

**CHLOE:** Tonight we're honored to be joined by three distinguished UVA Law grads. Professor Micah Schwartzman is a director of the Karsh Center for Law and Democracy at UVA and teaches courses in law and religion, political philosophy, and Constitutional law. He's a Double Hoo and received his JD in 2005 after serving as an articles development editor on *The Virginia Law Review*.

Judge Daniel Bress was appointed to the US Court of Appeals for the Ninth Circuit in 2019. He also received his JD from UVA Law in 2005, where he served as the Editor-in-Chief of *The Virginia Law Review*. He went on to clerk for Judge Wilkinson on the Fourth Circuit and Justice Scalia on the Supreme Court. Before his appointment to the bench, he taught as an adjunct professor at UVA Law and the Columbus School of Law at Catholic University and worked in private practice in both San Francisco and Washington, DC.

Judge Jay Harvey Wilkinson was appointed to the US court of Appeals for the Fourth Circuit in 1984. After serving in the Army, he received his JD from UVA in 1972 and then clerked for Justice Powell in the Supreme Court. Before his appointment to the bench, he taught at UVA Law and served in the Civil Rights Division at DOJ. Judge Wilkinson has authored numerous editorials, law review articles, and books, and is the recipient of the Thomas Jefferson Foundation Medal, which is UVA's highest external honor.

Well, thanks so much again, and I'm going to go ahead and turn it over to Professor Schwartzman.

**MICAH** Thanks, Chloe. And thanks to the UVA Federalist Chapter for hosting this event. I

**SCHWARTZMAN:** feel like we started planning something like this, it must have been about a year ago. So it's really wonderful to have with us Judge Wilkinson and Judge Bress.

I will say they are both good friends. Judge Bress was a classmate of mine in law school, and even my boss because he was Editor-in-Chief of *The Virginia Law Review* when I was the articles development editor. So these bring back lots of fond memories.

And I actually want to start out with a question about some fond memories, and

that is to ask you about your path into law. But I think that really starts with coming to law school. So I thought maybe I could begin with how did you find your way to law school, and especially to UVA? And maybe you could tell us if you have a fond memory from being here, or a favorite class or a professor. We'd love to hear about that. Maybe I can start with you, Judge Wilkinson. Welcome.

**JAY HARVEY  
WILKINSON:**

Well, thank you, Micah. Just a few words, if I may. First of all, I want to express my appreciation for everything that you and Leslie have meant to the law school. That's Dean Kendrick to the students. But I've heard from so many people about your teaching and your scholarship and your mentorship and everything. And you have added so immensely to the life of the law school. And I just wanted to say what a privilege it is to be with you.

And I want also to express my great respect for the Federalist Society and the work that it does on law schools across the country. And I can't imagine a campus environment without you and the contributions that you've made. And diversity has many components, and it's absolutely indispensable to have a group that believes strongly in the rule of law. And I hope that those who are members of The Federalist Society will take pride in that fact and continue to express themselves at all occasions with great courtesy and decorum, but also great conviction. But congratulations to those of you who are members of this esteemed group.

And I also want to say just what a privilege it is to be on a program with Dan Bress, who clerked for me. And I asked him if I could call him Dan, and he said no, you've got to address me as Judge Bress. And so I have to worry a little bit about whether he's going to return my phone calls.

But there was somebody that stopped by the office the other day, and I thought they'd stopped by to see me. And their first question was, well, now, can you tell me what office did Judge Bress clerk in? I said, well, I guess I'm just chopped liver. They said, no, no, no, I just want to know what office Judge Bress clerked in because we admire him so much.

And anyway, normally I'd have to push my clerks a little bit to work hard on something and everything. With Dan, I had to say, now, Dan, don't work too hard because his work ethic is absolutely legendary. But I can't even begin to express

my respect and affection for Judge Bress. Already he is one of the finest judges in this country. He was one of my very best law clerks, and he has remained a very dear and loyal friend. And so I just wanted to say how happy it makes me, Micah and Dan, to be with the two of you all.

