

MR. SCHUCKERS: How many judges did you supervise as head of the civil division?

JUDGE NARICK: I think in the civil division we had about 16 judges.

MR. SCHUCKERS: Did you enjoy your administrative duties?

JUDGE NARICK: I enjoyed them, but it was very difficult. Like any president judge, you have problems.

MR. SCHUCKERS: Did you only have one law clerk at that time?

JUDGE NARICK: Yes.

MR. SCHUCKERS: Did you have an administrative assistant or secretary?

JUDGE NARICK: A secretary but only one law clerk. I had to do a lot of the work myself. That's interesting we were able to survive that way.

MR. SCHUCKERS: Do you remember who the President Judge was? That would have been in the early 1980's in Allegheny County. Who was the President Judge?

JUDGE NARICK: Mike O'Malley, or something like that. There were a number of them that came through that period.

MR. SCHUCKERS: Did you have any other interesting cases? Did you have criminal cases, for instance? I assume you did not, being in the civil division.

JUDGE NARICK: I was briefly on the criminal side, but that was very difficult, too, for a short period of time. It involved making decisions of sentencing and also pardons, when you put them in jail and they request to be pardoned, and what the judge could say about the case and so forth. I wasn't there very long. My primary tenure was in the civil side of it. I like the civil side because it was civil. It was interesting because I had a variety of cases, including injunction cases and labor disputes, and that was interesting.

MR. SCHUCKERS: You first came to the Commonwealth Court in 1986 when you turned 70 and no longer served on the common pleas court. Do you remember how you were notified you were going to be on the Commonwealth Court as a Senior Judge?

JUDGE NARICK: I don't know specifically, but I think a couple of my friends, like Dave Craig and someone else, thought that I would probably be a pretty good candidate to be a Senior Judge, particularly with the background and

so forth. I think Dave Craig is the one who recommended me to the Supreme Court to become a Commonwealth Court Judge. I'm not sure if anyone else talked to him about the situation, but he is the one who made the recommendation to the Supreme Court.

MR. SCHUCKERS: Just as a historical note, beginning in 1985 the Commonwealth Court, because of a backlog, had started to utilize senior judges. The first Senior Judge we had was Judge Jacob Kalish from Philadelphia. We had several senior judges, and Judge Narick being one of them who came with the court in 1986. You have been on the Court --

JUDGE NARICK: For 16 years.

MR. SCHUCKERS: And you certainly hold the record as longest serving Senior Judge.

You had a great deal of contact with tax cases, as I recall, particularly when the court tried to clear up its docket beginning in the late 1980's, early 1990's. Do you have any reminiscences about that practice?

JUDGE NARICK: The only reminiscence I have with the tax cases, at that time it wasn't a very difficult area of law that I had to be

concerned about, because we had certain standards set forth in the Pennsylvania codes about what had to be considered in how you arrive at fair market value and so forth, I think comparables and that kind of thing. I enjoyed it. Generally those situations were non-jury cases, and when it came before me, I really enjoyed hearing the witnesses testify who were experts from the Tax Department and also representing different parties.

MR. SCHUCKERS: You are talking about the experience you had in common pleas court on the tax cases. I was referring to the Commonwealth, the success you had in your program beginning 13 or 14 years ago with the Deputy Attorneys General, not mediating those cases but trying to get the cases to settle here in the Commonwealth Court.

JUDGE NARICK: I will never forget that experience, that was in 1989. For some reason when I was serving duty weeks, and generally it had to be four or five weeks per year, and I noticed when I was serving duty weeks in a year, I was receiving nothing except tax cases. I thought to myself during the whole year: Who is responsible for sending me tax cases? Because they obviously know that I don't know too much about taxes

involving the kind of taxpayer involved. Nonetheless, I had these tax cases referred to me, and the attorneys for the taxpayers and also for the Commonwealth, the Attorney General's Office, they were very professional, they either came from the IRS or Department of Revenue and so forth. But my function was not to discuss with them the nature of the case and what is involved and so forth, and we are now talking about Westinghouse Electric Corporation, we are talking about a hotel in Philadelphia, we are talking about a big business office in some other cities and so forth, and they were always involving substantial amounts of money, millions of dollars. Of course my function, as I look back on it, was primarily to allow the attorneys to talk about the case, what they could and couldn't do to try to settle the case.

