

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY

NEW BRUNSWICK

AN INTERVIEW WITH DAVID SIVE

FOR THE

RUTGERS ORAL HISTORY ARCHIVES

WORLD WAR II * KOREAN WAR * VIETNAM WAR * COLD WAR

INTERVIEW CONDUCTED BY

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TRANSCRIPT BY

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Shaun Illingworth: This begins my second interview with Mr. David Sive on November 27, 2007, in West Orange, New Jersey, with Shaun Illingworth. Thank you again for having me here today.

DS: Thank you.

SI: Thank you for your last interview and your hospitality then. To begin, the last interview stirred up some memories about the Second World War that you wanted to share.

DS: Yes, right, and I can supplement what I said the last time with, I think, a few interesting aspects of the war. One is, in the first period that I was in the Hurtgen Forest, there was one day when we were taken to a resting place and had showers and other comforts. That was the one day of the total stay, until I was wounded and taken away. [Editor's Note: The US Army was engaged in the Battle for the Hurtgen Forest from September 14, 1944, to February 10, 1945.] Then, some aspects of the events I've recalled and I think may be of interest, one is the fact that during the Bulge battle, when the Ninth Division was not in the center of the fighting at Bastogne, but on the fringe of it, I sometimes operated the telephone switchboard, which is at the battalion headquarters, where the communications section is. ... One of the things which happened during that thirty or forty days that the Bulge battle went on was, frequently, receiving word in the switchboard from some rifleman phoning, ... or somebody with him, telling us of what was called an SIW. That's a self-inflicted wound. Although we were not in the center of the fighting, the riflemen were in their foxholes at the place closest to the Germans, and the weather was severe winter weather, and so, [since] just lingering in those foxholes was a demoralizing aspect of it, a fair number inflicted what got to be called SIWs. Then, there were just two interesting stories of the first time I was at the front before I was wounded. One was the fact that, ... in the forest, one day, a soldier next to me in a foxhole was wounded and he sounded off, as was usual, "I'm hit, help me." So, I got out of my foxhole and went over to him and did help him get up and start walking. He was wounded in the shoulder, and I don't think it was a grave wound. In any event, we walked a few hundred yards to the place where I knew was the center of the battalion, the Battalion Headquarters, and I was a member of what was called the Headquarters Company, which, together with three rifle companies, constituted the infantry battalion. I knew that the headquarters, where the medics would be, was a few hundred yards down a forest road to a point called *Jagerhaus*, meaning "hunter's house," in German. ... I walked down there and as I got fairly close to the actual center, where the command post was and the medics and others, I began to see all of the earmarks of a battle and, essentially, they're chaotic. You just don't know what is happening outside of the immediate area where you are, and probably know less about how the battle is going than the readers of the *New York Times* or some other fair newspaper back in the States. So, I noticed, among other things, a few men on stretchers, covered over, who I assume had been killed, and a few other men on stretchers awaiting a jeep, which would have four stretchers placed on it and [would] take them to the, first, field hospital and, from there, go to the larger hospitals. I also noticed, as I got close to the point where the medics and others were, I saw a large house, which probably was a house occupied by some lawyer or merchant in Cologne, the nearest big city, at least so I thought, and that house, like everything else, was virtually completely destroyed, with just a few remnants of wall standing. ... As I approached the center, I began to hear some music, and, as I got closer, I recognized the music as a Viennese waltz, being played by a full symphony, and I happened to

... have a passion for Viennese waltzes, and I stood there and recognized the selection. It's one called *Roses from the South* or *Southern Roses*, and, to me, it was just a tremendous irony to hear this music in the center of the battle, produced by an Austrian, Johann Strauss, and think of the Germans and Austrians as creators of some of the most beautiful music, among other things, Beethoven and Mozart and Strauss, and the same ones who were carrying on the Holocaust. Well, I just lingered and thought, perhaps, the music, which came from a record player, which some GIs, with their usual inventiveness, had taken out of the house, and, somehow, that was not struck, and they were able to get it operating and must have found, in the house, some album with these Viennese waltzes, so, I waited, hoping that, at the end of that one selection, there would come the *Blue Danube* or the *Vienna Woods*, [both popular waltz compositions], or some other Viennese waltz, but it ended and I just went back to my spot. ... Then, a week or ten days later, I was wounded and taken out. One other event I recall, during the second time that I was at the front, it was also in the Hurtgen Forest. The Ninth Division had hardly advanced more than one, two or three miles during the entire period from the middle of October to, oh, approximately, the end of December. ... The way the wiremen operated, the way we performed our function of checking wire and looking along a telephone line for the break, and then, splicing the ends together, or setting up a new line with new wire, was to have a wheel with the wire curled around it and place that in the back of a vehicle, and then, pull the wire as the wheel revolved, and, with carrying the wire, go to the point to which you wanted to install the wire. ... This, I recall, where we stopped, it was after going about, I think, a mile or so up from a fairly deep valley in a village called Monschau [in Germany], M-O-N-S-H-A-U, where I had been during the first period there, and driving up out of this valley to a plateau where we stopped. ... We stopped to begin the pulling of the wire at the edge of a clear area, which must have been pasture land, and it was a couple hundred yards from across that clear area to a wooded area. Well, I, this time, stayed by the truck, pulling out the wire and feeding it to one of my associates, who was going to install the wire where he was directed to go. ... As I stood there looking out across this clear field, I noticed, at one point, some white figure coming out of the woods and beginning to walk and come across the open field to me, at the vehicle in the road, and the figure came closer and closer. ... At that time, the standard instruction to infantrymen and others was, "If you see somebody and you don't know who it is, sound off with the ... phrase of the day." The ... phrase of the day was ... of two or three words, which would be recognized by any American, such as, ... "Brooklyn," then, "Dodger," or, "Pepsi," "Cola," and, if the response didn't come, ... you just were told to shoot. That was the instruction, and I think the same system was used in the Pacific Islands, just having a phrase which Americans would know, but Germans or Japanese wouldn't know. ... I then had the instruction to shoot, but, holding a carbine, I was so immobilized, not knowing what ... the figure was. I was a bit frightened. As this figure came closer and closer, I just stayed mum and didn't shoot. ... When the figure came close to me, I saw that it was a soldier, ... fairly well-covered with ice and frozen snow. ... I figured out, and it turned out to be correct, that he had been in one of these holes with other riflemen and had been pinned down by the Germans. ... When he got to me, he was able to talk some and told about being in a foxhole for two days and two nights, literally frozen. But he was able, on the third day, to get out of the hole and, because it was misty, begin the walk to some road or place where he'd meet others. ... That immobilization probably saved his life, or at least from injury. ... It was interesting and just unusual, just to have this experience. ... Disregarding the instruction to shoot when a person didn't respond with, "Cola," after, "Pepsi," or, "Dodger," after, "Brooklyn," and so forth, saved the life of the man. ...

SI: I just have a couple of questions based on that experience.

DS: Yes.

SI: In addition to fixing where the wire had broken or had been damaged, did you also have to monitor for Germans tapping into the line, or any security type of function?

DS: I don't recall that. I don't recall it personally. It may have been done, that may have been part of the instruction, but I don't recall doing that, no.

SI: What about during the Battle of the Bulge, where there were Germans coming in with American uniforms, pretending to be Americans? Do you remember either any cases of that or the sense of paranoia that took over the Allied forces then?

DS: I didn't experience that. The well-documented dressing in American uniforms by a couple hundred Germans was, I think, closer to the center of the fighting, the center of the "U" near Bastogne, and it didn't take place where I was, in one of the parts of the "U" a few miles from the center of it.

SI: So you were not subject to that sense of paranoia, that the person in front of you may be a German coming through, and so, you have to use passwords and that sort of thing. In your job, did you ever encounter booby traps or anything like that?

DS: ... I didn't, no. I do remember that that was a real hazard, and several men did encounter them and were injured.

During the period at the end of February and the beginning of March, after the Americans had broken through ... the Hurtgen Forest, and [were] proceeding east over, I think, agricultural, dairy farm country, we were told to be very careful about going into the houses in the villages which we would encounter. ... It was a fairly rapid advance then and, each day, each unit would take one or two ... villages. ... We were warned not to open a cabinet, ... open a drawer, be careful when going into the house, just watch out, very carefully, look for booby traps. ... There were some incidents in which a fair number of the men ... were wounded by booby traps.

SI: I would like to jump forward to Columbia Law School, unless you have any other thoughts.

DS: No, there's nothing else that I think is notable.

