was born in Harnett County, North Carolina, on June 6, 1928. When she was about six months old, her family moved to Florida, and her father took a job with the American Agricultural Chemical Company, testing vegetable seeds. Her father was educated as a lawyer but never took the bar. Her mother, who suffered from rheumatoid arthritis, did not work outside the home; one of the main reasons the family went to Florida was that her mother's doctors believed that Florida would afford a better climate for her disease.

Judge Love's memories of growing up are vivid and generally quite positive. She was very active in the Girl Scouts, Sea Scouts, and Air Scouts. She recalled that during World War II, she and other members of her scout troop would go to the top of the Biltmore Hotel, which was the highest hotel in Coral Gables, Florida, to watch for German airplanes. They also sometimes saw German submarines off the Florida coast.

She recalled American and British soldiers from the North Africa campaign who came to Coral Gables to be treated for their injuries. As a Girl Scout, she went with her friends to sing for the soldiers while they were in the hospital and baked cookies for them. In this way, she saw the effects of the war face-to-face—men with no arms and legs who literally had to be carried in baskets into the hospital, burn victims, and other men with terrible wounds and injuries. Love also tutored some of the soldiers who were convalescing. She particularly recalls one of those who was somehow connected to organized crime in Chicago. Her father was very upset about her contact with this soldier. When the soldier recovered, he returned to the war, but later came back to Florida to attend and graduate from the University of Miami and the University of Florida Law School. He is now a successful attorney in Miami.

Love applied to a number of colleges—Duke, Agnes Scott, Vassar—and was accepted at all of them. She decided to go to Sweet Briar because her mother had gone there. At Sweet Briar, she loved plays and became very interested in drama. She decided she wanted to be an actress, but her family frowned upon that. After two years she transferred to UNC.

When Love transferred to Carolina, she pledged the Alpha Delta Pi sorority and was elected president of her pledge class, which automatically gave her a seat on the Panhellenic Council. This turn of events introduced her to college politics, which she immediately liked. She said, "I've always been a politician. When I was in high school, I didn't run for president, but I ran the campaign for the president." She was elected treasurer of the Panhellenic Council and Speaker of the Co-Ed Senate (the women's student government at Carolina). At that time, according to Judge Love, the "real" student government was all men. She said, "It never occurred to anybody that a woman would ever be president of the student body here [at Carolina], so I'm always amazed at how far we have come." As Speaker of the Co-Ed Senate, she was appointed by Frank Porter Graham, who was then the chancellor, to the Greater University Council, a student council composed of students from UNC, North Carolina State University, and UNC-Greensboro (the three parts of the state-wide University at that time). The group's activities gave Love her first contact with members of the General Assembly. Love majored in journalism and earned a teaching certificate. She married Don Stanford, a fellow student, and after graduation, they went to live on the Stanford family's Orange County dairy farm.

Both Love and her husband took the LSAT—he wanted to go to law school, and he persuaded her to take the test with him. They were both accepted at Carolina. He decided to go, but she decided not to because she was pregnant. He began his studies at Carolina, but left after a semester to attend to increased responsibilities on the family dairy farm. Judge Love said that her husband always regretted that he was not able to finish law school.

Love took a job as a journalist with the *News of Orange County*. She wrote everything in the paper except the lead story on the front page and the editorial. She also became a stringer for the *Raleigh News & Observer*, the Greensboro paper, and the Durham paper. She wrote stories about Orange County and sent them to the various papers. If the stories ran, she was paid a dollar an inch. She and her husband talked about buying a small paper and running it. After two years with the Orange County paper, however, she left to take care

of her growing family. She remains very proud of her four sons, three of whom are lawyers and the other an electrical engineer.

Her husband, Don Stanford, died when her sons were teenagers. She recalled:

When I became their mother and father, I tried really hard to deal with four teenage sons, and that is not an easy proposition, let me tell you. I wanted them to remember him, and I wanted them to be like him because he was a good person to follow. And so we talked about him a lot and the kinds of things he would do, and when they would do something that I didn't think was appropriate, they remind me of how many times I said to them, "I don't think your father would have liked that, and you should think about that." And they suffered a lot from their father's death. I did too, and I think mine was so bad that I didn't see their suffering.

She said about raising her sons,

I tried to teach them, though, that you should never close down any of your options, that nobody can take your education away from you. I lived by that, and they knew their mother believed in education, and I was always in school, always taking a course, and always reading a book.

She also taught them to question authority.

After her husband's death, Love obtained a master's degree in American history and began to teach, first in junior high school for about five years and then as a guidance counselor in the high school for another five years. She also served briefly in the General Assembly when she was appointed by Governor Bob Scott to fill out the remainder of her deceased husband's legislative term. Subsequently, a friend of her husband's ran for her husband's seat and won, and Love returned to teaching high school. The friend later called her, said that he was going to leave the House and run for the Senate, and suggested she run for his seat. The teachers who knew her enthusiastically supported that idea because of her positions on education. She ran for the General Assembly and won. By that time, she had married her second husband, who was a member of the Durham City Council.

In 1975, while she was in the General Assembly, Love began to realize the value in a legal education. She saw the bills she sponsored being sent to the Judiciary Committee to let the lawyers on that committee look at them. She decided to apply again to law school and was again accepted at Carolina. She began her legal studies while she was as a member of the General Assembly.

When she was a second-year law student and still in the General Assembly, Love went to the Speaker of the House and asked to be made Chairman of the Appropriations Committee. He said that he instead planned to appoint her to Chair the Judiciary Committee. She was astonished and concerned. There were real lawyers on that committee, and the committee dealt with complex legal problems. She was afraid that she might be in over her head. The Speaker assured her she would not. Judge Love said that most of the people who were on that committee with her are now either Superior Court judges, on the Court of Appeals, or on the Supreme Court. She was, at that time, the first non-lawyer to be made head of the Judiciary Committee.

Judge Love recalled an incident from her time in the General Assembly. Susan Lewis, who was teaching at the UNC law school, urged her to push a bill through the General Assembly to take from the local Clerks of Courts the arbitrary authority to decide whether a woman getting a divorce could also have her name changed back to her maiden name (a power that was being greatly abused). When Love brought the bill to the judiciary committee, one of the lawyer-legislators on the committee who opposed the bill attacked her for her lack of knowledge of the law and how the courts worked. She related that he told her, "You just want to change the world, and I have been practicing the law and you have never practiced a day." This attack upset her, but she was determined not to cry. She went to her office and called the Speaker. Before she could explain herself, the Speaker assured her that the legislator was on his way to her office to apologize.

Judge Love viewed equitable distribution as the most important issue she worked on while she was in the General Assembly. She told the story of a woman in Winston-Salem who labored in the home all of her marriage while her husband built up a fairly large and profitable business. When the husband left his wife for another woman, he took the business with him. Judge Love believes that the outrage over that case was a key factor that led to the passage of the state's equitable distribution law. Judge Love described the legislative process:

Equitable distribution was an interesting law for lots of reasons. We had eight million lawyers down there, tax accountants, everybody you can imagine arguing about every single little point. I was barely a lawyer, and so I was heavily dependent on some really good lawyers. Joe Hackney was then serving with me in the General Assembly.

Henson Barnes from Goldsboro, Martin Lancaster, who is now in Congress, was down there too, and they would help me. They would tell me what to say. This is the issue here, and we kept putting out fires, and we worked one thing and another thing. Well, we finally had it, got it out of the House. It had gotten out of the Senate Judiciary Committee. I had been over there to argue that. R.C. Soles was over there, chairman of that committee, and he had put us in a good position. He'd put it in a good subcommittee, and it had come out of that. They argued in the committee, and they kept calling me "young lady this"—I was over fifty years [old]—"young lady this" and all that stuff. And the wives of these legislators would say to me, "I don't need equitable distribution. My husband's always going to be there to take care of me." And three of them did not happen to. They got divorced, and three of them said to me later, "Thank God."

Love was quite active in trying to pass the Equal Rights Amendment as well, but looking back on that now, she said she's not sure that it should have passed:

It may be better for us to do it law by law, because there are some things, if you change and say people have equal standing, there are some things probably women would lose, and so I'm not sure that [its failure] was a bad thing. It would have drafted women, and that's the reason it didn't pass, I think. I think that's why it didn't pass in the United States, but it really irritated me. I was the floor leader for the Equal Rights Amendment one of those times, and it really bothered me for those legislators to get up and say, "I don't want my daughter going to war." And I said, "What? Your daughter is worth more than my son?" I said, "I hope that if the girls had to go as well as the the boys, that people would consider a long time before they went to war again."

After graduating from law school, Love went to work for the Coleman, Bernholz law firm in Chapel Hill. Love felt that the firm wanted her to help attract women clients. She thought she fulfilled that function, working on Monday and Friday afternoons and in the evening while she continued to serve in the General Assembly.

