Charles Vogel: My title – my former title, you mean?

David Knight: Sure.

Charles Vogel: Okay. I am, and was, Administrative Presiding Justice of the Court of Appeal, Second District. My name is Charles S. Vogel. My last name is spelled V (as in Victor)–o-g-e-l.

David Knight: Wonderful. Justice Rubin.

Laurence Rubin: Okay. Today is September 23, 2008. I am Larry Rubin, and I'm an associate justice on the California Court of Appeal, Second District, Division Eight. It is my great privilege to interview Justice Charles S. Vogel, retired Administrative Presiding Justice of the Second District and Presiding Justice of the court's Division Four. This interview is part of the Legacy Project of the Court of Appeal and is produced by David Knight of the Administrative Office of the Courts. Good afternoon, Justice Vogel.

Charles Vogel: Good afternoon, Larry.

Laurence Rubin: Most judges – and certainly most attorneys – would probably associate you with complex business and civil cases, speaking of when you were a justice on the Court of Appeal, president of the state and county bar, head of the ABTL, law-and-motion judge, Sidley & Austin – the whole gamut of your background. I went back to 1972 and found kind of an interesting quote, I thought. And you said at the time, "Contrary to other respectable opinion, I think it's better for a judge if he doesn't heavily specialize in one field of law. If you're constantly dealing with people charged with crimes, for example, you may get too callous. You may think everyone is guilty. Actually, I like going back and forth from civil to criminal cases." With the hindsight of 36 years, was . . . that still ring true?

Charles Vogel: I think it does. I know why I said it. I said it because before I went on the court in 1969 as a municipal court judge, I was truly a country lawyer. Honest to God. There were no hourly rates, and our friends were our clients and our clients were our friends. And so from that perspective, when I started hearing criminal cases, I thought it was important that I understand what the community of people who are charged with crimes is like. But I have to also concede that I had some experience with some criminal cases. My very first case was a jury trial. But I think it's important for judges to have a perspective of both spheres in which they work.

Laurence Rubin: Of course, looking forward now, you go through Sidley & Austin, you become a complex civil litigator. Now, when you get on the Court of Appeal looking back, did you still enjoy the criminal cases as well? 3:01

Charles Vogel: Yes, I did. Yes, I did. In all honesty, a lot of 'em are fairly routine and during this era so much of it has been focused on whether or not the sentence is correctly imposed or not correctly imposed. Rarely do you get cases that are a matter of "Is the person guilty or not guilty?" And you get a lot of pre-trial issues such as the right of search and the right not to be searched, and that sort of thing.

Laurence Rubin: Given the number of cases that the court has on sentencing, would it be helpful to the judiciary if the Legislature took a brand-new look at sentencing and started cleaning this whole thing out?

Charles Vogel: I think that would be a good idea, but I doubt that it will happen.

Laurence Rubin: For political . . . ?

Charles Vogel: Because politically, one of the strongest suits a person has running for office is that he or she is tough on crime. And the only way to be tough on crime is to make the sentences more severe. And they've gotten so severe that we now have a serious prison and jail problem. But I don't know what the answer to that is, and I don't think it's going to happen in my lifetime.

Laurence Rubin: Well, let's go back to a time when you were on the superior court doing primarily civil cases, and you get called to come on the Court of Appeal in a series of assignments that last over a couple of years. And the first one is *People v. Smith and Powell,* which are the "Onion Field Killings" . . .

Charles Vogel: Yes.

Laurence Rubin: . . . case. Tell us a little bit about how it came to be that you got that assignment.

Charles Vogel: Sure. It was really fortuitous, in the sense that I didn't seek it and I didn't even know about the case. I was on the eighth floor doing law-and-motion work at that time and became acquainted with Judge Cole. And he and I had breakfast together almost every morning, and he'd done a number of assignments at the Court of Appeal, and he recommended to Otto Kaus – who was the Presiding Judge of Division 5 – that I be assigned to do that case. The case was very large, in the sense that it had an enormous record, and it was determined by the members of Division 5 that someone should be assigned to do just that case. And that's what happened.

Laurence Rubin: So tell us in real time what you did every day.

Charles Vogel: Okay. You mean while I was on assignment? 5:44

Laurence Rubin: Yes.

Charles Vogel: Yeah. Well, every day I drove from Claremont to the State Building, which no longer exists but which was where the Court of Appeal existed. I think that was First and Spring.

Laurence Rubin: Right.

Charles Vogel: And I showed up at Division 5 and I was warmly greeted by the members of that division – Kaus, Hastings – and I think Ashby was assigned after I was there, but he was on the court then.

Laurence Rubin: Clarke Stevens – was he there?

Charles Vogel: Clarke Stevens! That's right, Clarke Stevens was there – a very gracious man. In any event, I was primarily working with Otto and Jim, and . . . . So I was given a windowless room, and – it seemed windowless, anyway – and I went to work. And I started to read the record and draft the opinion in segments, because the real focus of that case was it was a challenge to the jury venire. And the contention was that jurors were not selected at random, as the proponents thought they should be. And so that was really the nub of the case. It really wasn't very much about whether or not Smith or Powell were guilty. There was plenty of evidence to prove that they were.

Laurence Rubin: This was the case where they took police officers and . . .

Charles Vogel: Yeah.

Laurence Rubin: . . . essentially executed them in . . .

Charles Vogel: Yeah.

Laurence Rubin: . . . an onion field, right?

Charles Vogel: Well, Gregory Powell and Jimmy Smith were really small-time crooks. Maybe they did some holdups, but basically they were street criminals. And for some reason or other, they got together and they went out one night and they spotted a police car. I think it was Highway Patrol, actually, but I'm not sure. And they . . . . Actually, they were pulled over, and they were armed, and they took the officers prisoner and left their Highway Patrol car – or police car – at the curb, where it was oddly parked. And then they started driving up towards Bakersfield. They marched them out into a field – an onion field, obviously – and killed one, and the other one got away and hid. Found his way back to a farmhouse and contacted the police and then the search was on. And they were ultimately captured and then prosecuted. They were convicted and they were sentenced to death, but I think that was overturned by the California Supreme Court, so that they would be serving life sentences. 8:36

Laurence Rubin: Tell me a little bit about what, if any, support staff you had as a . . .

Charles Vogel: I didn't have any.

Laurence Rubin: . . . pro tem.

Charles Vogel: I didn't have any. I didn't have any, but I have to tell you that I would give segments of the opinion to Otto, and he would always have comments and edits, and I worked with him very closely just because he was interested in the case, and I think he was sort of acting as my good shepherd. And I learned a lot from him. So to say I did it by myself would be wrong. There is a good part of that that you will see if you read the case – a turn of phrase here and there that is purely Otto Kaus.

Laurence Rubin: No research attorney help? Nothing like we have now . . .

Charles Vogel: No.

Laurence Rubin: . . . on the Court of Appeal?

Charles Vogel: No.

Laurence Rubin: And . . . .

Charles Vogel: As a matter of fact, at that time at the Court of Appeal, each justice only had one research attorney.

Laurence Rubin: Compared to the three we now have.

Charles Vogel: Correct.

Laurence Rubin: What was Justice Kaus like generally, when you had a chance to work with him? Sadly, he was not available . . . .

Charles Vogel: He was one of the nicest people to be around. He had a great sense of humor. Of course, his Austrian accent was evident, and it made everything he said sound funny. He even had phrases that were coined. If you were going on too much, he said it was like "dancing on the body." *[laughs]*

Laurence Rubin: Dancing on the body.

Charles Vogel: "You shouldn't be dancing on the body." And he just was a genius in many ways. He would walk around doing . . . . You would see him doing research. He . . . . At that time you could smoke in the courthouse, and he smoked a *lot*. And he'd be in the library working, and he would then go back to his chambers and he'd call his secretary in and he would dictate his opinion right off the top of his head. And it was beautiful to hear and watch. 10:41

Laurence Rubin: So he remembered what he had read in the library . . . .

Charles Vogel: Oh, he knew exactly. He knew the case and he knew what law he was going to cite. And I'm sure he turned it over to his research attorney, Abby – I've forgotten her last name, now, she was a superior court judge.

Laurence Rubin: Abby Soven?

Charles Vogel: Abby Soven! And Abby Soven would, I'm sure, massage it some. But many of the phrases were remarkably clever. And they were Otto's.

Laurence Rubin: And Justice Hastings – did he participate . . .

Charles Vogel: Sure.

Laurence Rubin: . . . much with you?

Charles Vogel: Well, yeah. He participated. He read, and was encouraging, and you know, they called him "Gentleman Jim" and he was truly that. But I had more involvement with Otto. Otto would stay in the evenings and sometimes I did, too, and we would go to Chinatown and have dinner.

Laurence Rubin: Let's briefly talk about Clarke Stevens, because he passed on way before we . . .

Charles Vogel: Yes.

Laurence Rubin: . . . had this project. What do you remember about him?

Charles Vogel: Well, again, he was very courtly and friendly. He in some respects was a minimalist. In other words, he didn't spend a lot of time with details. He got the cases and he wrote a very crisp opinion. And if you pulled out any of his cases, you can see, you know, there's the facts, there's the law, there's the result. And I would be willing to guess – and I may be proven wrong – you won't find very many footnotes, especially as compared to today. Today the footnotes are almost the opinion.

Laurence Rubin: Are you a footnote opponent?

Charles Vogel: Not really, 'cause I'm probably as guilty as anyone.

Laurence Rubin: What was the old State Building like inside? What did it look like?

Charles Vogel: Well, it would be . . . . The best comparison I can make, it'd be like going to an old hotel in Denver. It had the same similarities as the present in that every chambers had its 12:51

own bathroom, which was very nice, and all the fixtures were very old-fashioned, the plumbing was old-fashioned.

Laurence Rubin: Copper fixtures . . . .

Charles Vogel: There were no chains, of course. I don't remember if they were copper or not. But the exterior was, you know, heavy brick, and it was a very solid building. The windows were metal. The air conditioning was an air conditioning box.

Laurence Rubin: In each office.

Charles Vogel: Yeah, that's right. So it was not like today at all.

Laurence Rubin: What about the courtroom?

Charles Vogel: The courtroom was better than the present courtroom by a whole lot, in the sense that it was light and airy and you could see . . . . Of course, the justices were elevated on a bench, and then the benches for the lawyers went backwards. But the best part of it is you could see everything that was happening. I remember my very first appeal there, and it was the first time I had seen appellate justices. Well, that's not really true, but I'll . . . I could detail that later. I was the last on the calendar, and just before I argued, Mildred Lillie stood up and said, "I have to go swear in Mayor Yorty." And I thought, "Oh, my God, she's not on my panel." And I don't know why I was concerned, because I didn't know anything about any of 'em. But I liked that courtroom a lot.

Laurence Rubin: When the court moved from the State Building to 3580 Wilshire, wasn't some of the courtroom dismantled and taken?

Charles Vogel: Correct. The old bench was taken there.

Laurence Rubin: Now, let's . . . . Staying with the Onion Field case, one of the attorneys was Irving Kanarek.

Charles Vogel: Yes.

Laurence Rubin: Do you remember much about the argument or how he was, because he developed quite a reputation over the years?

Charles Vogel: Yes. He had a notorious reputation of being outrageous. And when he appeared to argue that case, he was absolutely okay. He was . . . . He looked fine, and he spoke well, and he made his points. Of course, I sort of came to know him by reading the record and reading the transcript. And the transcript revealed he would do some outrageous things. He at one point, as it was clear from reading the transcript, apparently pulled a page out of a thousand-page exhibit which was some sort of a computer printout to demonstrate that the jurors were unfairly selected. And the public defender, Charlie 15:33

Maple, said, "Oh, my God, what are you doing, Otto?" And Otto said, "I was just curious!" And then this dialogue about what he had done. And of course, I didn't . . . I think it was in pre-trial that he got into an argument with his client Smith – I'm pretty sure Smith was his client. And Smith hit him in the mouth and knocked him across the counsel table. So, you know, that was . . . .