SI: You can come back at any time.

DS: Right, yes.

SI: Did you use the GI Bill to go to Columbia?

DS: Yes. I came back to the US ... from Paris ... near the end of May. ... I then went home to Brooklyn and stayed there, really, until ... the end of May or early June. I don't recall exactly,

[it] may have been mid-June that I arrived in Brooklyn, and there, in the apartment ... my father and my younger sister were. ... My mother was in bed, in ... the last stages of a cancer. ... Her illness was the reason I was granted what was called an emergency furlough by the authorities ... of the Army in Paris, where I was. ... I stayed ... at home until the beginning of August. ... During that period ... I visited people whom I knew. ... I stayed with my sister and father and spoke to my mother in bed. I don't think she really recognized me, but that's something I don't know. ... She actually did die in ... early July. ... At the end of July or the very beginning of August, I started to go back to an Army post. ... I was instructed to go to Chattanooga, Tennessee. I forget the name of the Army post which was there, [Fort Oglethorpe]. ... It was a fairly large center where men were received and re-outfitted and housed and ... given needed medical care. It was a fairly important place to service the troops. ... I decided ... to hitchhike to Chattanooga.

I was a frequent and lover of hitchhiking, in part because I've just, always, since childhood, had a passion for travel, and [have] always been a keen student of the geography of any place which I visit. ... So, I decided to hitch from ... Chattanooga. ... I remember going to Harrisburg, Pennsylvania, and then, southwest along, I think it's [US] Route 11. ... That road proceeds through very scenic country, through the Shenandoah Valley, and it goes very close to the Shenandoah Mountains, ... the Blue Ridge Mountains and the Smoky Mountains. It's a very beautiful route southwest. ... When I was midway between Harrisburg and Chattanooga, or maybe a bit further than midway, I think it was August 9th, the nuclear bombing of Hiroshima, and then I think ... nine days later; ... I think the bombing of Hiroshima was on August 7th and, about five days later, the bombing of Nagasaki. ... In that five days, the talk was whether the Japanese would surrender. [Editor's Note: The atomic raids were carried out against Hiroshima on August 6, 1945, and Nagasaki on August 9, 1945.] ... I suppose it's understandable that I felt very elated ... because I was looking forward to the possibility of returning to the Ninth Division, which would no doubt have been one of those divisions which would lead the assault on the mainland of Japan, along with other units. ... There's always a good deal of speculation and debate whether we should have used the nuclear bombs. People understandably, have sincere ... opinions on both sides. ... I've always thought that ... the bombings were justified. No doubt, my thoughts ... are influenced by my personal situation. ... One of the things which I think is seldom heard in that debate, which still goes on ... is the toll of our firebombing of practically all Japanese cities, with far more loss of life than that from the nuclear bombs. ...

[TAPE PAUSED]

SI: Can I turn this back on?

DS: Yes.

SI: Please, continue.

DS: One of the aspects of that continuing debate, which I hardly have heard people mention, is that, in addition to the numbers of Americans and British, ranging in guesses from fifty thousand to three hundred thousand, who would have been killed, and four or five times that wounded, is the firebombing, before the nuclear bombing, of a number of Japanese cities, completely

destroying the cities. ... They consisted mainly of wood structures, including Tokyo, [and] killed as many people and more; ... as many as were killed by the nuclear bombs. ... The Hiroshima [bombing], I think, eighty or ninety thousand people died immediately, and a large number later. So, I have this view of the nuclear bombing and it influences my thoughts in this continuing debate. ... It's been something which I find some difficulty in explaining to my children and others who ask for my view about the justification for using the nuclear bombs. Well, that's a continuing debate and I don't doubt the sincerity and intelligence of the people who take the opposite view. ... That firebombing by regular airplanes occurred ... to a number of ... German cities, after the Americans and British assumed total control of the air. ... The most dramatic and, perhaps, infamous bombing was that of the City of Dresden, in eastern Germany, ... that great arts center, which was firebombed by the British. ... I think fifty to seventy-five thousand people died from it. ... The British used to do their bombing in the day and the Americans at night. [Editor's Note: Mr. Sive is referring to the February 14-15, 1945, air raid on Dresden, Germany, in which the Royal Air Force conducted area bombing with incendiary bombs at night and the US Eighth Air Force targeted marshalling yards in the city center during the day.] They had different views of tactics, and the British, I don't think the Americans did, ... firebomb a number of German cities, which I think, looking backward, correctly, is deemed to have been unnecessary. ... It was after the liberation of Paris, and, perhaps, ... and after the Battle of the Bulge and the beginning of the rapid advance across Germany, toward Berlin. ... There are quotes of Winston Churchill defending that firebombing. ... There, again, ... are different views as to whether it should have been done, but it's just an aspect of the war.

... Getting back to Chattanooga, ... it was, I think, just three or four days after the bombing of Nagasaki that the Japanese surrender. ... V-J Day was August 14th, when [General Douglas] MacArthur and others met Japanese officials and the formal surrender took place. [Editor's Note: V-J Day was declared on August 14, 1945, in the United States. The formal surrender ceremony on the USS *Missouri* in Tokyo Bay did not take place until September 2, 1945.] In the meantime, I was re-outfitted. ... The Army, and the Navy, too, I suppose, had to figure out what to do with the men who ... suddenly would be set free. ... They worked out a program whereby, gradually, men were released. ... The release began, I think, in October. ... The Army had what they called a point system. One received a certain number of points [for] each battle and each award, and ... other aspects of ... his career.

I, of course, ranked quite high in that point system. I think it came to sixty-five points. I somehow recall that figure. ... One received points for each important battle, and for a Purple Heart. ... One received points if he went overseas. ... I rated high in points and was actually discharged on October 30th. In the meantime, the people in charge decided to send me to San Francisco, to an Army post about twenty miles east of San Francisco, on the eastern shore of San Francisco Bay, ... in the City of Pittsburg, California. I forget the exact name of the Army post, [Camp Stoneman], but I was there ... assigned to be the assistant editor of the daily camp newspaper. ... It was an interesting and easy job, ... quite a sinecure. ... I was there [for] about thirty-five or forty days. I went there from Chattanooga, I think [in] the third or fourth week of August. ... Among other things while there, I had a tremendous desire to see parts of California, particularly the Sierra Nevada Mountains, Yosemite and other places, several National Parks. ... Part of the time I was there, I remember two or three days going to Yosemite with a man whom I had befriended. ... He had been in the infantry, and wounded three times, and [was] beginning

to go back for the fourth time when the fighting ended. ... We hiked Yosemite and I was so enamored of it that I think we must have walked eighteen or twenty miles up, from the valley floor up to the plateau, and then, around and to the part of the high point overhanging the valley at El Capitan [a large rock formation in Yosemite National Park] ... I had known about and read a good deal of it reading virtually every book by John Muir. ... He was one of the great naturalists and authors, and among other things, the founder, around 1905, I think, of the Sierra Club. ... He founded ... it to oppose the use of a valley and river ... for the water supply of San Francisco. ... Actually, he and the Sierra Club lost that fight. I forget at the moment the name of it. I think it may be Hetch Hetchy, I'm not certain. [Editor's Note: Hetch Hetchy is a now flooded glacial valley in Yosemite.] Well, I had really known about the area, including Yosemite. ... That was a highlight of the stay there. I also recall, part of the re-outfitting in Chattanooga was taking the Army's IQ test again. ... I really worked hard at it, I wanted to get ... a high grade, to do something pleasant in the Army, I think I got a grade of over 140, which I think was quite a few points higher than the first time I had taken it. Well, it's just one aspect of my recollection.

... I was discharged on October 30th, out of some military center in ... Sacramento. ... I decided then that I'd ... hitchhike home to Brooklyn. ... I told my father and sister about that, and I think my sister understood, but my father, understandably, was very much disappointed. He had been through the war with my sister, my mother gradually succumbing to cancer, and, of course, he wanted me home instantly. ... I felt ... strongly that I wanted to see the States and go through them. ... I decided I would do ... so. ... I took about thirty to thirty-five days, going north to the Redwood Country of California, then ... through the wine region of the Napa Valley, ... to northwestern California, where I took a road going across a mountain range to northeastern California, to the City of Redding. ... I chose that route because it went near and within the sight of Mount Shasta. ... It is one of the highest mountains in California and very well-known to any reader of John Muir. One of his interesting accounts of his adventures was a night on Mount Shasta, where he kept warm through thermal springs ... on the summit. I wanted to see that, so, I went to Redding.