Love was appointed to the district court bench in 1981 by Governor Jim Hunt. Her second husband had become disabled, after suffering a heart attack during her last year in law school. She knew she had to have a good income. When the Governor's office called her and asked if she was interested in an appointment to the bench, she was tempted to say "no" because she wanted to stay in the

General Assembly. But she knew it was probably not wise to do that. The seat in question was a newly-created seat, and Love was afraid that if the Governor opened it up to bar endorsement, as frequently occurs for vacated seats, she would not receive the endorsement. But she also knew that there were few women on the bench in North Carolina and that there should be more. She learned after her appointment that she could only serve for one year before she would have to stand for an election. The Governor had conducted his own poll in Orange and Chatham Counties to see if she was electable and found her to be not only electable, but in fact, quite popular. After she accepted the Governor's offer, Judge Love said, she was worried about whether she would be able to perform as a judge. She was reassured in this when she took a course for new judges at the Institute of Government and saw that there were judges there who were quite young, some of whom had been in her law school class.

Judge Love said in regard to her work as district court judge:

I had been in district court enough to know that it's not law you need in district court as much as you need mercy and justice. In civil court, that's different. I think you do have to know law there a lot more, and in criminal court, it was fairly easy because the law is fairly easy. . . . [T]he insolubility of the juvenile court [makes it] so discouraging, because we don't have any options. I shouldn't say none, but we have a very limited number of options, and the victims of their crimes want one thing: restitution, which we can't give them.

When she was asked what she plans to do when she retires,⁵ Judge Love talked about various things, including opening a dress shop. One of her more interesting ideas involved forming an organization of older women attorneys who live in Chapel Hill and Farrington who are considering opening a limited law firm to help the working poor. They would keep their fees very low and take care of people who need a will, help in traffic court, divorces or simple separation agreements—people who can't afford to hire lawyers and perhaps don't qualify for legal aid.

When asked to talk about her greatest success, Judge Love said:

I think my experience in the General Assembly, where I could really help people and make things happen was a very exciting time. I was a very powerful person, once upon

5. Judge Love retired on November 30, 1994. Todd Nelson, *Judge's Ruling: Retirement*, THE NEWS & OBSERVER (Raleigh, N.C.), November 26, 1994, at 1B, 6B.

a time, for about four years, and I was voted consistently one of the top ten legislators in influence by the press, by my colleagues. It was wonderful to me to be able to get a bill and work it through and make it come out. And I did that on so many bills for about four years. It was really great, and I think I did a great deal for the women of North Carolina. We went through the entire general statutes, making them gender-free of bias, and that took an incredible amount of hard, hard work. . . .

And I think the other thing I did that I was very proud of was to educate teachers to be a political force, and I think it's absolutely amazing that with a master's degree and five years of experience—well, ten years of experience in the Chapel Hill-Carrboro Schools—I made nine hundred and fifty dollars a month when I left teaching/counseling [and] that today the starting salary of teachers is twenty-eight thousand dollars a year. That is amazing, and the reason it has happened is some teachers have had political clout.

When Judge Love was asked what she would like women to learn from her life, she said:

I think you have to be willing to take risks. My mother could never understand how I could stand for an election. So that's first, not necessarily running for office, but whatever you're going to do, you're going to take risks, and if you don't take the risk, then you can never win. So, you have to take the risk, and if you take the risk, then you have to be willing to lose and get up again. . . . I think that when women look at my career and my life, that there are women who say to me, my friend who says to me, it's like reading the Book of Job—so many terrible things have happened to you, and they have, and sometimes I dwell on them. But if you dwell on them, then people will only dwell with you for a short time. So you've got to get up and say, "Well, I'll try again; I'll do the best that I can."

ROBERT L. McMILLAN, JR.—INDIVIDUAL DIGNITY AND THE BILL OF RIGHTS: "STANDING WITH THOSE WHO ARE ALONE AND AFRAID"

Robert L. McMillan, Jr., who currently practices in Raleigh, is the quintessential criminal lawyer and one of the most respected lawyers in the state. He was among the first recipients of the Joseph Branch professionalism award and has set a remarkable example for his fellow lawyers.

McMillan was born on September 4, 1923, and grew up in Raleigh where his father, R.L. McMillan, was a lawyer. His mother and father had met while his father was a student at Columbia Law School and his mother was a secretary to the wife of Ignace Paderewski, the famous pianist. Growing up in Raleigh, which he described as "an overgrown country town," was pleasant for McMillan. He also spent a lot of time during the summers on his father's old home place where he came under the care and tutelage of three sisters of his father. One, in particular, made a lasting impression on him.

[W]hen I was eleven . . . [I had] these three old aunts . . . and my relationship with one of them was just ideal. The relationship with another of them was good. And the relationship with the oldest one of them I was afraid of. But the one who is the youngest of those three, I just idolized her, and she idolized me. And it has always been a wonderful influence in my life because no matter where I went, no matter what I did, I knew that old lady loved me. And that was a wonderful resource of support. Consequently, it put me on my mettle knowing that she loved me like that and knowing that she loved me no matter what, it made me avoid the 'no matter what' if you see what I am getting at. It made me very conscious of her love for me. And it made a much better person out of me. . . . It was different from a mother or father. It was a unique relationship. A very valuable relationship. And never a spirit of rebellion towards her. I might have had a spirit of rebellion toward my mother and father but never toward her; just pure affection for her.

Because of his love for the country and the outdoors, he dreamed of being a farmer but decided he did not have enough capital. He attended college and dreamed of becoming an English teacher: "I just enjoyed English, enjoyed reading, and enjoyed the Romance Poets: Keats, Shelley, Byron, Burns, Wordsworth." World War II put all of his dreams on hold. He entered the Marine Corps and served during the war. He describes his "decision" to enter law school after he returned to Raleigh from his service in the Marines.

I was either twenty-two or twenty-three years of age, and I had completed college. I thought I knew everything and had all the answers. At that time I had red hair, and I had a big red moustache. I came in and my father, whom I had not seen for several years because of my being away, said, "Son, I'm glad to see you. I believe if I were you, I would shave

that moustache." So I did. Then he said, "What are you going to do?" "Well, I don't know." I suppose you might say I was destined, or on the road to being, a hippie twenty years before the age of hippies. I'm sure he had visions of my doing nothing. He said, "Why don't you go to law school?" I said, "All right, I'll try." So I went over to the town of Wake Forest where Wake Forest University was then situated to talk to the law school about entering Wake Forest. I learned that Wake Forest had been in session for about three weeks. So I came back, and I told him. I said, "Well, Wake Forest has been in session about three weeks and it's too late for me to get in." He said, "Well, why don't you try Chapel Hill?" So I went to Chapel Hill, and I talked to Dean Wettach. They had not started. They were about three weeks behind. Dean Wettach said, "Well, we're filled up, but there's a man who has been accepted as a student at Chapel Hill who is in the hospital at Fort Bragg. And he may not be released in time to enroll in school. If he does not get out of the hospital in time to enroll in school next week—that was when school began—you may have his position." And as it turned out, he was not released in time, so I enrolled in Chapel Hill, and I completed law school.

McMillan admits that he was not an outstanding law student, but he said he "got better and better" and that he enjoyed the experience. During his third year he was married, and he credits this with helping him focus on his work and his future: "I settled down and [became] more serious than I had been, and I realized that it was time to shape up or ship out."

After he completed law school, he practiced with his father, R.L. McMillan, and Claude Douglas for about a year and half. He was then called back into service in the Korean War. In response to a question about how his service in the military helped him as a lawyer, McMillan said that he thought the discipline of the military helped him handle the pressures of practice. He continued:

I mean the practice, the criminal trial practice is just one crisis after another, and the lawyer has to be professional and objective. I do know that when I was younger I used to try a great many high pressure cases. I remember one time I tried two cases, completed one, and started the other the very next day. And people used to talk to me, saying, "I don't know how on earth you can do this; it doesn't seem to bother you a bit." Well, of course that is just the image you project. It does bother you. I mean your stomach is churning, you're lying awake at night, . . . you're wrestling

with the issues. But of course you have to project the image of calmness and control. You certainly don't want the client or the jury or the judge to see that you are in turmoil, and so you have to brace yourself. And perhaps the discipline of the military helps in that regard, but you develop that discipline anyway just by experience.

After he got out of the service he came back to Raleigh and struck out on his own in practice. By then he and his wife had three children. He was offered the position of prosecutor of the Municipal Court in Raleigh, which he accepted and held for about three and one-half years. He then resigned and went out on his own again. He explained his reasons:

I realized that the longer I stayed in the position, the more dependent . . . I was upon the regularity of the paycheck and the harder it would be to wean myself away from that as time went on. . . . Not that it was much of a paycheck . . . but in those days I was thankful to get paid \$400 a month. With a wife and three children, I needed that security, but I realized that I had to break away from it, or I . . . would become wedded to the concept of being a prosecutor or something like that throughout my life. By then I had decided I wanted to try my hand at the general practice of law.

McMillan practiced law for eight years before he ever saw a paycheck of over \$1,000 per month gross. He stated that when he began he was, like his father before him, a general practitioner:

Whatever walked in the office . . . there were no specialists. He did a lot of tort law. He did some criminal law. He did some title examination type law. And I did all of those things when I started, but as time went on I started doing more criminal law than anything else.