Laurence Rubin: In front of the jury?

Charles Vogel: No . . . .

Laurence Rubin: Oh, pre-trial.

Charles Vogel: No jury, it was pre-trial. So, it was colorful in many respects. So what I had heard about Irving – and I won't go into that – is . . . I didn't expect, and he was just fine.

Laurence Rubin: And I guess we didn't have *Marsden* motions back then. Or reverse *Marsden* motions, where . . . .

Charles Vogel: No, no.

Laurence Rubin: Howard Schwab argued the case for the People. He later became a superior court judge.

Charles Vogel: Yes.

Laurence Rubin: What was he like arguing that case, if you recall?

Charles Vogel: Howard is what you might say a scholar, in the sense that he's very erudite in the field of criminal law. And he tried death penalty cases – that's what he did. And he was *very* good, and I thought he did a good job.

Laurence Rubin: Did you ever have occasion, after the case became final and it went back to superior court, to talk to Schwab about . . .

Charles Vogel: No.

Laurence Rubin: . . . that case?

Charles Vogel: No. I did later on, and at some point I think I wrote a letter for him when he applied to be on the bench.

Laurence Rubin: Anything else about that pro tem assignment that you remember?

Charles Vogel: No, not really. I remember the case. I'll tell you what was one of the nice gestures. When the case was over, Otto and Jim had it bound in a nice book with a canvas cover and gave it to me, and . . . . Nice inscription thanking me for being on the panel and working with them, and I thought that was 17:44

very generous. But I learned an awful lot of criminal law doing that case, I really did.

Laurence Rubin: Well, you were 42, if I calculate that correctly.

Charles Vogel: I guess I was.

Laurence Rubin: And a fairly new judge.

Charles Vogel: Yeah. Well, I had . . . was appointed when I was 36.

Laurence Rubin: So that was an eye-opening, very good educational experience for a young judge?

Charles Vogel: It really was an inspiring one, because I really thought that someday I'd like to be on the Court of Appeal.

Laurence Rubin: And it . . . Did it . . . Did you have that feeling before you pro tem'd or that sort of solidified your . . . ?

Charles Vogel: Well, all lawyers dream about going to a court, and once you get on a trial court it passes your mind you'd like to be on the Court of Appeal. Not everyone, but I always wanted to do whatever was next, you know. So . . . . But that, I must say, yeah, that being on the court with Otto and Jim certainly gave me some inspiration.

Laurence Rubin: Now, back in the trial courts, you were in the law-and-motion department at that time. Did you go back to law-and-motion?

Charles Vogel: Yes, I did.

Laurence Rubin: Okay. And some of the people on . . . . Well, explain a little bit about law-and-motion departments, 'cause we don't have these any more.

Charles Vogel: Sure. Well, in 1971, I think, or '72, I received the assignment to be in the law-and-motion department. And that department was located on the eighth floor of Central Civil, 111 North Hill. And it had a number of judges – I think there were five, and later there were six. And all of the law and motion (demurrers, motions to strike, motions for summary judgment) – all motion activity – was heard by those judges and not by the trial judges. By the time a case was ready to be tried and there were no more motions to be made, they were assigned out – with some exceptions, because there were specialized departments, of course. Obviously probate, eminent domain, juvenile, . . .

Laurence Rubin: Divorce.

Charles Vogel: . . . so, criminal, and so forth, so . . . . But we heard every motion that could be made. 20:05

Laurence Rubin: So the exact opposite of the current . . .

Charles Vogel: Exactly.

Laurence Rubin: . . . direct calendaring system.

Charles Vogel: Exactly right, exactly right. And they've included all discovery as well, which . . . . By the way, I was admitted to the bar in 1959, the date the California Discovery Act was enacted. And before that, when I was a lawyer, we didn't have interrogatories, requests for admissions, and only depositions by agreement. So, that's that.

Laurence Rubin: The . . . . In '74, when you were in the law-and-motion department, some of the other judges there were Dave Thomas, Sandy Lucas, Dave Eagleson, Jack Crickard, and Bob Wenke. Tell me a little bit about working with them.

Charles Vogel: Okay. That was a wonderful experience, and every one of them are judges I have respected and still respect. The engine for that group was Bob Wenke. He was the Supervising Judge. And he had done law and motion before. And he would then, as Presiding Judge, also hear any really complex injunctions and that sort of thing. Writs. He got us together and said, "We need to have a manual for this department – a law-and-motion manual, a discovery manual, a class action manual [because class action matters were now coming on fairly regularly], and we need to update Dick Schauer's writs and receivers manual." So he assigned each of us a task, and I drew the task of preparing a law-and-motion manual, which I did. Jack did the discovery manual and Dave Thomas did the class action, which is really interesting because he was the defendant's lawyer in – what's the Yellow Cab case? – David Daar was the . . . .

Laurence Rubin: *Daar v. Yellow Cab.*

Charles Vogel: Yeah, yeah. And so Dave knew what class actions were about, unlike most everyone else. And I think Eagleson did the writs and receivers manual.

Laurence Rubin: And what was the bar's response to that, eventually?

Charles Vogel: They complied.

Laurence Rubin: Did they . . . . Is it like most lawyers, kicking and screaming, or was there . . . ?

Charles Vogel: Well, they . . . . The thing about it is, as you know, when you're a judge, lawyers don't complain to you very much. And in fact, their views were solicited. So we would invite them to make comments as it went together. And I think Bob did a lot of that – Bob Wenke. And there were some lawyers who were 22:51

really skilled at it: Ned Good was probably way ahead of the curve on discovery, and he always was, so far as I knew. And he had . . . . He was early on with computers. So we used a lot of what he did as a basis of considering what Jack was doing in that field of discovery.

Laurence Rubin: And in law-and-motion at that time, pleadings were kind of formalistic, rambling, not structured well, roman numerals. And what did you do to change that?

Charles Vogel: Well, we just changed the outline. First of all, we wanted to make it easier for us to get through the papers faster, because our calendars were really substantial. And if you were going to do this right – which I think everyone tried to do – you wanted to move quickly. So we got rid of the roman numerals, but that was not a big deal. But we had a requirement: everybody would caption your cause of action in plain English what it is, and we got rid of the "wherefore"s and "thereof"s and all that sort of thing. But I think basically we just streamlined the pleadings to conform with what the law required and to enhance our ability to go through the papers more quickly.

Laurence Rubin: Over the next two years, do you remain in law-and-motion until your next pro tem assignment or do you switch assignments?

Charles Vogel: Yeah, I did. Well, actually, I was doing law-and-motion, I think, wasn't I, when I did the Onion Field case, or did I . . . ?

Laurence Rubin: I think that's true.

Charles Vogel: I think I was. And then I went back to law-and-motion and progressed over to doing – if it's a progression – writs and receivers, and was then designated the presiding . . . Supervising Judge, as they use it, for the law-and-motion department. But about that same time, I was assigned to Division 1 of the Court of Appeal to do the Manson case, so I took a leave from the law-and-motion department with the consent of the supervising . . . the Presiding Judge.

Laurence Rubin: And you're still living in Claremont at the time?

Charles Vogel: Yes.

Laurence Rubin: So Manson is a Division 1 case . . .

Charles Vogel: Yes.

Laurence Rubin: . . . so that's Parker Wood, Bob Thompson, Thax Hanson, Mildred Lillie at that time.

Charles Vogel: Yes. 25:10

Laurence Rubin: Tell me how that assignment came to be. How did you find out about it?

Charles Vogel: Well, I'm . . . I know that Bob Thompson was told by Otto Kaus that I had done a good job, in his opinion, on the Onion Field case. And the Manson case was even a bigger case in terms of the size of the record. And of course in the . . .

Laurence Rubin: Notoriety.

Charles Vogel: . . . number of defendants.

Laurence Rubin: Yeah.

Charles Vogel: So he asked if I could be assigned, and I was. And the panel was composed of Bob Thompson and Parker Wood.

Laurence Rubin: Now, Thompson was not the PJ of that division, and . . .

Charles Vogel: No, Parker Wood was.

Laurence Rubin: . . . I assume he either had to get . . . he had to go to Parker Wood, or did you have an APJ at the time?

Charles Vogel: I really . . . . Yes, we did. Yes, there was an APJ.

Laurence Rubin: Gordon Files?

Charles Vogel: Gordon Files, yeah. Gordon Files.

Laurence Rubin: So do you know anything about that process?

Charles Vogel: No.

Laurence Rubin: Okay.

Charles Vogel: I have no idea what they went through to get that assignment. They just . . . . They asked me, and I didn't ask why.

Laurence Rubin: And Kaus had a close relationship with Thompson, even though . . .

Charles Vogel: Oh, ...

Laurence Rubin: . . . they were not . . .

Charles Vogel: . . . very . . .

Laurence Rubin: . . . in the same division?

Charles Vogel: Very much. They had lunch together almost every day. 26:25

Laurence Rubin: Now, tell me a little bit about how you start that case. I mean, you've got the doghouses . . . .

Charles Vogel: Well, yeah.

Laurence Rubin: What's going on?

Charles Vogel: Well, again, this is after the court moved out of the old State Building and went out to Wilshire. And once again, I got . . . . You know, I'm not sure I had a windowless room in the State Building, but I certainly had one out in the Wilshire offices. And the wall was just covered with this record. I had a secretary assigned to me, which was nice, and of course I didn't type then and I didn't have a computer, so I would write in longhand, as I did previously, and then give it to the secretary to type up. So I worked very closely with Bob, and he was just a terrific lawyer – maybe one of the smartest lawyers I've ever known.

Laurence Rubin: And a reputation as a really good writer, also.

Charles Vogel: *Very* good writer. And crisp and clean. And I watched him. He would formulate his thoughts, he would identify the authorities he wanted, he'd put 'em on the floor and stack 'em one against the other . . . .

Laurence Rubin: The books.

Charles Vogel: The books. And open. Open to the pages he wanted. And he'd just start typing. And when he wanted one, he pulled one, and typed . . . . He had a secretary, so it was kind of amazing. And he put this out, and I guess his secretary put finishing touches. He had a lawyer working for him at that time, Miriam – who's now my wife – Miriam Tigerman at the time. And she would work up drafts for him. But I guess the point is, he is . . . he was a wonderful fellow to work with, and I think just one of the brightest people I've ever known.

Laurence Rubin: I talked to Kent Richland. Kent, of course, is the former president of the California Academy of Appellate Lawyers, but more appropriate for this, was the law clerk to Justice Kaus at the time. He remembers your office very well, and he described it as "dreary, small, windowless." So he confirms it. Now, I looked at the Manson opinion, and my quick count was that there were 48 different issues, and it's a 115-page majority opinion.

Charles Vogel: Yeah, it is.

Laurence Rubin: How do you go about, if you remember, sort of organizing something that's this diverse and complex?

Charles Vogel: If I remember. 29:02

Laurence Rubin: If you remember.

Charles Vogel: Yeah. Because there were four . . . . I think there were four defendants, am I right? Four or five.

Laurence Rubin: It sounds right.

Charles Vogel: I should have read it before I came here. But there were two murders that happened at different occasions in which not all of them were involved. Manson was at all of them. And I think Tex Watson – is that his name? – he was there.

Laurence Rubin: Right.