... That trip was a bit odd. It's about three or four hours. I was picked up by a middle-aged couple who were members of some evangelical sect, like ... Jehovah's Witnesses. ... Just a few minutes after I got into the car and we started riding, the woman asked me, "Have you been saved?" Well, I didn't quite know ... how to respond. I told her, ... "If you mean saved from worse things than the fighting, yes." ... By saved, she meant become a member of their sect. ... They spent much of the time while we were riding to Redding instructing me and giving me accounts of what their interests were and how ... I would be saved by joining their sect. ... I went from Redding, California, north to Crater Lake in Oregon. ... All of these places I knew very much from reading. ... I went west to Portland, then north to Seattle. ... I took a whole day going around the Olympic Peninsula. I wanted to see the Olympic Mountains, which are one of the most scenic and beautiful areas of the US. From ... Seattle, I started out one morning at dawn. I recall being at the western end of one of the two bridges which go across Lake Washington, a large lake which is on the eastern side of Seattle ... which leads east to the Cascade Mountains, including Mount Rainier. ... Mount Rainier is southeast, but I went east and south to eastern Washington, to Spokane, and then, further east to Idaho and the Bitterroot

Mountains and across the Continental Divide, south to Denver, and then, east to Omaha, ... Chicago, and Cleveland, Ohio.

... After about twenty-eight or twenty-nine days, I ... arrived in Brooklyn. Well, I still wanted to see things, so, I took a whole day going up and back to the Adirondack Mountains, which was one of the principal places which I always loved, from the camping and hiking there, and finally got back to Brooklyn. Well, that was at the end of November. ... Sometime near the end of November, it may have been early December, I made out applications to go to law school and made out the applications for Harvard and Columbia. At that time, there were really only three elite law schools, Columbia, Harvard and Yale, well, maybe four, also, Chicago. Now, there are half a dozen or more elite schools, including NYU, but, at that time, there were only three elite schools and the prospect of going to an elite school, and then, at the end of the courses there, going immediately into the practice of law with either one of the elite Wall Street firms or other well-known firms was what turned me to want to study law and become a lawyer. My father always told me that he wanted that, before the war and earlier, and I resisted it, because I didn't want to follow the path of most of the persons wanting to be a lawyer, a large portion of the Jewish community, and, in part, because of the well-known prejudice, then, of elite and other well-known firms against Jews and non-whites and Italians, people whose names ended in "O." The usual route to become a lawyer was going to college for two years, and then, beginning law school at night and studying at the law school four or five years, and then, hanging out a shingle and waiting, at least so it appeared to me, for the first cousin to die or be in an automobile accident. Well, that, I just didn't want, but the prospects [were more appealing] in an elite school, financed by a bill, a program, wasn't exactly the GI Bill, but similar to it, and I think with a slightly greater benefit, for men who were disabled, and I was classified then as twenty percent disabled. [Editor's Note: Mr. Sive is referring to the Veterans Vocational Rehabilitation Act of 1943 (Public Law 16).] ... I've since then received a disability pension for that, but I did decide then that, yes, I want to pursue law as a career. ... I chose Columbia over Harvard. ... I couldn't see the prospect ... of leaving my father and sister alone again. So, I chose Columbia over Harvard Law School, and, at that time, we lived in Flatbush, Brooklyn. I was at Columbia for two years. Most of the law schools then had accelerated the three-year program to enable one to complete the studies and receive the degree ... in two calendar years. ... Between early December and the 1st or 2nd of February, when the classes began at Columbia Law School, I went back to work at the drugstore I had been [working at] while at college. ... I didn't really take any further time off; then I began studies at Columbia Law School in February '46.

SI: Were you concerned at all about quotas at these schools that you applied to? Was that a concern then?

DS: There were quotas, yes. There were quotas at the colleges, and I think the law schools, too. Harvard, I think, then, was almost unique and infamous, really, for accepting almost everybody who applied and discharging them at the end of the first year if they didn't do well. ... It was cruel. ... There were quotas then, definitely, in colleges. I'm not certain if there were quotas geared to religion or ethnic origin at the law schools. One had to take a test to go to Columbia ... then. I think, Harvard didn't have a test then. I'm not certain, but I know Columbia, Yale and other schools did. ... I took the test and passed it, although I don't think I could secure entrance

there today [laughter] to Columbia or Harvard, Yale, Chicago, or NYU. I just wasn't that good a student.

... One of the interesting aspects of that month, of ... December and January, was my father urging and pleading with me to call and speak to ... my rich uncle in New Jersey, who, family legend had it, knew senators and other politicians. ... My father urged me to use ... the contact to secure entry to Columbia, but I did [it] on the merits. ... The merits weren't quite as difficult as I think they are now.

... The Columbia class consisted of just over two hundred students, all but four of whom were men, as distinguished us [from] classes immediately before ... the war which then were overwhelmingly women. ... This was before women really began to go to law schools in force. ... Today ... a number of law schools have a small majority of women. The class was ... virtually all veterans. ... I worked hard and did secure good grades in the first year. ... The objective in law schools ... was to be at the top scholastically, to become one of the editors of the law review. "Making review" is the great thing. ... In Columbia, at that time, there were so many ... who really had the grades and the standing to, in the ordinary case, make review that Columbia established a special category of students, which they called "Stone Scholars," named for Harlan Fiske Stone, the Chief Justice of the Supreme Court, who had taught at Columbia. Well, I didn't quite make the review, but I became a Stone Scholar. I think we were a total of twenty to twenty-five, out of the two hundred.

... I went through the usual course of studies at Columbia, all the time commuting by an hour-long subway ride, after twenty or thirty minutes walking to the subway, to Morningside Heights and back. ... It took two to three hours every day. The other, perhaps, interesting thing is that the law schools all carry on what they called moot court programs, where they imitate court proceedings, with arguments and briefs. ... Columbia and Yale then held the first interscholastic moot court competition. ... I was one of the three on the Columbia team who, in the holding of a moot court session, beat Yale. ... I think I was the outstanding one in the conduct of the oral argument, but there's not much else which I think is notable ... my two year at the law school ... finishing the studies in February '48.

SI: Was there any kind of specialization at that point, any area of law that you enjoyed over another?

DS: Yes, there was a specialization in litigation, courses in civil procedure and other courses. I ... made a special point of taking the course in labor law, and that was because as Stone Scholars, those who didn't make review, [we] were employed as kind of interns by members of the faculty. ... I was employed by two professors, a Herbert Wechsler, who was the brother of the owner and editor of the *New York Post*. ... He had been one of the chief lawyers at Nuremburg [the trials against Nazi war criminals]. He had a partnership with a Paul R. Hays, who taught labor law and civil procedure. ... Hayes, coincidentally, was one of the two or three top officers of the Labor Party in New York State then. ... I took labor law ... because I was interested in impressing him. ... That's where my wife and I met. She was a graduate political science student at Columbia and took the course in labor law. Graduate political science students frequently take some courses in law schools, labor law, constitutional law, administrative law,

and ... other public law. That's where we met. That was in the Fall of '47. ... We were ... attracted to each other and married in July of '48.

Four months after my completion of ... studies at Columbia and two months after I first was employed and took the bar exam in April of '48. ... The only other impression of Columbia was the number of brilliant scholars and the number of persons who led distinguished careers. ... After I completed studies at Columbia in February '48 ... I went back to work for awhile, at the same drugstore in Brooklyn as I worked at before the war, and took the bar and took a thirty-day course to study for the bar. ... I began to seek employment and ... I was employed by a small firm with a general commercial practice ... at Pine Street, Manhattan, right near Wall Street. The firm was Levien, L-E-V-I-E-N, Singer and Neuberger, and it had one claim to real distinction. It had been one of the two law firms representing the plaintiff in the case of *Loft v. Guth* [*Guth v. Loft, Inc.*, 5 A. 2d 503 (Del. Ch. 1939)]. That case established the doctrine of corporate opportunity, meaning that [if] a member of the board, or an officer, finds and develops an opportunity in some other business entity, that opportunity belongs to his employer, not to him. Well, [Charles] Guth had been the president of the Loft Candy Company. ... He had found and exploited the entity which was the Pepsi-Cola Company, and so, they were, I think, one of two firms representing Loft, the Loft Candy Company. ... The case, I think, was completed about two or three years before I joined the firm.

... I became an associate at the firm. I think there were three associates and three partners, Levien, Singer and Neuberger. Singer was very well-known as one of the high officials of the United States Bank, who had been charged with some criminal offense during the Depression, because of things which the banks did. He was not convicted. ... He was a lawyer, and so, he became a member of the firm.