McMillan is a lawyer who operates from deep moral conviction and one who continues to reexamine his positions in light of certain principles that he holds very dear. Chief among these are the dignity of the individual, the protection due the individual under the Bill of Rights, and the lawyer's role in seeing that individual dignity and individual rights are protected. He believes this role to be so central to the sanctity and integrity of the American justice system that he views the practice of criminal law as "a calling." He gave an informal listing of basic rights and said:

The list goes on. These privileges are so basic that we are blasé, and we are. And we say, well, he's not entitled to a fair trial, but I am. And it's the duty of the criminal bar to

make sure. Not only are you entitled to a fair trial, but so is he.

He continued:

You know a lot of lawyers, a lot of silk-stocking lawyers look down on criminal law. And they sort of tolerate it, but they try to disassociate themselves from it. Which is fine. They like to go around with their friends, their banker friends, and what have you—and nothing wrong with bankers, but you know, I'm just using that term. They like to go around with their businessmen and banker friends and say, "Well, I don't practice criminal law. I don't sully my hands with that." But those who really think about it appreciate the position I'm espousing. I mean the real lawyers appreciate that whether they're civil lawyers, criminal lawyers, anything else.

Because anybody who thinks about it realizes that that is our system, and that's what makes America great. You hear people talking about this economic system or that economic system. The economic system is not important. What's important is the safeguarding of the Bill of Rights and the dignity of the individual. That's what's great about America. You don't hear politicians talking about that. You hear them talking about supply-side economics, or this kind of economics, or that kind of economics. What's great about America is the dignity of the individual and the protection of the individual in our Constitution. And that's what sets America apart from the rest of the world, and to a lesser degree England, but America more than any place. That's my belief. That's really my basis for being a lawyer.

It is also apparent that McMillan has a deep respect for his fellow man. In his interview, he talked about his service as a prosecutor, saying, "I have great empathy [with] and sympathy for the accused people. I found it very hard to dislike these people. Because so many of them, you know, were just in deep over their heads, just pathetic people that just got into messy situations." He said the same thing of being a criminal lawyer defending the accused:

I will say this. I've practiced law for forty-three years, and most of it has been criminal law. I have seen very few criminal defendants whom I would say were basically mean and vicious people. Very few. The great majority, even those involved in crimes, are people who are misguided, who get into emotional jams or other types of jams beyond their control. I have seen very few really vicious, mean people, although I have seen some. . . . But by and large, they are

just ordinary people who are caught up in emotional crisis and they get out of control.

McMillan also believes that society should be charitable in its dealing with people. He stated that it is when society becomes zealous and vindictive that basic freedoms and human dignity are jeopardized.

He admitted that he "relished" the practice of law and has had to discipline himself throughout his career to keep from taking on too much and risking burnout. He sees this as a problem for himself even today. His advice to other lawyers in this regard had more to do with *how* one practices law than *how much* law is practiced.

I did a lot of lying awake at night, I did a lot of thinking and pondering. . . . But also I never second-guessed. I think that's important: never second-guess. You make a decision and you move on. . . . [T]hat doesn't mean you're a damn fool about something, but once you formulate a good plan, follow through. . . . [O]nce you're committed and it's completed, don't worry about it, don't second-guess, because you accomplish nothing by second-guessing. Now you can review and consider, "Was this a good procedure or wasn't it?" you know, to improve for the future. . . . But considering and planning for the future are just a wise course of action. Second-guessing is destructive.

In addition to his remarkable career as a criminal defense attorney, McMillan also serves as a counselor in an informal way to other members of the bar, and he is aware of the importance of this role. He said that he has often thought that he would like to teach and that he has been able to fulfill that urge over the years as other lawyers began to come to him for counseling and advice.

I feel that I have helped a lot of lawyers in some of these areas . . . I have been talking about. They come in here with these problems . . . problems they want to talk about. They come in and want to talk about cases and factual situations and avenues of approach. And yes I have done a lot of teaching, just by talking to other lawyers. A lot of lawyers have taught the same way. I mean bull sessions are great sources of knowledge. I have always been a great believer in the value of bull sessions in law school and also in the courthouse. So, yes, I have had a lot of satisfaction in talking to lawyers, making suggestions and giving advice. I think that I have made a contribution in that area. And it satisfies me.

McMillan has shown by his own example that a lawyer's duty of service extends to his profession as well as his clients. He has served on numerous professional boards and committees. He chaired the Unauthorized Practice Committee of the State Bar, was a member of the Council of the North Carolina State Bar, and chaired the committee to appoint counsel for indigent defendants. McMillan has long been involved in bar efforts to obtain representation for indigent defendants in criminal cases.

McMillan is also a very active member of the Pullen Memorial Baptist Church in Raleigh. He has been a model lawyer in terms of his relation with his family. He and his wife raised six children. He noted that he always took pains to manage his time so that he was able to leave his office by 5:30 p.m. and rarely returned at night so that he was able to spend evenings with his family. He doubts that he came back to work at night forty times in forty years. He helped with the housework and with raising the children and said that he was usually the person to bathe and feed the children and referee fights. He was able to devote the time needed for his work by arriving at his office very early in the morning, a time, he said, which is best suited for getting work done.

McMillan's respect for other people and his deep commitment to fairness helped him set an example for other attorneys in improving racial relations among members of the Raleigh Bar. When a growing number of African-American lawyers became members of the Bar in the 1950s, McMillan remembered that there was a "patronizing attitude on the part of the bar toward black people and toward black lawyers." He said that racial discrimination was evident when crimes of black people against other black people were not treated seriously. Black-on-white crime was treated very severely, and he saw such patterns as evidencing great inequity. McMillan always made a point to try to treat his clients fairly and with equal respect regardless of their race. He made a point to do the same to black lawyers who were coming to the bar.

He recounted that George Green, who became a Superior Court judge in Raleigh, told McMillan that when Green first came to Raleigh, he went to work with a man named Herman Taylor, an early civil rights lawyer and an African-American. McMillan said he greatly admired Taylor because Taylor fought so hard for his clients under very difficult circumstances. Judge Green told McMillan that when he started practicing law with Herman Taylor, Taylor told him that there were two white lawyers in Raleigh to whom you could always look to treat you fairly. Those two were Robert McMillan and

his father, R. L. McMillan. McMillan said proudly that he would always treasure that comment from Herman Taylor and that he has always tried to make that his approach.

When he was interviewed, Robert McMillan had recently delivered a talk at his church to respond to a common question posed by members of the public to criminal lawyers: How can lawyers represent people they believe to be guilty? He quoted from his talk:

I feel a high sense of calling when asked to defend an accused. It is my belief that Christ speaks to us when we stand with one who is alone and afraid. I know that we are doing God's will when we demand due process under the law. I know that without the efforts of criminal lawyers, mistaken convictions, as the one reported in Orange County recently, would be commonplace. I know that without the efforts of criminal lawyers, Governor Martin would not have spared the life of Anson Maynard recently. I know that without the efforts of criminal lawyers, we would have a most efficient criminal justice system which ignores the Magna Carta, which ignores common law, which ignores the Bill of Rights, and which bans Bibles, burns witches, and hangs heretics. So that's my position, and that's my belief. I'm not just, as they say, "whistling Dixie" when I say that. I truly believe that.

JUSTICE BURLEY B. MITCHELL, JR.—A LIFE OF RESPONSIBILITY:
RIGHTING THE WRONGS OF SOCIETY AND SERVING THE LESS
FORTUNATE

Chief Justice Burley Mitchell is a two-time high school dropout who was discharged from the Marines for being underage, grew to adulthood as a Navy SEAL in Vietnam, found inspiration in college, and went on to become a justice on the North Carolina Supreme Court.

He was born in Oxford, North Carolina, on December 15, 1940, and moved around a lot as a child. His father worked for the United States Agricultural Department, and, in that capacity, was involved in a number of New Deal programs. He had only a high school diploma, which Justice Mitchell said is probably equivalent to a college bachelor's degree today. Chief Justice Mitchell's mother graduated from Peace College in Raleigh. She was a very religious person and wanted Mitchell to grow up to be a minister. But he says that, more generally, she wanted him to be honest and contribute to society.

After the Second World War, the family continued to move around a lot. His father worked for Chrysler Corporation in Washington, D.C. at one point, and his family lived in numerous places in North Carolina. Justice Mitchell said that the frequent moves affected him as a child because every time the family moved into a new community, he felt like an outsider. He felt this way most of the time he was growing up and was never in a place long enough to fit into cliques of the children where he lived. As a result, he said,

It probably caused me to read a lot. . . . I think on the good side, it tended to make me a little self-sufficient. I wasn't really dependent so much on the approval of others, as maybe a lot of kids would have been. And I had to sort of make my own entertainment and that sort of thing, and I turned to reading a good deal. To that extent, it probably helped me quite a bit.

By the time Mitchell was in junior high school, the family had landed in Raleigh, where there was a little more permanence.

Justice Mitchell spoke about the values his parents instilled in him:

Well, I suppose today it would be called traditional values, and maybe they're peculiarly southeastern or southern. Looking back on it, maybe more than other kids, we were really instilled with this idea of civic duty and patriotism and maybe part of that was because I was a small child during the war. You know, maybe everybody had a sort of patriotic fervor that carried over. . . . So it was really just almost beaten into us. You know, every day, we were reminded of it one way or another.

