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Interview with

E. Clinton Bamberger, Jr.

Conducted by Christopher Brown

June 4, 2002

Call number: NEJL-009

National Equal Justice Library
Georgetown University Law Library
111 G Street NW
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Tel: (202) 662-4043

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Brown: It’s June 4, 2002, we’re in Baltimore, Maryland at present. My name is Christopher Brown and it’s my honor today to interview Clint Bamberger on behalf of the National Equal Justice Library and specifically its oral history project. Like Clint, I got my beginnings in the legal services program. My highest honor was that I was part of the class of 1968, with the Reginald Heber Smith Fellows. Thereafter I practiced in legal services in Washington, later here in Baltimore and I think probably practiced legal services in a sense the rest of my life because of the significant influence that event and those events and jobs had on my practice of law later and also had on my teaching which I now do at the University of Maryland Law School. I am honored to interview Clint and with no further adieu let’s get started. Clint, let’s get started. Probably the best thing to get us going would be if you give us a thumbnail sketch of your long illustrious life and then after that we’ll go through the details.

Bamberger: Well I was born in Baltimore. I went to school here, high school, college, went to Georgetown Law School. I came back here and worked at a firm called Piper and Marbury which was 13 lawyers and is now
about 1,000 or so. I was there for 18 years and was a partner, was making more money than I could spend and I guess I had some kind of mid life crisis. I went to work for the federal poverty program, the Office of Economic Opportunity, organizing the legal services effort in 1965. Then I came back to Baltimore and ran for Attorney General of Maryland (we won’t discuss that any more) I lost in the Democratic primary and went back to Piper and Marbury. Then a friend came to me and said did I want to be the Dean of Catholic University Law School. I had never done that but had always loved teaching, I would like to have the life that you had, full-time practice and full-time teaching but I could never figure out how to do that. I taught at Catholic and then they set up the Legal Services Corporation and Tom Ehrlich asked me to come there as the Executive Vice President. I did that. I had what I call a varied life but others call it unstable. I went from the Legal Services Corporation to help Gary Bellow set up the Legal Services Institute at Harvard Law School that was a legal aid office and a clinical teaching program. I should have asked Katherine to come because she remembers dates.

**Brown:** You came back here.
Bamberger: I came back to Maryland, was the head of the clinical program at the University of Maryland and retired some years ago. I retired I guess ten years ago.

Brown: And you’ve had a significant international set of activities since your retirement.

Bamberger: We’ve lived overseas but never more than seven months. I think there is some protocol in the international control of refugees act where if you’re in the country for seven years they ask you to leave. Yes I worked in South Africa - in clinical legal education and legal aid matters in South Africa, the Netherlands, Australia, Nepal, these are the ones I remember. But always for seven months.

Brown: In talking with you before I was quite amazed especially from a lawyer from the perspective of 2002 what it was like for your going to that small Piper & Marbury law firm in 1950 whatever it was; what was the difference between practicing law then and the way it’s done now?

Bamberger: Well I think the differences . . . is that when we had partnership meetings nobody had to wear name tags. Now I’m told when they meet the partners wear name tags. It was 13 lawyers in a building one block down the street. There weren’t any carpets on the floor except in the office of Piper who was sort of a - he was one of the named partner -, I
wouldn’t call him the senior partner. The real senior partner was Marbury. You worked for everybody. There was something like eight partners and five associates. The main game of the associate every day was to keep moving so another partner didn’t grab you to do something.

**Brown:** How did you get to Piper? What brought you?

**Bamberger:** Nobody in my family had ever been on any side of the law that they ever talked about so I didn’t know anything about the practice of law in Baltimore. When I left the law school through a graduate of a prior year I got a job clerking for the Maryland Court of Appeals and it was only the second year that the Court of Appeals of Maryland, the state court, had ever had law clerks and I had - each of us had - two judges and I worked for Judge Markell and I had a friend, Herbert Scharf who was a Harvard graduate, lived here in Baltimore while he was clerking, and every day he and I would, we had to go to Annapolis when the court, sat so every day we would see who had the first case the next day and we would call them up that night and ask them if they would give us a ride. Well as I said this was only the second year the court had ever had clerks so there were a lot of myths around who really wrote the opinions. In any event they wanted to curry our favor so Herb or I would call up and ask for a ride. These guys - they would want to come pick us up at our house, take us to breakfast, do
whatever they could - and we would get a ride back with whoever had the last case because I don’t think I had a car, I know Herb didn’t. And we kept a list of those people and at the end of the year we wrote them letters. Herb decided to go back to New York to practice. At the end of the year I wrote letters to all of them and said you must remember me when you argued the case of X or something like that. And particularly the ones who won I wrote to and asked if there were any … I said I was looking for a job and one of the people who gave me a ride was Dorsey Watkins, later a Federal District Judge, gave me an interview at Piper.

**Brown:** And how long were you at Piper altogether?

**Bamberger:** Seventeen years, ’52 to what? I don’t know. I’ve got books I wrote these things on.

**Brown:** One of the most significant cases in the Supreme Court of the United States has your name as counsel on it. It’s of course Brady v. Maryland. How did you come to represent Mr. Brady?

**Bamberger:** Well there’s a book about it. *Between Life and Death* by Richard Hammer, which is in the National Equal Justice Library. I had a friend, Meyer Toby, a Jesuit, who I had had as a teacher in college and he later became the chaplain at the Maryland penitentiary. Meyer never met a guilty man and one day he called me. He often called me about people he
had spoken to there and asked if I could help them. And he called me and he said there was this young man named John Brady who was within weeks of execution and told me that he thought he was innocent and would I look into the case and I said yes. I got the record from - I think the attorney general’s office - the odd things you remember - I think Katharine had some illness and was in the hospital and I went down on a Sunday to my parents where they were living down on the Severn River,

**Brown**: Katharine is your wife?

**Bamberger**: That’s right. And I read this transcript and I couldn’t find anything. I didn’t see any obvious errors in the trial. I should say Brady had been represented by counsel that his family hired (…) named George Woelfel in Annapolis and he appealed to the Court of Appeals. The conviction had been affirmed and the death warrant had been issued. But I did notice that there were five statements that his co-defendant, not co-defendant but his accomplice in the crime, a man named Boblit, who was tried separately, he had made five statements to the police and there were four of them attached to the transcript. But there was a fifth one that wasn’t. In fact it had not been admitted in evidence on the ground …some objection that the accomplice had not signed it which really didn’t bar it from admission. So I was curious about that - why it hadn’t been admitted -
because in every one of these statements the other guy claimed that Brady
did it, actually killed the man. But there were little weaknesses and
inconsistencies in them and that’s why the investigators kept going back and
taking statements. Anyway I got ahold of the fifth statement and in the fifth
statement the other man admitted that he was the man who was the one who
actually garroted Mr. Brooks, the victim. And I can’t remember all the legal
permutations then but it was shortly after Maryland enacted the Post-
Conviction Procedure act and I proceeded under that act and we got a
hearing Did you want know this much?