**DANIEL BRESS:** Well, I guess, Judge, I've got to respond to that. Let me echo some of the points you made and say first just what a privilege it is to be here. One of my great hopes, especially after I took on this job, was that I could spend even more time in Charlottesville. And COVID has made that so difficult. But I just want to thank the law school and The Federalist Society, and particularly all the students who are tuning in. I have such fond memories of being a law student there. It was a formative part of my career. And I know exactly the life you're leading. And honestly, sometimes I wish I could go back in time and relive it because it was so enjoyable.

Let me say a word about both Professor Schwartzman and Judge Wilkinson. Professor Schwartzman and I now go back, it feels like, to the beginning of time, but really maybe it's when everything began. We knew each other when we were much younger. He jokes that he was my boss. I always felt like it was the opposite. I think I wanted to find the smartest person to be a study partner with, and that was Professor Schwartzman.

But I echo, Micah, what Judge Wilkinson had to say. For those of us who love UVA and law school, it gives us a tremendous source of pride and comfort to know that you are there and that Leslie is there. And one thing I would say to all the students who are listening is people like Micah and Leslie and the dean and so many others making tremendous contributions to the law school, and for those of us who are alumni, which we all are, it's just a huge source of pride to follow your career and to have you educating the next group of lawyers.

And Judge, this may be the only call when you ever call me Judge Bress. In fact, I think once I took on this job, you made a point of just letting me know you were not going to call me that. So I'll enjoy this moment while it lasts.

But Judge, it's just great to be on this call with you. And you were the one who gave me, really, my first job in law, and I feel like I owe a tremendous part of my career,

if not all of it, to your guidance and your help and your training. And so much of that, really, was through the common culture of UBVA law school. So it's great to be honest with you.

I may be living two of my worst nightmares, Micah listening in on a conversation I'm having with Judge Wilkinson, or Judge Wilkinson listening in on a conversation I'm having with Micah. But either way, I'm happy to participate, and thanks again for having me.

**MICAH**

But now you have to answer my question, which is about fond memories UVA, and

**SCHWARTZMAN:**

maybe like a favorite class or a standout moment from when you were law students, or maybe just tell us something about how you found your way to the law school.

**JAY HARVEY**

Well, one of the things-- I chose UVA to begin with because Virginia is home to me.

**WILKINSON:**

And I went to high school at the Lawrenceville School in New Jersey. Then I went to Yale to undergraduate school. But I always knew I wanted to come back to Virginia and come back to Virginia Law School because it was one of the finest law schools in the country. And I couldn't believe my good fortune in having such an incredibly good law school in my home state.

And even after having gone elsewhere to high school and college, I wanted to come home. And home has always been Virginia to me, and I'm proud to be known as a Virginian. And my dad brought me to Virginia when before I was two years old. And he said, if I bring him to Virginia really early, he'll get a Southern accent and won't bedevil me with something else.

So I've been really at Virginia from a very young age. And Virginia is home. And there's something beautiful about the whole notion of home, wherever it may be. Virginia's home. For others, it might be Nebraska or New Mexico, California, or someplace abroad. But the longer I'm at this, I just think maybe we've lost a little bit of a sense of just how much home can mean to us, and the comfort and peace of mind and joy it can convey just from being around family and friends that you grew up with.

And the University of Virginia represented all those things to me. And just to boil it down in the very simplest terms, Virginia is home, the University of Virginia is

home. I love the notion of home. I really wanted to be there. So that's why I chose it.

**DANIEL BRESS:** And Micah, I guess I come at it from a slightly different perspective. I'm not a Virginian. But I was very attracted to the place when I came there, and it was for a couple of reasons. One, I just felt that Charlottesville, as a town and a place, was very welcoming. And the community at UVA was one that was engaged. And yet at the same time there was lots of friendships. I could see that, and that certainly was something that remained true for me for my whole life. I would say my best friends or people I met in law school.

And my best memories, honestly, are probably all my times in our study group. Micah and I had a study group. It was held at Micah's infamous Turtle Creek apartment. And we had a great time there. Some of it was talking law, but some of it wasn't. And those are probably my best memories, learning from friends and studying together. Are you going to respond to that?

**MICAH** No, you're giving away all the secrets, is all I'm saying. And we probably have to  
**SCHWARTZMAN:** mention somewhere here Charles [? Deschat. ?] Wherever you are, thanks for everything that you taught us.