I would say that loyalties that maybe aren't as pronounced today were really important then—loyalty to country, to state, certainly loyalty to family. . . . So, we were really taught a good deal more that we had certain civic responsibilities. With the privileges, there are a very definite set of duties that you have to measure up to and carry out that I don't see being taught quite as much today.

Commenting further on the role his parents had in teaching him values, Justice Mitchell said:

I would say that the main thing that [my father] instilled in me and in my brother was a sense of responsibility. When you give your word, you absolutely will live up to it. You know, whether you signed anything, or whether you're legally bound or not, when you've made a commitment, you will live up to it and in a timely fashion. And you pay your

debts without excuses. You show up on time without excuses. And just meet your commitments. . . .

I think my mother contributed more in the area of what you would describe as an intellectual life. She and her family before her had all been great readers, interested in philosophical, theological questions. Just a real intellectual curiosity, almost to a fault of not getting out and getting things done. Just because of the pure joy of learning for its own sake and not tying it into the practical. So, I think I learned from her—I know I did—the joy of learning, you know, the pleasure involved in reading, that you can be all alone and still have a good time and go anywhere you want to in your mind if you can read and comprehend, that sort of thing. And just a real joy in intellectual challenges, you know, problem-solving on a more theoretical basis.

Justice Mitchell also spoke of community service:

Times were a little easier then for young people, I think, because in those days, we had a set of values that were almost universally shared. . . . [E]verybody had pretty much the same notions of what was right and wrong, what the duties of citizenship were, and particularly, for those of us who had some of the advantages of life, what we owed the community in return. You know, that you had an obligation of good stewardship and when you draw from the community, you have an obligation to put back at least as much as you draw and try to put more back in to improve the community.

Religion also was important: “I’d say our . . . religious principles . . . were probably, if not the most important thing in our upbringing, certainly pretty close to the top of the important things.”

He spoke of his parents’ aspirations for his future:

I think basically what they wanted me to be was . . . an honest person who contributes to society and has some concerns for other people and tries to serve humanity to a certain extent. Well, I suppose you never live up to that. I think that’s part of what the legal profession is about, or any profession. To me, that’s really what distinguishes a profession from a business. A profession’s major thrust is to serve humanity and, coincidentally, make a decent living, rather than the other way around, just making money, and any other good being coincidental.

When Mitchell was fifteen years old, he dropped out of high school, joined the Marine Corps, and went off to basic training at Paris Island. The reason for his decision, he said, was that he just did

not like school and did not find it challenging. Though he was under age, he stayed in Marine Corps basic training for twelve weeks until the Corps ran a security check on him to qualify him for work with nuclear weapons and learned that he was only fifteen. Because he was underage, he was discharged from the Corps. He returned to high school, staying there until he turned seventeen. Again, he dropped out and this time joined the Navy. He never went back to high school. In the Navy, he was in an amphibious unit, a member of an underwater demolition team, and ultimately was assigned to the SEALs (the most elite and highly-trained Navy combat troops). He spent his entire Navy career in the Pacific and was in Vietnam well before the conflict there was actually recognized as a war (1959-62).

Justice Mitchell said of his military experience:

You learn self-sufficiency, but you learn it in the context of a greater unit that you have to help make function. So you have to be self-sufficient, but at the same time, you have to be supportive of your unit and fulfill your obligation in there. Otherwise, the whole unit can be lost. So, I think I learned responsibility. Another thing I learned there though was the ability to take charge and command other people. . . . So, you learn responsibility for others, and I learned a little something about command. If I had to put my finger on one thing, I would say you develop the ability to make a decision. You gather the information, the best information available to you, analyze it, make a decision and then stick with it. And that ability is something that is sadly missing in most people.

When he got out of the Navy, Mitchell thought that he might find a job that allowed him to work with his hands. He was in very good physical shape and thought he could handle physical labor as a way to earn a livelihood. However, he had always enjoyed reading and learning, so he decided to try college for a semester or two to see how he liked it and perhaps to improve his future employment opportunities.

He entered North Carolina State and became thoroughly caught up in the learning process, finishing in three years. He said:

I really got caught on to the world of ideas. . . . I had my horizons broadened a little bit by President Kennedy. He was such a dashing, young figure with a Naval background and all. And I just felt some kinship to him and became interested in the world as a whole and what was playing out on the world stage and certainly on the national stage. . . . We had so many great aspirations and all,

nationally, at that point, that I just really got into the swing of learning and trying. And I knew how much—how far I was behind. And so I tried to learn it all, you know, and for the first three years, I really loved it.

While at North Carolina State, Mitchell also became interested in politics and worked in Bob Scott's campaign for Lieutenant Governor. This led in part to his decision to go to law school because he felt that was the best place to go to have some voice in saying how North Carolina was going to evolve as a state. "I guess that it would be a position of, not of power, but maybe of influence, a position where you could have an impact on society, and at the same time, make a decent living." When asked what sort of impact he wanted to make, he said,

Going back to when I was in grade school and high school, I guess, it always seemed to me that there was a lot of arbitrariness and unfairness, and elitism, or classism in North Carolina, which was basically what I knew at that point. It just seemed to me there was a lot of unfairness. And at that point, of course, I hadn't awakened to think in terms of race at all.

Justice Mitchell spoke about his growing awareness of racial issues. In the military, he had become very close to people of all races, because they were thrown into close proximity to each other.

I mean, you know, sleeping at night where we would throw an arm over each other, that sort of closeness, not some academic setting. I think that experience sort of reinforced my feelings already that there was just a lot of injustice in the world, unnecessarily. I mean, the gratuitous injustice. . . . So I set about trying to [correct] that. It sounds so self-serving, or maybe trite, but to try to see that everybody got a fair shake, got a fair opportunity, not equal results, but an opportunity to achieve.

Mitchell was president of his law class, but he did not like law school. He said that at the time he thought he liked it, but when he got out he realized how absolutely depressing and tedious it had been. He said, "After I got out of law school and looked back on it, I was thoroughly miserable, just because it was so tedious and there was no life to it; it was just in the abstract. To me, law in the abstract, just law for law's sake, is about as interesting as watching grass grow."

While he was in law school, Mitchell worked in Robert Morgan's campaign for State Attorney General. He was very inspired by Morgan's ideas, particularly Morgan's desire to form a consumer protection division in the Attorney General's office. When Mitchell

graduated from law school, he took a job as an Assistant Attorney General. He developed expertise in federal litigation in the areas of education and labor cases. One of those cases was the *Swann*⁶ school desegregation case arising out of Mecklenburg County. Mitchell found this to be a very exciting period in his life. Although he was on what he referred to as the "wrong end of the cases" and fighting a losing battle, he said that he learned a tremendous amount and developed his skills as a trial and appellate lawyer. In talking about his role in defending the state in some of the important desegregation cases, Justice Mitchell said:

In order to be, I think, a good advocate, you almost have to force yourself, to some extent, to believe in the rightness of your cause. And I think that's probably what a lot of us did who were defending those suits involving desegregation efforts. You could not say, and should not have said, that desegregation is not required or is the wrong thing or the law doesn't require it. By the time I got involved, all those issues were past. The questions were, "how would you go about implementing the desegregation rulings and just to what extent you had to?"

After three years in the Attorney General's office, Mitchell was appointed by Governor Bob Scott to be the district attorney for the tenth judicial district. He found that as a prosecutor he could probably do more to prevent injustices to citizens, particularly to those who were accused of crimes, than he could as a criminal defense lawyer. He said that when he talked to law school students about career choices, he would tell them,

If you really want to get out there and be a civil rights lawyer and take care of people and prevent injustices in society, don't be a criminal defense lawyer. Get over and be a prosecutor, because I can pull out my fountain pen and, in six seconds, do what it would take you six months to do if you win a case, you know, an unjustified prosecution. Even if you win it, it's going to take you forever. All I've got to . . . do is write "dismissed" and sign my name.

Justice Mitchell gave as an example an incident in which he dismissed a case against some young boys who were fishing without a license and who were arrested by game wardens. He said:

Well, I mean, they were fishing, not selling drugs, not shoplifting or anything else. And these wardens wrote them

6. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971).

a ticket. They were both down there with their mothers and no fathers. I just took them in and explained to them, "Now you know we are required to have these licenses and everything. But I'm really proud of you for being out there fishing instead of off getting in trouble and stuff." And we talked about it. Well, I like to fish, so we talked about fishing a while. I said, "Now . . . I don't want you to go down there without getting a license any more. Talk to your mother and get a license. If you can't get one, I'll get you one."

And then I went in another room and got with the Game Wardens and asked them, "What in the hell do you think you're doing? There are dozens of people out there poaching. There are all sorts of adults who've got the money on their hip to pay for these licenses and are fishing without them. You go down here and arrest two little ten-year-old black kids."