As a result of it, it became interesting even though I wasn't able to advise them on legal aspects of the taxation and so forth, but I did have a chance to have them talk among themselves. Just like the mediation that I am doing now, I sometimes talk to one attorney privately and another attorney privately and we get them sometimes to agree. I did that during the course of the year

when I was still duty week judge, and from what I understand there were about 125, and a hundred cases were settled involving billions and billions of dollars, and I was concerned because I hadn't received my fee yet. (Laughter.)

MR. SCHUCKERS: Just for the historical record, it was in the late '80's when you started that program, and you were very, very successful in helping the attorneys settle those tax cases. The court in those years was receiving petitions for review from the Board of Finance and Revenue 6-, 7-, 800 a year, and Judge Narick was instrumental in getting a very high number of those, 98, 99 percent of those cases settled, and had a very good working relationship with the attorneys, not only the practicing bar in the private sector but also the Deputy Attorneys General. As a result, the backlog of tax cases has gone down considerably through the efforts of Judge Narick over the last 12, 13, 14 years.

JUDGE NARICK: Thank you.

MR. SCHUCKERS: I really appreciate that.

JUDGE NARICK: One other thing I want to say, I had a good memory with that experience,

but unfortunately since I became involved in our mediation program, we cannot handle in our mediation program tax-related cases, and I miss the attorneys who were involved because they were so good.

MR. SCHUCKERS: Do you have any reminiscences concerning the President Judges you served under here at the Commonwealth Court? Judge Crumlish was the President Judge when you were first assigned. In 1990, Judge David Craig, whom you already mentioned, became President Judge and was President Judge for four-and-a-half years. And Jim Colins for five years, Judge Doyle two-and-a-half years, and of course Judge Colins is again the President Judge. Do you have any reminiscences concerning the President Judges?

JUDGE NARICK: Yes. My overall response to that kind of question, and I thought about this very often, but I don't know of any experiences I have ever had that I really enjoyed more than with the relationship I had with the judges on this Court. All the judges as far as I was concerned were very supportive in trying to help do whatever is required to be done in cases, and it's hard to believe that we did have such a collegial kind of relationship, even for senior

judges as compared to ones who were the active elected judges on the Commonwealth Court. But they treated all of us, including senior judges like myself, as equals, and we had a chance to participate in their judicial conferences and participate in all kinds of cases that we presented to them in conferences. It's hard to say pick out any judges, but they were all in their own way very helpful. I remember Judge Palladino was very kind in offering suggestions and helping and so forth. Judge MacPhail I enjoyed, he was a very interesting historian kind of a person and knew all about the Civil War and took some of us out to visit the Civil War areas and so forth.

MR. SCHUCKERS: The Gettysburg Battlefield.

JUDGE NARICK: Gettysburg. And Mr. Crumlish and his wife were great people, very nice, very collegial, and invited us to activities they had. I don't know of any person who could enjoy more the relationship we had on this Commonwealth Court, and even today I think it still exists this way. It's hard to believe.

MR. SCHUCKERS: You mentioned you were on duty week, and the court has had a system

for the last 15 or 16 years of duty week where a judge would come in on a Monday and take any type of cases assigned to him or her and leave on Friday, and these would be cases sometimes in our original jurisdiction and our appellate jurisdiction, or tax cases as you mentioned.

Do you have any memories of any particular cases, particularly in the area of original jurisdiction cases?

JUDGE NARICK: No. But I looked forward to those cases because it brought back memories to me as if I was a trial judge again. As a matter of fact, when I had some cases requiring an evidentiary hearing in original jurisdiction, after the case was over, I mentioned to the attorneys I really enjoyed the experience and you brought back memories to me from my experience as a trial judge, and I think the attorneys were very understanding and appreciative and recognized what we were about.