Charles Vogel: He was on all of 'em. Linda was not on the first one, but she was with the second. And so you start breaking it down, you have essentially two different crimes. And the issues ran the gamut of . . . from insanity to adequacy of the evidence with respect to whether one or the other was at one murder or at both murders or at no murder. And so you just kind of outline what the issues are, and then you kind of develop it along a timeline, which is what I think every judge does. You try . . . . You tell the story first. And you try and tell it sequentially. And of course, the Manson "family," as such, really starts in the Haight-Ashbury, when he's there and involved with that drug scene and hallucinogenics, and he develops his following and takes them out to the desert and they get organized. I don't know if that answers your question, but I don't . . . developed a timeline for two murders involving multiple defendants, and of course that would run out the 48 issues. And then, of course, the result was that I reversed as to Van Houten, and that by itself took a lot of time and took a lot of research, because the issue there was adequacy of counsel. And it became an adequacy issue because her lawyer throughout the trial was murdered before there was an argument.

Laurence Rubin: All the evidence had been completed . . .

Charles Vogel: Oh, yeah.

Laurence Rubin: . . . but the argument had not taken place.

Charles Vogel: Correct. There was no oral argument. And in that time, Charles Hughes I think was his name, he was found . . .

Laurence Rubin: Ron. Ron Hughes.

Charles Vogel: Ron Hughes. And he was murdered. In my view, it would be impossible for anyone to make an adequate argument if they had not been present when the testimony at trial, and the evidence at trial, was produced. That was the view I had then, and I still have that view. And that . . . . I know that 32:01

seems odd, because the evidence of guilt was very, very, very strong. Very strong. Parker Wood violently agreed . . . disagreed with me.

Laurence Rubin: Disagreed.

Charles Vogel: And I say "violently," which is the wrong word because Parker Wood never said much anyway. But he stopped talking to me after that. Bob Thompson was on board, and so we put the opinion out the way it was put out. And they petitioned the Supreme Court, and that petition was denied, and then Linda Van Houten was separately tried and convicted and sentenced to life imprisonment.

Laurence Rubin: The dissent . . . . I guess Justice Wood concurs and dissents. He concurs in your affirmance of the conviction and dissents in . . . .

Charles Vogel: Oh, sure.

Laurence Rubin: And he . . . . In keeping what you just said about it, he says in the dissent, he describes the majority as . . . in this way: "Ron Hughes' disappearance's impact on Van Houten's trial was an alleged reason for reversal."

Charles Vogel: Yeah.

Laurence Rubin: So I guess that was sort of his way of making the harsh point?

Charles Vogel: I don't know what it means. I mean, "alleged" – does he mean that I made it up that he was . . . ? That sort of doesn't make sense. He didn't really write it, anyway. He had a lawyer who worked for him who wrote everything. I don't quarrel with the idea that he could write or did write, but he didn't appear to me to write. He was very much there and a very impressive man, but I don't know what he meant by that. I know he was angry about it. I knew he *would* be angry about it.

Laurence Rubin: You wrote, in the majority, this sentence: "Under our system of justice expediency is never exalted over the interest of fair trial and due process."

Charles Vogel: Yeah.

Laurence Rubin: No particular authority for that, but it's one of those sort of important precepts of our justice system. Sounds like sort of a core value.

Charles Vogel: Well, it is, and I think if I were given a chance to look at the opinion I would find some authority for that proposition. One of the authorities would probably be the United States Constitution. 34:23

Laurence Rubin: That might be it. We . . . .

Charles Vogel: I need to take a drink of water.

Laurence Rubin: Sure. Justice Lillie and Justice Hanson were on the court at the time. Not on this opinion . . .

Charles Vogel: That's right.

Laurence Rubin: . . . but . . . and they too also passed before we could do this project. Tell me a little bit about Justice Lillie – not just back then, but just your whole experience with her.

Charles Vogel: Well, Justice Lillie was an extremely dignified, impressive woman. And she was well known not only for her ability as a jurist but because she's a fabulous cook. You know, there's such a thing as Mildred Lillie's Chocolate Cake.

Laurence Rubin: I've had some.

Charles Vogel: Okay. And she used to bring in bonbons that she had made. So . . . . And she was very friendly and very warm, and she didn't give much attention or indicate any concern about the Manson case. It wasn't an issue with her. Thax I did not know well: He was sort of a hail-fellow-well-met. I believe he . . . that . . . if he wasn't a general, he was pretty close to it in the army, and he was very proud of that fact. And in so many words he told me that this wouldn't be a long assignment – that I could dispose of it rather quickly. So . . . .

Laurence Rubin: How long did it take?

Charles Vogel: Well, it took a little more than a year, but I was out with pneumonia during part of that time. So I don't know exactly. And I may have had a few days to go back to the trial court; in fact, I think I did, because there was a period when others – Thompson and Parker Wood – wanted some time. So I think I went back to the court. And I think – I'm not sure about this – but I think I may have gone back to the trial court, 'cause I couldn't just jump in an out of law-and-motion. Probably out in Pomona.

Laurence Rubin: You went to a trial division . . . trial department?

Charles Vogel: Yeah, I think so. Yeah, as a matter of fact, I'm sure of that because . . . . I know why – because I occupied a chambers that was quote "owned" unquote by another judge. There was a time – and during that time when I was there – judges would bid on the courtrooms. Oh, I know – it was Jerry Pacht's courtroom. But he wasn't in it!

Laurence Rubin: In Pomona. 37:03

Charles Vogel: No, no. Excuse me. I went downtown to a trial.

Laurence Rubin: Okay.

Charles Vogel: Yeah. And Jerry . . . it was Jerry Pacht's courtroom. And he came in to make sure that I didn't move anything that was important to him.

Laurence Rubin: Sort of a judicial adverse possession issue.

Charles Vogel: Yeah. Actually, I tell you, it was really a silly program. But the court was about a hundred . . . . Well, it was 113 when I went on, 'cause we . . . 13 of us went on. You could do something like that and have enough courtrooms. But they would have a . . . . When somebody vacated, died, or retired, that courtroom became available. And the judges, according to seniority, could then bid. And the most senior judge without a courtroom who wanted one would take one. So that's what . . . . That's a long story, but it's sort of an interesting little fact about the old superior court.

Laurence Rubin: And it reminds you that you, when you left . . .

Charles Vogel: Yeah.

Laurence Rubin: . . . the Court of Appeal sometime during that assignment, . . .

Charles Vogel: Yeah, I did.

Laurence Rubin: . . . went back to Jerry Pacht's . . .

Charles Vogel: That's right.

Laurence Rubin: . . . court.

Charles Vogel: Yeah, and I heard a few matters there.

Laurence Rubin: But you're still living in Claremont.

Charles Vogel: Claremont. Right. And what I was doing was, when I went to the Court of Appeal I would drive to Pomona and catch the bus and take the bus downtown, and then return by bus. So it was about a 6:30-to-6:30 drill.

Laurence Rubin: You finish the draft; Thompson and Wood have their positions. You now have oral argument. And Irving Kanarek is there again.

Charles Vogel: Yes.

Laurence Rubin: Remember anything specific about that argument as opposed to the Onion Field argument in Kanarek's performance? 38:49

Charles Vogel: No, no. I think he was . . . . My memory of him is he was dignified, he was presentable, he knew what the case was about, and he made the points he wanted to make.

Laurence Rubin: It must have been kind of an interesting argument that Maxwell Keith – who succeeded Ron Hughes in representing Van Houten – he had argued the case to the jury but now was coming before you saying, in essence, I was not competent to make that argument because I wasn't at the trial. How did that argument come about?

Charles Vogel: Actually, I don't think he made that argument.

Laurence Rubin: Oh.

Charles Vogel: I think what happened is, I raised it at oral argument. And he realized that he had an opening. But that really wasn't . . . . I recall that was not part of the brief, and it was not part of his argument. I had already decided this before he argued, as you know, we do here . . . or you would do here.

Laurence Rubin: True, true.

Charles Vogel: Most of the time.

Laurence Rubin: So, did he pick up on this? I mean, was he . . . ?

Charles Vogel: Yeah. Yeah, he did. He suddenly recalled all his constitutional law classes. He was a delightful fellow. He had sort of a southern accent. He was referred to as "The Ivy League Hillbilly." He was a very, very charming advocate.

Laurence Rubin: The . . . . You go back to the trial court after that's done. Let me back up for a moment. Both in the Manson assignment and the Onion Field assignment, you only worked on one case for the Court of Appeal.

Charles Vogel: That's right. Well, no. I had two . . . . I had a . . . . Instead of going back to a trial court, Otto assigned me another case to work on while they were treading water.

Laurence Rubin: Okay.

Charles Vogel: And on that case I was with Hastings and Ashby.

Laurence Rubin: Okay. And then you go back to the trial court eventually, right?

Charles Vogel: Eventually? No. Eventually I go back to see the Presiding Judge of the Superior Court, and tell him I don't want to be sent back to the trial court in Pomona because it just is too inconvenient and too difficult to carry on this life of being a downtown judge when you live in Claremont. 41:12

Laurence Rubin: Right.

Charles Vogel: And he said, "No, you can't do that. We'll let you go for a year, and you're the presiding judge of law-and-motion, and writs and receivers, and you'll do your year here." So I was there.

Laurence Rubin: Okay.

Charles Vogel: And it's from that position that I left the court.

Laurence Rubin: Within about a year of coming back?

Charles Vogel: That's right.

Laurence Rubin: Right. Now, Charles Older was the trial judge in the Manson case.

Charles Vogel: Oh, yeah.

Laurence Rubin: He was a somewhat controversial figure. He was a Flying Tiger in the war. During your year back on the superior court, do you ever run into Older? Any conversations about the Van Houten reversal, anything like that?

Charles Vogel: Charlie was a man of few words. He said, "I read your opinion and I agreed with most of it." *[laughs]*

Laurence Rubin: And you assumed which part . . .

Charles Vogel: I knew what he meant.

Laurence Rubin: . . . he was referring to?

Charles Vogel: Sure, I knew what he meant. Yeah, I knew what he meant.

Laurence Rubin: All right. Let's move on from that. We talked the other day about some cases that you considered important. I just asked you . . .

Charles Vogel: Yeah.

Laurence Rubin: . . . an open-ended question . . .

Charles Vogel: Yeah.

Laurence Rubin: . . . that . . . You know, tell me a few cases that you thought were important that you worked on, on the Court of Appeal. And you came up with three cases, all of which happened to deal with lawyers.

Charles Vogel: Is that all? Only three important cases?

Laurence Rubin: I only allowed you to do three. Pick three cases. 42:30

Charles Vogel: Okay.

Laurence Rubin: And I thought maybe you could talk about them. One was *Trope v. Katz,* I remember that.

Charles Vogel: Well, *Trope v. Katz* I thought was important because 1717, which now made attorney's fees available to either side, and . . meaning to the . . . either prevailing . . . whoever prevails in a contract case, if there is a provision for attorney's fees, it just doesn't run in favor of one party. It runs in favor of the party that prevails. There was an opinion by Mildred Lillie to the effect that a lawyer who appears in pro per – not using that designation, by the way – suing for a fee, he's entitled to recover attorney's fees if he prevails. I thought that was wrong. It seemed to me that when a lawyer appears to recover for himself, he's entitled to recover for himself, but he's in no different position than a person who sued who's not represented by counsel. And so I concluded that the issue should be decided differently, and that lawyers do not have a right to recover attorney's fees when they appear in person and for themselves. So I wrote that case. Sorrell Trope was suing somebody for some fees, and I held that he's not entitled to fees. He was on . . . . He was the prevailing party.

Laurence Rubin: Supreme Court took the case.

Charles Vogel: Supreme Court took the case, and they affirmed, and I think that is . . . remade the law. I thought what would happen is that, well, now lawyers, when they have a fee case, would just hire their best friend to go sue for it. But I've been disabused of that view, because I found out that lawyers who are offered those cases don't want to work for nothing, and the ones who have 'em don't want to pay anyone. So there you are.