Chief Justice Mitchell is a hunter and a fisherman and appreciates the outdoors. He talked about taking his son and his son's friends duck hunting in the Mattamuskeet Wildlife Refuge. They were out at sunrise with all the beautiful colors—the pinks and yellows in the sky—and twenty or thirty thousand ducks and geese flying in. The sky was full of them. He told his son and his son's friends, "Look at this and remember it. Burn it into your mind because by the time you are my age, it won't be there."

Mitchell's father and Governor Jim Hunt's father had worked together in the New Deal programs for the United States Department of Agriculture and the two sons knew each other, although they were not close. Mitchell started working in Hunt's campaigns in the early 1970s, when Hunt was campaigning for Lieutenant Governor and in both of his earlier campaigns for Governor in 1976 and 1980. Mitchell was appointed a member of the Hunt Cabinet as Secretary of Crime Control, a job in which he found fascinating opportunities to deal with the emergency response capability of the state. That department includes the National Guard and the State Emergency Management Service (for dealing with natural disasters), as well as law enforcement agencies, such as the state Alcohol Law Enforcement Agency and the Highway Patrol.

Among the many events that occurred during his term in this position were a ten-inch blizzard on the Outer Banks and the shoot-out between the Communist Workers Party and the Ku Klux Klan in Greensboro. During the Greensboro incident, he was forced to put Greensboro under what amounted to martial law. He recalled

telephoning Governor Hunt, who was in Beijing in the People's Republic of China, at about three o'clock in the morning, to tell him about the confrontation between the Communists and the Klan. As they were talking, it suddenly dawned on Mitchell that he was calling the Governor in a city in Communist China, that the phones there were likely tapped, and that the eavesdroppers were perhaps drawing some fairly wild conclusions about what it was like to live as a communist in North Carolina.

Justice Mitchell spoke eloquently about public service and holding public office:

I really think that public service is a good thing. I still would not discourage anybody from it. Looking back on both my own career, though, and the career of other people, it seems to me that the best way to do things is to get out of school and take care of your own financial security and the security of your family before you get into public life. In other words, the most successful public figures I know have been those who are not dependent on the public position for a living, who can walk away from it anytime they want. You are a better public official, I think, if you have that sort of independence, to be able, if you want to, to be able to say I'm not going to do this. This is wrong. The office does not mean that much to be me, and I'll leave it. And to be able to do that without working severe hardships on your family or anything like that.

Justice Mitchell said that he sees evidence in the legislature of the decline of public service by lawyers. There are now fewer lawyers in the legislature than there have been in the past. The quality of legislation is declining, and the General Assembly is becoming "professionalized" by those who serve there as a career rather than as a largely donated service. He expressed concern that fewer and fewer lawyers seem to be willing to enter public service.

Mitchell was appointed to the North Carolina Supreme Court in 1982 after serving on the North Carolina Court of Appeals. He described his work and why he enjoys it:

When you are the court of last resort, you have to be very thoughtful about what you do. I mean, not to say that other courts aren't too, but you're particularly thoughtful. You begin to take on more of the public policy setting function, which we do here. And I find that to be very fulfilling. . . . [I]t's a perfect blend, I think, between the academic and the practical. We spend a good amount of time as pure scholars, but then we apply that scholarship to very real human

problems and we ultimately have to come up with a resolution of the case. So, it's a good, logical, thoughtful way to resolve human conflicts.

Justice Mitchell was asked what he has done to maintain his temperament as a judge. He spoke about watching himself and critiquing himself, understanding his own biases and guarding against arrogance. He said:

[I]t really gets to be less of a problem as you get older, for one thing. I think that because each year I have made more mistakes, and therefore, I hope I'm a lot more tolerant of other people's. . . .

I think the biggest problem I faced anyway was impatience. A lot of times I felt like, "I know where you're going; won't you for heaven's sake get there." I think every judge feels that way. But, I have made a conscious effort, and have to renew it every once in a while, to sit back and analyze myself. . . . [W]e all are a bundle of biases or preconceptions. That's to be expected, but you can never be a good judge unless you have some pretty good idea of what your biases are, so that you can watch out for them. The same is true of any negative trait, whether it's impatience or a tendency towards curtness or whatever. You have to constantly re-evaluate yourself, because in most judicial situations, there's nobody there to sort of jerk you down. . . . So self-examination is the key to being a good anything.

Justice Mitchell also spoke about the future of the legal profession and the change he sees in lawyers' attitudes toward the profession.

I constantly hear now lawyers walking around saying, "This just isn't fun anymore. This has gotten to be miserable. You have to constantly be looking over your shoulder. You have to be mistrustful of other lawyers and you can't deal with each other decently."

There really has been a sea change. There is a change in the way the law is practiced and in the way people deal with each other in practicing law. It has apparently not been for the better. I'm really concerned about the long-term future of the legal profession. If we can't regulate ourselves and if we can't deal with these problems on our own, somebody's going to do it for us.

Part of the problem, he believes, stems from the fact that young lawyers do not receive as much patient, personal guidance from older lawyers as his generation did.

Finally, Justice Mitchell was asked what improvements he sees for the legal profession in the future. He said he thinks lawyers are beginning again to take on responsibility for serving humanity and trying to right some of the wrongs of society:

I do think that I see the beginnings of our going back into a cycle of public service or public service orientation. I think, and I'm certainly hopeful, that the focus, to the exclusion of everything else, on profit and on winning, and on some of the more base aspects of the profession, has about reached its high or low water mark, whichever way you want to describe it. . . . [W]e are beginning to enter a period where the members of the profession are again going to try to right some of the wrongs in society and to serve the less fortunate. When I say right the wrongs in society, I'm not talking about high-blown ideals of going off on a second set of crusades or anything, but just some of the grinding problems that beset people who are afflicted with poverty or illness or ignorance and that would make their lot in life less desirable than most.

I've really begun to see young lawyers get interested in that, helping people with some of the mundane, day-to-day things that are not very exciting or glamorous for the lawyer but that are so important to a person who's being served.

None of us is probably going to build Hadrian's Wall or repeat the Pyramids or any of that sort of thing. You go through life and try basically, I think, to do less harm than good. And if you can get through having done that, you are probably way ahead of most.

WADE SMITH: "A GREAT HONOR TO BE A LAWYER"

Wade Smith was born on October 9, 1937, but his story really begins before that in the farmlands and textile mills of the eastern Piedmont. It is a story of humble beginnings where the seeds of achievement were sown early and nurtured by a heritage of faith, love, frugality and hard work.

According to Wade Smith, his father, Charlie Lee Smith, grew up on a farm in Stanly County with "seven or eight" siblings. Their mother died when Wade Smith's father was eight years old leaving her husband, James Marvin Smith, with a "whole houseful of little children." They were very religious people, and soon Wade Smith's grandfather was called to the ministry. There he organized many small Baptist churches and became a successful minister and according to Wade Smith, "a wonderful . . . powerful speaker." Wade Smith

said that James Marvin Smith was, "a really good man, one of my heroes, and I spent hundreds of hours when I was a little boy hearing him in the pulpit." The young Wade Smith was also fascinated with the idea of his grandfather's "call" to the ministry.

[T]hat's always been of great interest to me. . . . I think about it as it relates to the law, about being called. Are we called to what we do? And I used to ask him about it when I was a kid: What it was like to be called? Did you actually hear someone? Was there a voice that says, "I want you to be a minister?" What would you hear? He would say it was just a feeling.

Wade Smith's mother was also from a large family. Her father was a "sometimes farmer, sometimes textile worker" who could not read or write. Wade Smith remembers visiting his maternal grandparents in South Carolina where they had no electricity and lit their house with kerosene lanterns and lamps. He described his mother's family as a very "happy" and "wonderful" family, but "very poor." Wade Smith related the story of how his mother and father met:

[M]y father moved to Richmond County as a young boy. That's Rockingham, North Carolina. And so, what happened was the Depression came, and my mother and my dad were in the eighth grade at Rohannan School, which is a small school in Rockingham, and my dad met my mom, but at the age of sixteen, it was about the age of ninth grade, they had to stop school because of the Depression. So they next . . . met each other in the spinning room in a cotton mill in Rockingham, Hannapickett Mill, and so they did their courting as young kids, really, working long, long shifts, making just very little money, in the cotton mill in Hannapickett Mill in Rockingham County. There's much to tell about all that. It's a very, very important part of my life. The way my mother and dad started, they are very good, bright, intelligent people. They had to quit school, they had no education, and so the story begins like that.

Wade Smith and his brother Roger spent their early childhood in a mill village, where there was no running water, no indoor plumbing, and where life was "very simple." Smith said, "We had plenty; if we were poor, we didn't know." What the family did have was an intense devotion to one another, a reverence for education, and a drive to help the children succeed. Wade Smith credits his parents with his own drive and ambition:

I felt that my parents did everything they could possibly do for me. And I just couldn't let them down; I just

couldn't let them down, they had done too much. They came so far. My dad used to tell stories about having to walk from Rockingham, North Carolina, to Great Falls, South Carolina, when he was trying to find work. He didn't have any job, and he would have to walk. There was no way to get there, and it was a long way, and it would take several days to walk, and he would have to find places to spend the night. He would just go to houses and knock on the door and stay there for the night; and so a lot of times, when I'm thinking about, well, you know, I can't go on, work is so hard, or I've got a case that is just overwhelmingly important and incredibly tense, I think, well, you know, I am really not going to let them down. And so it's standing up on their shoulders. The courage they had to make it, I can certainly have that same courage, and I pass that on to my children, that we really are standing on their shoulders.