**DANIEL BRESS:** Yeah, he was the one who taught both of us. But those were great memories. And I'll tell you one of my favorite memories of the law school was over winter break when I was studying there, working on a paper. That'll just show you, I guess, how I spent some of my law school time. But I was there in the library with my now wife Lisa, and we were both working on projects.

And a man and woman walked in, and Lisa said, I think that's actually Justice Scalia. And I said no, it couldn't be. And she said, no, I think it is. This was before the internet was as big as it was, and you had to recognize people by face. And so I said, OK, well, this is going to be my only opportunity to ever meet him. So I'm just going to go up and see if it actually is him. And I did, and all I could think to say was, are you Justice Scalia? And he said, yeah, somebody has to be. And that was the end of the conversation. So that was a good memory, among many others.

**JAY HARVEY**  
**WILKINSON:** One of the things Virginia has, and I think it's been the case for many decades, is it just has the feel of a neighborhood or a village in all kinds of ways. I love the small

section concept that I started off with. And I had a wonderful professor, Walter Wadlington, who invited us to his home and would willingly spend time with us. And of course, there are so many great urban law schools in this country. But I don't know if they have the same sense of community because people can sometimes commute in and then commute back.

But at Virginia, at least when I was there as a student, and also when I was a teacher, the faculty remained actually accessible in the building for a large part of the day. And it was not an unheard of thing, when I was studying and having a problem with something, I'd say, well, why I just go ask the professor this?

And so I'd knock on the door, and we would strike up a conversation. And I don't know that that would have been possible at another law school to the degree it was at UVA. And then when I became a professor at UVA, I said, the one thing I'm not going to do is post office hours because that makes students feel like, oh gosh, if I don't show it 2:00 to 3:00 PM on Thursday afternoon, I can't show at all.

And so if you post these office hours, you send a notice of exclusion for non-office hours. And I didn't feel like that was very consistent with the Virginia tradition that I had known and loved as a student.

**MICAH**

I think you would find it's still the case, or at least I hope it is, although obviously

**SCHWARTZMAN:** COVID makes all this more difficult. But I think we'll hopefully be back to our regular open door habits soon.

Let me, before I continue, the students who are on this call-- and there's a great group now-- so if you have questions, I'm happy to field them as they come. I have a set of my own, but I just want to invite all of you, if you've got questions, you can begin to post them, and I'll try to convey them as we go.

So my next question to you is about the beginning of your careers after law school. Both of you clerked for the Supreme Court. But then you took different paths. And I wonder if you might reflect back on those early choices and why you went in the directions that you did, and maybe even whether you had some larger plan, if you had imagined yourself already five years out or 10 years out, let alone further than that.

But most of the students on this call are, I think, in the process of trying to out what the beginnings of their careers will look like. And I think it might be helpful for them to hear about how you conceived of yours.

**JAY HARVEY** Dan, why don't you start off?

**WILKINSON:**

**DANIEL BRESS:** Sure. Well, I wish I could tell you there was some grand plan, but there wasn't. And I hope, if you're a student, that gives you some comfort. I think there's a danger in over programming and being too rigid. And for me, I was somebody who just loved law school. I came to law school and I found that it fit me well. UVA fit me well. And so my first job out of law school was obviously to go and clerk for the judge.

And was a great experience, a life-changing experience. And of course, I know many students are interested in clerking, and I, of course, strongly encourage it. But Micah, I had a sense that I would go into private practice, but I hadn't thought too deeply about it. A lot of times you find out that you're interested in something that you didn't really realize you were interested in before. And for me, that was the case. I had a lot of training in what was essentially appellate work. And when I was done clerking on the Supreme Court, I felt like there might be another aspect to law that I might be good at.

And so I ended up doing more trial work in addition to appellate work. And for me, that was a great fit because it exercised all the muscles. But really, what I did along the way was just kind of constantly ask myself, is this what I want to be doing? And even when you stay within a single law firm, which today is increasingly less common, there are ways to make course corrections and make adjustments. And of course, you rely greatly on your mentors to help you think through those issues.

And for me, when I was thinking about making a change or making an adjustment, Judge Wilkinson was usually the first call I would make. But I would tell I would tell you as a general matter, especially to students, that I wouldn't be too concerned about it. I think you should be happy in what you're doing. But you also have to remember that change doesn't happen overnight. So you can find yourself in a job where you might be not enjoying it for that long, but you make an adjustment, and

things all of a sudden change.