Laurence Rubin: The second case was called *State Compensation Fund v. WPS*, having to do . . .

Charles Vogel: Yeah.

Laurence Rubin: . . . with privileged material.

Charles Vogel: Yeah.

Laurence Rubin: What was that about?

Charles Vogel: That case arose in a workers' comp case. And the plaintiff's lawyer was allowed to have access to several thousand pages of documents of the board, and . . . under a provision that it remain confidential and be returned. When the case concluded, the records were not returned, and it became pretty evident to the board that all of a sudden all of the claimant's lawyers had all of this inside information. So there was a motion to compel that they be returned. And I thought that made perfect 45:50

sense. And so I decided that essentially if a lawyer is given confidential information or has access to confidential information, and it's apparent to him or her that it is privileged, that they should notify opposing counsel and offer to return the documents. And that's how that case turned out. And recently the California Supreme Court issued an opinion, I think, called *Rico . . .*

Laurence Rubin: *Rico.*

Charles Vogel: . . . *v. Mitsubishi.*

Laurence Rubin: Right.

Charles Vogel: And they generously decided that case.

Laurence Rubin: They said, "Here we consider what action is required of an attorney who receives privileged documents through inadvertence and whether the remedy of disqualification is appropriate. We conclude that, under the authority of *State Compensation Insurance Fund v. WPS,* an attorney in those circumstances may not read a document any more closely than is necessary to ascertain that it is privileged." So, relying on your case, which was about eight years old . . .

Charles Vogel: Yeah.

Laurence Rubin: . . . at the time. And that puts an affirmative obligation on the attorney who receives the document. He's not supposed to wait until something happens, I assume. He's affirmatively supposed to call the first attorney and offer it back.

Charles Vogel: That's the intention of that ruling, in my opinion.

Laurence Rubin: The third case you mention was *American Airlines v. Sheppard, Mullin.*

Charles Vogel: Yes.

Laurence Rubin: And what was that about?

Charles Vogel: Well, that was about a very good lawyer, who I've known for years, who was representing McDonnell Douglas, who had a new aircraft. And when an airline is interested in buying a new aircraft, it's not unusual for them to engage a lawyer to be involved in drafting that contract and working with the technical people. And that . . . . About the time this lawyer was working on that case, there was a partnership, for want of a better term – it may have been what you would call an LLC today – in France. And they were interested in buying that aircraft. So the lawyer was asked by the French contingent to represent them. And he told McDonnell that he was going to do that. And McDonnell Douglas said, "No, you're not. You're *our* 48:22

lawyer. What you've learned about this aircraft, and what you know about this aircraft, and what you know that we have bargained about, so we don't want you working for someone else with respect to this particular aircraft." And American Airlines, by the way, was going to buy this from McDonnell Douglas. So he just said, "No, I'm going to go to work for 'em." And he did. And they – American Airlines – brought a lawsuit against him and his law firm. And I read . . . . Doing the opinion, I read the deposition transcripts, because it was decided on a Motion for Summary Judgment. And I read the testimony of the General Counsel of American Airlines. And she said, "We give so much work to these big law firms, they think they can do anything they want." And something to the effect, "And we're going to teach 'em a lesson, and the bar's not going to do it, so we're going to do it." And so she really went after it, tooth, hammer, and nail.

Laurence Rubin: And this was one of those cases that arose in the transactional context, not in the litigation context.

Charles Vogel: Yeah, that's right, that's right. And so the point of the case is that you can't work for one client and then go to work for a competing airline in the context where they're both involved in essentially the same business transaction. I think there's more elaboration on that in the opinion. There wasn't much money at stake. I think American Airlines got very little. But the principle was important.

Laurence Rubin: You mentioned those three cases as three that come to mind as important to you.

Charles Vogel: Yeah.

Laurence Rubin: And I thought it was interesting that they all dealt with lawyers. And I'm thinking, "You know, here's a man who was a former president of the State Bar, the county bar – big commercial practice. Do you think that . . . those experiences affected why you picked those three?

Charles Vogel: It probably did. Probably did. I was certainly aware of *Katz v. Trope,* and I was aware of all of them. Yeah.

Laurence Rubin: Dave, let's take a break.

David Knight: All right.

Laurence Rubin: All right, let's go back in time now. We're sort of in the middle of your career, but I want to go back and start at the early years of North Hollywood . . .

Charles Vogel: Oh, my.

Laurence Rubin: . . . High School. 51:10

Charles Vogel: Yeah.

Laurence Rubin: What's North Hollywood High School like in the '50s?

Charles Vogel: I . . . . If you saw some movies in the 1950s, you'd know what it's like. It's hard to describe. It was just a different era. It was unusual to have a car. I remember I didn't get a car until my senior year. Certainly that was before drugs. Gangs – there maybe were gangs, but they weren't anything that I was aware of when I was in high school. There were clubs where guys wore sweaters and all. But it was a very happy time. And sports was very important.

Laurence Rubin: You played sports?

Charles Vogel: Yes, I did. Yes, I did.

Laurence Rubin: What did you do?

Charles Vogel: I played football and I ran track – two sports which are utterly useless to me today. I wish I had played tennis. But in any event, I did.

Laurence Rubin: Eventually you end up at Pomona College. Now, how does one get from North Hollywood to Pomona, figuratively, in the '50s?

Charles Vogel: Well, there are two components to that. One is, I had an excellent, caring high school advisor, Mr. Berkowitz, and he asked me what I wanted to do, and I said, "Well, I don't know." I was being a smart-aleck. I said, "I think I'd drive a truck." And he said, "Oh, you don't want to do that." And I thought, "Well, I'll go to USC." He said, "I think you would like Pomona College." And I said, "I don't want to be a farmer." He said, "No, it's not a school for farmers. You should go out there and find out about it. And I think you'd like it." And so I did find out about it, and I did apply, and I did get admitted. And the other component is I had two wonderful parents who paid the tuition and cared for me very much and saw me through that. So that's how I went to Pomona.

Laurence Rubin: Do you recall your first visit out there? I mean, do you remember checking . . . .

Charles Vogel: Yeah, I actually do, because . . . . This is how the world was different. My parents drove me out there, you know. I think today that would be unusual unless you were in private school. It was a public school. But they were interested, and so we drove out there, and we met with the Dean – I remember his name, Dean Saunders. And the place was beautiful, and he was very cordial, and that was that. And then ultimately I got a letter accepting me, and I went out there. 53:52

Laurence Rubin: Your major?

Charles Vogel: I had two majors, really. It was political science and philosophy. I took more philosophy courses.

Laurence Rubin: Now, up to that point, or while you were a political science major, you're starting to develop an interest in the law, or does that come elsewhere?

Charles Vogel: Yeah. Well, actually, before then. My father was a businessman, but he always thought it would be a good idea to go to law school to be a businessman – not to be a lawyer. And so I was thinking about law school. And my roommate for all four years out there was very interested in going to law school. And he did but didn't finish – instead went on to become a successful businessman. *[laughs]*

Laurence Rubin: As all people who drop out of law school seem to be.

Charles Vogel: Yeah.

Laurence Rubin: And so that develops into applying to UCLA and other schools? Or did you just apply to UCLA?

Charles Vogel: Well, actually, Pomona has a relationship with the University of Chicago Law School. And every year there's a scholarship given to a member of the senior class to go to Chicago. And that was given to me. And I wanted to know what it was about, so I went back to Chicago and saw it and decided I didn't want any part of it. So then I came back here, and I applied to Pomona . . . or, I applied to UCLA School of Law, which was a very new school then. And I stayed for about two months and left and went in the Navy. Went to my draft board and said, "Look, you're going to draft me anyway, so why don't you just draft me now?" And at that time, all the branches were drafting for a short period of time. The Navy discovered that was a great mistake if the college graduate who wanted to be drafted didn't want to go to Officer Training School. So after about six months, the Navy decided to just give everybody who didn't go to Officer Training School a "good conduct" discharge. And so I went home, and I applied again to Pomona . . . to UCLA School of Law, and then I started.

Laurence Rubin: Going back to Chicago for a moment, you didn't like the school? You didn't like the city?

Charles Vogel: I didn't like the neighborhood it was in.

Laurence Rubin: It's a tough neighborhood.

Charles Vogel: They had baseball racks . . . baseballs in the racks . . . baseball bats in racks, you know. And I thought, "Oh, no, I don't 56:16

want to live in *this* environment where I have to worry about crossing . . . I think it's called Hyde Park.

Laurence Rubin: It's the South Side of Chicago.

Charles Vogel: It's tough . . . It was a tough neighborhood.

Laurence Rubin: The . . . .

Charles Vogel: And I grew up in Studio City. I wasn't used to that sort of thing.

Laurence Rubin: You go through basic training in the time . . . .

Charles Vogel: Yes, I did.

Laurence Rubin: What was that like?

Charles Vogel: That was a real education. *[phone rings]* Can we stop?

Laurence Rubin: Yes.

David Knight: All right, we are rolling again.

Laurence Rubin: All right. In the Navy, did you go through basic training?

Charles Vogel: Yes.

Laurence Rubin: And what was that like?

Charles Vogel: That was an introduction to what the rest of the United States is like. And, you know, you meet people from all different states, all different walks of life. And most of them are high school graduates or not. And I don't know what else to really say about it.

Laurence Rubin: It was an eye-opening experience?

Charles Vogel: Yeah, sure. I mean, it was a whole new world, a whole new cast of characters in my life. And I . . . . At that time – I'm sure it's different now – but racist attitude was real. The drill sergeant we had – or actually it was a chief petty officer – he would say the most horrible things to the black fellows. He'd pull up and say, "Look, your skivvy shirt looks the color of your skin. Wash it." You know, things like that. They got away with that. And they would, you know . . . . You're not . . . . I wasn't used to people being this aggressive. They'd get us up in the middle of the night, and you'd throw all your mattresses out on the ground and scrub everything and then march back and forth. You know, it was really ridiculous. But it was an eye-opener. 58:12

Laurence Rubin: All right. So you go back to UCLA. You're more mature now that you've been in the Navy.

Charles Vogel: Hopefully.

Laurence Rubin: You go out and room with some guys in Malibu.

Charles Vogel: That's true.

Laurence Rubin: And become a model student.

Charles Vogel: Yeah.

Laurence Rubin: Or what?

Charles Vogel: Well, no, actually. You know, I'm sure it was Malibu – it was right at the beginning of Malibu. I even know, when I've been out there, about where it is. And now it would cost a million dollars to buy it. But it was a dump. And four of us rented it and cooked for ourselves and played a lot of volleyball. Like the volleyball you see now with two people . . . .

Laurence Rubin: Beach volleyball.

Charles Vogel: We were short and we wore normal bathing suits, you know? But that was a great time. And we had some very friendly neighbors. And I was not being very diligent about my studies. As a matter of fact, I never went to a constitutional law lecture, ever. I maybe went to one, because I knew the professor's name: Arvil Van Alstine. And I didn't do that well. My grades were okay, except in Contracts I got a very bad grade. And so this had to stop. So I stopped and pulled out of there and went and rented an apartment. Actually, I went back to live with my parents for about a month, and by this time I was too grown-up to live with my parents, so . . . . My father was generous. Again, he said, "I'll give you $50 a month." And with what I had, that was okay. So I rented a room with a couple who were professors at UCLA, and sort of lived like a monk. And then my grades got very good.

Laurence Rubin: And you went straight through, right? You went . . . .

Charles Vogel: That's right. I didn't take a summer break. At that time, you could go and take classes during the summer at the law school. So I graduated in January of '59.

Laurence Rubin: Close friends you developed while at UCLA Law School?