**Brown:** Go on, it’s interesting.

**Bamberger:** I proceeded under that Act and the procedure was you
had a hearing before the judge who tried the case and I called the State’s
Attorney as a witness, - no I didn’t call the State’s attorney, I called the
former counsel for Brady as a witness, George Woelfel, and he said he had
asked the State’s Attorney for all of the statements and the State’s Attorney
had only give him four of them, He said that they didn’t get the fifth one.
And the State’s Attorney testified on his own behalf, I didn’t call him, and
he said he gave them all to Woelfel. It’s always interested me that the trial
judge who was a trial judge down in Anne Arundel Count who knew both of
these lawyers very well, chose to disbelieve the State’s Attorney and to
believe Woelfel, the prior counsel. Now Woelfel was an elderly man - there is nothing wrong with that you understand …

**Brown:** An honorable position to be in.

**Bamberger:** An honorable position - but Woelfel I think maybe suffered from narcolepsy. He used to go sleep during the trial and he went to sleep sometimes. But I was wrong when I said we tried it before the same judge. We didn’t. It was tried before Judge Michaelson who had a reputation for being a hanging judge. The post-conviction was heard before Judge Duvall. It always interested me that Duvall who of course as a regular judge in that court knew both of these people well chose to believe Woelfel and not the State’s Attorney. And the one thing I think about it is there is a book that Barrett Prettyman wrote about how hearing death penalty cases distorts the judicial process, it’s called Death in the Supreme Court, it takes four Supreme Court cases in which there was a death penalty and shows how the whole process of even maybe the reasoning of the Court is distorted by capital punishment, and I think that is what have moved Duvall in this case. In any event we then went to the Court of Appeals - Duvall held that the fifth statement wasn’t given and that was an error and there should be a new trial. We then went to the Court of Appeals in Maryland where I guess I appealed, I don’t know why.
Brown: Was it partial relief that you got?

Bamberger: I may have gotten partial relief I’m not sure. The reason I think I must have been the appellant is that I think I was the last one to speak - but I’m not sure of that except I do remember that after I had finished my argument and whether I had been appellant or appellee and the judge then called me back but the Chief Judge said to me, “Mr. Bamberger if we agree with you do, we have to reverse the entire trial or do we just reverse on punishment because your client - this is a felony murder - you don’t dispute the fact that your client was involved in a felony murder therefore he’s guilty of first degree murder whether he actually killed the man or not.” Well I hadn’t thought about that and at that time I don’t think people ever sort of mooted appellate arguments so nobody else had ever thought about it until …

Brown: Were you the sole counsel?

Bamberger: I was the only counsel. And -well I thought you don’t give up anything if you’re not sure so I said no I think we are entitled to a reversal of the whole trial -it just taints the whole trial. The Court of Appeals disagreed. They found that there was an error but the error only went to punishment and they set aside the verdict with respect to capital punishment but not the verdict of guilty. I thought that was as far as I could go and I was
back at Piper and Marbury and one day one of my partners, young partners, Jack Jones, who is a very bright guy, much brighter than I, said to me why don’t you appeal that to the Supreme Court. Well it was like three days before the time ran out to file a petition for cert and I remember that because I put the petition together and he drove over and I ran into the Court, ran to the clerk’s office just as the marshal was closing the door, I got in and filed the petition for cert. The Court granted cert.

**Brown:** This was your first venture in the Supreme Court I assume.

**Bamberger:** Yes sir. And then we argued it.

**Brown:** How did the argument go?

**Bamberger:** Well I have a tape of it and it’s going to be buried with me. Again, nobody mooted me for the argument. I didn’t know about that. I don’t think people did it then, I certainly never heard of it. And it was the first case I ever argued there. What I remember thinking when I walked into that Court - this is what it must have been like to walk into a Greek temple, not just the architecture but some of that sense of some kind of super power and Meyer told me and Katharine, my wife, went over to the argument with me. It was as difficult as it could be because I finished one day, didn’t quite finish my argument, I think I had 10 minutes left, and the Court said that’s it - end of the day - good bye. So not only did I have to have anxiety leading
up to the first day I had anxiety for the second day too. And you asked about my argument - I remember that when I came to what I thought was the crucial part of my argument I looked at the Court - at Douglas because I thought that was one person I should try to have on my side, if I didn’t have him I wouldn’t have anybody. Just as I was getting to the crucial bit of my argument, he picked an envelope up from his desk and ran his tongue across the mucilage on it and I thought oh my god I made a big impression on him. I lost the case. This is more than you wanted to know but this is important. I lost the case in the Supreme Court. They affirmed the Court of Appeals of Maryland. They said there will be a trial on the issue of punishment only not guilt. And I don’t really fully understand the reasons why they did that. It had to do with the fact that the Constitution of Maryland had provided that - still provides - that the jury is the judge of both the law and the fact in criminal cases - but I don’t fully understand. In any event that in fact saved Brady’s life. If they had said okay we reverse the whole thing, go back and try it again, the State Attorney’s would have called the case the next week and the witnesses were still alive, the community was still angered about this and angered about the fact that he had gotten a reversal and they would have hung Brady in an hour and a half or I think it was the electric chair. But we never had a bifurcated trial, a separate trial of guilt and punishment in
Maryland, so nobody knew what to do about it. So Brady went back to
the Maryland penitentiary and kept very quiet. I did get him moved from the
death house into the general population because he wasn’t under a sentence
of death and after a long time had gone by and I thought it might be difficult
for the state to find all the witnesses and certainly the community, the
clamor in the community, about it had died down. We filed a motion for a
speedy trial and I don’t remember all the details but somehow then we did
come together and got Governor Marvin Mandel to reduce the sentence -
commute the sentence - to life and Brady was then just a couple of years
away from being eligible for parole and he was released on parole. I still
hear from him, at least at Christmas we exchange Christmas cards and a
phone call, sometimes I hear from him in between, He’s a guy who never
committed a crime before, I think that the only crime he ever committed was
robbing this guy, I don’t know who killed the man and I don’t think either of
them know . . .

Brown: What is the constitutional principle that Brady stands for?

Bamberger: What it stands for is that the state is obligated to make
available to the defendant evidence even that is exculpatory of the
defendant. It’s the Brady rule. When I say to public defenders that I argued
the Brady rule, they genuflect.
**Brown:** Did you do other public interest or poverty work or whatever you might call it while at Piper?

**Bamberger:** Sure, at that time - yes I can’t remember what they were but from time to time people would call me up. And there is another guy I remember - my principal runner was Meyer Tobey I guess at least on the criminal side – yes, to answer your question.

**Brown:** So you’re at Piper and somehow along comes this opportunity at OEO, Office of Economic Opportunity, how did you get from Piper and Marbury, a simple law firm in Baltimore, Maryland, to become national director of the legal services program?

**Bamberger:** Well remember this was sort of the period of the civil rights revolution and social activism - so lawyers in this town were involved in those kinds of things.

**Brown:** This was 1965 about.

**Bamberger:** Yeah the early ‘60s. And so I just say that to tell you that it was a kind of a different time than it is now; that major lawyers, leaders of major law firms, were publicly involved in the affairs of the city and the state and publicly involved in the major social questions of that time -which was civil rights. Again I am telling you more than you want to know. There is a book about that too.
Brown: Okay. That’s Earl Johnson’s book?


Brown: But in your own words how did you get, how were you plucked out of this town and brought down to Washington and put in that position? Was it serendipity?

Bamberger: Well Edgar and Jean Cahn had written an article in the Yale Law Review, The War on Poverty: A Civilian Perspective, which is really the intellectual foundation of the legal services program. Edgar and Jean, they both were working for Shriver then, had persuaded Shriver

Brown: Sargent Shriver?

Bamberger: Sargent Shriver who was the director of the both the War on Poverty and the Peace Corps . . .

Brown: This is the Johnson administration?