And so, as you can see, it's really a part of my daily existence—measuring up—it is not letting them down, it is accomplishing everything I can accomplish, being everything I can possibly be, not ever, not ever taking the chance that I will come down to the end of my life and look back and say, well I just didn't do it. So . . . every day I get up and I leave my house and I say, today I'm going to work on the legend, today I'm going to work on the legend, and I've not even started. And much of it is because of the beginning I had with the greatest parents, a good family, wonderful brother, so much to keep me charged up.

It was his parents' emphasis on education that Wade Smith saw as the key to his and his brother's success as attorneys. Education was a family undertaking with the parents and children working together in the family setting to read and to learn the meaning of words. Education was such a goal for everyone that after Wade and Roger had achieved their educations, the parents went back to school to get their high school diplomas. Wade Smith said:

I'm so proud of that. What happened was, as a kid, I realized that my mother and dad were very unusual people. . . . My mother and dad, the amazing thing, they went to the eighth grade in school, but one of the things we did as we grew up, we talked about words. They were always talking about the definitions of words, the meanings of words. We read the Bible all the time. They were very religious people. We had daily Bible readings. We went to church all the time. . . . [T]he church was two or three blocks from my house in Albemarle, so Roger and I went to

church on Wednesday nights for prayer meetings. We went to church on Sunday mornings and on Sunday evenings, and every time there was a church service, we went. And for all the revival meetings, weeks and weeks of revival meetings sometimes, my granddaddy would be conducting the revivals. We studied the King James Version of the Bible just intensely. It's remarkable when I look back on it. We didn't always do this, but there were periods when my dad would insist that we read the Bible every evening at meal time, at supper, and he would read it. I've realized . . . that all of that study of King James English gave Roger and me an outrageous advantage over other people who practice law who didn't study the King James version of the Bible. We learned the stories, we learned the Bible stories, we learned to think abstract thoughts about justice, salvation, forgiveness, mercy, and all that. So that kind of rural beginning . . . was a wonderful beginning.

The Smith brothers became interested in sports because they saw sports as a way out of the mill village. Wade Smith's real dream was to become an artist—a painter. Because he was so good in athletics, he began to get scholarship offers to colleges. Smith had planned to go to North Carolina State on a football scholarship but then received a Morehead scholarship to UNC-Chapel Hill. He decided to take the academic scholarship, and went to Chapel Hill, where he played football without an athletic scholarship. He became a football star and was co-captain of the 1959 Tar Heel football team. He views his most important achievement at Carolina, however, as meeting and marrying his wife, Ann. It was a case, he said, of "out-marrying" himself, a phrase he admits borrowing from Senator Sam Ervin.

My first date with Ann was in the fall of my junior year, and we had played Notre Dame that day. We played Notre Dame in South Bend, came back, and I took Ann out that night. . . . I remember at the game at South Bend I had never played such a hard game, and I'd got cuts and bruises that are still healing now. And I had double vision throughout that game. I got hit so hard [when] I carried the ball in the Notre Dame game I got double vision: I could see two of everything for the rest of the game. But we had a great date, had a great time. I enjoyed being with her very much. So that was the beginning of my friendship with Ann, and we've continued this friendship now for thirty-one years.

He was recruited to play professional football, but turned down that opportunity to go to law school instead. When Smith was asked what law school was like in his day, he responded:

Well, it was Van Hecke and Wettach. It was Fred McCall and Daniel Pollitt and Dickson Phillips, Breckinridge. It was Henry Brandis. It was the legends. It was a great faculty. Wettach was my advisor, Van Hecke was my favorite teacher. . . . Wettach was a handsome man. . . . He was one of my heroes. I just thought the world of him . . . [a] gray headed man, [one with] dignity, a modest man, very effective.

Smith worked his way through law school by coaching freshman football and working with the varsity team on Saturdays. He enjoyed his law school experience and knew enough about himself to understand that his future lay in trial work. He remarked:

I understood intuitively then that I had the ability to communicate with people, and that made me want to go to law school. And after I got into law school I naturally gravitated more toward torts, criminal law, toward that kind of advocacy. I never was interested particularly in contracts, tax and those things. Estate planning just left me; I couldn't be excited about it. But my heart always leapt up when I could learn about torts, and I could talk about negligence, I could think about *Palsgraf v. Long Island Railroad*. And I could understand how this chain of events could happen, the foreseeability, and how you can be expected to foresee that you're negligent. All that stuff just struck a chord. It's wonderful. And the only thing I knew was, well, when we were all being created, I was lumped into that group of people who would like to think through the philosophy of advocacy. And so it was just as natural as it could be, just as natural that I would want to move in the direction of being a trial lawyer. It wasn't like one day I said, "By golly, I need to be a trial lawyer, Edward Bennett Williams and I." It wasn't like that at all. Nothing magic happened. It just gradually occurred.

Wade Smith later referred again to being "called" to the law. His good friend and mentor, Robert McMillan, also views the practice of law as a calling, and, like McMillan, Smith sees his work as an almost sacred trust to protect the dignity of the individuals who seek his help and to uphold the promises of our Constitution and system of justice.

I'm an idealist. And I think the best test of civilization is whether it can cheerfully give people it hates a fair trial. And if it can't, we are in deep trouble. . . . So I think it is the lawyer's highest calling. . . . We have taken cases and arrived at court, and the TV cameras are there, and all the

police officers are angry, and the community is angry, and they're all trying to get into court. Because they can't wait to see this person get the death penalty, or get some terrible punishment. Over and over this happens. I don't know how many times we've left this very office, go down the mall to the courthouse, arrive there, TV cameras everywhere. You can feel the community dislike. Walk in the courtroom, sit down, and be saying to yourself, "I don't adopt this person's ways. This person will never be my friend. . . . There will always be an absolute, arms-length professional relationship. But we will conduct ourselves in the highest traditions of professionalism when we give this person service. And if the jury convicts this person, we will know that we did every single thing we could. That person will too, and the jury will too. The jury will feel good about the system, yes they will. Never was a person more vigorously defended, and every idea was presented. And every good argument was made. So that the jury had the opportunity to think it through, to look at both sides. And only after the jury thought it through looking at both sides with the finest advocacy, did the jury decide yes, he's guilty or she's guilty." That is the backbone of a democracy, and that can give people a good feeling about their work, about their system of government.

Smith has handled numerous high-profile cases during his career including the defense of Jeffrey McDonald, the Green Beret doctor accused of murdering his family at Fort Bragg; he also represented former Lt. Governor Jimmy Green and Cardell Spaulding. He clearly relishes the role of defender of the underdog and finds that role available most often in criminal cases. He spoke about the role of the criminal defense lawyer:

Here's what the community wants from me, here's what the community needs from me. The community doesn't need me to worry about the victims. The community needs me to be a hell of a lawyer. The community needs me to be a magnificent lawyer, to be a great advocate, to be an absolutely legendary advocate. And even with that, it's highly likely my client will be convicted. And if I begin to say to myself, "Well, I'm not going to try as hard this time, 'cause look at that poor victim," then the system falters. The only way the system will work is for me to be a focused advocate. It's like a game of tennis. I have to keep my eye on the ball that's coming over the net now, not thinking about the ones coming over three or four shots from now. I need to keep

my eye on this ball, concentrate on it so I can see the word "Spalding." And in order to do that I worry, not about the victims. It doesn't mean I'm an unfeeling, uncaring person. It means that my job within the constitutional framework is to be a great advocate on behalf of my people.

In addition to being one of the state's outstanding trial lawyers, Smith has served his community in other ways. In 1972, without telling his wife or his law partners, he went down to the board of elections and filed to run for the General Assembly. He was elected and served as part of the Wake County delegation, and he ran again and served again. He also spent a good deal of time during the period from 1972 until 1984 working actively for other political candidates. In 1985 he accepted the chairmanship of the Democratic party of the state, a job he described as very time-consuming with no pay.

Smith talked, too, about his passion for painting, an interest he developed as a child. He also is a member of the Will Turner hiking club in Raleigh, a group of old friends who hike together occasionally. He is also a member of the "Lost Dog" singing group. He plays the guitar and five-string banjo while friends and family play guitars and banjos and sing. The group has performed frequently in Raleigh to raise money for charitable causes.

Wade Smith sees the component of public service as part of the life of a lawyer. He talked about his thoughts on lawyers and public service:

[It's] a great honor to be a lawyer. The lawyers returned to the small towns in North Carolina. They were president of the PTA; they formed the corporations; they defended people accused of crimes; they headed the United Way campaigns. They really became leaders in their communities. They were very, very much respected in their communities. And one of the things that interests me so much is the amazing impact the law school at the University has had on life in North Carolina. The lawyers ran for the legislature. The lawyers went to the legislature and passed the laws. The lawyers became the judges; the lawyers were the governors. Lawyers were an honorable, honest, distinguished group of people. They wanted to make the world better. They were idealists. They struggled to make the world better. Mostly they were progressive-minded people. They believed in a better world. They went to law school because it was a way to make the world better. They believed that a lawyer had a better chance to make the

world better than the ministers did, that they could actually affect the world for good, that they could bring about social change, that they were very well educated people. They had the power, through learning, to make the world better. So it was a magic time. And that was part of what brought me to the law.