Charles Vogel: Yes, yes. Lewis Silverberg, who was also at Pomona College. He was in law school, and he's a lawyer in San Diego. We've stayed in touch all these years. Ralph Shapiro, who was a year ahead of me, is one of my closest friends. So yes. 1:00:35

Laurence Rubin: And Norm Epstein?

Charles Vogel: And actually Craig McManigal, who was at Pomona College as well, was in my class. And he practiced with Adams Duque & Hazeltine. And then he joined me in Pomona and joined our firm.

Laurence Rubin: Was Norm Epstein in school at the same time?

Charles Vogel: Yes, he was, but I didn't know him.

Laurence Rubin: Okay. And he was not in your class?

Charles Vogel: No, he was a year ahead of me.

Laurence Rubin: Okay.

Charles Vogel: He was . . . . Law school in those days was this way: most of the people were grown up, in the sense that some . . . many of them were married, had families. And there was not a lot of interaction. People were interested in studying, getting good grades, or getting through. Or some of them were working while they were at law school. I tried that. I worked at – I think it was Jim Hutton, something like that – Clothing Store at night. That lasted about a month. I couldn't do it. So there was not a lot of closeness in law school.

Laurence Rubin: You graduate in January . . .

Charles Vogel: Yes.

Laurence Rubin: . . . and what's the job market like in 1959?

Charles Vogel: Well, it's not as good for me as it was for the people on the law review. But the salaries were pretty minimal, no matter what. I had an offer from Lillick & McHose for $400 a month. They were opening an office in Los Angeles, or had just opened one. And I talked to a couple who had a practice on Sunset Boulevard, and they were doing copyright work. And I didn't know what I was going to do, or what *to* do. And I went out to Pomona College to visit with friends. And at Pomona College, it was very much a one-on-one situation, so I knew the faculty. And the dean told me that there was a law firm in Pomona that was looking for an associate. There were three lawyers: Allard, Shelton, and O'Connor. Mr. Allard was elderly then. He incorporated the Los Angeles County Fair. And they represented Pomona College. Agee Shelton was a trustee. And they represented growers and packers, and they represented small businesses. And Pomona was really quite a lovely town then. And they made me an offer: $350 a month, and 50 percent of what I brought in. And I was probably better at getting business than doing business. And so I developed a practice rather quickly. And they represented some 1:03:21

municipalities, and I became City Attorney for the city of La Verne and for the city of Glendora. And one of my partners, Maury O'Connor, was City Attorney of the city of Covina; when he was gone, I represented them. So I did enjoy it a lot, and I have to say that Agee Shelton – one of the partners – had a terrific influence on me. He was a wonderful lawyer. I've described him this way, which is probably not totally fair, but it's totally fair in this sense: He's an A-plus human being. He was a B-plus lawyer. Knowing great lawyers – and he would not be one of the great lawyers . . . . But clients loved him. He picked up clients no matter where he went, like a blue suit picks up lint. I mean, he just . . . . And they all loved him. And we didn't have hourly rates. And we'd work through a matter, and we'd say to a client, "You know, I think we're going to need some money," and he'd say, "Well, maybe after the harvest," or "Wait 'til I close my books for the year," or maybe they'd pay you, and that's the way you'd do it.

Laurence Rubin: And is he still alive?

Charles Vogel: No, he passed away a few years ago. Really, really a wonderful man.

Laurence Rubin: You kept close with him over the years?

Charles Vogel: Yes, I did.

Laurence Rubin: Did it surprise you a little bit, given how long you've now been in Los Angeles, that you went back to Pomona? Is that . . . . You were born in Studio City, you go to UCLA Law School, you end up in Los Angeles, but for this one moment, it's Pomona that brings you . . . draws you . . . .

Charles Vogel: Not really, because you never get Pomona out of your blood. Now I don't have much to do with it any more. And so it wasn't unusual, no. I kept in touch with it. I told you my roommate went to law school – he went to Stanford – and he didn't like it. And he decided to go into banking, and he made a lot of money. But we all stayed in touch. And the dean – Dean Beatty – he stayed in touch with all of us. He tried to help everyone. He actually . . . . When I graduated, he wanted me to interview for the CIA. I said, "I don't want any part of that." I didn't know why, but . . . .

Laurence Rubin: Well, your Navy experience was good!

Charles Vogel: No, no! I didn't want . . . . No, no, this was when I graduated from Pomona, he wanted me to . . . .

Laurence Rubin: Oh, okay, right.

Charles Vogel: The CIA was a regular interviewer on campus. 1:05:56

Laurence Rubin: Right.

Charles Vogel: And nobody knew what they did.

Laurence Rubin: You had mentioned that one of your clients was Mr. Russell Pitzer, who eventually founded . . .

Charles Vogel: Yes, yes.

Laurence Rubin: . . . Pitzer College, which is part of the Pomona schools.

Charles Vogel: More fairly, he was a client of the firm. He . . . . I didn't do any work for him personally. I saw him from time to time in the office. He was a school . . . . Do you want to know about him?

Laurence Rubin: Sure.

Charles Vogel: He was a schoolteacher, out there probably in the 1930s. And he started buying groves. And ultimately he became the largest grower in the whole valley and made a lot of money. He . . . . I think he would tell the packing houses how much *he* was going to pay; they wouldn't tell him how much he was going to pay. He was quiet, dignified, but very, very generous, He gave all the money to build a hospital there. And he made a commitment, which I knew about because Mr. Allard did his will. He was going to dispossess himself and – if he preceded his wife's death, which he did not – all of his money to charity, or things he believed in. And by the time he died, all of his wealth was gone except the funds he'd set up for Pitzer College. He educated his children, and his son became the president of Rice University. But he was quite a guy.

Laurence Rubin: Your practice . . . . You described some of the clients you had, but for the most part was it a pretty general practice?

Charles Vogel: Yeah, very general.

Laurence Rubin: You did some criminal, divorce . . . .

Charles Vogel: Yeah, I did domestic . . . . I even showed up at probate calendars. I was on the probate calendar the day Jack Kennedy was assassinated. And Howard McClain was the judge at that time. His clerk came up to him and told him, and Howard just broke out in tears and ended the probate calendar that day.

Laurence Rubin: It's remarkable how we can almost . . . . Almost everyone remembers what they were doing when they heard.

Charles Vogel: Right.

Laurence Rubin: I remember exactly where I was. You had mentioned . . . . There's a story about you trying a municipal court case that you won, that you . . . but the damages were . . . 1:08:22

Charles Vogel: Oh, yeah.

Laurence Rubin: . . . not nearly as much as you thought your client was entitled to.

Charles Vogel: Yes.

Laurence Rubin: What happened there?

Charles Vogel: Judge Al Snidow, who was one of the two judges on the Pomona Municipal Court – which is really called the Mount San Antonio Municipal Court – I tried a case to him for a concessionaire at the fair. And I won, but he just awarded minimal damages. And so I saw him at a bar association meeting, and I spoke to him and said something like, "Judge Snidow, how wonderful it was to appear in front of you when you tried this case so-and-so. But I was curious how you arrived at your damages." And this is what he said, exactly. He said, "Sonny, I took the size of my shoe and divided it by the size of my hatband." And turned on his heel and walked away from me. *[laughs]*

Laurence Rubin: I take it that that measure is never found in any of your opinions?

Charles Vogel: I never found one that worked like that. Would it be so easy, huh? I became his colleague, by the way, when I went on the Pomona Municipal Court.

Laurence Rubin: Well, tell me a little bit about that. You're a young lawyer, 36?

Charles Vogel: Yeah.

Laurence Rubin: And you're in the firm.

Charles Vogel: Yeah.

Laurence Rubin: And how does it come to be that you get interested in becoming a judge?

Charles Vogel: Well, I was in practice nine years, and the judge of that . . . one of the judges of that court was Judge Brownsberger. And he was well-known, as all municipal court judges were in the communities in which they served. And he had an office with Allard, Shelton, & O'Connor – he never was a partner in practice with them – many years before I arrived. But I appeared in front of him a number of times. And one day he walks into my office, and he said, "Chuck, do you want to be a judge? I'm retiring and they'll appoint anyone I want." Of course, this is before JNE. And I said, "Gee, I don't know. What does it pay?" And he said, "$42,500 a year." I said, "That's exactly what I made this last year. Let me 1:10:35

think about that." So I went and I spoke to Agee Shelton. I said, "Brownie's leaving the court and he said he can get me appointed. What do you think?" He said, "Chuck, the good lawyers never become judges." So I applied. *[laughs]*

Laurence Rubin: Anything remarkable about the appointment process from that point on?

Charles Vogel: No.

Laurence Rubin: Did you talk to the Governor's Legal . . . Judicial Appointments Secretary?

Charles Vogel: Actually, Paul Haerle, who was on the Court of Appeal in the First District – I think he's still on, maybe not – he was Reagan's Appointments Secretary. I never met him, I don't recall ever speaking to him, I had had 17 jury trials, I wrote a letter to the Governor. I had, I guess, important people in Pomona – including Hugh Flournoy, who was assemblyman and professor at Pomona College – write a letter for me. So in rather short order I was appointed to that court.

Laurence Rubin: And you stayed there how long?

Charles Vogel: Well, I stayed there for almost a year, maybe a year, because I was then appointed to the superior court in 1970.

Laurence Rubin: And your first assignment on the superior court? Actually, let me back up. Anything interesting about the appointment process on the superior court?

Charles Vogel: It really wasn't very much different. No, it was pretty . . . . I think it was pretty much taken for granted. I don't know why I was so presumptuous, but . . . . I was lucky in this sense: When I was in Pomona, I could finish the prelims, the small claims, and almost anything else by noon or 2:00. I went looking for work. And Judge Peracca of the Superior Court was the presiding judge, and then he was followed by Henry Shatford. And when Henry Shatford came out, he came over to see me and said, "Why don't you take a case or two from us so that you can hear 'em in the afternoon, or when you're free?" And I said, "Sure! That'd be great!" And so I really was hearing superior court cases for almost six or eight months before I was on the superior court.

Laurence Rubin: So this . . . . We're going to talk about this in a while, but this is sort of an early informal consolidation between the municipal and superior courts . . .

Charles Vogel: Oh, yeah.

Laurence Rubin: . . . in Pomona in 1974, something like that? 1:13:12

Charles Vogel: That was . . . . That would be about 1971.

Laurence Rubin: '71. When you get appointed to the superior court, do you stay in Pomona . . .

Charles Vogel: Yes.

Laurence Rubin: . . . or do you go downtown?

Charles Vogel: No, I stay in Pomona. I have a courtroom that hears both criminal and civil. That's what we did – you heard both. You had no specialization.

Laurence Rubin: And Henry Shatford was your supervising judge . . .

Charles Vogel: Yes.

Laurence Rubin: . . . at that point?

Charles Vogel: Yes.

Laurence Rubin: Who else was out there?

Charles Vogel: Well, Dave Thomas, Howard McClain, Carlos Teran, Jack . . . it starts with an "A," he was a Supreme Court justice.

Laurence Rubin: Arguelles?

Charles Vogel: Arguellas. Jack Arguellas. Yeah. That's who I remember.

Laurence Rubin: Now, Dave Thomas we talked about briefly because he was also with your law-and-motion group . . .

Charles Vogel: Yes.

Laurence Rubin: . . . later on. Was he an important influence?

Charles Vogel: Yes.

Laurence Rubin: A good colleague?

Charles Vogel: Yes, he was. Well. they were all important. You mentioned him because Dave said to me at one point that I should go into the law-and-motion department. And he was applying for that. And he thought it would be a wonderful thing, and he made me think it would be a wonderful thing. So I applied, and – much to my surprise – I got it! But that would be, what, that would be about 1972, '73, something like that.