But I loved being a lawyer. I mean, for me, being a lawyer was terrific fun. I actually enjoy the business aspect of law, too, which was a surprise. But I also mostly just had a passion for law as a medium, and that really began at the law school and in my clerkships.

**JAY HARVEY  
WILKINSON:**

One of the points that Dan made that I think is so wise, and that is don't necessarily try to think 20 years down the road. Don't try to plot out a career too far into the future because you won't be alert to opportunities that come along in front of you that you'd never planned on.

And another thing I would reemphasize is that you really want to do what you love. You don't want to do things for other people's approbation, necessarily. It's not a question of what's going to impress your friends. It's not a question, primarily, of what is going to please your parents. There are all sorts of other people you may want to please secondarily, but the primary focus has to be on what you would love to do. What would make you happy, when you get up on Monday morning, that you would actually want to go to work and get into it?

And it's important to take a job for what you love to do and not instrumentally because it's going to help you in some way that you really won't be able to figure advance to the next step because if everything is instrumental, and you take one step in order to get to another step, you've cheated yourself out of enjoying the moment. And you're in your 30s and 40s. They're great decades, and you have your health and your energy. And enjoy those years, and do things that really appeal to you.

One thing I thought-- and my choices were somewhat unorthodox, I think-- but I took the view that I wanted to do these things because I love them. And I thought that I would be better at the law and a better lawyer, and eventually, I think, a better judge if I went outside the law for some of my experiences.

So when I was in my 20s, I decided to run for Congress. And I got the Republican nomination, and I was a law student when I ran for Congress. And my opponent had this slogan, send [INAUDIBLE] back to Congress and Wilkinson back to school. Well, that's OK with me. I was running for the experience. I loved the campaign and I



learned a lot about politics and the political world, which has helped me, I think, become a judge.

And then I wanted to go into journalism for a good while. And so I became a newspaper editor, the editor of the editorial page of *The Norfolk Virginian Pilot*. And I loved just getting up and going to the office and writing editorials and columns and everything about things that I really believed in, and got to really get on a soapbox in a responsible way every day.

And I thought, well, you know, that's a good way for me to learn about zoning boards and housing commissions and all of those things that affect people's everyday lives. And then I wanted to go into government and get some of that. So I went with the Department of Justice in the Reagan Administration.

And so I don't think you necessarily need to have your career decisions follow a strict legal track. I think what you need to do is avoid the midlife crisis that really will hit people in their mid-40s or in middle age. And the way in which you can do that, I think, is to do something you just like to do. It gets that simple.

Not the most prestigious thing, necessarily, but something that really makes you feel like you're making a meaningful contribution here, and something that's going to satisfy you in the evenings when you drive home.

**MICAH** So we had one question from a student. But I think, Judge Wilkinson, you just  
**SCHWARTZMAN:** answered it, which is about your running for office. How did you find yourself in consideration for a judgeship, for an Article III Position and I'll ask you the same question, Judge Bress. I wonder if you can tell us a little bit about your pathway into the judiciary.

**JAY HARVEY** About what is that, Micah?  
**WILKINSON:**

**MICAH** If you could tell us about your pathway into the judiciary. And how did you find  
**SCHWARTZMAN:** yourself under consideration for the bench?

**JAY HARVEY** Well, it took me by surprise. I was in the Reagan Administration working in the Civil  
**WILKINSON:** Rights division. And Judge John Butzner retired, and there was a Virginia seat open.

And a lot of my friends in the Justice Department were anxious to have me put my name forward.

And it wasn't something that I planned on doing all my life. But when the opportunity was presented to me, I thought it was something I would absolutely love to do. I don't think I ever counted on the confirmation process being as arduous as it was or had to go through. I was hanging fire before the Senate for the better part of a year. And they had to take cloture votes, and there were filibusters and everything to get me through.

I thought at the time it was terrible. And now I see some of the things that people have gone through after me, beginning with Judge Bork. And so I think, maybe, in retrospect I didn't have it so bad after all. But you know, it was a controversial time. And it was worthwhile for me.