Wade Smith's intense pride in his profession is a pride in the role of lawyers in society, in the way lawyers relate to each other and to their clients, in their personal integrity, and in their creed of service to people. He paid glowing tribute to lawyers and their work:

[T]he lawyers of my era, I think, understood the importance of respect for each other—and I hope that's still true. . . . [W]e respected each other; we thought of the law as a very, very fine profession that probably—and I would say this is absolutely the truth—the most honest group of people I have ever known, they are by far the most honest people I know. The lawyers I work with in my firm and in this region of the world, and even in other cities I work with, lawyers are honest people. They are very honest. They are the best, they're the best group of people. They're the most fun. They're the most intelligent. And I think it's still true, that probably the best young women and men that we produce aspire to be lawyers. And maybe all they need to do, if there are any now who feel a bit negative, maybe they just need to hear those of us who are out here practicing say the things I'm saying, that it is a great profession. That it is important to be positive about it, that we are able to make changes. As a matter of fact, I know we'll come to this later, but think about what I do, the kind of work I do. More sad and hurt people come through my life in a year than come through the life of a minister. . . . So over and over, I'll bet if you took all the people we've dealt with in thirty years, and you take all the people of most any minister that you want, has dealt with in thirty years. And you go see, go interview the people we represent. And go interview the people the minister worked with. And then you go see the people affected by those works, and the ripples that came from that, and you would see that we are like ministers. We do the same. . . . We make good things happen. The difference is that ministers . . . deal with the reconciliation of human beings with God. We deal with the reconciliation of human beings with each other, with their families and their loved ones, with their communities, with their governments. . . . So back to where we were. What we are doing in this profession, is we're making the world

better. We're making people feel better. That means, for me, it's a dignified, wonderful profession, that we should feel good about.

Wade Smith is a person who knows the importance of every day of his life and who, in spite of his remarkable accomplishments as an attorney and public figure, works hard to keep it all in perspective.

I think it was at about age forty that I began to realize how short life is, that we're here for just a very, very short time and we're gone, that it's gone by in such a hurry. It's only a moment that I was in law school. Just a moment. I remember every day, every class, every person, every face. And it's been thirty years. It went by [Smith snaps his fingers] just like that. The next thirty will go the same way, and I'll be gone.

The other thing to remember is my cases—no one will remember them. The little moments that I build to create cross-examination—they'll be gone. No one will remember. And I have to keep that in mind, too, as I go about my work. After all, while I might think that I'm the greatest trial lawyer who ever lived, there'll be better ones. There will be much better ones coming, and we will not be remembered. We may be remembered for a very short while, and then we'll be gone. So for me the meaning of life is, stay up as late as you can, get up as early as possible, laugh as much as you can laugh, tell as many funny stories and collect them, and be a good sport, and be a good friend.

JUDGE GREGORY A. WEEKS: USING THE LAW AS A VEHICLE FOR CHANGE

Gregory A. Weeks was born on May 5, 1946, the oldest of nine children. Most of his childhood was spent in a predominantly black and Hispanic neighborhood in central New Jersey, but he also attended the sixth and seventh grades in Detroit and spent part of his high school years in Chicago. His father was one of the first black police officers in the community where he lived, but the community, and even Weeks's family, experienced the afflictions of inner-city life. His youngest brother died at thirty-one years of age as a drug addict.

Weeks was the first member of his family to go to college. He reflected that college was "not something that was the norm for kids in my community," and noted that when he goes back to his hometown to visit, people are surprised that he is a judge. "There are

many folks who thought I would be a jail-house lawyer of some kind, but not a legal lawyer in that sense.”

Judge Weeks reflected on how his background shaped his law school experience:

My perception was different because I came from a different background. For example, as you well know, law professors use the Socratic method in teaching, and one of the things that you’re ultimately supposed to reason your way through to is the basis for the decision in the particular case. There were a number of instances where I disagreed because in my view the basis for the decision—whether it was a political basis or based on precedent, case law—took into account perceptions that were foreign to the way I saw things and the way people who grew up like me saw things. It especially occurred in the context of criminal law, but [also] in other areas of law. I couldn’t understand why our law placed so much emphasis on property and not on lives. [That’s] a different way of looking at it, but I had to learn as a law student that my view really didn’t count. My perception really didn’t count. What I was supposed to do was figure out what their view was and then give it back to them by way of the exams. You had to acclimate yourself to thinking like the majority and you had to see things from their perception, and that meant you had to understand what their perception was, which was often difficult because we had different perceptions.

Judge Weeks described the event that led to his applying to college. Because almost no one in his family or community went to college, he had no idea that he would ever attend. But two guidance counselors in his high school took a special interest in him and registered him to take the College Board Exams. They paid the fee for the exam, but it was scheduled for 8:00 a.m. on a Saturday, and Weeks failed to appear to take it. “I was not about to get up, not on my day off, to take an exam on Saturday morning. It didn’t mean anything to me.” When the two guidance counselors learned that he had missed the exam, they rescheduled the exam for him, and paid for it again. Then, Judge Weeks said, “they beat the hell out of me. [On] the day the exam was scheduled for the second time, [they] came to my house, picked me up and took me to it and waited to make sure that I stayed there.” Apparently he did fairly well. He was offered financial assistance through a scholarship program for inner-city, minority kids called the New Jersey State Rehabilitation Scholarship, and as a result was able to go to college.

Weeks knew of one young man from his community who had gone to North Carolina A&T and a woman who had gone to Bennett. Through them he learned about A&T in Greensboro and decided to go there. He took a bus from New Jersey to Greensboro with everything he owned in two small suitcases. He believes that North Carolina A&T was a good experience for him: "For the first time in my life I saw black-owned businesses; I saw black professionals; I had the opportunity to be taught by motivated black instructors. It was the first time that I had a real sense that black folks could achieve, that black folks could succeed." He felt there was a great deal of difference between the world he came from and the world at North Carolina A&T. He said it was very hard to communicate to people back in the world where he had come from about his experiences in college because they had no way of understanding. His family and friends were proud of the fact that he was in school, but they felt that he was going to a second-rate school because it was black. He ascribes this perception to the misinformation about black colleges in the media.

While Weeks was at A&T, the administration there neglected to send his draft exemption to the Selective Service Board, and he received a draft notice and reporting date from the Army. To avoid that destiny, he enlisted in the Air Force. Though he received a delayed enlistment date, he still was unable to finish school, and he entered the Air Force in 1967 (his third year at A&T). He served four years in the Air Force, spending part of the time in Southeast Asia and part of the time in Europe. After he left the Air Force, he returned to North Carolina A&T and graduated in December 1973.

While finishing college at A&T, Weeks worked the second shift at Guilford Mills six nights a week and went to school during the day. He had classes from 8:00 a.m. to 2:00 p.m. and went to work from 3:00 p.m. to 11:00 p.m. This was during the wage freeze under the Nixon Administration, so he had to work considerable overtime just to survive. He said of the job:

[It] taught me a lot about human beings because most of the folks who worked at that kind of job, textile work, they were poor; they were black, white, and Indian. It was back-breaking labor, and most people spent their entire lives doing it, but I learned an awful lot about people at that job. I think it helped me ultimately down the road as a practicing attorney.

Judge Weeks talked about why he decided to go to law school, something he began thinking about while he was in the service.

Even as cynical as I was at that age, I still had within me a kind of naive belief that there is ultimately a right and there is ultimately a truth, despite all the things that I saw to the contrary around me. But it was my experiences in the service that got me to thinking about law school because I thought law school was a mechanism for change, for an individual making change. I was naive to some extent, but I still believe that. I still think law can be a vehicle for change, although it is difficult.

Judge Weeks saw law school as “akin to a tribal initiation. The objective was to inflict psychological scars on you as in certain African societies: “Once you had the requisite number of psychological scars, you were formally initiated.” He felt there was a lot of pressure on people in the first year. When he went to Carolina there were twenty-six black students in the entire law school, and sixteen of those were from North Carolina A&T. He was impressed with the facilities at the UNC law school as compared to those at his college, and he was astounded at how much students had in terms of available lodging, books, and access to libraries. At A&T students had made do with used books, had shared books, and reused materials. Seeing the advantages at Carolina impressed him with the accomplishment of students at A&T. He felt proud that even with the limitations in facilities and materials, black people were able to succeed.

Weeks was married by the time he came to law school, and his wife was in graduate school. He worked in the law library and went to summer school during both his first and second years. He also worked in the Department of Epidemiology at Carolina on a rural hypertension research project which he found very interesting. He says he treated law school like it was a job, and he thought that helped him succeed in it.