... I started working ... at the firm in April, I believe, and, in September or October, a lawyer named Charles Seligson became a member of the firm. He was an outstanding practitioner and scholar in the field of bankruptcy and corporate reorganization. ... He taught bankruptcy and ... federal practice ... at NYU Law School. ... He was, really, the scholar of the firm, whom I became attached to in the several years I stayed with it and began to practice a good deal of bankruptcy and federal practice. ... After a few years, [I] first did law teaching, where I would substitute for him on occasions when he was out of town ... and couldn't make his classes at NYU. ... I taught several sessions of bankruptcy law and federal practice, which is a separate course in law schools. Practice in the federal courts was distinguished in law schools from ... state ... practice. ... In the firm, there developed, in the late '50s, a really bitter dispute between Neuberger, who carried on a trusts and estate practice, and A. Lincoln Morris, who was a partner and the principal client developer, really, much more so than Neuberger. There developed quite a bitter dispute about sharing of profits and that dispute resulted in the breakup of the firm around '59 or early '60. ... I stayed with ... one of the two successors of the breakup. I was made a partner in '57 or '58. ... Ten years was the usual period for lawyers to become partners in fairly sizable firms.

... During ... the early years ... I began to ... specialize in litigation. That was my interest. ... My first important client was a wholesale dry cleaner. Wholesale dry cleaners received the cleaning work, for cleaning and pressing, from so-called route men, men who would drive small

trucks along particular neighborhoods and pick up from the tailors the clothing to be processed and brought back two or three days later. ... I representing them as required ... in [small claims court]. ...

[TAPE PAUSED]

DS: As I said, my first clients in litigation were tailors who were sued by customers for damage to garments or loss of garments. ... That was in small claims court, which had jurisdiction of suits, I think, up to one hundred dollars. It was a part of what was called the municipal court of the city. ... That was my first litigation practice, and part of it was always, well, often, using an expert witness, an employee of the wholesale dry cleaner, who, if I wanted him to, would testify that the burning of a garment was due to the inherent defect of the material. [laughter] It had some humorous aspects.

... One interesting event in that period, that early period, was, I think, in '51, when, [earlier], in '50, I bought the first automobile that I owned. We lived, my wife and I, Mary and I, in Flatbush, on Schenectady Avenue, near the Kings County Hospital, in a basement apartment, beginning in July, when we were married. ... We lived there about a year-and-a-half. [We] then secured an apartment in an apartment house on 119th Street, ... Manhattan, just a half block from Amsterdam Avenue and Columbia University. ... We lived in that 119th Street [apartment] for about two or three years, until we went to the suburbs, buying a house in Rockland County, in Pearl River.

... One Sunday evening, I had to go to the Bar Association, to its library ... on 43rd to 44th Street, between Fifth Avenue and Sixth Avenue to do some work. That was the library available, and I took the car. [laughter] [I] wanted to drive that two or three miles, but it chanced that a car was parked, double parked, on the southern side of the street, the far side of the street, which ran east and west, and one [was] double parked on the northern side. ... In going out of my parked position on the northern side and turning carefully to the right, to get between the two double parked cars, I scraped and dented the front right door. ... I was ... very angry at that, understandably. ... I decided to bring a lawsuit and, also, to write to the editor of the *Times* and the *World Telegram*. ... The lawsuit was originally for sixty-five dollars, which was the estimate to ... repaint it. ... I brought the lawsuit and had it returnable on a day that I would be in the municipal court, the small claims court, representing ... tailors. ... By the time the lawsuit came up for trial, about two weeks later ... my anger was softened. I decided to get another estimate and I got that from somebody who would just put some putty or some filler in the dent and paint over it, rather than restoring ... the door to its original ... condition. ... The case was called by the judge in the small claims court, along with two or three of the dry cleaning cases. ... The court called out, "*Sive v. (Neumann?)*." (Neumann?) was the first of two named defendants. ... I answered, "Ready," and some woman lawyer answered, "Ready." ... After the calendar call, I asked her to come out into the hallway. ... She did, and I spoke to her and began to offer to settle the case for the fourteen dollars, instead of the sixty-five. ... She not only said no, but seemed angry, that I had the temerity to propose settlement. So, I went through with the case, testified and got a judgment of fourteen dollars, plus, seven dollars costs, with a five-day, of what they called a stay of execution, to give the defendant the chance to pay the judgment before ... the sheriff or marshal ... would execute the judgment. On the seventh day, instead of getting paid, I received a notice of appeal. She appealed the case to what was called then the appellate

term. ... I went through the appeals process after a few months, with briefing and climaxing with oral argument before a panel of five appeals judges, and the judgment was affirmed.

In the meantime, it was when the newspapers were carrying on campaigns about the evils of double parking. ... The weekend after it was affirmed, on the Saturday evening when my wife and I went to visit a friend in Flatbush, Brooklyn, leaving in the apartment a babysitter. ... The baby ... was the oldest of our children, born at the end of January '50. ... While we were at this friend's place, Saturday evening, the babysitter phoned and said, "The *Daily News* is phoning. They want to know more about the story in the *Times*." ... I went down to the subway station, which had a newsstand, where they sold, on Saturday evenings the early edition of the *Times*. ... There, on the front page, on the left-hand ... was the story about ... my lawsuit, explaining the importance of it and the fact that it threatened to open whole new fields of liability to insurance companies, and ending with a paragraph reciting the fact that I wouldn't be bothered about double parking in the suburban areas to which we were slated to move at that time.

Well, I think it was on Monday that the editor of the travel section of the *Times* phoned me and told me how immensely interested the insurance companies were in the suit and carrying the appeal further, to the Court of Appeals, the highest court in New York State, and I should keep him advised [of] what happens. ... By then, when I heard this, I was really thrilled with the idea of going to Albany to argue and being photographed by the papers, going up into the courthouse and [serving as] the proponent of justice fighting the insurance companies, with their high-class lawyers. ... That was [to be] thirty days after the affirmance by an intermediate appellate court, but, on the thirtieth day, they paid. ... That really got me a bit angry. [laughter] ... Among other ... features of the case was, I think it was the only one, it may have been still the only one, in which a person sued for damage to his car while the drivers and occupants of the car or cars which he sued weren't in the cars. ... I succeeded in arguing that what was required of me was what lawyers call a "reasonable standard" of driving; not the most skilled. ... If I had been more skilled, I admittedly would not have scraped the right front door.

... The case was interesting when I began to receive a large number of calls from lawyers with double parking cases and [I] became the expert on double parking. I never got a paying client out of that, [laughter] but the most interesting thing was old friends, with whom I had lost touch, who read the *Times* that Sunday. ... I think the *Times* story was the day after the parade for Douglas MacArthur, in New York, which was an important story, after his firing by Truman, that whole bit of history. [Editor's Note: The parade was held on April 20, 1951, during General MacArthur's "farewell tour" following his removal from command in Korea.] ... Actually, one of the persons who called was a childhood friend from grammar school in Brooklyn, who lived in Caldwell, New Jersey. ... I re-established the acquaintance with him and that ... has gone on to today; I still keep ... in touch with him. ... He moved from Caldwell, sometime in the '50s or '60s, to Boulder, Colorado, where the university is and the law school, [the University of Colorado at Boulder]. ... We exchanged visits between Caldwell and the suburban area which we moved to in '51, I think it was; no, it may have been '52. We had bought a house in Pearl River, Rockland County, after searching, among other places, in Westchester, but Westchester was too expensive, and we bought a modest development, five-room house, paying, I think, ... thirteen thousand dollars, ... in Pearl River, which is in Rockland County. It attracted us in part because of the proximity of most of Rockland to Palisades Interstate Park and Bear Mountain,

where the hiking trails were. ... Hiking is one of our chief, well, our principal recreation. So, we moved to Pearl River, and I don't think there's anything else I can mention of the period up to moving to Pearl River.