Bamberger: Johnson administration - And Edgar and Jean had persuaded Shriver and then he in turned persuaded Lewis Powell and the Board of Governors of the American Bar Association that a part of the War on Poverty should be lawyers assisting the poor and ameliorating the effects of poverty. I got a call one day, I was at Piper and Marbury, and I got a call one day from Judge DeWeese Carter from the Eastern Shore. I had been involved in legal aid which didn’t mean very much because legal aid in this
town then was two lawyers in an office at the Fayette Street District Courthouse. For a town with a population then of 800,000, more people than there are now, that was a very inadequate number of legal aid lawyers. I was on the board that did not do much more than try to raise money. Carter called me and said Lewis Powell, then the president of the ABA, had sent a wire to all of the state bar presidents saying that they should appoint a committee to deal with this proposed legal aid program in the war on poverty. Now I think in Carter’s mind that meant that local bar associations should keep an eye on the new federal program. He said something like I know you’re interested in that legal aid stuff, would you like to do this. Well I said yes and I didn’t know anything about it. I then saw a notice that at the American Bar Association’s annual meeting in Miami there was going to be a half-day programs at which they were going to talk about and the federal effort. Shriver was going to be there and Lewis Powell was going to speak and Kenneth Pye who was then an associate dean at Georgetown and very much involved in legal aid and others so I thought I ought to go down there and learn about it. So I went down I think just for two or three days and went to that meeting. After the meeting I thought I ought to try and meet some of these people who are doing this thin because otherwise I’m just some lawyer from Baltimore calling and saying I want to know something.
Maybe I can meet somebody and I can call them up and it will be somebody I know. So after the meeting I saw Kenneth Pye and I told Kenneth why I was there and I said Kenneth can I have lunch with you and we can talk a little bit about this so I can know a little bit about this. Well he said no he already had a luncheon engagement but he said see that fellow coming down the hall, he said that’s Howard Westwood, he’s a partner in Covington and Burling and I thought he said he’s taking a leave of absence to be Washington counsel for this new federal legal aid program. So I introduced myself to Howard Westwood or Kenneth introduced me and I asked Mr. Westwood, I said Mr. Westwood because he was a partner at Covington and Burling which was a major national firm, and I was a young partner at a firm in Baltimore, I thought maybe if I’m nice to him someday he might refer some business to me because a lot of the business of Baltimore lawyers came on referral from New York and Washington. Howard Westwood, now deceased, was absolutely a wonderful man. He was a Midwesterner and had clerked for Justice Reed. He had an abrupt manner of speaking shall we say, and he said to me I’m just going to down to the coffee shop and have a sandwich you want to come along all right. I said yes. We walked down the corridor of the Fontainebleau Hotel, I can still see it in my mind’s eye, and I walked three deferential steps behind and at some point I tried to make
conversation by saying Mr. Westwood I understand you’ve taken a leave of absence from Covington to work with this program. “Who the hell told you that?” he replied. Oh this is a bad start. We sat down and we had lunch and I kept asking him questions and getting back these monosyllabic replies and I couldn’t get much information out of him. And finally at one point he said to me, now look here you son-of-a-bitch what you ought to do is take that job. Well I thought, I knew that at all the Baltimore firms there was some partner who probably on merits wouldn’t be there but his grandfather had been the president of the trust company or something like that but I didn’t think a firm with national prestige like Covington and Burling had people like that. I thought - my god they do and I’ve had the luck to meet the one at Covington. And I just stopped asking questions and we finished our sandwich and as we were walking up the steps from the coffee shop he turned to me and he said, you never answered my question -- and I should say to you that I learned in later years that addressing you as son-of-a-bitch was Howard Westwood’s term of endearment. Now I think I said – but I’m not sure about this - I have a habit that if I don’t make what I think is the best reply to some question, then over the years I remember that I did give the best reply until I get to the point where I’m not sure what’s truth and what’s fiction. Well if I didn’t say I meant to say to him and I will say to
you now that I did say to him well Mr. Westwood I have the same reply to
that if you should ask me to jump out of an airplane - we’ve got a lot of
talking to go before we even consider it, And I parted and that was it. A
couple of days later I went with Katherine and our son who was then an
infant up to Dewey Beach to visit Fred Green, a lawyer here in town. As I
got there he said where the hell have you been. Some guy named Ted
Voorhees has called you here nine times. Well Ted Voorhees was a partner
at Morgan, Lewis and Bockius or whatever their firm name was in
Philadelphia, and was the president of the National Legal Aid and Defender
Association that was, I later learned, involved in the search for somebody to
head this legal services program in the war on poverty. Westwood in his
magnificent way had gone back to his office, checked up on me, and then
had called all these people and said I got a guy you’ve got to talk to.
Westwood said I looked like a Scandinavian boy scout. And that was
important. I really got the job because I guess I did look like a Scandinavian
boy scout, but also I buttoned the collars of all my shirts and all my ties had
diagonal stripes. And essentially what the program needed, I think the ABA
realized, was somebody who would disarm any opposition in the organized
bar, somebody who looked like them. You didn’t have to know a whole lot
about legal aid and I certainly didn’t know, I knew nothing about it except
for my involvement here with the little Legal Aid Society. But I certainly
didn’t know what people like Kenneth Pye, Gary Bellow and others knew,
and Earl Johnson who worked in it for years.

Brown: What was the old way of legal aid before 1965?

Bamberger: Well the old way of legal aid was a stark, under-funded
organization that only existed in the major cities in this country and the most
they could do was usually settle matters. There was no kind of appellate
practice, there was no effort to litigate cases or establish precedents that
would solve pervasive problems. It was what is described as a band aid kind
of thing. If a tenant was being evicted because he hadn’t paid his rent, what
you did was try to get the landlord to give him a couple of days to move out.
That’s the most you could do. As opposed to now, there wasn’t a warrant of
habitability then as you know, you were involved in the cases that
established the warrant of habitability in the D.C. appellate court.

Brown: What was it about this new program that caused a lot of
public relations problems for you?

Bamberger: Well I think there are always, are people who don’t think
the government ought to do very much so there was opposition from that
kind of philosophy but also lawyers were concerned - I suppose it was their
worst fear - that it was the beginning of some kind of socialization of the
legal profession. This was shortly after the efforts to establish Medicare and Medicaid in the Johnson administration and the organized medical profession had opposed that on the grounds that it would socialize their practice. I think that was in the mind of lawyers. I think that there were lawyers in individual practice who were concerned that this would interrupt the normal route by which clients came to them because poor people who would ordinarily come to them might go to the legal aid office and also lawyers then did more work for poor people than I think they do now. Because lawyers’ offices then weren’t on the 17th floor of a downtown building, as this is, they were down on the street floor particularly in the smaller towns and they were open on market day and that was true even in a city like Baltimore Poor people who had a legal problem could probably find a lawyer to do it. This was not so likely if they were black but if they were white they would probably find a lawyer to help them. If they were black maybe they could too, it would be harder. I don’t mean to be snide about it but the lawyer might hope after if he did well for them in this case they would have some other matter that maybe had a contingent fee and they would come to him for that. So lawyers were concerned about socialization, interruption of the normal flow of cases, and government control of the profession.
Brown: So it sounds like it was your job in that initial phase to sell the program?

Bamberger: Well I think there were two parts of my job. One was to establish the guidelines for the program, what work it would do, who would be eligible, that sort of thing, and how programs would be established, the sort-of the foundation. And the second thing was, yes, to sell it I spent a lot of time going with the ABA people who would take me to bar meetings. If a state bar was meeting they would urge the state bar president, if he hadn’t already thought of it, to ask me to speak at the state bar. Very often one of the ABA leaders would come along and be on the platform with me and maybe introduce me. So yes, selling it was a big part of it.

Brown: So there was strong ABA support for this new program?

Bamberger: There was very strong ABA support at the highest echelon. I think if you had a referendum among the membership you might not find it that strong. But at the highest level there was strong support. It was approved unanimously by the highest governing body of the ABA, the Board of Governors.