After law school graduation, Weeks got a job with the Fayetteville Public Defender’s Office, where Mary Ann Tally was the Director. Judge Weeks noted that several other black students who were a year or two ahead of him in school had helped connect him into the pipeline leading to his job in Fayetteville. In that job, he worked with Tally, Fred Williams, and Tye Hunter. He felt he benefitted greatly from being associated with all three of them—particularly in learning basic skills and how to make legal training work. Judge Weeks observed, “I learned things that probably would have taken four to five years or more on my own.” He added:

Our office was special because we didn’t rely on North Carolina law. Our office had contacts with other folks

throughout the country who were doing similar work. It was kind of a network. Some trends in the law that were developing, for example, in California, we would hear about very quickly because we were constantly in contact with these folks. I'm real proud of the fact that lawyers in the Fayetteville Public Defender's Office were the first lawyers to file what would now be called *Batson* motions, challenging the use of preemptory challenges discriminatorily by prosecutors on black jurors, prospective jurors. . . . It was the kind of office where, even though it was in a relatively small area—Fayetteville is not the largest metropolitan area in the country, although you would think to the contrary if you look at the crime statistics—and that was another advantage. I was out of law school a year before I was second counsel on my first murder case. You got that kind of experience real quickly. You had the benefit of not walking into that kind of experience cold because you had other lawyers who had been through it, who would sit down with you any time and share their knowledge and expertise with you and help you get through it. I can't think of any place else in the country where I would have gotten that kind of experience as quickly as I got it, from folks who were as skilled, as I got in the Fayetteville Public Defender's Office.

Judge Weeks feels that his heritage as an African-American also contributed to his skill as an attorney. He spoke of the benefit of cultural traditions to black attorneys in developing their advocacy skills.

Many of the students that I was in law school with had never been in a ghetto, had never experienced many of the things that I had. Also, it was a constant source of amazement to me, I knew blacks in my community on the corner who would have been tremendous lawyers or scholars. Because I think that we have an advantage; I think that black lawyers, by and large, have an advantage in terms of advocacy skills. First, because we are a verbal people. . . . We are a language-rich people. We can communicate with a paucity of language. It's always a beautiful thing to me to see two black folks meet each other. "Joe, what it be; ain't nothing to it." How much is communicated by those words? . . . Black ministers understand the power of language; we make language come alive. It's not cold, sterile, technical jargon. It becomes a living thing if we use those things that are a part of our heritage. Also, being black in America, most of us—not true of all of us—most of us can walk into

a room and read folks in the room in fifteen seconds or less, at least get an initial impression. We pick up so much from body language because of what we've been exposed to: I hear what you're saying, but I see what you're doing. All those skills come into play in a courtroom. I would see obvious things happen in the courtroom—obvious to me—but my white opponent would be totally oblivious to it, because he was so focused on stuff that really didn't have anything to do with the human drama that was occurring in the courtroom. Our aural tradition and oral tradition, the gift of storytelling that is a part of our community, those things, I think, are attributes that if we are aware of them, and if we use them, stand us in good stead as litigators.

When he was asked about his acceptance by the bar as a black attorney, he talked about what he called the "organ grinder" syndrome. Organ grinders once stood on street corners with monkeys; the organ grinder would play his organ, and people would make donations, watch the monkey, and marvel at how human-like the monkey was. Judge Weeks believes that is the way some people see black lawyers. When black lawyers walk into a courtroom, the expectation is low. Then the organ grinder syndrome sets in, and people are astounded and impressed that black attorneys talk like lawyers.

Weeks clearly felt at home in a courtroom and enjoyed trying cases as a public defender.

I love trying cases and litigating cases because for me it was like street fighting with legitimacy. It was like combat with legitimacy. I understood that there were rules, parameters, but the bottom line was that it was an adversarial process, and I revelled in that. I loved the idea of taking somebody in that everybody expected to get convicted and walking them out, because the system worked. And that was what I really loved. I don't think the system works consistently with the ideal. The Seal of the State of North Carolina has written in Latin, "*Esse quam videri*," which means, "To be, rather than to seem." In reality, if you reverse that, that's the way things really usually are: "To seem, rather than to be."

Judge Weeks spoke about the ability of lawyers to effect change. He believes someone can make a difference as a practicing attorney by "being competent and by being willing to make changes that are there to be made and not being destroyed completely by the fact that

you can't make the kind of changes that you want, and [by] staying in the game." He said further:

I think all of us start out with grandiose ideas about how much change we are all going to be able to make. Then comes the often unsettling realization that any change we're going to make is going to be very small. The question then arises, can you deal with that. I learned fairly early on to take whatever good that I could, count it as a blessing, because those instances would be few and far between, but to recognize that it was important to make change when you could and to the extent that you could.

After ten years, Weeks left the public defender's office and went into practice with Jim Parrish and James Cooke. When he was persuaded to run for Superior Court judge in 1988, there was only one elected black Superior Court judge in the entire state. Judge Weeks felt that it was important to have minority presence on the bench. He also believes that it is important to have more women on the bench and that currently Native Americans as well as African-Americans are underrepresented. "I think there has to be a perception that justice is being done," he said. "That perception is enhanced when you have a wider representation on the bench. I thought it was extremely important that blacks, as well as women and other minorities, be represented in our judicial system."

Judge Weeks spoke about the ability of a judge to effect change.

Based on the sheer number of cases that I deal with and the position that I hold, I have an opportunity now to have more impact . . . than I ever had in my professional life. Obviously, when I was acting in the role of an advocate, I was limited in what impact I could have on things. I could do the best I could to be a good advocate, but I didn't have real decision-making powers. I now do, but I'm no longer an advocate. I was thinking a few weeks back over the number of cases I've been involved with in five years, and that's a lot of lives to touch, not only the folks who are involved in the lawsuit, but the lawyers. Hopefully, I've had some impact on them if I have conducted myself in a confident and fair and courteous way. It's like a ripple effect, but the opportunities to have some influence on what occurs, and how folks see it, has certainly increased.

Judge Weeks also discussed the attributes he believes an attorney should possess. He immediately spoke about credibility—personal credibility—and selling a service:

I had some students in my courtroom today, and I told them that I think the one thing lawyers could never afford to lose is their credibility, personal credibility. We sell a service. It's not like you can hold in your hand what it is that we do. It's not like when you go to a doctor and the doctor can perform surgery on you or prescribe medicine and that's something tangible that you can see or hold onto or feel like you got a return for the money that you paid. In order to be effective advocates, in order to be persuasive advocates, I think you have to have credibility. That means your word is your bond. If you ever reach a position with your colleagues, with your peers, where folks start saying you can't be trusted, you have effectively hampered your ability to serve as an advocate.

Judge Weeks is very aware of his position as a role model. He commented about the judge as a symbol, the burden that imposes upon him, and his dependence upon religious faith to help him bear that burden.

I didn't realize how awesome it was. I have a friend who was a judge who told me that to a great extent you stop being just an individual. You are a symbol, to folks who look like you and to folks who don't look like you, who see you as representative of the entire race. Sometimes you feel like that's too much of a burden to bear. But it's part of the responsibility. I came to the church late in my life, but I really believe that if there is a truth, there is truth in the Bible. One of the truths that I have learned is that to those to whom much is given, much is expected. Those that God allows to be placed in positions of responsibility have to answer for how they have dealt with that responsibility. This friend decided that it wasn't for him. When my judgeship was coming up, he said, "You ought to think out what you're doing because you're taking on more than I think you are aware you're taking on." It's true, you have to be mindful of what you do and what you say. You have to submerge self to a much greater extent than I think anybody realizes until they're there. But it's part of the price that you pay.

Judge Weeks noted that black judges, just like black attorneys, are under greater scrutiny:

I don't think for a black attorney, or a woman attorney, being as good is enough. I think you have to be better, and that's unfortunate. And there are those that say that is just racial paranoia. I don't think that's true. They haven't been

where I've been and walked in my shoes. . . . I think you're held to a higher standard, and I know I've held myself to a higher standard. My frame [of mind], when I was a practicing attorney and even as a judge, is I'm going to be the most prepared person in there because I can't afford to be anything less than that.

Reflecting on his years at the UNC School of Law, Judge Weeks said that he appreciates the opportunity that Carolina gave him.

The opportunity has been meaningful to me, and that's why I do the programs I do at UNC. I think there's a lot of room for change in attitudes. I think Carolina is a microcosm of our society just like most other institutions are. Hopefully, Carolina will continue to grow, and black students will feel more a part of the system than I felt when I was there. I think that change is going to come. I hope it comes faster than one might expect from the track record.

Judge Weeks believes that a lot of being able to improve oneself has to do with luck, and by that he means more than chance.

Luck is, for me, a combination of having the opportunities, and either having in yourself, or from some other source, the ability to recognize it for what it is and to appreciate it. By appreciate, I mean to show by your conduct that you are going to do your part. And keep in mind, while there are a lot of bad things happening out there and a lot of folks who will do negative things to you, there are also some good people out there. There are some folks out there who will match you step-for-step, and sometimes take two for every one you take and help you along the way. You need to make sure that those folks have not wasted their time or their efforts [on] you.