Laurence Rubin: So you're in a general trial court in Pomona.

Charles Vogel: Right. 1:14:50

Laurence Rubin: And your first assignment down at the civil courthouse is law-and-motion.

Charles Vogel: Yes.

Laurence Rubin: You don't go into a jury . . . .

Charles Vogel: No, no.

Laurence Rubin: And did you ever do jury trials?

Charles Vogel: Yeah, I did 'em in Pomona!

Laurence Rubin: But I mean in Los Angeles. Did you ever have a . . . ?

Charles Vogel: I can't remember if I did on that short break when I occupied Jerry's courtroom or not. I really don't remember.

Laurence Rubin: Okay. At some point around this time, you meet Norm Epstein? Is this around . . . ?

Charles Vogel: Well, yes, I did. I heard from Norm when I was on the superior court because he phoned me – and we must have known each other because he addressed me as if we knew each other well – and he told me he was appointed to the municipal court and asked me to swear him in. And it was on a Sunday, and it was downtown, and I went and I swore him in. His family and friends were there. He was the lawyer for the Regents. He was the lawyer for the California colleges.

Laurence Rubin: Right. California state universities. Right.

Charles Vogel: Yeah, that's right. And that whole group was out there, all present. And he had quite a following. So that was a delightful moment. And he's always remembered it, and so have I.

Laurence Rubin: Now, for a few years you remain on the superior court. He's still a municipal court judge.

Charles Vogel: Yeah.

Laurence Rubin: Do you have much involvement . . .

Charles Vogel: None.

Laurence Rubin: . . . with him then?

Charles Vogel: None.

Laurence Rubin: Okay. All right, so at some point . . . . We've covered the two pro tem assignments during this . . .

Charles Vogel: Yep. 1:16:29

Laurence Rubin: . . . seven-year period on the court. And at some point you're starting to think about leaving.

Charles Vogel: Yeah.

Laurence Rubin: And what prompts that?

Charles Vogel: Well, a number of things. One thing is this commuting is impossible. But I had it in my mind that I surely would like to be appointed to the Court of Appeal. But it would depend upon who was elected governor, and at that time Jerry Brown and Hugh Flournoy were vying for the office. And Hugh was a good friend of mine – I'd say a good friend of mine. And . . . .

Laurence Rubin: Was that from the time at Pomona College when he was a professor? Is that . . . ?

Charles Vogel: Well, he wasn't *my* professor, but it's when I was living in Claremont and I knew him as a professor. And I knew him socially. So yes, it was from that time. And when he wasn't elected, I was pretty sure that I was toast as far as going to the Court of Appeal 'cause I was a Republican. And the way I've always viewed it is the Governor ought to pick people on his own party, and only otherwise in exceptional circumstances. In any event, that was one of the real motivations for leaving. And also, while I was the Supervising Judge of law-and-motion, I'd been approached by lawyers to leave the bench and join law firms. And one of those was . . . one of the lawyers was Peter Ostroff, who was then at Nossaman, Krueger & Marsh as they were then known. Marsh, by the way, was my professor in corporations at UCLA.

Laurence Rubin: That's Harold Marsh.

Charles Vogel: Harold Marsh. Now, there's a great lawyer. A really great lawyer. He was.

Charles Vogel: And so I left and joined Nossaman, Krueger & Marsh.

Laurence Rubin: Now, Bob Thompson had been at that firm before.

Charles Vogel: Yes, he told me that he was going to leave the bench and return there, which he didn't do. And that was a disappointment to me, because I'm not sure that I would have joined Nossaman or I would have left the bench. But I probably would have left the bench.

Laurence Rubin: Justice Conrad Moss was also at Nossaman.

Charles Vogel: No, I never knew him. He passed away.

Laurence Rubin: Okay. Now, you're at Nossaman between '77 and 1:19:00

1981, as I . . . .

Charles Vogel: That's exactly about right.

Laurence Rubin: And during that time, you married Miriam.

Charles Vogel: Yes, I did.

Laurence Rubin: And what is she doing at that time as a lawyer?

Charles Vogel: Well, she is a practicing lawyer in Century City, and she had . . . was a partner in her firm: Maiden Rosen . . . Maiden Wintroub Rosen Somebody & Vogel. Anyhow, it's the only time my surname has ever been in a firm. So she's practicing law actively.

Laurence Rubin: She started at Wyman, Bautzer? Was that her first . . . ?

Charles Vogel: Actually she did. She started at Wyman, Bautzer and she left there to go over to Horvitz Levy and then she went back to the firm that I just mentioned.

Laurence Rubin: And what was that like – the two of you practicing law? Was that . . .

Charles Vogel: Well . . . .

Laurence Rubin: . . . hard?

Charles Vogel: I don't . . . . Actually, no. It lends for some compatibility because you have a common interest, and it worked out pretty well. I mean, she's a great woman, and a great lawyer, and there's nothing wrong with that marriage.

Laurence Rubin: The . . . . You leave Nossaman about a year after Peter Ostroff leaves.

Charles Vogel: Right.

Laurence Rubin: Tell me the process by which you decide to . . .

Charles Vogel: Well . . . .

Laurence Rubin: . . . leave Nossaman and go to Sidley & Austin.

Charles Vogel: Well, Nossaman is a fine law firm, but at that time they were in a little disarray because of some disagreements among partners. And they had people leaving. And Peter went off to join Sidley & Austin, which is a Chicago law firm and established themselves out here by acquiring a firm called Shutan and Trost, which was a basic bankruptcy practice – as a matter of fact, it was a pretty high-profile bankruptcy practice. And so Peter was there by himself, essentially, the 1:21:08

only non-bankruptcy lawyer, and . . . .

Laurence Rubin: Doing litigation.

Charles Vogel: Doing litigation. And so I interviewed a number of firms. I don't think I told you this when I met with you before, but at that time Burt Pines was in the process of looking for a firm. He had just left being City Attorney. And so we would have breakfast at the Pacific Dining Car a number of mornings and compare notes. We were all interviewing. We were interviewing a lot of the same firms. And the most important thing to Burt was that they put his name in the firm. And the most important thing to me was that they pay me the most money I wanted. *[laughs]*

Laurence Rubin: Well, he got his name in his firm . . .

Charles Vogel: Yeah.

Laurence Rubin: . . . eventually. He went to Alschuler Grossman & Pines . . .

Charles Vogel: Yes, he did.

Laurence Rubin: Right?

Charles Vogel: Yes, he did.

Laurence Rubin: And that's about the same time – 1981 or so?

Charles Vogel: That's right, 'cause I went to Sidley & Austin.

Laurence Rubin: Okay. The . . . . Any concerns about joining a . . . essentially a satellite operation of a major international firm that's located elsewhere?

Charles Vogel: No. You know, I didn't think so. And I still don't think so. I think it was a terrific opportunity, I was treated fairly, and I got good work. I told you, one of the things that happened while I was at Nossaman is I picked up a very important client. It's the largest landfill south of Santa Barbara to the Mexican border. And a lawyer I knew in Covina represented them generally, and they were having a lot of problems – environmental problems. They were really coming on the scene. So I acquired them as a client, and I told the president that I was going to leave, and the owner of the company, Ben Kazarian. And he said, "Well, that's okay." I said, "Well, a lot of people at Nossaman know your work now." He said, "Nah, I'm going to go with you. Tell 'em to send me a bill, and I'll pay it up, and I'll pay you at Sidley & Austin." And so he stayed with me, and that gave me a pretty good lever when I went in.

Laurence Rubin: Now, you come in. There's you and Peter Ostroff. 1:23:22

Charles Vogel: Right.

Laurence Rubin: No associates.

Charles Vogel: No associates. No associates.

Laurence Rubin: So how do you start servicing . . .

Charles Vogel: Well . . . .

Laurence Rubin: . . . that client?

Charles Vogel: Well, I tried on my own, and I couldn't do it because the EPA and the State Water Board and everybody and their brother was going after BKK. And there was a TRO a second. So I realized that what I should do is get Miriam into this, because Miriam thinks fast, writes well, and is very, very efficient. And you may know that as a colleague of hers.

Laurence Rubin: I do.

Charles Vogel: She's extremely efficient. So I talked to the client, and they said, "That's great," and I told Sidley that's what I was going to do, and they said, "Well, we could send somebody from Chicago," and I said, "That won't work," and they said, "Okay, do it your way." And so Miriam and I started working together. We won 13 injunction cases for Ben Kazarian. And ultimately she took the client away from me, 'cause he was very impressed with *her*.

Laurence Rubin: But stayed in the family.

Charles Vogel: Stayed . . . . The money stayed in the family, right. Right.

Laurence Rubin: You told me one case where the sheriff comes out to one of the local offices or . . .

Charles Vogel: Well, I'll tell you.

Laurence Rubin: . . . areas.

Charles Vogel: Yeah, I remember telling you this. The sheriff showed up at the office at the landfill. That wasn't THE office, but that was where the operations were. And a deputy district attorney and the sheriff showed up with a search warrant. And what they were after is the Weighmaster records. Every big landfill weighs the trucks, because they charge what's called a "tipping fee" – how much are you bringing in? And the idea was actually spawned by the District Attorney of Ventura, who realized that he could go . . . if he got the Weighmaster records all around – all counties – he would be able to assess fines for four years backwards, which . . . . You're talking billions of dollars. So anyway, I get a call . . . . I'm in San 1:25:23

Francisco at the EPA, as a matter of fact, doing some work for BKK, and the fellow at the landfill calls me and tells me that the D.A. has a search warrant. And I said, "Don't give him anything." And he said, "Well, they're going to take me to jail." And I said, "You know, don't worry about that. Let me talk to 'em." So talked to this district attorney. I said, "You know, you're aware that I represent BKK. Why don't you phone me first? Why don't you give us some advance notice? Now you're out there threatening to arrest this fellow who hasn't done a damned thing wrong. Can't you just put it off until I get back?" And we haggled a little bit, and he said, "Well, we'll put him in jail," and I said, "You do that. Just ruin this guy's life. Give his wife a lot to be afraid of. We'll have him bailed out in short order – won't be a problem with that. But you don't need to do this." And said, "Okay, I'll wait 'til you get back." So I get off the phone and I call Miriam. I said, "Miriam, we're going to need a temporary restraining order. This is what's going on." And so . . . .

Laurence Rubin: She's back in L.A. in her office.

Charles Vogel: She's in L.A. So she runs off and gets a restraining order against the District Attorney of Los Angeles County and whoever else was on that. And ties them up. And of course they're very upset about that. And so we have a big meeting at BKK with the president and everyone else who's of importance, including me and Miriam. And they said to me, as they always do, "What do you think we should do, Chuck?" and I said, "Well, we should do one, two, three." And Miriam said, "I'm going to say something." And the president says, "Well, sure, let's hear from you." She said, "I think this is a big case, and I think we don't have to go it alone because there are thousands of trucks out here. Who are the biggest truckers regularly on the road?" And Kazarian says, "The people carrying feed to all the chicken and turkey farms." And she said, "Well, do you know who they are?" He said, "Sure." She said, "Let's get every big trucking outfit we can to join with us in this case. It'll not only pay for it, it'll have a lot of consequences." And Ben loved it. And so from then on she was in charge. And we went out and we won that case. And there is still an injunction against the District Attorney of Los Angeles County. But it was changed because I learned something from that client. Once I told him he couldn't do something because the law wouldn't permit it. He said, "If that's the case, then we have to change the law." And he sent me up to Sacramento . . . . Actually, he didn't. He sent me out to a trailer at a transfer station the company owned to meet with George Deukmejian. And this was on a different issue – to get a bill passed. And so that was my introduction to how you deal with the Legislature to get the law you want. And we did the same thing with respect to the Weighmaster records – we got a bill passed. You wouldn't have realized it when you read the bill, but what it meant was that all Weighmaster records going backwards four years 1:28:49

can't be obtained. *[laughs]*

Laurence Rubin: Early protection of the right of privacy.