Brown: Who were the ABA leaders that you knew of that were meeting that charge?
Bamberger: Well Lewis Powell was the absolute leader. Other people were Bill McCalpin and John Cummiskey. There had been a sort of fledging and aborted effort to establish legal services in what was known then as Health, Education and Welfare, now Health and Human Services, and there had been a conference about that in Washington. In fact this week I was with John Murphy, who is a professor at Georgetown, who worked with HEW in shaping the conference.

Brown: He taught me also.

Bamberger: Did he? He is getting up in years. I saw Jack at my 50th law school reunion. McCalpin and perhaps Cummiskey, had gone to this meeting at HEW at the request of the ABA and reported back to the ABA that they were very concerned about the tack that HEW was taking, to say it in a code word which they used, I understood that they were concerned that social workers were going to run these legal aid offices and then to some extent then when the OEO program came along they were quick to become acquainted with it and become involved with it for fear that the HEW social workers might move into it. However in the OEO program Shriver was a Yale Law School graduate, Edgar Cahn and Jean Cahn were Yale Law School graduates Lawyers were more involved and that made the ABA people feel a little more comfortable.
**Brown:** Did you encounter any difficulties on the road?

**Bamberger:** Oh my gosh, yeah. Yes I guess I don’t remember how often and when. The answer is yes. A good witness only answers yes or no.

**Brown:** To give us a little flavor, give us an example of a hard time on the road selling this new radical socialized program.

**Bamberger:** Well I remember that two cities were strong in opposition. They were in alphabetical order, Albuquerque and Baltimore. In Baltimore Charlie, I think, Charlie Dorsey was the head of legal aid then.

**Brown:** Of a fellow named Joe Matera

**Bamberger:** Joe Matera, that’s right, was the head of legal aid. He succeeded Paul Schlitz. Their board set up a committee to establish ten or some number of neighborhood offices around the city because one of the things we were very interested in was that the legal aid offices be moved from downtown office buildings or from downtown courthouses which were a sense sort of barrier to entry by poor people out into neighborhoods and become more involved with the neighborhoods.

**Brown:** Whose idea was that, do you recall?

**Bamberger:** Well I don’t know. I know John King who is a contemporary of yours and mine was involved with the board of Baltimore Legal Aid.
**Brown:** I was thinking of the national level - the decision that these should be neighborhood law offices rather than downtown.

**Bamberger:** Well I don’t know who particularly. I think if it’s not explicit it’s probably implicit in the article by Edgar and Jean in the Yale Law Review. There weren’t many of us - for a while it was Earl Johnson, Chuck Edson and me and then Buzzy Hettleman. I mean we were a staff of about six I guess.

**Brown:** This is getting off the topic I was headed to but probably important. Tell us about that cast of characters those six, who were they, what were their responsibilities and where did they come from?

**Bamberger:** Well when I went there, there was nobody. Actually Jean Cahn had made as I remember at least one grant to a friend of mine who was a law school classmate or near my class at Georgetown named Paul Harbrecht, a Jesuit now deceased, who was the Dean of the Detroit Law School. He heard about this program and made a proposal for writing a kind of poverty law curriculum for Detroit Law School and Jean had made and approved a grant of money acting as a sort of temporary head of OEO legal services. So I went to OEO to work and there wasn’t anybody. I had a desk and a table and a chair and several empty offices at OEO. They didn’t give out much furniture. If you saw something sitting in an empty office you
came back at night and took it. Everybody had taken all the furniture out of there. The first person came to work I think was Chuck Edson. Charles Edson was a young lawyer in St. Louis and in the same firm with Bill McCalpin. Edson had as he described it Potomac fever so within days after I was there Bill McCalpin whom I had met called me and said there is a young man in my office who wants to talk to you about coming to work for you. And he’s a very bright young man named Chuck Edson. Chuck came to see me and I had meanwhile learned enough about the bureaucracy to know that you had to fill out a form 52. I had the form there for Chuck. We talked and I said to Chuck - well I would like you to come work, when could you do it? He said I could come next week. I said wait a minute Chuck you have to fill out a form and go through channels. He asked: Do you have a form? So I handed him the form and that day – remember that he lived in St. Louis - that day sitting in the office he filled out the form. He actually came to work before I think the form had been approved. He came to work, left his family in St. Louis, came and bought a house. Chuck is not a very good house buyer because as soon as his wife got here she sold the house and got another one. Then Buzzy Hettleman was a young lawyer here in Baltimore, Kalman Hettleman, who was practicing law I think with the Feinblatt firm and one day, one Saturday, I was home sick. I had the flu. The door bell
rang Katherine went to the door and came back and said there is a little man at the door who wants to talk to you. I said all right if he doesn’t mind coming into the bedroom, I have the flu. So he came in and it was Buzzy and he said I would like to come work for you.

By that time Earl had come as deputy. First I tried to hire, I made a lot of inquiries around, I wanted to get a deputy somebody who would not be a subordinate but would be a partner. I anticipated being out a lot. I didn’t want things in the office to sit still while I was out. Everybody recommended Gary Bellow. So I called Gary and he came to see me. He was then working for UPO, United Poverty Organization, the community action agency in D.C., and I talked to him. He had been involved with the Cahns and he had been involved with the conceptualization of this program. I thought he was going to come but then he said no. He had just taken on this job of executive director of UPO and it wasn’t fair to leave. But he said I have a suggestion for you. There is a good guy named Earl Johnson who is working for either the legal aid agency or maybe the Neighborhood Legal Services program that had started in D.C. I’m not sure. He was doing legal aid work in Washington. And I talked to Earl and Earl agreed to do it. So Earl was working. I remember that because when Buzzy said he would like to come to work I didn’t want to be accused of you know that I was bringing
in all my buddies from Baltimore. So I got Buzzy’s resume and I passed it on to Earl with a note that said I would like you to talk to this person, I don’t want to be seen as hiring my friends I want you to talk to this fellow. I also said I don’t think he’s aggressive enough for the kind of work we will be doing. Well from that moment on nobody including myself trusted my judgment about people because Buzzy, as you know, Buzzy has strong beliefs and if he believes in them he fights for them. Nobody has ever accused him of not being aggressive. And then there was a young woman named Nira Long. Her father was a postal worker. As he was driving her mother to the hospital for Nira’s birth they passed a National Industrial Recovery Act billboard. Her father said if it wasn’t for that we wouldn’t be married and we wouldn’t be having this child so he named her Nira. Nira died about 4 or 5 years ago. Then there were Donald Stocks, a young black lawyer, and Hank McGee who is now retired but was a law professor Hank was then a lawyer in Chicago who later became a law professor at UCLA or USC, I forget which. So I think we divided the country up into quadrants and each guy had a quadrant.

Brown: And you were there for - your initial stay was about a year?

Bamberger: Yes, I should have stayed longer, it was 11 months. I should have stayed. It wasn’t fair to leave.
Brown: What had been accomplished up to the time that you did leave?

Bamberger: Well I think we had programs established certainly in every major city. I think we had made grants of about $22 million, I’m not sure. But the program was up and running; going very well. If we didn’t get applications from an area or state, then we would talk to someone, a law school dean very often, and some bar people and say can we come to your school - I know that one of them was Georgia- can we come to the University of Georgia and have a conference about legal services? We want to invite to the conference leaders of community action agencies of the state and legal aid lawyers and bar leaders and explain it to them. We’ll sit there and help them write applications. It really wasn’t this bad but some people did say that you guys go out and write the application and run back here to Washington, receive it in the mail and fund it. Very often we had to do that. These grants were to be made through the community action agencies. Some lawyers were scared by community action agencies, as a lot of people were, because they really were populist organizations. So very often we would encourage community action organizations to apply. In some major cities there was great opposition from the organized legal aid initially. You asked me about things that happened early on. Well within weeks after Earl and I
were at OEO the National Legal Aid and Defender Association had its annual meeting in Phoenix, Arizona at a fancy resort. The National Legal Aid and Defender Association then was essentially an organization of established leading members of the organized bar who were involved in legal aid in their city and state. There weren’t many of them, half a dozen, and the leaders of a couple of major legal aid organizations in cities like New York and Chicago. It was a small group. They had a meeting at the hotel. Howard Westwood, Earl Johnson and I were on the podium of the opening program. The opening program was to explain this new OEO legal aid program.