I have to say, now that I come to the end of my career as a judge, I tell the attorneys that I've been involved in mediation considerably, and I think the attorneys plus the judges, we are the key to making our system, our country work, and I said I don't know of anybody who plays a more

important part. Although we are criticized as judges and lawyers by our fellow citizens, when you think about when we have a population of about 280 million people, there are bound to be differences of opinion. But I also make it clear that when the chips are down, where do our fellow citizens go? They go to the attorneys and they come to court. I tell my friends among the attorneys, I said you are actors, you are an actor, I'm an actor, we are playing a very important part, and I don't know if anybody respects the work of attorneys more than I do because I know what is the consequence of their activity.

I also make speeches from time to time to high school students in political science and rotary clubs about the legal system. One thing I will never forget, and it always makes an impression on me, most of us think of different countries in the world like England, Germany, India, China, Russia and so forth, we don't sometimes remember there are close to 200 independent nations in the world and they all have people. When you have people, you are going to have disputes, and when you have disputes, you will have to have some sort of a legal system. In some of those nations in

the world, in their legal system if you violate what they may call the constitution or policy or whatever it is, if it's violated, they may, without any kind of a hearing or jury trial, chop off an arm or chop off a head. I said we as a young nation borrowed the best from the Greek civilization and Roman Empire period and promulgated the common law, and we have one of the best systems in the world. And I said also, we are still criticized by our fellow citizens, but I'm not too distressed with that because inevitably people are going to do this from time to time, but I'm also comfortable in knowing when the chips are down, they come to this system. I am so filled with this strong feeling of what we are about, and I think a lot of people don't appreciate it.

I just got back from a trip to China not long ago, and I think they have a legal system that's not comparable to ours but they are making progress. I feel so strongly we have one of the best systems in the world, and it's because we do have rights, protection of fellow citizens, and we also operate with absolute integrity as lawyers and judges. That's why I feel, and I tell the attorneys this in all my mediation sessions, I don't know if

anybody respects more the work of the attorneys than I do because you are playing such a vital part, and it's rubbing into me more and more as I do this.

MR. SCHUCKERS: You mentioned how important the attorneys are and also mentioned the mediation program. The mediation program here at the Commonwealth Court started in January of 2000, and for the last three years you and John Gordon have been able to operate on that system, John Gordon being the administrative assistant for the program, and it's been a very, very successful program. You have been able to mediate quite a few cases, and your success rate, as I understand it --

JUDGE NARICK: About 50 percent.

MR. SCHUCKERS: About 50 percent, and the Court is very grateful in your efforts in that area. Do you have any reflection in your mediation program and your efforts in that area?

JUDGE NARICK: I think it is a good program, and I do love the process totally, and I do love being actively involved and talking to the attorneys and exploring and never giving up in trying to settle the cases. I think I come across with the attorneys in a way they do appreciate the total neutrality insofar as I'm concerned, and they

know this, and I make it quite clear that I may ask questions and so forth, but never should you ever assume that I am favoring one side over the other. It's only to help the process. I feel strongly that persons in mediation have to try to feel what the attorneys are going through and the kinds of problems they have.

I had a mediation this morning involving a person who's been hurt in some way, and he's receiving workmen's compensation and X number of dollars. His attorney made it quite clear this person will not agree to any kind of a settlement, just no way. He said we'd appreciate it if you would talk to him and see what you can do and maybe help him in making a decision. I said I will do it, I talked to him. It's not very often, but we did it every now and then.

In talking to this person, a person receiving workmen's comp, he's a fellow about 50-some years old, he is now physically disabled in some way, and he's receiving workmen's compensation amounting to about \$900 per month, and he wants to keep receiving that kind of a benefit until he reaches 65, when he will be on social security and so forth. I talked to this person very seriously --

and the attorneys understood what I was talking about -- I think there is a serious risk involved whether he's not successful before the court, he may have nothing in the way of workmen's comp. If he is successful, he may continue to have workmen's comp. But that was a very critical problem. The attorneys were trying to settle, but this person would not, and he had it figured out if he continued to be disabled as he is now -- "everything's wrong with me, my legs, hips, neck, shoulders, everything, I can never work again and I'm just making it on having enough money until I'm 65" -- and he figured out that would be about 200-some thousand dollars if he were receiving until he's 65. But it was clear he would not agree, so as a result, it didn't settle.