Charles Vogel: You got it. I mean, you learn an awful lot from clients, I'll tell you.

Laurence Rubin: The . . . . Peter Ostroff said that you put Sidley & Austin on the map.

Charles Vogel: And that was overly generous.

Laurence Rubin: Well, by the time you leave it's a major West Coast firm, correct?

Charles Vogel: Yeah, I think so. Yeah. We had about a hundred lawyers.

Laurence Rubin: During that time, you become president of the county bar.

Charles Vogel: Yes.

Laurence Rubin: And if I have my dates correctly – correct – that's the . . . about the time when the recall of Rose Bird and Cruz Reynoso and Joseph Grodin is happening. Is the bar involved in that at all?

Charles Vogel: No, I don't think so. I think that was before I was there. What happened when I was president of the bar is a case came down from the U.S. Supreme Court called *Keller*.

Laurence Rubin: The Unified Bar case?

Charles Vogel: Yeah. And so that meant that there would be restrictions on what the bar could be involved in, which, in the view of many, adversely affected the Conference of Bar Delegates meetings and resolutions they want to pass condemning this, that, and so forth, which they did regularly with respect to Rose Bird and all of that. But . . . . So when I became president of the bar, I remember my first speech irritated the delegates very much because I said, "*Keller*'s come down, and we're going to follow the law. So there will be some restrictions on what you're going to debate." And boy, I got an earful about that. So the year passed very quickly, and it was a great year, and it was over with.

Laurence Rubin: What other things do you recall from that year?

Charles Vogel: What other things? Well, of course, we . . . I think we finalized MCLE that year. Oh, I know what we did. When I became president of the bar . . . .

Laurence Rubin: County bar or State Bar? 1:31:10

Charles Vogel: Oh, I moved forward. Were you talking about the county bar?

Laurence Rubin: I just wasn't sure what you were . . . .

Charles Vogel: Oh, I meant State Bar.

Laurence Rubin: State Bar, right. When you were talking about the Conference . . . .

Charles Vogel: Yeah. When I was president of the county bar, it was pretty much vanilla.

Laurence Rubin: Okay.

Charles Vogel: There wasn't a lot for me to be involved in. We may have been involved in the Rose Bird issue, but I don't have any memory of it. But the State Bar, we did do something – a number of significant things. I think we finished up MCLE. But I had a notion, when I became president, that the backlog in Los Angeles County – which was humongous – had to be resolved. And I thought the way to resolve it was to consolidate the municipal court and the superior court, because there are lots of municipal courts who just weren't in operation every day. As a matter of fact, lots of 'em weren't in operation one day of the week. It was a Friday, you're closed (for judges). So I started speaking on that and became well enough informed it sounded like I knew what I was talking about. And so I . . . with the executive director of the bar, Herb Rosenthal, I met with the Chief Justice, Malcolm Lucas, and tendered the idea to him. He didn't like it very much. But he did agree to attend a Board of Governors meeting where it would be discussed and presented. And I made a really smart move: I got Margaret Morrow to be the chair of an ad hoc committee to develop this program. And so he came to the meeting and Margaret put on a program. And another guest we invited was Bernie Witkin. And when Margaret finished, Bernie stood up immediately and said, "That's the best idea the bar ever had." At that moment, Malcolm Lucas was sold. In fact, a person at that meeting was Victor Chavez, who was the Presiding Judge of the superior court. And he started complaining about the idea. And Malcolm said, "If you keep that up, I won't assign any more judges to the Los Angeles Superior Court." Meaning, assign any municipal court judges to sit on assignment.

Laurence Rubin: Now, this is in 1990. We're now 18 years down the line. We've had unification of the trial courts for about eight years. It became an important issue for Justice Lucas, Justice . . . Chief Justice George. Has it worked?

Charles Vogel: I think it has, I think it has. You know, to put it bluntly, in my mind it doesn't take a brain surgeon to run a jury trial. If a person is competent and has a decent work ethic, with competent common sense, you can follow the rules. 1:34:17

And the L.A. Superior Court does a great job of educating its judges. Everybody goes to Judges College, they have a benchbook, and it's not that difficult. So I think it should work. You always hear the kind of complaints that, "Well, So-and-So was a municipal court judge and he or she is over their head and we shouldn't have had consolidation." I think I've heard the same thing about people who were appointed to the superior court, you know, so I don't put any stock in that. I think that it's pretty hard to run a court that size with, you know . . . . Considering the Chief Justice's responsibilities for, what is it, 1,300 judges? So for somebody to be the presiding judge of about a 500-judge court – is it 4, 500 judges? – he can't possibly know how it's all functioning. So I would get myself in a lot of trouble if I were president of the bar today, because I would recommend splitting the county. But you'd have to do that over time, because the assignments are made with respect to where people live. So that would be harder – maybe not possible. But you asked me, do I think it's working? I think the proof is that it *is* working, yes.

Laurence Rubin: While you were president of the State Bar, there was a man who graduated named Maxie Filer. Does his name sound familiar at all? He had passed . . . .

Charles Vogel: Oh, he was a . . . . He took the bar . . . .

Laurence Rubin: He took the bar 48 times.

Charles Vogel: Yeah!

Laurence Rubin: Do you remember that story?

Charles Vogel: Yeah, I remember him. I remember that. I remember I had some contact with him.

Laurence Rubin: Your quote at the time was, "If he tells a client he's going to take a case all the way to the Supreme Court, I'd be inclined to believe it."

Charles Vogel: Yeah, right. *[laughs]*

Laurence Rubin: And ironically his son, Kelvin Filer, is now a superior court judge. But you . . . .

Charles Vogel: No, I don't know him.

Laurence Rubin: You have no contact with him?

Charles Vogel: No.

Laurence Rubin: Okay. All right. You're at . . . . You're still at Sidley, and Miriam is appointed to the Court of Appeal. 1:36:26

Charles Vogel: Yes. She was appointed to the Court of Appeal the same day I was elected president of the State Bar.

Laurence Rubin: And eventually the *Met News* honors you as "Persons of the Year."

Charles Vogel: Yes, that's right.

Laurence Rubin: Tell me a little bit about the process by which she got appointed.

Charles Vogel: How did she get appointed? Well, you know, I'd like to say it was pure merit. I mean, she was a *very* good judge. She was in law-and-motion. And I think she was very well respected. But the fact of the matter is, she was at that time a registered Republican. She was a registered Republican when I met her, which surprised me. But my pitch to the appointments secretary initially, when she was first appointed to the superior court, was "You don't get many Jewish Republican women applying for the bench. This would be a good appointment for the Governor." So I think that played out, and also I think that she established a terrific reputation when she was on the trial bench, so she was a natural. And that's where she wanted to be, and that's really what she was best equipped to do.

Laurence Rubin: And that, in part, stemmed from the time she was with Bob Thompson and learned . . .

Charles Vogel: Absolutely.

Laurence Rubin: . . . under him.

Charles Vogel: Absolutely.

Laurence Rubin: Now, you then decide to leave Sidley.

Charles Vogel: Right.

Laurence Rubin: What's . . . . How does that come about?

Charles Vogel: Well, again, that goes back to my old ambition to be on the Court of Appeal. Pete Wilson was the Governor, I had what I thought would be good credentials, and so I applied and I got it.

Laurence Rubin: And you take the position formerly held by Chief Justice George, correct?

Charles Vogel: Yeah, actually. I took the position that he vacated, and I engaged his lawyer . . . his secretary, which was his recommendation – a very sensible thing to do.

Laurence Rubin: That's Romero. 1:38:34

Charles Vogel: That's Romero. A wonderful, wonderful woman.

Laurence Rubin: And you've commented over the years about how strongly you feel about the importance of how judges work with their research attorneys and judicial assistants.

Charles Vogel: Yeah, I do. I think they can make you or break you, and when I say that, I want to be clear that I don't mean that I'm in favor of the lawyers' writing the opinions. I think it's a big mistake for anybody to be on the appellate court and not write opinions himself or herself. But given what the caseload is, and given the nature of the caseload, it is critical that they do a lot of workups. But only after judges have read the briefs. And judges ought to get into the records – justices. And justices should write opinions sometimes – I think, you know, a couple of times a month – 'cause it's not that difficult and because you don't understand the discipline, you don't understand what this process is about, unless you start trying to organize an opinion. It kind of goes back to a question you asked me earlier. There are 42 issues in the *Manson* case. You've got to carve up a case into its important parts and discard the rest of it, and then write about what's significant in an intelligent way so that when someone reads it, they know what the case is about and they know why you decided the way it is. You have to demonstrate that to your lawyers or they don't respect you. Pretty soon they'll take the calendar away from you. And that happens. I've seen that happen. And if people are comfortable with that, I'm not. But you do have to have lawyers that *you* respect, but it's important they respect *you*.

Laurence Rubin: When you retired – I'm just going to skip ahead a little bit – the Chief referred to you as a close friend, an excellent decision-maker, both as a lawyer and as a judge. Referring to the close friend and colleague part, what sort of contact did you have with the Chief while you were on the Court of Appeal? You worked on a number of projects for him – with him?

Charles Vogel: Yes, yes. I actually only became acquainted with Ron George when I became a justice of this court. But he was very outgoing, and he contacted me, and we soon hit it off pretty well. And he, as a matter of fact, appointed me on a number of committees. But what I think you're referring to is the committee . . . Supreme Court Committee on Judicial Conduct. Is that right?

Laurence Rubin: That's one of the ones I was going to get to.

Charles Vogel: Well, that's a major one . . .

Laurence Rubin: Right.

Charles Vogel: . . . and actually, I think that was started with Lucas 1:41:37

because I remember hearing that subject being raised. It was the product of a constitutional amendment.

Laurence Rubin: Correct.

Charles Vogel: And I told Lucas that I would be glad to be on the committee. And the next thing I remember is I'm appointed chair of the committee, and the committee is organized, and we start meeting and we start working on this project, which is a very large project. And throughout that time, I had contact with the Chief Justice. And also at that time, the Chief Justice had fairly regular meetings – well, after I became Presiding Judge of the court – he had fairly regular meetings with the administrative presiding judges.

Laurence Rubin: All the districts together?

Charles Vogel: Yeah, that's right. So I would see him quite often. He's somebody who was always on top of things. So if there was something going on in our court that needed attention, I would hear about it – maybe not directly from him, but from him to somebody to me.

Laurence Rubin: The Ethics Advisory Committee, as you said, stemmed from a constitutional amendment . . .

Charles Vogel: Yes.

Laurence Rubin: . . . that basically took the ethics adoption from the California Judges Association to the arm of the Supreme Court –

Charles Vogel: That's right.

Laurence Rubin: – or to the Supreme Court.

Charles Vogel: That's right.

Laurence Rubin: Was that good government?

Charles Vogel: I think it was excellent government.

Laurence Rubin: Okay.

Charles Vogel: I think the Association has many good features. But I don't think . . . . It's very hard for judges to be judges of judges, you know. It's got to be more formalized and particularized, and that's what the Canons do.

Laurence Rubin: Your most essential task was then basically recommending to the Supreme Court the Canons of Judicial Conduct, based in part on the CJA and the ABA model that had been around, I assume. 1:43:43

Charles Vogel: That's right, that's right. We changed them, modified 'em, incorporated 'em as best we could to make some sensible organization of what rules ought to govern the conduct of judges.

Laurence Rubin: David Rothman was on that committee. He . . . .

Charles Vogel: Very much so.

Laurence Rubin: Tell me a little bit about working with him.