**Brown:** This was about 1966.

**Bamberger:** 1965. And I got up and gave my speech about what it was all about. I want to just say I remember in a conversation with Shriver at the end of the day when I went D C for interviews, when got interested in the job, and I guess in response to a question from him I said this program is different because if you just want it to be lawyers for poor people period, if that’s the end of it, then the government should have put it in the Department of Justice. But it isn’t there, it’s in the anti-poverty program so it’s lawyers for poor people to do something about poverty. That was the big difference and that was the kind of consistent idea from all of us at he NLADA
conference. I made my speech – necessarily, as we have talked before - about what legal aid was like before. There was an implicit criticism of existing legal aid. As soon as I finished my talk either the executive director or the chairman of the board of the District of Columbia legal aid agency asked to be recognized He was recognized and came up and gave a prepared speech, a diatribe, an attack on this program. He got a standing ovation from the room. Arizona is not a place in which I wanted to die but I thought it was imminent. Then came a lunch break. Earl and Howard and I had lunch together. Earl spoke after lunch and I think Howard did. Then I got questions and I think I was pretty good at answering questions. You see I actually thought that this program was going to happen and I didn’t think there was anything they could do to kill it so that made me cocky. Some people would say arrogant.

Brown: Let’s take a break. Pick up where we left off.

Bamberger: That’s where the conference was - in Scottsdale. Well after lunch Howard and Earl spoke. Then three of us and I particularly responded to questions. And we turned them around. We turned them around. Turned those guys around. Earl and I said that the next day we were going to be in our hotel rooms and anybody who wanted to come talk to us about applying for a grant we would be pleased to talk to them. Well we had
lines outside our rooms the next day. And so that was a pivotal thing. There were other such things. Can I tell you about Albuquerque? But first - the largest attendance of any meeting of the bar association of Baltimore City - except when there was a free lunch and an open bar - was in the predecessor of this building. The Emerson Hotel was here. It had a large ballroom and the bar association called a special meeting to oppose the proposal by the legal aid agency of Maryland that legal aid open a number of neighborhood offices throughout the City.

**Brown:** Was it a community action agency proposal?

**Bamberger:** No it wasn’t. Well, it was through the community action agency but it was actually being made by the legal aid agency. Parren Mitchell was then the head of the community action agency here in town but legal aid had put together this proposal for 10 neighborhood offices. Members of the bar were opposed to it. I think that the opposition was led by two particular people, John J. O’Connor, remember who did a lot of plaintiffs admiralty work Amos Meyers who had a major plaintiffs personal injury practice that began when his father was a shoemaker on Pennsylvania Avenue and he used to stick Amos’s card in the toes of all the shoes he repaired. Amos had I think one of the largest volumes of plaintiffs’ personal injury claims and O’Connor mostly represented longshoremen. John and
Amos stood up and delivered diatribes against the proposal and were strongly opposed. I spoke first about what it was all about. I guess Joe Matera spoke. Amos and John J. had gotten standing ovation.

Then Bill Marbury stood up. Bill Marbury was then one of the two leading lawyers of this State. He was the senior partner at Piper and Marbury. The other leading lawyer was Vernon Eney of Venable Baetjer and Howard Marbury was a nationally known lawyer. He made a marvelous statement in support of us and defeated the opposition.

I shouldn’t have said that Amos and John J. O’Connor got standing ovations. They got cheers from their constituents who were there but the majority favored the program. OEO and Baltimore Legal Aid went ahead and opened offices in neighborhoods around the city.

The other difficult city was Albuquerque. I was in California speaking to bar associations about the program and meeting community action agencies and legal aid lawyers and bar leaders in connection with applications for programs there when I got a call from John Robb who is a wonderful lawyer in Phoenix, Arizona no Albuquerque, New Mexico. He was very active in legal aid nationally - still is, runs something called the Christian Legal Aid Society. He was a major partner in a large law firm there, Dickinson Sloan, or something like that. John said that the legal aid
agency there was opposed to having any OEO money and the bar was on
their side: that we weren’t going to be able to get a program started in
Albuquerque. He asked if I would come there? I said yes, I’m in California. I
had flown out there on Thursday night, was going to be there Friday and
Saturday and then return to D C. On Monday I had to go somewhere else or
do something. I said that when I return I have to go into the office to do
something John said on your way back can’t you stop her?. So I found a way
to fly into Albuquerque on Sunday morning. They had a meeting of the bar
on a Sunday. There was no open bar and no free lunch. The meeting was in a
downtown hotel. What I remember about it, the scene is in my mind’s eye: I
stood at the podium and there were at least five guys in the front row holding
tape recorders, now this is 1960s you couldn’t buy little matchbox size tape
recorders, these were the size of a book and they had microphones. I was
standing on this slightly raised platform and these guys were all there
holding these microphones in front of me. They were going to get down
every word that I said. I later heard my words from Senator Montoya. But
we got a program going in Albuquerque; not through the legal aid society
but through the community action agency.

Brown: What decided if you went through the community action
agency on one hand or the existing older legal aid society?
**Bamberger:** Whoever submitted the best application. We did not - and I said that in speeches, I said to the bar - you know even if you oppose, if you don’t apply or if you oppose the application that doesn’t mean there isn’t going to be one. The bar did not have do sponsor or approve the application nor did they have any veto power. We were going to fund the best application we could get. We hoped that it would come through the existing legal aid agency that brought some experience to the work. We hoped that it would come with the endorsement of the organized bar but if it didn’t and it was a sound program with good lawyers doing good work that was what we were going to fund.

**Brown:** Did you get much interference from governors or other state politicians who weren’t happy about this intrusion?

**Bamberger:** Yes. One I remember is Mayor Daly and Earl Johnson’s book, Justice and Reform, presents the facts better than my memory. My memory is that the executive director of community action agency was a man with a Ph.D. I can’t remember his name. They submitted an application. It was interesting that the Chicago Legal Aid Bureau, this sort of major old line legal aid society and the strongest legal aid societies - Boston, Philadelphia, Chicago - never submitted applications and we funded parallel programs that still exist and have been very good. A separate program that
came to be known as the Chicago Legal Aid Foundation must have submitted an application. Somehow we got an application but the community action agency was going to oppose it and Mayor Daley was going to oppose it. They were opposed to it and I said well I’m pleased to hear your views. And then they said - I think I got the word that Mayor Daley would approve it if they wouldn’t sue the city. I said I can’t agree to that. And then I got a proposal that the city would approve if Mayor Daley or his man who ran the community action agency appointed the executive director. And I didn’t agree to that either and we funded it and it exists, has done very good work, never caused any trouble. Similar experience in California with California Rural Legal Assistance which is probably still one of the best law offices in public or private legal aid or corporate in the country. Was started by a young lawyer named Jim Lorenz who was an associate at a big Los Angeles firm. And they were going to set up eight law offices throughout the agricultural districts of California to represent the farm workers. There were all kinds of laws, state laws and federal laws to protect farm workers, hours of work, pay, children out in the field, children in school, housing, sanitary facilities. Most of them were ignored because nobody was representing the farm workers. So Lorenz put together this proposal to set up these offices. John Sutro was the president of the state bar,
one of the partners at Pillsbury, Madison and Sutro, a white shoe firm in San Francisco, and so he was the president of the state bar and initially expressed opposition to the program. Now again this is one of these things that I think I wished I said and convinced myself over the years that I did say. I went out to California, at least once I know and talked to him. I remember that because while we were talking he was sitting as I am here in a chair and I was across the desk from him and the door opened and a short Italian man with a shoe box came in and without skipping a beat in his conversation Sutro turned, put his foot up, got his shoes shined. Here we’re having this conversation about helping poor people and here he’s got this poor fellow groveling in front of him for probably 35 cents for shining his shoes. What I think happened was this - Sutro said to me the bar will withdraw its opposition if you will put a condition in the program that they do not represent the workers in union negotiations - or something like that. I’ve even forgotten. It was a condition and the reason that was important was that this is the time when Caesar Chavez was organizing the farm workers and Reagan was the governor and the growers were Reagan’s big supporters. And I wished I had said or think I said or did say - well I’ll agree with that condition if you’ll agree that no member of the state bar can represent the growers. And the reason I remember that is that I think I told Shriver that. I
remember having a conversation on a Saturday morning in the office with Shriver and I think I told him I said that and he shortly after that went to a reunion of his Yale Law School class and told them he said it.