Just going back to the law firm, it experienced the bitter dispute between Morris and Neuberger. In '50 or thereabouts, the firm moved from Pine Street to the Empire State Building, the thirty-fourth floor. ... The firm had signed a lease to occupy about a third of a floor, the thirty-fourth floor, but this dispute between Morris and Neuberger became bitter, and, for a year or two, I don't think they talked to each other. It was very uncomfortable. ... At one point, after this feud was carried on, Morris, who was a brilliant business developer in many other respects, brilliant, but, sometimes, was coarse, upbraided somebody else and he would usually use curse words. ... I told him, "Bud, you don't have to use [curse words];" no, he was, I think, criticizing me for something, and I told him, "You don't have to use curse words." ... He became infuriated with that and said to me, "We won't sign the lease," and the firm divided. ... In the meantime ... the firm was involved, for a couple years, in a fairly large case, the plaintiff of which was a small oil company and the case was for breach of a joint venture. Joint venture is a partnership with one deal involved in it, one business development. ... I was really anxious to do something notable and I began writing to law publishers, offering to write a textbook on the law of joint ventures, where there was no known textbook. One of the most important early joint venture suits was this *Loft v. Guth*, where [Charles] Guth developed a joint venture, the organization of the Pepsi-Cola Company. ... There wasn't anybody who wanted to publish a textbook of joint venture, but I did hear from a publisher in Cleveland ... [the Bobbs-Merrill Company, based in Indianapolis], who asked me if I was interested in doing a portion, or the whole of, one or two volumes, which they were going to publish, of a standard two-volume treatise on the law of partnerships. It was called *Rowley, R-O-W-L-E-Y, on Partnership*. ... This was *Rowley on Partnership*, and the writer of ... most of the partnership chapters was a lawyer in Cleveland [Reed Rowley], the son of the person who originally wrote the partnership text, I think in the '20s. ... I made an agreement with him. They engaged me to do the part of the second volume dealing with joint ventures and other special forms of business associations, joint stock company, business trust, etc.

I did that and that took three or four years, as most such books do, and typical [practice] in that whole period was spending whole evenings in a library. It was mainly in the Bar Association Library on 43rd Street. ... I ... would go there at six o'clock, eating a quick supper, and work until ten or eleven, go to the Port Authority Terminal, take a bus to Pearl River, which was about a ... fifty-minute trip in the late evening, get home and walk, just a couple hundred yards from the through road to the house which we had bought. On a number of nights, I didn't make the last bus, which went all the way to Rockland County and beyond Pearl River to Spring Valley, [which] was the last stop. ... I had to take a bus to Montvale, New Jersey, and then, walk, at midnight, the two miles home. I did that a number of times and, needless to say, it was quite a consumer of time and effort, and the book was finally published, I think around 1980 [1960], the two books. ... Tragically, the author of the first volume, Mr. Rowley, died a couple months before the publication of ... the book, and it was really his life's work. During that period of time, I visited the publisher, I think, once, in Cleveland, I think it was the Bobbs-Merrill Company, which has published law books and other books, and I think since then it has been

absorbed. ... A third edition of the partnership text was written and published, I think, in the '90s.

... Important in that period to [when] the firm divided was the beginning of [my] involvement in politics. The firm divided, and it had been quite successful by then, and Charles Seligson and Morris, and a few others, formed one firm, to secede to it, and Neuberger and myself, and one other lawyer, a David Winer, who had an office across the hall in the Empire State Building, formed the partnership of Winer, Neuberger and Sive. They were each fifteen to twenty years older than I and I was the junior partner; ... we engaged one other lawyer to be the one associate of the firm, who was coming out of Harvard Law School. ... The firm began practicing, under the name Winer, Neuberger and Sive, at the Chrysler Tower East Building, on the northwest corner of 42nd Street and Third Avenue. We had a fairly small office and we took the smaller clients, by and large, from the nucleus of clients ... of the old firm. ... The larger ones, including the Pepsi-Cola Company and others, went with the Seligson and Morris firm. ... Among the persons whom they took was one really brilliant associate who had been a student of Seligson, named [Martin] Lipton. ... He left Seligson and Morris, and another person, [and] established a firm which has had the most glamorous and mercurial rise to be a ... firm of two hundred lawyers and is well-known as a classical Wall Street firm, [Wachtell, Lipton, Rosen & Katz].

... The only other notable aspect of the practice before the breakup of the old firm was the representation [of] several fairly known, well-known, persons in bankruptcy matters. ... One of them ... was Michael Todd, the great showman, the great showman ... of movies, ... stage shows, and variety shows. ... Somewhere after we first began representing ... Todd in bankruptcy, which came to Seligson through the reference by a Reno, Nevada, lawyer of Todd's to Seligson, the top bankruptcy scholar and practitioner in the country. That was Seligson. ... I did all the smaller deals ... of the business of Todd, and the litigation. ... He became even more famous by marrying Elizabeth Taylor, who, at one point, came with Todd into the office to visit us. ... It was quite an occasion, with her and Todd. ... When he completed the bankruptcy, the firm continued to represent ... Todd until he died in an airplane crash, in Arizona, I think. [Editor's Note: Mike Todd died in an airplane crash in New Mexico, on March 22, 1958.]

Among the ventures of Todd was the development, with the Skouras Brothers, of the Cinerama film process, I think the first three-dimensional film ... process. ... I remember, Neuberger did the work there for Skouras... the old firm, where Seligson was a partner. Well, there were some funny aspects of the Todd representation. ... My recital of ... these amusing aspects of legal work over the years can take one hour or ... seven hours or four or five. ... You have to tell me what I should do.

SI: From everything that I found in the research on you, the biggest case that comes up is the Storm King Mountain Case, which began in the early 1960s. [Editor's Note: In *Scenic Hudson Preservation Conference v. Federal Power Commission* (1965), a landmark case in the history of environmental law, and subsequent legal actions, Mr. Sive represented several environmental groups (not the main plaintiff) in opposing the construction of a pumped storage power plant on Storm King Mountain near Cornwall, New York.]

DS: Yes, right.

SI: How did the breakup of the firm and the foundation of the new firm lead into your involvement in that case?

DS: Yes. Well, being a hiker and an outdoor enthusiast, I became a member, in the '50s and early '60s, of several hiking clubs, including the Adirondack Mountain Club, and then, the Appalachian Mountain Club. ... In '65, a majority of people voted "Yes" on the holding of a constitutional convention, a state constitutional convention. ... The New York State constitution provides that, every twenty years, there ... is to be a vote on whether to hold a convention. ... There's a small ... majority who voted "Yes," and, by that time, I had become, no, shortly after that time, I became a member of the Sierra Club and its Atlantic Chapter, which covered the whole of the Eastern Seaboard then. ... I had ... been involved in what was really the first important environmental case in New York State. ... It revolved around a proposal ... of a gift from [George] Huntington Hartford, [II], the A&P heir, of several tens of millions to build a café at the southeast corner of Central Park, on the west side of which is the Tavern on the Green. ... In that case, I simply did an *amicus* brief in the Court of Appeals and [joined with] the opponents of that café, which included the Plaza Hotel and Tiffany, located just across the street from the park. ... We lost, but the project was nixed by the new head of the Parks Department of the city, ... Tom Hoving, who later became head of the Metropolitan Museum, and [John V.] Lindsay had become mayor [in 1966]. ... In 1965, as in every constitutional convention in New York State since about 1894, the retaining of the article of the constitution which governs the Forest Preserve in the Adirondacks and in the Catskills [is voted on]. It's very famous as what's called the "Forever Wild" Clause. It's now part of Article XIV. It was originally Article VII, Section VII, and was inserted in by a constitutional convention in 1894. ... The protection of the Forest Preserve is one of the most important environmental ... causes through the years since. ... The Sierra Club Atlantic Chapter, along with several other groups, opposed the building of ... the north way, from Albany to the state line going to Montreal, because it would cross a small portion of the Forest Preserve near Elizabethtown in the Adirondacks. ... One weekend, the Sierra Club Atlantic Chapter, the most important member of which was a ... man who was legendary for his reputation, a Stewart Ogilvy, who worked then for *Fortune Magazine*. ... The Atlantic Chapter leadership was very much clustered around people working in *Fortune* and other magazines by the same publisher, *Time*, *Life*, etcetera. ... They organized a meeting of environmental groups at the point where the road was slated to cross the Forest Preserve, which was a small, maybe hundred-acre portion of the Forest Preserve. ... It consists of a large number of ... separate parcels, which range from small areas to ... a hundred thousand acres. ... We met there [for] the weekend. ... Mary and I got a babysitter. ... We met Ogilvy and he induced me to join the Sierra Club. I did and ... for three years, I ... became very active in it. ... I became the chairman of the Atlantic Chapter.