But it was controversial, and we got to the point where my mother was so upset about it, and the things that were being said and written about it, that we had to make arrangements for her to go to New Hampshire with some friends. And she went off to a little cottage by Squam Lake. And the whole point of having her go to Squam Lake was so that she couldn't read the paper or listen to the radio or hear what was being said, which is not always that pleasant.

And so you have to be prepared for the fact that that might be a possibility. Things are so polarized right now. And I feel particularly sorry for people in private practice that have actually put their practice on hold while the confirmation process is going on. The good thing about it, though, is that if you get through it, you're there for life.

And I can understand that the political process ought to have a real input. And there's a reason for the unpleasantness. And that is that the political process gets only one chance to weigh in. And especially if you're nominated at a very young age, they're thinking to themselves in the Senate, oh, this person is going to be on for a long, long time. We better do what we can, find out who we're getting, or we better do what we can to stop the person at all costs.

But I don't have a problem with that because I think that the political process has got to have some say in who judges are, given the fact that when we assume office,

we're not subject to electoral accountability. So we have to be subject to some kind of accountability. And a rigorous confirmation process is what that's all about, although-- and I think Dan would back me up on this-- it can be-- it doesn't necessarily need to be-- but it can be quite unpleasant. And at the same time you understand it, you should prepare yourself for what's coming.

**DANIEL BRESS:** Yeah. I mean, I agree with so much of what you just said. And there's a common experience, I think, that those of us in this line of work have I've gone through as you go through the process and get to this point.

Micah, in my case, this was not something I had really thought about, other than perhaps in the very dark recesses of my mind or in the middle of a dream at some point. I was happy doing what I was doing. I liked being a lawyer. I had part-time gigs doing law teaching, first at UVA and then at the Catholic University in Washington. That scratched that itch for me.

And I think law students will appreciate that so much of being a lawyer is your reputation. And once you've been doing this for a while, people know who you are. And the connections you make in law school and through clerking prove to be connections that last with you for the rest of your life. And in my case, I had to reach out to ask whether that was something I was interested in. And it caught me very much by surprise.

And I did what I usually do when I have to make big decisions, which is I talked with my wife at length about it and talked to people I trust, both those who probably share my legal views more often than not, and those that don't. In fact, I remember very well, Micah, having conversations with you about it, and of course with the judge, and thinking, is this something I should do, and is this something people would want me to do?

And I decided that if there were some risks associated with it. I mean, I had a very good private practice. I had wonderful clients, and sometimes these processes can go sideways on you. But at the same time, I felt that this was a way to make a contribution, really, to the rule of law and to the United States. And it was that that motivated me more than anything else.

I think that the process can be a difficult one. Any Senate confirmation process is.

But at the same time, in some ways, it prepares you for what you're going to spend the rest of your life doing, which is people criticizing you. And that's one of the great things about America is that you can issue a decision, and people can scream from the hilltops that it's wrong. And that's what makes this a great country.

But in our position you need to be ready for criticism, whether it's fair or unfair. And I think one has to be prepared for all of that. But I had seen firsthand the contributions somebody could make to the judiciary through Judge Wilkinson, and later through Justice Scalia, and I felt like this was a risk worth taking for me.

**MICAH**

Judge Wilkinson mentioned being nominated at a fairly young age, and the process

**SCHWARTZMAN:**

that the Senate has to go through in thinking about a judge's longevity on the bench. I wanted to ask you about that. I have an interest in this issue about the ages of judges at their nomination. Both of you were nominated at really young ages-- if I'm not mistaken, at age 39-- and especially to Judge Wilkinson, I wonder if you, looking back, think it's a good idea to nominate judges at younger ages and whether there is anything that you know now about the job that you might have wanted to know back then.

**JAY HARVEY**

Well, I think more and more, it's become the thing now to nominate someone at a very young age and think, well, we're going to get someone of a particular philosophy for many years to come. That may or may not be true because if you nominate someone in their 30s, it may be that in their mid-50s, when their children are going to be facing going through college, and the judge is going to be facing some very steep tuition payments, and sometimes you put somebody on at 39, you can't tell it at age 59 whether they're going to be the person you thought they were, or whether they've moved in a different direction.