**Brown:** Must have been a good line.

**Bamberger:** I’m not sure that either of us said it. I know he didn’t say it. I don’t know whether I said it. But subsequently that program we funded. There was a wonderful office. Gary Bellow went to work in that office; a great lawyer doing great stuff. Doing nothing more than making the current law effective to protect farm workers. I must tell you that Governor Reagan subsequently vetoed that program. Governors had a right to veto OEO programs. The director of OEO could override it. As an aside, I’ll tell you that the governors could not veto programs if the grants were made to educational institutions. So when we set up the so called backup centers; the specialized law offices that provided support, research assistance, etc. in specialized fields for legal aid lawyers all over the country we made those grants to educational institutions so they couldn’t be vetoed. They were so good that that they were one of the first things the Republicans attempted to abolish when they came into the presidency. Edwin Meese, who later became President Reagan’s Attorney General, was on Reagan’s staff when he was governor of California. This is after I had left the program as director
but was still on the advisory committee. We renewed the grant to California Rural Legal Assistance. Reagan vetoed it. Nixon was in the White House. Reagan was this budding conservative opposition. Frank Carlucci, later Secretary of Defense, as the head of OEO was engaged in abolishing the agency. The White House got involved. Rather than blatantly overrule Reagan they appointed a committee of. I think, six judges all Republicans, all retired except one, if my memory is correct. Those six judges spent $250,000 in 1967 or ’68 dollars that is probably a million dollars today. They held hearings in California and on the west coast accusing these lawyers of illegal and unethical acts. The committee reviewed Reagan’s report, called witnesses - I testified - and issued a report. These Republican judges said, and I believe these are the exact words or very close, “there is not a shred of truth in these allegations.” And Reagan’s veto was overruled. Reagan never forgot that. When he came to Washington as President he put zero dollars in his budget for legal services.

**Brown:** Under the original OEO guidelines what was supposed to be different about these new funded legal service programs, different from the band aid approach you just told us about.

**Bamberger:** I’ll say two things. One, the original legal services act did not mention legal services. It was funded under an opinion issued by
Donald Baker, the general counsel of OEO. The act had specific provisions about programs but it also had some general language about programs to ameliorate the effects of poverty or something like that. And those words gave sufficient authority to fund the legal services program. I think the thing you’re inquiring about is a phrase in the act that became very controversial called “maximum feasible participation”. That is maximum feasible participation by the people who are going to be served. And that was in the statute and that applied to legal services programs. In the guidelines that we issued as guidance, as criteria for the funding of programs, we required that, if my memory is correct, one-third of the members of the governing board of the legal services program shall be poor people. I think that was the principal reason think that many of established legal aid agencies did not apply for grants. They didn’t want non-lawyers on their boards, unless they were wealthy contributors, and they certainly didn’t want poor people. I remember once I was speaking at a meeting of the Association of American Law Schools in New Orleans and the Dean of Loyola Law School after I finished and was taking questions came charging down the aisle toward me and said “Do you mean to tell me that poor people will sit on our board and tell the lawyers what to do?” Well there wasn’t much I could say to that except “yes” and that sort of ended that dialogue. You asked about
opposition, I’ll tell you one other instance,. While the ABA was very supportive there was a lot of opposition at the local level. Local bar associations for reasons that I think I said before that the bar was concerned about. And there was actually an article written by the head of the Tennessee bar and published in the bar’s journal called *Et Tu Brute* - and I was Brutus. The author was very active in the ABA’s organization of the presidents of all the state bars and they invited me to Chicago to speak and all these guys came charging down the center aisle and they sort of weren’t content to stand at the microphone and I remember he came charging down the aisle and

**Brown:** Something about the appearance of a Scandinavian boy scout I guess.

**Bamberger:** But that was another big battle. It wasn’t that I was just cocky and arrogant. I really believed what I used to say to people - that I think every lawyer will support legal aid. That for some you just have to scratch a little harder. Some of that instinct is a little bit layered over by some other things. And so I was always confident that if I told the truth and said what this program was and what it was doing that lawyers would support it. And that turned out to be true.

**Brown:** So you left - at some point in time you left
Bamberger: Well I left - yes and we’re not going to talk about that. I left because I was asked to run for attorney general of Maryland in the Democratic primary. And I do want to put on the record that at the beginning of the race I was fourth out of four, at the end of the race I was two out of four - but they only give a prize to the first one.

Brown: And the person who became famous as a consequence of that race was none other than Spiro Agnew.

Bamberger: Was Spiro Agnew. He was in the race for governor, became governor.

Brown: You went back to Piper.

Bamberger: I went back to Piper and I was doing - you know what I did there mostly was trial work, a lot of it was insurance defense work and that is what I was doing. But I mean I had had a heady year

Brown: I imagine that transformed you, it had to.

Bamberger: I think it did. I used to say to people I really thought if you went past Hagerstown you fell off. I wasn’t convinced that the Italian fellow really went around the world and yeah I mean I had had a very satisfying experience and a very good year. I mean it was satisfying in good ways and maybe ways in which I shouldn’t be so proud. I was in the spotlight always.
Brown: And amazing things were taking place.

Bamberger: It was a good time. It was a great time.

Brown: So that made it difficult to go back to the law firm?

Bamberger: I thought there were more important things to do than enrich an insurance company.

Brown: So you came back to the Legal Services Corporation.

Bamberger: No first I went to Catholic University Law School as the dean. Father Robert Drinan, a former member of Congress from Massachusetts, was a classmate of mine at Georgetown Law School and he was on a search committee for Catholic University to find a dean that was chaired by Justice Brennan and there was a faculty member named Ralph Rohner who was on the committee and one day I saw Drinan at an American Bar Association meeting of the Section of Individual Rights and Responsibilities and he asked me what I was doing. I said I was back at Piper & Marbury. He said you shouldn’t be doing that, I’ve got a job for you. Next thing I know I got a call and a few months later I was over there as Dean. It was a great time to be a dean.

Brown: What did your experiences with OEO bring to the deanship at Catholic University?
Bamberger: Well first of all I had gotten to know a lot of lawyers all over the country. I had learned the satisfactions and the value of being a lawyer for poor people and in thinking about what the role of lawyer is. This is a law school within a university supported by the Roman Catholic church and I thought well what difference does that make and in my own sort of simple way I thought that the greatest problems in this country were then, and I think still are, are race and poverty and I thought that those were problems that lawyers with some background in Christianity ought to address. So we really set out to do that.