As compared to another case involving a lady who was in a case before me, she and her husband had a piece of property somewhere in the eastern part of Pennsylvania. They had about 27 acres of property and a neighbor had about 27 acres and there was a common driveway into their property. One of the neighbors in the case was taking over some of the road, and the other neighbor couldn't get in very well. They took an action, the trial

court issued an injunction enjoining the one blocking the road to remove that blockage and allow them to have access. They issued an injunction, the trial court did, and they didn't comply, so an action was brought before our court on appeal of the trial court's decision granting the injunction.

The upshot was that this lady who was living in this house, she and her husband had been married for a long time and he had passed away about eight or ten years ago, and she was so filled with sorrow for him and so forth and how much they enjoyed their property, she never agreed to comply with the order and wouldn't comply, "I'm not going to comply until I die with that kind of an order."

As a result of it, it came to me in mediation, there were about three attorneys involved, and they were all very reasonable in trying to work something out. The attorney representing the owner of the property who the injunction was issued against, he said we are basically in agreement on how to settle this case but she wouldn't agree, she definitely will not agree because she doesn't feel she can let her husband down, and she said I can't, I just wouldn't do it. But the attorneys had thought of a

reasonable solution and said maybe if I talked to her, it may help. I said I have no objection.

I talked to her, and I said, "Thank you for coming and talking to me." And I said, "I know you have a serious problem. I think you're still grieving about the fact your husband is no longer living and you are so filled with sorrow and regret, you don't want to give up anything you had together. It's interesting as we talk, you probably don't notice it, but I'm grieving also." I said, "My wife of 55 years passed away about three years ago." I said, "I'm still grieving." I said, "You're grieving, I'm grieving, as we talk tears come to my eyes, too, and I think we both have a problem." I said, "I think we ought to move ahead in our life, let's keep going, we can no longer suffer the loss of our respective loved ones, let's keep going the best we can." She said, "That makes sense." I said, "That's what you ought to do, because your attorneys are doing a good job, they are trying to represent you in a very fair way and I think they are doing a good job." And she said, "Maybe that makes sense." And so she went out and talked to her attorneys and said she told the attorneys she's prepared to now agree.

As a result of it, we were able to accomplish a settlement, and after it was settled, she asked one of my law clerks would the Judge be willing to have a picture taken of her and me, and I said I have no objection. So she had a camera, and my law clerk took a picture of both of us, and she eventually sent a copy of the picture to me. She wrote books and so forth, and she sent me a book she had written and a nice note thanking me very much with the courtesy of visiting with her.

This is a situation where judges have to be very careful in what we can do and what we can't do and sometimes what we have to do. I think in that case, talking to this woman by myself in chambers and in doing other things sometimes are a little bit out of normal court, but I think you have to have a feeling that you are being consistent within the system and respecting responsibilities of us as judges.

MR. SCHUCKERS: I think that feeling has resulted in the success rate that we have had through your efforts and John Gordon's efforts, John doing an outstanding job picking the cases and you doing an outstanding job.

I just want to thank the Judge for

the opportunity to meet with him the last couple of months and allow me to sit in as he reminisced, and also really thank him for the wonderful job he's done, not only with the mediation program the last three years but with the Commonwealth Court the last 16 years.

Come January 1, 2003, you will celebrate 25 years as a Judge of the Commonwealth of Pennsylvania, and the people of Pennsylvania have been very, very lucky to have a person of your caliber and your integrity sitting on the bench. We really appreciate it.

JUDGE NARICK: Thank you very much. You are capturing what I think is so important to us as judges. We have to come across with absolute integrity and honesty. I don't ever want to be in a situation where anybody can say he's made a decision based on considerations other than the facts of the law.

MR. SCHUCKERS: Thank you very much, Judge.