... One of the members of the Atlantic Chapter, which would meet ... generally, monthly, was a woman named Susan Reed, who ... became legendary ... with my family. ... She came from a family which is one of the aristocratic families, which, in the early 20th century ... built the so-called "Great Camps" of the Adirondacks. ... The camps consisted of parcels of land ranging from two thousand or twenty-five hundred acres to forty or fifty thousand acres and it was, needless to say, the retreat of the aristocracy of New York State. ... The Great Camps were

owned by Morgan, Rockefeller, Vanderbilt, Whitney, Lehman ... and number of the investment banking fraternity of Wall Street. ... I joined the Sierra Club.

In the meantime, Mary and I, shortly after moving to Pearl River, looked for, but didn't find, a Democratic club. ... We organized one and I became active with the Democrats and, as lawyers do, ... a leader of it. ... I became the principal attorney ... in the Law Committee of the Rockland County Democratic Committee, and then, in the years between [that and], oh, about '58, by which time I had become quite active with the Democrats and, in '58, was their candidate for Congress, in the 28th Congressional District, which went from southeastern Rockland County to western Delaware County, just twenty miles from Binghamton. It was a tremendous rural area, and, of course, very ... heavily Republican. I ran for Congress. ... In '57, we had bought a farmhouse, with 160 acres, in the western Catskills. It was in a very beautiful, mountainous area. ... It's an important part of the family history and one of the greatest things we ever did was buy that. It cost seventy-five hundred dollars then. Acreage was for sale for ten dollars an acre then and, actually, some years later, I, with a partner, bought a tract of twenty-six hundred acres in the eastern Adirondacks for twenty-five thousand dollars. It's fantastic now.

... I ... became very active and, in the early '60s, was really the chief environmental advocate whom the State Democratic Committee consulted. ... The constitutional convention was held in the Summer of '67. ... I served in Albany ... two months as the head of the staff of the Committee on Conservation and Preservation, which was the committee to which any proposals dealing with the "Forever Wild" Clause would be submitted for study. Well, I worked hard at it and did succeed in convincing a large number of Democratic delegates [to protect it]. The convention consisted of delegates based upon state senate districts, and the delegates from the big cities, New York and Buffalo and Rochester, really were urban people ... most of whom knew nothing about the Forest Preserve. I undertook the job of ... teaching them the history and the romance of it, ... including the fact that Al Smith, then Governor, had saved the Forest Preserve in the '32 Constitutional Convention. [Editor's Note: Former New York Governor Alfred E. Smith served as a delegate to the 1938 New York Constitutional Convention. He had been the 1928 Democratic Presidential nominee.] ... I was successful and we did defeat all proposals to ... weaken the Forest Preserve Clause.

... In the meantime, about '63, there was published *Silent Spring*, by Rachel Carson, and, in '63, too, the controversy about Storm King Mountain developed. The publication of Rachel Carson was [pivotal], along with the Storm King Mountain Controversy and one or two others, [including] a controversy involving a canyon in the Sierra Nevada Mountains, [in] which ... it was proposed ... to build a ski development and houses and ... other structures close to Yosemite. ... A bitter fight was carried on by the Sierra Club. ...

SI: DDT.

DS: Yes, DDT, and the Storm King Mountain Controversy, really, I've always said, in lectures and ... otherwise, were the foundation of the current environmental movement. The Storm King Mountain Controversy developed out of the (resentment?) by the residents of homes on the top and slopes of Storm King Mountain, people of real wealth, and the hiking fraternity, ... persons of ... middle-class origins. Those two groups formed the so-called Scenic Hudson Preservation Conference to fight the development of the pumped-storage reservoir planned for Storm King

Mountain. A pumped-storage reservoir operates by sending masses of water up from a body of water, a river or a lake, ... to the top of a hill or a mountain by electricity, using a third more electricity than is produced by the unleashing of the water down the mountain by opening a gate, and building a reservoir for the water on top of the mountain. But the energy produced can be secured just a few minutes after you open the gate. ... A principal ... energy problem is getting "peak power", power at the time you need it most, perhaps a hot afternoon or evening in mid-summer, [when] the air-conditioning goes on.

... Scenic Hudson was formed as a union of those two groups of people and the Sierra Club Atlantic Chapter became involved in it. The controversy began, I think, by a letter to the editor of the *Times* by a lawyer who had a modest office in the Wall Street area, who was a great hiker, who initially every weekend went hiking, often on Storm King Mountain, Leo [O.] Rothschild (not related to the Rothschilds). He took offense at the plans for the power plant, which included ... a cable across the river to the east shore, which would carry the power, and then, go on pole lines south to Westchester County and Putnam County, the area served by Consolidated Edison. ... That aroused lots of people, particularly environmental groups and these wealthy people living on Storm King Mountain. ... That became the Scenic Hudson Preservation Conference and they brought a lawsuit, in '63, ... to reverse the grant of the permit for the power plant by the Federal Power Commission. ... The reversal of the grant can be secured by bringing an appeal in the Court of Appeals, the US Court of Appeals, in this case, for the Second Circuit, covering Manhattan, the Bronx and Westchester. ... They appealed the grant of the permit to the Second Circuit. ... The principal attorney for Scenic Hudson was Lloyd Garrison, a senior partner in the firm of Paul, Weiss, Rifkind, and others. Lloyd Garrison, actually, was not a litigator, but he was a person of imagination. ... He was of the family of the Garrisons of abolition times in Boston. ... He had a trusts and estates practice, but he took on this case. ... He ... was helped with the services of a young lawyer in Paul, Weiss, [Rifkind] by the name of Albert Butzel. ... They appealed the case and ... won. They ... secured a reversal by a two-to-one decision of the three-man panel, which hears Court of Appeals cases, in the latter part of '65. ... Among the three judges on the panel was Paul R. Hays, who'd been appointed to the Court of the Appeals while he was a prof at Columbia Law School. ... The grant of the permit was reversed and the case remanded to go back to the Federal Power Commission to re-hear the application. I ... participated in the re-hearing, which ... held a number of days of testimony in ... Washington, DC, upon the re-hearing of the Storm King Mountain case and, in '67 ... the Power Commission granted the permit again. It was appealed and this time the appellants lost, by a two-to-one margin.

... In the meantime, well, in ... '65, I became the chair of the Atlantic ... Chapter of the Sierra Club and I participated in the re-hearing in the Storm King Mountain case, but only secondary to Garrison ... and his firm. I also became a member of the national Board of Directors of Scenic Hudson in 1966. ... They met several times ... in my office, the small office we had on 42nd Street. ... In that Board of Directors, it was interesting, there were controversies and differences of view. One of them, I remember, which was the turn down of an offer by Pete Seeger to hold a concert and raise money for Scenic Hudson.

Needless to say, they had to pay a good sum to Lloyd Garrison, though ... it was, I think, a good deal less than their fair hourly compensation, through the years. ... The Scenic Hudson Board of

Directors had a number of people of an aristocratic background and conservative in every respect but environmental and conservation matters. ... The head of the Board of Directors was a senior partner, Steven Duggan, in one of the large, elite Wall Street firms ... Simpson, Thacher and others. ... He was ... masterful in conducting meetings. I noticed that he'd wait out hearing disputes, and then, his determination settled any dispute.

... In '67 or '68, the Environmental Defense Fund was founded, which began with a gift of ten thousand dollars by the ... National Audubon Association to a single lawyer who had an office out in Patchogue, ... a negligence lawyer, ... Victor Yannacone. He brought a couple of suits to enjoin the spraying of DDT ... on lands in Suffolk ... County. ... He then formed the Environmental Defense Fund, which became what is called a public interest law firm, and it started with him and began to ... serve a large number of members. ... In 1968 ... there was a proposal and a vote by the board of Scenic Hudson on going national, [to] participate in all sorts of important environmental controversies. It was voted down by a majority of the directors. I voted for it, but we lost, and then, Duggan got the idea of organizing a new public interest law firm to carry on legal representation of environmental groups, and he and, also, Whitney North Seymour, Jr., who was one of the younger members of the same law firm as Duggan, and I began the organization of the Natural Resources Defense Council, NRDC, which is now the most important of all environmental action groups. ... In '69, we began the organization of NRDC. It was organized in ... 1970, and ... has grown from a staff, originally, four lawyers to ... thirty-five lawyers or more and ... fifty-five or more scientists and writers and others, with a membership of over a million. ... In 1967 ... there developed a controversy over the building, on the east shore of the Hudson, from Tarrytown to Croton ... of a six-lane highway along the shore of the Hudson. That was, of course, opposed and fought bitterly by residents along the way, particularly the Village of Sleepy Hollow and Tarrytown. ... I ... began aiding the people fighting this expressway, [*Citizens Committee for the Hudson Valley v. Volpe*]. Well, they then engaged me to bring a lawsuit to enjoin it, and the lawsuit was brought by the Village of Tarrytown and residents just north of Tarrytown, a group of citizens, and the Sierra Club. ... The citizens organized under the name of Citizens' Committee for the Hudson Valley. ... We brought a lawsuit, the defendants which included ... the Army Corps of Engineers, which was the body which granted permits to build dikes, bridges, levees and causeways in navigable waters, based upon the Rivers and Harbors Act of 1899. That Rivers and Harbors Act permitted the Army Corps to grant permits for levees and bridges, but to build a dike or a causeway required Congressional consent. I brought a lawsuit, the main argument in which was ... whether the road constituted a dike and not a levee. ... The difference between a dike and a levee is that a levee is built along the shore of a waterway and holds back floodwaters. A dike is built out and into the main course of the water body, a river or other. ... I succeeded in ... securing a judgment that it was a dike.