**WILKINSON:**

And there have been a number of people who were nominated at very young ages, and some of them have left the bench. And I can understand why they did it. But at the same time, I think there's also something to be said for if you are nominated to the bench, you should retire while on the bench. But I can certainly understand people who really have a whole lot of expenses that are facing them as their children grow older.

But there is an advantage, I think, in having younger judges on the bench, and the

advantage is this. One of the dangers facing the judiciary is that it can become superannuated. And you can look at some of the pictures of the Supreme Court in the 1890s or the 1920s or even the 1950s, and you can tell at a glance-- and that same is true of pictures of the Courts of Appeal-- and you can tell at a glance that septuagenarians and octogenarians predominate, and in general, are all the senior judges.

And I'm not sure that having a bench that is heavily stacked with judges that are very senior in age-- I'm not sure that's a good idea because you want the judges not to be out of touch with the current generation and with what's happening with younger people in their 30s and 40s. Some of that we can get from our clerks.

But I think there is a danger, if you don't have younger judges, that you're going to have a bench that's generationally out of touch. And you're going to have the public looking at pictures of people with all of them having gray hair and saying, do these judges really understand what's going on in my life? And hasn't time passed them by, or hasn't life changed, or the whole issues before the country changed more than what they would recognize? So I think you want a certain amount of new blood to prevent that impression.

**MICAH** Judge Bress, you want to field that one?

**SCHWARTZMAN:**

**DANIEL BRESS:** I'm happy to. You've written about a lot of this, Micah, and I read your most recent article with a lot of interest. A couple of thoughts on this. I think there's a lot of value to what Judge Wilkinson says. I think that there can be value in having an intergenerational bench. There can be value in intergenerational friendships across ages within a court. I think those all can be, and likely are, beneficial to the development of the law and to reaching common understandings about the law when possible.

I think, though, that age is a sort of a proxy, and different people are in different places in their lives when they're a certain age. And the question, to me, is less about age as a general matter and more about the specific person. And I think that there are the right reasons to want to be in this line of work, and there are probably some reasons that are not as good.

I'll tell you most of the work is done very much in private. Nobody sees it. And I'm not going to describe it as glamorous because a lot of it is highly technical. And I saw that when I was clerking for the judge, and I saw it when I was clerking for Justice Scalia. And many of the legal problems that come up on a day-to-day basis, they can be extremely important problems, but they're not necessarily ones that are going to be on the front page of *The Washington Post* or *The Wall Street Journal*.

And so I think if you're the age I was, you need to make sure you're going into this eyes wide open and understanding just what the job entails because I think that's what breeds long-term success and happiness in the job. It's not enough to enjoy the title or the office or speaking engagements. I mean, the real work of the chambers is in the writing and the reasoning and in the hard thinking that I think produces better results, and results that are more grounded in law. And I think ultimately, I'm not sure how much age really factors into that at the end of the day.

**MICAH**

So a couple students have asked questions about how your experience clerking

**SCHWARTZMAN:** informs your work in chambers now. So how was that experience relevant or important in your relationships with your clerks? Did you carry anything in from your clerkships in how you structure your own chambers?

**DANIEL BRESS:** I feel like I better take that one first. You know, listen, I think clerking can be, and was for me, an absolutely life-changing experience, and let me tell you why. For one, it's just a year of total dedication to the law and to the back end analytics and the structures and different areas of law. It's exposure to wide ranges of law.

But more than that, it's basically a very close working environment. And I had just so many good memories of the year I spent with Judge Wilkinson. And I clerked with two other co-clerks who, really from the minute I met them, were immediate friends and have been lifelong friends.

And then from the judge, you saw the thought process, and you saw the process of writing. And I had the same reaction when I was clerking for Justice Scalia. The output makes it look easy, but the work that goes into it is actually quite difficult. And both Judge Wilkinson and Justice Scalia were master writers in different styles.

But they had a great gift for explaining the why. And I think the thing I took away most from the clerkship in terms of what I do now is just the importance of putting out decisions that people can read and understand, and if they're parties in the case, to feel as though their arguments were treated seriously and answered rather than ignored.

I will say, too, though, that clerking can be, really, a mentorship. And that certainly was that way with Judge Wilkinson and me. I mean, he took a personal interest in my life and my career. And I would call him often and say, I'm thinking about doing this, or I'm thinking about doing that. What do you think? And he would give me his honest advice, and sometimes it wasn't something I wanted to hear. But it was usually pretty good advice.