Brown: What did Catholic U do?

Bamberger: Well first of all I tried to hire faculty who had an interest in the social problems and we remapped the curriculum. To include, a simple example: we had courses on debtors’ remedies not just creditors rights. When you and I went to law school the course was called creditors rights: there were debtors’ remedies too. And in those days the real property course was mostly concerned with the protection of owners of property. You know one of the people I got to come teach on the faculty was Florence Roisman who was certainly the leading lawyer for tenants in the country. So her courses on real property - while she included everything including law about the rights of ownership of land - she also addressed the rights of
people who have less than full ownership of the land. And we started a clinical program, if not the first, one of the first clinical programs in the country. And Roger Wolf who had been a legal aid lawyer in the District of Columbia with a neighborhood legal services program came to start that office. We opened an office on North Capitol Street and the students worked in it, got credit for it and learned something about the law that affects people.

**Brown:** Did those programs stick?

**Bamberger:** Ah yes I mean I think yes the clinical programs certainly have grown. Every law school in the country now has a clinical program and extensive clinical courses. I think that happened -I think you could make the case that the legal services program had something to do with that because you had all these bright young lawyers who were coming out of law school and going to work for legal services and legal services work is very hard work and sometimes very lonely work and taxing work and people, only exceptional people, can do it for a very long time so a lot of these young people then moved from legal services into legal education and that’s about the time that clinical education was beginning, that is experiential education was beginning to grow. I do want to say something about the caliber of young lawyers. You know; you were a Reginald Heber
Smith Fellow, you can I talk a little bit about that. The Reginald Heber Smith program actually didn’t come into being until after I had left and Earl was the director but I know he and I had talked about it when I was there. We had this notion that there are a lot of bright young people coming out of law school. They tended not to go directly to public service. What they very often did when they first came out was a clerkship for a judge and that was a kind of cache on their resume. If they did that and it was a good judge and the judge would give them a recommendation it helped to get a job subsequently at a law firm or whatever. And Earl and I thought we ought to have something like that so people can come and work in legal services for a short period of time and that will be a good mark on their resume, will add to their career as opposed to being some detriment to it. So we created this thing called the Reginald Heber Smith Fellowship. Reginald Heber Smith was a Boston Brahmin lawyer who wrote a study of legal aid in 1920 that is a landmark work that refuted the claims of some bar leaders that poor people had plenty of legal services in this country and showed that legal aid was a very weak institution. We also wanted these lawyers to be a kind of yeast in the existing legal aid and the existing legal services program. We wanted bright, young, imaginative, creative lawyers who would go out and inflame this bar. And we thought if we named them Reginald Heber Smith a nice
Brahmin name nobody would ever think that they were subversive infiltrators. The first class was 50 people. I was back the law firm then at Piper and Marbury. I was on the recruitment committee.

Brown: This is 1966.

Bamberger: Must have been ’68. I think the first class was ’68. But it was ’67 or ’68. And we were trying to recruit good lawyers from the top law schools in the country to come to Baltimore which wasn’t always easy. Piper and Marbury would go off to Harvard and talk to three people. So one day I got the list of these people in the first Reggie class and I went into Mr. Marbury’s office. I was on the recruitment committee. I said what would you think about talking to some of these fellows and I said Harvard Law, editor of the Law Review, Stanford, legislative editor of the Law Review and I named these 50 guys most of whom were on law review, top students at the top schools. He said absolutely, absolutely. I said you can’t touch them, they’re all going to work for legal aid. And the next class was 100 and the next few classes after that were 100. But bright young people like you who could have gone to any law firm, in your case in D.C., Baltimore or New York, and gotten a job, paying you I don’t know what the hell the salary was then, probably $30,000 you went to work as a Reginald Heber Smith Fellow for what $10,000?
Brown: I had $18,000 I think.

Bamberger: $18,000 - you were overpaid. And we gave these lawyers - you had your salary - every Reginald Heber Smith Fellow in effect got $18,000 in her or his pocket and then went to a legal aid agency and said would you like to hire me? I don’t cost you anything.

Brown: I think it was $10,000. And you had the opportunity to follow those Reggies. Did these expectations pan out, that they would be the yeast, that they would be catalysts?

Bamberger: Well I think they did. I can’t tell you a scientific survey that I wish somebody would do some time but I mean there are people like you who have followed the public interest path that has led you career all through the law. You’ve been the principal lawyer in this town on public interest work. I can think of more than one thing - on fair housing cases and on lead paint poisoning cases and you’ve been teaching at the law school. Some are still in legal services. Henry Freedman who is now the head of the Welfare Law Center in New York City, Angus King the governor of Maine, many of them are in public service in one thing or another. I mean we had a reunion a couple of years ago of a number of them and it was amazing. Yes, many of them are still in public service. The public interest is a major force
in their careers of whatever they are doing. Even one guy who came to the reunion who is Paris, working for a firm in Paris, is still involved.

Brown: I remember that.

Bamberger: It was so good. Well I shouldn’t say this - I was actually back at legal services when we ended the program for a variety of reasons not related to the quality.

Brown: How did you get back to legal services?

Bamberger: Well I was at Catholic University for five years and Nixon had abolished the legal services program. But he didn’t really abolish it. He took it out of, he really decimated destroyed the war on poverty, couldn’t destroy the legal services program. Very interesting. I think there were three programs that he couldn’t destroy, the foster grandparents, early childhood education and legal services. The continuation of Legal services became the subject of a committee appointed by the ABA and others that came up with solutions that created a not for profit private corporation chartered by the Congress called the Legal Services Corporation which would receive its money from the Congress but would not be a federal agency. And they set out on a search for an executive director. They had a search committee - and there was a board appointed by President Ford of five Republicans, four Democrats- and they had a search committee and
they set out on a search and they came up with four candidates. John Ferren who had been a legal service lawyer in Massachusetts and ran a program at Harvard and had students working in it, later became the chief judge of the Court of Appeals of the District of Columbia; Frank Jones who had been a legal services lawyer at the Legal Aid Foundation in Chicago and then the deputy director of the OEO Legal Services Program when Rumsfeld was the director of OEO, and myself. And the fourth person whose name I haven’t been able to remember. And all four of us had tainted backgrounds. All four of us had legal services background so these Republicans were concerned that these experiences. I was visiting at Stanford Law School that year and Sam Thurman, the Dean of the University of Utah Law School who was on the board and the search committee came out to see me and he also talked to Tom Ehrlich who was the Dean at the law school. A couple of weeks later Tom called the four of us and said “the search committee has asked me if they can put my name into consideration and I said I wouldn’t do it unless it’s acceptable to you four”. And we all said of course and we knew too that Tom was going to be the president. That they had decided to reject us. Our dossiers were tainted. And so he became the president and he asked me. I was the Dean at Catholic University Law School for five years and that was sort of about the life of deans then, particularly if you had tried
to make a lot of changes in the law school, and so I was itchy to leave. I think the faculty was itchy to have me leave, at least some of them. And Tom came to me and said would I be the executive vice president and I think because he wanted a kind of link to the past and I agreed to do it.

Brown: And what did you do there? How long did you stay?

Bamberger: I was there for five years. I was executive vice president.

Brown: Was it a period of expansion or was it a period of shrinking.