... That was decided in '69 and appealed to the Court of Appeals. I was successful in resisting it, and then, the Army Corps and the state transportation department, [which would] be the builder of the highway, sought review in the Supreme Court. ... They were denied. ... The case became, I think, the first important environmental suit in the development of the law which was won completely, and it was won by a judge deciding it's a dike, in part because the sketches and drawings of the Army Corps showed places they called dikes, but lawyers are lawyers and words

have different definitions, so, they fought it. Well, that became [a landmark case] and that, more than any other early case, spread my standing in the environmental community.

... 1970 was a very important year. It ... saw the enactment of the Clean Air Act. ... January 1st [was] the effective date of ... "NEPA" [National Environmental Policy Act], requiring environmental impact statements for all federal projects having major environmental effects, which would affect the environment adversely and substantially. That was originally introduced by Senator [Henry M.] Jackson, from Washington. It became ... a tremendously important aspect of the growth of the movement, because so many things are federal projects and have a material effect on the environment. In '70, also, in part arising from the Expressway Case and in part arising from a couple law review articles which I decided to write, dealing with this new growth of environmental law. The more important one ... was in the *Columbia Law Review* and entitled, "Thoughts of an Environmentalist in the Wilderness of Administrative Law." The appeal ... in the Expressway Case is part of administrative law. ... I became quite known, nationally, as a practitioner in and a student of administrative law. ... An administrative law course in the law schools now consists of, about one-third of the total course, the law governing the appeal of administrative decisions to courts, judicial review of administrative action.

... In '70 or '71, I was appointed to the Administrative Law Conference, which is a federal agency [of] about sixty members, one-third of which is scholars of administrative law, one-third officials, heads or others of government agencies, and one-third practicing lawyers. ... I was appointed [to] that, and ... began attending the meetings and doing its work with the great scholars of administrative law, including a Walter Gellhorn, who was a Professor of Administrative Law at Columbia and whose sister is Martha Gellhorn, a very well-known newspaper writer in World War II and later. ... In '69, I organized the first of what lawyers call Continuing Legal Education sessions, that's CLE, which is the education of lawyers after law school, particularly in newly developing fields of law, in Environmental Law. ... I chaired the first group of such lawyers in a three or four-day session ... in Boulder, Colorado, and, also, in '70 or '71. I organized the first committee on environmental law of the City Bar Association, which was very important. Also, I was one of the founders of the Environmental Law Institute, an organization which has published monthly bulletins of environmental law. ... Also, in '69, I was appointed, suggested by David Brower, the head of the Sierra Club, to the National Board of the Sierra Club and attended two or three meetings held at their lodge up in the Sierra Nevada Mountains. Among other things, I became acquainted there, as a member of the board, with Ansel Adams, the great photographer, and I was appointed when John [B.] Oakes, the editor of the editorial page of the *Times*, resigned. ... Then, there was a struggle for control of the Board of Directors of the Sierra Club where Brower, who was the most famous, led the reform wing, and it was Brower who decided for the Sierra Club to appropriate a small sum and engage me to join the Storm King Mountain fight.

The Brower slate of directors lost. There were five directors being chosen then, [out] of a board of about fifteen, I think, and Bower disregarded my advice ... to engage in bullet voting, to have our members and sympathizers vote for only three directors, which was a majority of the five being elected, but he was too idealistic, and so we lost. ... Immediately, Brower, another lawyer, also a wonderfully legendary figure, ... Alfred S.] Forsyth, ... who was a partner in another small law firm (which, at one point, he and I thought might merge with my firm, but for different

reasons, didn't), and a very close and dear family friend, he and Brower and I formed Friends of the Earth, to take the people favoring the Bower slate in the Sierra Club and form a competing organization. ... I wrote the statement of incorporation for it and filed it in Albany. ... Brower ... began organizing "*Les Amis de la Terre*" in France and a Friends of the Earth in England. ... Both are very important organizations, more important than Friends of the Earth in the United States, which has never had more than ten or fifteen thousand members. ... The Sierra Club began its reform to join [the modern environmental movement], to be a litigation group and active politically, as distinguished from being a group of hikers in which the hiking clubs, including the Adirondack and Appalachian Mountain Clubs and the Sierra Club, became important, environmentally active groups. ... I, also in the same period, between '66 and '70, became active with a classical and old environmental protective organization, which would oppose any incursions into the New York State Forest Preserve, called Association for the Protection of the Adirondacks, which had been organized in 1906, the members of which were the great estate, Great Camp owners, including a Vanderbilt, a Rockefeller, a Whitney, and J. P. Morgan. I remember those were among the signers of the original certificate of incorporation, which I used in a couple of the lawsuits I brought for the association. ... I became a member of the board, ... a very aristocratic group. I think I was the ... early members who didn't come out of these Great Camps. ... The head of it was a ... very close friend for many years ... and I became the principal advisor of the association on both legal and political matters. ... During the same period, in 1970, the state legislature passed, with [then New York Governor Nelson] Rockefeller pushing it very hard, the Adirondack Lands Agency, which enforces a state law governing zoning in the whole Adirondack area, eight thousand square miles, zoning of the private land in the Adirondack area. ... That was revolutionary, because it was, and still is, the one major grant in New York State of the zoning power to a state agency, rather than to each municipality.

... All of this happened in '70 and '71, and ... beginning then, the firm of Winer, Neuberger and Sive began expending a good part of its energy and time and means, mainly through myself, in environmental cases. ... It then, began to develop a couple of young lawyers, and, by this time, we had three or four associates, in environmental cases, and the thing just exploded. ... I, in the meantime, well, later on, ... in the late '60s, taught a course on some aspects of civil procedure ... at NYU Law School, in their graduate division, the students of which include the young lawyers of the Wall Street law firms. ... Then ... at the end of the '70s, I began teaching a course in environmental litigation at Columbia Law School. ... I gave up teaching the civil procedure course in NYU.

In '71, among the clients was a group of people opposing the building of a dye plant by a German chemical company off the coast of South Carolina. [Editor's Note: Beginning in 1969, Hilton Head residents, organized as the Hilton Head Island Community Association, began their opposition to a proposed BASF chemical plant on Victoria Bluff.] ... Across the bay was Hilton Head Island, which, ... among other things, had developments of homes for very wealthy people and I represented those people, in addition to conservation groups, in opposing the approval of this German chemical company, BASF. ... I was really engaged by the lawyers for these developers at Hilton Head Island, a fair-sized firm, large for South Carolina, ... the senior partner of which is ... [Joab] Dowling. ... Dowling was known by, and [is] perhaps a member of, I think, a very small cluster of people who exercised almost feudal control of South Carolina.

... I brought a lawsuit, but, in the middle of it, Dowling arranged some political events, including a meeting with ... Senator [James Strom] Thurmond. ... I ... attended a meeting with Dowling and Thurmond. ... Through political connections, really, and the beginning of the strength of the environmental movement, the federal Secretary of the Interior ... who had some jurisdiction over the building of the ... proposed plant, stated that he, as Interior Secretary, would oppose it [Secretary of the Interior Walter J. Hickel]. BASF withdrew the application. ... The suit never came to a trial.

That and other things developed the environmental practice. In the early '80s, I began teaching ... in the summer session of another law school that was [in] Colorado, in Boulder, and then, somewhere in the next five years, I ... taught in the summer sessions, for four to six weeks, at the law schools of Wisconsin, Utah, and Washington ... where my sister lived. She married a boy from Idaho and began living in Seattle beginning in '51 or '52. All of this helped developed the standing of the firm and myself, and I became, I suppose, as well-known as anybody in the development of environmental law.