Charles Vogel: He's a terrific lawyer. He certainly knows more about judicial ethics than anyone else I know. And he's written extensively about it. In fact, I think he has a text . . .

Laurence Rubin: He does.

Charles Vogel: . . . that he's published. And we weren't always in agreement. David is . . . . He's absorbed with the subject, and sometimes I would see it differently than he did, but I would not want to have a committee on this subject without him on it.

Laurence Rubin: And he's an artist.

Charles Vogel: What?

Laurence Rubin: He's a cartoonist.

Charles Vogel: Yes! He made a very funny shirt for me that has a statement: "The Committee on the" . . . "The Supreme Court Committee on the Code of Judicial Ethics" and there's a big can and it has lots of worms coming out of it. And each worm is named after a canon. That's very funny.

Laurence Rubin: An apt description.

Charles Vogel: An apt . . . . He's very, very . . . . He's got a great sense of humor.

Laurence Rubin: You're Associate Justice and then Presiding Justice in Division Four, and you have longtime relationships with Norm Epstein and Gary Hastings. So talk about them a little.

Charles Vogel: Okay. Norman is a whole day's subject by himself. He loves the law. And people say that about a lot of people, but I only really believe it with respect to Norm. He just loves the law. He loves being a lawyer. He loves being a judge. And he's very vibrant about it, and he's hands-on. There's an excellent example of someone who knows how to run his staff. He has the unique practice of having an annual. He has two regular lawyers who work for him, and then he gets . . . he hires a graduate of UCLA Law School who is recommended to him by the faculty. And he organizes that person when he or 1:46:07

she gets there, tells them how to write an opinion and what's expected and gives them the work, and then pretty much shepherds them through. But I've seen Norm turn around and rough out an opinion, and then of course it'd be cleaned up by Laura or Charlotte, his regular lawyers. But he really cares about it, and if there's an issue in your case or his case, he's always ready and willing to talk about it. And he can come on pretty strong.

Laurence Rubin: Any dissents that he wrote on your opinions or vice-versa that come to mind, or was that a rare occurrence?

Charles Vogel: No, no, we had disagreements. I think I've dissented in cases, and I think he's dissented in cases. Dissents were not a regular thing in Division Four. But I remember one time, one case that I wrote. He came into my chambers to talk to me about it to tell me why I was wrong. And I told him I wasn't wrong and I was going to stick with my view. And he did that several times. And then . . . . We had the practice in Division Four of conferencing before a calendar. So we're having a conference, and my case comes up. And he starts talking, and I'm shaking my head like this. And he said, "Don't do it." And I said some expletive, and "Get off of it!" And so we ended the calendar, and I went back to my chambers, and I felt very badly about it. I've got to go in and apologize to him. There's a knock on my door, and "Come in" and it's Norman. He says, "I want to apologize to you." And that's pure Norman. He's such a decent, decent man.

Laurence Rubin: He is.

Charles Vogel: You know, I will always admire him and like him very much.

Laurence Rubin: And Gary Hastings?

Charles Vogel: Gary Hastings was a dream colleague. He is an experienced trial lawyer. He really understands what a trial is about. He teaches advocacy at the . . . . Oh, what's the Institute for Practice . . . Litigation Practice. It's well known. And he . . . . So when he talks about a case, he understands what happened. And he writes very carefully. And very tight opinions. And you can always talk to him about the cases, and he will enlighten you. I loved him. And he worked. I mean, he really . . . . When dependency came to the court . . .

Laurence Rubin: Right.

Charles Vogel: . . . early on, he went and took the very first course that was given on it. And then he started writing all of his own dependency opinions. And at one point he knew more about dependency law than anyone I knew. It was a . . . . He's a great fellow. I see him socially still. 1:49:13

Laurence Rubin: In the Legacy Project, we asked Gary to interview his father, and that was really . . .

Charles Vogel: That should have been great.

Laurence Rubin: . . . quite something.

Charles Vogel: Yes. And I didn't say about Dan Curry, who was a wonderful colleague, he is a gregarious Irishman, knows every funny story that's ever been told. But what he really knows is, he knows every greasy spoon in downtown Los Angeles. He was general counsel at the *Times,* and he knows Los Angeles like the back of his hand. And he was quite a conscientious judge.

Laurence Rubin: Good. You had mentioned Margaret Morrow briefly. And she was president of the county bar right around the time you were. She was president of the State Bar right around the time that you were.

Charles Vogel: Right.

Laurence Rubin: And of course was married to Paul Boland.

Charles Vogel: Yes.

Laurence Rubin: Tell me a little bit about Paul.

Charles Vogel: About Paul?

Laurence Rubin: Paul.

Charles Vogel: I didn't know Paul well. I knew he was a professor . . . adjunct professor at UCLA. And he . . . . What's the project for the lawyers that he would . . . .

Laurence Rubin: He ran the clinical program . . . .

Charles Vogel: Yeah, he ran the clinical program. And I *heard* more about Paul rather than I knew about him. I went to Margaret's wedding – Paul's wedding – and I always found him to be a very warm, human guy. And, you know, he cared about everything. He cared so much sometimes that, you know, being as I am, I thought he cared too much, you know. But he surely won a great reputation and he was the right person to be on the Court of Appeal.

David Knight: I'm going to stop you here because I need to change our tape.

Laurence Rubin: Okay. We're just about . . . . We talked earlier about consolidation . . .

Charles Vogel: Yeah. 1:51:07

Laurence Rubin: . . . as a method of court reform. Recently there's some . . . been some discussion at the Court of Appeal and Supreme Court level about giving the Court of Appeal some of the death penalty cases or build that into the Court of Appeal's jurisdiction. Do you have some thoughts about that?

Charles Vogel: Yes. I think it's wrong.

Laurence Rubin: And why is that?

Charles Vogel: I think it's wrong because if you are aware of the philosophical disposition of the justices in the different districts, you will find a great disparity. I just think it . . . putting someone to death is so significant, we ought to . . . they ought to . . . everybody ought to be operating off of the same game plan. Off the same set of rules. Off the same ethical code, the same values. I don't want to disparage any district, so I'm not going to make particular references. But I know – at least, I knew when I was on the court – there is one big difference between the view of how you handle a criminal case in one district versus another. And I think that that would come through loud and clear in death penalty cases. And I don't mean to say that people wouldn't do what they think the law requires, or what is right. But the death penalty itself is imposed with respect to the whole background, history, and makeup of the individual. Even the most heinous crime, the sentencing report and the recommendations to the court include all of that material. So I just would not do it.

Laurence Rubin: The constancy of having the same seven people look at every death . . .

Charles Vogel: That's right.

Laurence Rubin: . . . case is what gives it somewhat of a level . . . .

Charles Vogel: I think it legitimizes it. Otherwise, it's the luck of the draw. And I mean that. Even if the whole court – Supreme Court – was conservative or if the whole court was liberal, using those terms, it should be the same moral compass that drives the determination of the death penalty. It shouldn't be different . . . six different compasses.

Laurence Rubin: What about an idea that was discussed at some point – in fact, Stanley Mosk even testified in front of the Legislature on this, 10, 15 years ago – about dividing the Supreme Court into two panels, a civil and a criminal panel? And would that speed up the death penalty cases?

Charles Vogel: It might speed it up, might speed it up. But I know about that recommendation. I oppose that. And the reason I oppose it is, I think about that the same way I think about someone spending their whole career sitting criminal. I know 1:54:08

there are some very good judges who . . . that's all they've done, and they're very good at it. And actually they may . . . it may be preferable to some defendants. But I think at the appellate level there should be some balancing in your experiences, so that you don't start to think of the world as all one way or the other way. And I think it's better the way it is. I don't know of any reason to do that now other than efficiency, and as I mentioned in one of my opinions, I don't think expediency should be the driving force of what . . . how you do the law.

Laurence Rubin: Another issue for lawyers and judges is MCLE. Your thoughts on MCLE for lawyers, Court of Appeal justices, trial judges?

Charles Vogel: I think MCLE has merit for lawyers. The problem with MCLE is that it doesn't apply to all lawyers. I believe public lawyers are exempted; it wouldn't have gotten through the Legislature unless it was that way. It exempts the Legislature. So . . . . But that's not the important thing. What's really wrong with it is now that you can complete your MCLE requirements almost completely by listening to tapes and signing an affidavit. Now, to the extent that it has compelled lawyers to take courses, to retain competency, it's good, you know. It's an inconvenience, but it's not that tough over a three-year span. I've been doing it 'cause I have my license back. If I didn't want my license back, I wouldn't have to do it. So I think it's worked out about as well as it can work out. I don't . . . . If you want to go to the judges, I think that's wrong as to the appellate court justices because I'm assuming all the justices are reading and writing, and there's not much more you can learn from lectures that you won't learn reading and writing. The trial judges? I think if they all went to the conference . . . had to go to the conference every year, there could be some presentation on evidence and procedure, sentencing, that might be a good checklist. That's about it.

Laurence Rubin: You're now back in the private sector, enjoying JAMS?

Charles Vogel: Yes, mostly, mostly. Doing arbitrations and mediations, and it seems to work out pretty well.

Laurence Rubin: And your wife also retired, so you're now both lawyers again.

Charles Vogel: That's right. Both taking MCLE. *[laughs]*

Laurence Rubin: And you were at the Morrison & Foerster retreat over this last weekend as Miriam Vogel's husband?

Charles Vogel: As her spouse, yes. It was a partners retreat. And I flew in Friday night, and went to their big dinner on Saturday.

Laurence Rubin: Outside of court, I know both travel and photography attract you greatly. Any good trips coming up? 1:57:33

Charles Vogel: Yes. In December we're going to Argentina, and next July we're going to Tanzania, and the following year we'll go to Japan.

Laurence Rubin: And there's this video supposedly on YouTube called "Dancing with the Monks in Bhutan."

Charles Vogel: Well, I don't know if it's on YouTube, but there is an event in my life when we went to Bhutan – I think that would be about '94. And at that time only 6,000 people a year were admitted to Bhutan – could get a visa to get in there. And they didn't have any hotels that you'd recognize. It was all pretty rough. They were locations where climbers and that sort of thing would go. But it was absolutely beautiful country. The people are beautiful, both in their appearance and the way they conduct themselves. They're Buddhists, you know, and they have these dzongs, which are fortress temples that they built, you know, in the 16th century, with tremendous timbers, all stuccoed and all painted. And now I'm going on about Bhutan, but in any event it exists of seven valleys and seven tribes, and at the turn of the 19th century, they stopped warring and they formed a government and designated a king. And that family has remained kings. And the first king sent his oldest sons to Princeton, and the kings of Bhutan have since sent their sons to Princeton. We went to a reception at a nice home – just from a . . . jumped out of the ground – and there were journalists, there was a Wall Street banker or lawyers from the United States and Europe, who were Bhuttanese, who would come home for the event. It was a great trip. And the bit about the dancing – I was coming down a trail from a place called the Tiger's Nest, where a temple had been built literally into the side of a cliff. And how they did it, I don't know – it's remarkable. But you can get to it by crossing a very dangerous pass. And I went up to it with a couple of other people. And I was so happy about it, I came down the trail, I was dancing down the trail. And at the bottom of the trail were about 20 or so, maybe 30, young monks all wrapped in their robes, and one was playing a flute. And so I danced down the trail, and they gathered around me and they danced. And the picture you were referring to is the end of that event. That was a happy moment.

Laurence Rubin: Well, unless there's anything else you'd like to talk about, I think that's a great way to end the interview.

Charles Vogel: I have nothing else to say. I thank you very much for this opportunity, and I'll look forward to seeing this and others at our 100th anniversary.

Laurence Rubin: Fair enough.

Duration: 120 minutes
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