Bamberger: It was a period of expansion. I can’t remember the exact figures but the budget of legal services grew and the programs expanded. The number of programs increased, the number of lawyers in the programs increased until 1982 and then Regan became president and the budget went to zero. The budget didn’t go to zero because the Legal Services Corporation was a private corporation chartered by the Congress. Congress appropriated the money but it wasn’t in the President’s budget. The Congress would set the amount. So Reagan always sent his budget up with zero. If we were a federal agency, we wouldn’t have been able to say anything about that. We would have to say “fine, we accept that” and go to Congress and say “fine thank you for zero”. But because we weren’t a federal agency we could go to the Congress and others on our behalf could go to the Congress and argue
for an appropriation. And we did that and our goal was, it seems almost ridiculous to say, but our goal was to have two lawyers for every 10,000 poor people; two lawyers for 10,000 poor people. That was our goal. I was going to say one other thing; it was interesting that when legal services in the U.S. started it became a model for most countries in the western world and it was imitated, this idea of community offices with local control, I mean we were devoluting before the Republicans ever thought about devolution. We didn’t control the programs we asked them to submit under certain guidelines, to do certain kind of work, the kind of work they would do not, limits on the income of people they would represent - but they had to have local boards that controlled them and we didn’t control them. That became imitated around the world as programs and programs grew in other countries. If you look now, every other country is ahead of us. We are at the bottom of the list.

**Brown:** I know from knowing you that you spent a lot of time traveling around the world talking about legal services programs. What part of your career is that all about?

**Bamberger:** Well, you know, yes I have done that. I have done that in both legal aid and clinical legal education. I guess it was first in South Africa back in the darkest days of Apartheid. There was a courageous dean
at the University of Natal-Durban, South Africa who had a conference about legal aid. There was existing government supported legal aid in South Africa but most of its money was spent on the salaries of Afrikaner bureaucrats. It didn’t do very much legal work. And then I was asked to come to Australia to teach at the university there a course about legal aid because the Australian government was interested in increasing the effectiveness of its legal aid.

**Brown:** Then you were educating these nations?

**Bamberger:** I don’t know if I was educating. I was talking about legal aid. I was telling them how the U.S. plan worked and I was also talking about clinical legal education because that was really something also that began in this country.

**Brown:** One of the things I wondered about is you’ve talked about Clint Bamberger the legal services administrator, has there ever been a Clint Bamberger the front line legal services lawyer.

**Bamberger:** I always thought I should try before I die to be honest and so when I was at the Legal Services Corporation Gary Bellow, now deceased, probably along with Edgar and Jean Cahn the brightest brain in legal services and a legal aid lawyer who then became a member of the Harvard law faculty, had an idea to set up - his whole scheme was - I think
it was 11 law school-based legal aid offices that would be teaching clinics for law students and faculty and would in effect educate lawyers. Just as law schools have been seized by corporations and used as breeding grounds for corporate lawyers, so law schools would become producers of legal aid lawyers. And the Legal Services Corporation agreed to fund the first one at Harvard. And I thought - as I say I had never been a legal aid lawyer except whatever kind of pro bono work I did when I was at Piper - and I don’t know whether I asked Gary first or he asked me first but in any event I left the corporation and went to work there. We were actually at an office of Greater Boston Legal Services, the acronym is GBLS, Greater Boston Legal Services, we were an office in Jamaica Plain, then a poor neighborhood in south Boston, mostly Hispanic people, now a somewhat gentrified community. We had students from Harvard and from Northeastern who worked there. I worked there for three years and then Michael Kelly, who was the Dean then at the University of Maryland Law School, asked me if I would come and be the director of the clinical programs at Maryland. This was home, I was born here, I lived here except for 13 years living in Washington and Boston, and so I welcomed the chance to come back.

**Brown:** And you came back as clinical director and what kind of things did the clinics do while you were on board.
**Bamberger:** Well as you know we did a lot of work. One of the things that I learned in Boston was the great danger of lead poisoning of poor children and so we started doing cases representing tenants where their housing had lead. You did a number of those civil cases seeking damages which we couldn’t do. Well I guess the main thing we tried to do was - well the clinic faculty until then had sort of functioned independently as most clinic faculty did. Every faculty member was a clinic unto herself. It wasn’t a coordinated law office; an integrated law office. I wanted to make it that and I failed. Faculty members are kingdoms unto themselves and the idea that they would collaborate was not accepted and in five years I couldn’t even teach them to spell collaborate.

**Brown:** A dirty word in academia.

**Bamberger:** A dirty word. In fact after a while it was called “it”. They wouldn’t say collaborate. So I tended to say can we talk about “it”.

**Brown:** The C word. You have the unique experience of being there before 1965, seeing what the legal services was then and the year 2002 now. Have things improved and how do you reassess looking back at these almost 40 years?

**Bamberger:** Yes things have improved but things are still bad. It’s a little bit like the race question. Yes things have improved but things are still
bad. To some extent legal services is a victim of its own success. I mean if
the legal service program had continued, had not been aggressive, had not
moved to make law, to make existing laws effective for poor people, had not
moved to revise the laws where they were unfair to poor people, legal
services might have prospered.

**Brown:** So law reform: we haven’t talked about this but you were part
of putting in law reform.

**Bamberger:** I never really liked the words law reform. When I was at
Piper & Marbury and we represented insurance companies I didn’t just
litigate cases for them. If I thought that there was a case that ought to be
tried in a particular way in order to establish some principle that would
benefit the insurance industry nationwide or just city-wide and that would
cure some existing defect in the law or some existing provision of the law
that was detrimental to an insurance company, I would do that. That is what
I would do for a client. I would do that for any client. I didn’t think that I
just represented clients in the problem of the day, the isolated problems of
the day. I thought my duty as a lawyer was to look out for the interests of the
client. And that is all legal services did. It looked out for the interests of poor
people. Now it was successful. When one person wins a law suit another
person loses it. And we were challenging some very powerful interests. One
example of that: until 1968 or ’69 but shortly after the legal services
program was created, no legal aid lawyer had ever appeared in the Supreme
Court of the United States on behalf of a poor client. And I can’t remember
the numbers, they are in the book by Earl Johnson. But then a few years
after that there were at least tens of legal aid lawyers who appeared
successfully. Legal aid lawyers or other lawyers, private lawyers,
representing poor people, who appeared successfully in the Supreme Court.
For years public agencies, state and federal agencies had been acting
unconstitutionally with respect to poor people. And nobody was there to
challenge them. Challenge isn’t the right word. That’s sort of an aggressive
word. Nobody was there to say here is the Constitution abide by it. And that
is what these legal services lawyers did. When they did that somebody who
had been profiting I don’t mean necessarily in an economic way, but
profiting by this unconstitutional activity couldn’t continue that way, They
would get angry. And a lot of time it was students. Class actions-
businesses could have a practice that was robbing every poor person or
hundreds or thousands of poor people of $.35 cents or $35 dollars. What
lawyer is going to take that case? So a legal services lawyer brings it as a
class action or even brings it and takes it to the appellate court and the
practice is stopped and thousands of poor people who were losing $35.00 get it back but the business loses $35,000.

**Brown:** I have to close up at the end of this question. What’s the future of legal services? Are we going to continue with our successes? Will we become too successful and that will cause a backlash? Will people get tired of all this helping the poor?

**Bamberger:** Well I’m not optimistic now. The poor are essentially our victims now. We blame the poor for everything. Look at these welfare reform proposals. I don’t dispute the fact that many poor people have gotten employment as a result of some of the welfare reform but there are lots of people who can’t get jobs either because there aren’t jobs or because they are not skilled at getting the jobs. The Soviet Union used to be the political puppet that we fought against. In this country now it seems to be the poor. The poor and al Qaeda.

**Brown:** Is there anything we haven’t covered that we shouldn’t have that you would like to get on the record?

**Bamberger:** Is there anything we haven’t covered? The answer to that is yes.

Is there anything that we should have covered? No.

**Brown:** Great, thank you very much.