SI: Absolutely.

DS: Well, also, in reading stories about the Hilton Head Island Controversy, one of which was in *Life Magazine*, which had a special issue, with a lot of other publications, in the Summer of '70, on the environment. The [*New York Times*] and *Life* wrote up the Hilton Head Island Controversy and I was written up in part in *Life*, and a couple of times, fairly lengthy stories, about Hilton Head Island. The head of the CLE [Continuing Legal Education] section, a section of the American Bar Association, by the name of Paul [A.] Wolkin, was organizing CLE programs, which are an important development in law practice after World War II. ... He phoned me and asked me if I was interested in a program, a three-day program, on environmental law. I became the chair of a program on environmental law and carried that on for thirty-three years. ... That spread the growth of environmental law. Actually, it was run by Wolkin, headed by a so-called ALI-ABA Committee, American Law Institute-American Bar Association, which lawyers always call "Ali-Abba." That spread the reputation and standing of myself and the firm. The firm continued its growth as Winer, Neuberger and Sive. In the '80s, Winer and Neuberger, the older ones, resigned and, shortly thereafter, died. In the meantime, two attorneys in the US Attorney's Office, in the Southern District of New York, which is the great training ground for legal careers and always prized posts of young lawyers, joined my firm. ... They were [David] Paget and [Daniel] Riesel, and the name became Sive, Paget and Riesel, [P.C.]. ... The firm grew, in the '80s and '90s, to sixteen or eighteen lawyers, with some younger partners, ... developing an environmental practice. The environmental practice became the chief area of activity of the firm and is now, with sixteen or seventeen lawyers, at least ninety percent of the work [being] environmental work and known nationally and ... important in the whole development of environmental law.

SI: How did your older partners, Winer and Neuberger, feel when the firm started heading in this direction of environmental law?

DS: They encouraged it.

SI: Okay.

DS: ... It was ... difficult for me, when the firm split up, and Mary and I had just bought the larger house in Pearl River, the future was uncertain, because the more important and larger group, including Seligson, took the major, large clients. We took just a couple small ones, but it turned out to be one of the most fortunate things that ever developed for me, because I was freed in working on *pro bono* ... matters and in the political work and all of the environmental advocacy, and I did develop the environmental practice. ... They encouraged it, or at least they didn't try to discourage it. Had I gone with the other part of the firm, which divided in 1961, I think ... that others would have continued to look over my shoulder to see how every hour was spent, particularly in the years, beginning then, when many lawyers ... start billing by the hour, now up to five hundred and a thousand dollars per hour. ... We now charge up to three hundred dollars an hour and that was my regular charge, arm's length, when I practiced in the later years.

... The answer is, they encouraged it and that was one of the most fortunate things which ever developed. ... The buying of the new house came ... shortly after, the larger house, and the breakup of the firm, the birth of our twin boys ... came during that time. I had concerns about the future, which was by no means certain, but we had enough of the litigation, which I handled. ... During these years ... I began the development of the environmental practice and teaching. Well, I could recite a number of other details, but you have to tell me what you want me to do.

SI: Are there any other cases that you want to talk about in the last ten minutes or so? We do not have to tackle everything now. I can come back another time.

DS: Yes, well, I think it would be [good to] come back another time, but other leading cases included one where we represented, I represented in the firm, [the Mohonk Conservancy], and a lawyer became counsel, part-time, working with the firm, by the name of [William R.] Ginsberg, who taught environmental law at Hofstra [University] and whom I helped to get tenure and other things, a very close friendship. He and I represented the Mohonk Conservancy in the case which we won, finally, and established the exemption from real property taxation of nature trust properties, [*The Mohonk Trust v. Board of Assessors of Town of Gardiner*] That was very important, and then, most important, well, the most known of cases, as it was litigated, was in fact called the Amchitka Case, where I represented an ad hoc group and conservation organizations, the Committee for Nuclear Responsibility, the head of which was the wife of a James Marshall, who became a close friend when he joined the first board of NRDC, [*Committee for Nuclear Responsibility v. Seaborg*]. ... That case was very consuming, but ended with a hearing, I think only the third in history, on a Saturday in the Supreme Court on my motion to enjoin a nuclear explosion on Amchitka Island scheduled to go off at one PM or thereabouts, [on] the same day. ... I lost that by a four-to-three vote. The explosion went off. [However], at the intermediate appeal stage, I established, and it became an important case in the definition of executive privilege. ... The controversy ... dealt with the power of the courts versus the executive department of the government. Now, today, the most important is the executive privilege of the President and others vis-a-vis Congress, the legislative part. ... This case ended in a most dramatic way, the main story, of the Saturday decision, [which was] carried in the Sunday papers all over the world, really, including the *Times*, which had a photograph of me going up the steps of the Supreme Court.

Also, a few years later this was what we called the "Trident" case, a case involving a group of residents and others in the Puget Sound area, the Hood Canal, which connects Puget Sound with a body of water south, west of Seattle, [*Concerned About Trident, Inc. v. Schlesinger*]. They decided to fight the ... expansion of the submarine base on the Hood Canal. ... I ... was their lawyer and carried on that suit, which didn't succeed in enjoining the Navy, but did succeed in the reversal of a trial decision by the district court, who was a Washington, DC, judge, where the case was brought. In reversing his decision, [it was] upholding the sufficiency of the environmental impact statement, EIS. That issue has arisen in thousands of cases and it's the main litigating tool in using the National Environmental Policy Act. ... That act has been copied in, I guess, thirty-five or forty states, including New York and New Jersey. I carried on ... the Amchitka nuclear ... suit. ... I represented groups of people, ... peace organizations and environmental groups, and citizens with the residences along or near the Hood Canal. That's ... called the Trident Suit. Trident was the name given by the Navy to the ... submarine base ... that has been built.

I also represented people fighting the completion of [Interstate] 287 in New Jersey from [the] Morristown vicinity to the state line [*Bergen County v. Dole*] and a group in, living ... close to the Watchung Reservation, opposing the completion of [Interstate] 78 across the Watchung Mountains and the park, [*Township of Springfield v. Lewis*]. Both of those suits didn't succeed in enjoining the construction, but there were material and important changes ... in the highways, from an environmental standpoint, because of the political ... effects, of the controversies.

SI: The research pointed out that, in a number of the cases, the verdict might not have gone the way you wanted, but the publicity generated caused changes.

DS: Yes.

SI: In your position as the legal representative, did you have any role in cultivating that publicity?

DS: Oh, yes. ... A great deal of my time, as what I call an environmental advocate, maybe a third or a half, has been spent in ... what I call the political side of the movement. ... I've talked and lectured and written about the combination and the interworking of the two areas of controversy, the political and the litigation, the legal side. The most noteworthy case, one of the most noteworthy, is a controversy involving the Alaska pipeline, which environmentalists won in the court by a decision that the right of way was wider than the right of way permitted by the governing law, a rather minor, section of the substantive law; I forget the name of it. ... That reversal of the injunction of the building of the pipeline came about just before the first of the big oil crises. ... Initially Congress immediately ... widened the right of way. ... I have mentioned the Central Park Controversy, where the environmentalists won after they lost in the courts, because of a very narrow, but correct, decision ... by the judge of the trial court, and the appeals court. The café was a proper facility within the park, a proper, quote, "purpose" the trial judge pointing out the Tavern on the Green on the west side of Central Park. Well, there are a number of other cases I can think of, but all of them amounted to a career in environmental law and environmental advocacy.

SI: Every source I looked at referred to you as the "Father of Environmental Law," which is a great accomplishment.

DS: Yes, it's a term used frequently, but it's almost as much based upon what I call the political work as the legal representation.

SI: Thank you very much for the session. I would like to come back at a future date and continue this conversation.

DS: Okay. Well, it's up to you. If you want to, I can spend quite a few hours just giving you more details of more cases that I recall. There are things I have difficulty recalling. Loss of some memory is one of the effects of Parkinson's.

SI: You remembered so much. A name here or a date there is not something to worry about. Thank you very much.

DS: Oh, why, thank you.

-----END OF INTERVIEW-----

Reviewed by Anne Savage 4/21/10
Reviewed by Krzysztof Swiatek 4/21/10
Reviewed by Michael Brusca 4/21/10
Reviewed by Oscarina Melo 4/21/10
Reviewed by Shaun Illingworth 7/2/10
Reviewed by David Sive 11/20/10