And these are relationships that are highly unique because it's a year spent together in a more confined environment dedicated to this craft. But boy, was it a lot of fun. And I have to tell you, working for the judge, there's so many stories that I wish I could tell. But we would run around the track together. And judge, I don't know if you remember this. I mean, you would immediately pull up, in your mind, some opinion one of us was working on. And you'd say, well, you know in the second section 2C, here's what I want to say right at the beginning. And then you would be just beginning to dictate this incredible prose.

And we would all be running around the track with no pens or paper, nothing, and saying, oh, yeah, got it, judge, got it. And then we would go back to chambers, and we would all immediately crowd into an office and say, do you remember the way he said it, because it was way better than what I'm doing.

So I encourage all students to think seriously about everything. I know you are. But I also encourage you to make the most of that clerkship once you get and to treat it as a lifelong relationship.

**JAY HARVEY  
WILKINSON:**

Well, Dan, those are mighty wise words and words. And I think there's a tremendous amount to be gained from clerking because if you look at it, you're going to be spending 50 years of your career in practice or in pro bono work or in government or in teaching, you want to do something different for at least one of those years, and that would be clerking.

And Dan, you're much too kind in saying what you got from the clerkship because what I want to stress is that this is-- I'm sure you would agree with me on this-- is that clerking is a two-way street. And I want to say that there is nothing like an intergenerational friendship. You had it with me. You had it with Justice Scalia, and I had it with Justice Powell. And you can have friendships and relationships with your peers, and those are great, and they are very valuable.

But having an intergenerational friendship is really something special. And the neat thing about it is that I learn at least as much from my law clerks-- and what I'm saying is the absolute truth-- I learned at least as much from my law clerks as they learned from me.

And if they didn't know very much about the Vietnam War and what it was like to live through that, or the Reagan administration and what it was like to work for Ronald Reagan, and what it was like to have Elvis Presley come on the scene in the 1950s, and see the stern disapproval in the faces of your parents-- and there are just all kinds of things to be communicated about life in earlier decades and about my parents' generation and my own generation, and being able to talk to people who had fought in World War II, and being able to communicate what they had told me to my clerks because I feel like the relationship between the generations is, to some extent, an oral tradition, part oral history.

But when I say it's a two-way street, I learned so much from my clerks about advancing technology and about modes of entertainment, about music and the arts, and about what the law school environment is like and the way that that's changing, and what undergraduate life is like when they went to school.

And so I'm learning. My clerks are opening up for me a window into a younger generation's life that I just wouldn't have otherwise. And I'm so grateful for that. And one of the things you think about is long after Justice Powell had gone, I'd think how much not only that I miss him, but how much America misses him.

And I think about it every day. We are so polarized now and we're at each other's throats. And the civic culture is way too poisonous. And then I think of this man, Justice Powell, who was a great man of the middle, a wonderful moderate. I didn't agree with him on everything. But invariably his views were suffused with wisdom



and life experience and deep experience in the law. He valued his colleagues. He tried to find common ground.

So where is his example today? Where is his example? And this is the kind of thing which, if you really clerk for a wonderful judge, it's that kind of thing that you can honestly carry throughout life and repair to throughout life. And I think of him often and the vision that he had for America and the way in which he thought, in the face of international challenges, that we would come together as a nation.

And not a day goes by that I don't think about him. And I know Dan feels that way about the many contributions that Justice Scalia has made to our society, what a wonderful justice he was. And so you get this mentorship, you see, and it doesn't cease with death. The mentorship carries beyond the grave. And it's something that lives within you. And I know Dan feels that way about Justice Scalia, and I feel that way about Justice Powell. And we feel blessed. And I hope you'll have that same sense when you leave your clerkship.

**MICAH**

I think we might have time for one more question. And some of the students have

**SCHWARTZMAN:**

asked about the qualities that you look for in a clerk, and maybe if you have advice to students about things that they ought to be doing in order to prepare themselves for clerkships. I know this is something that you both have thought about, and I wonder if there are just a couple of points that you might want to single out as especially important for students who are planning to go in this direction.

**JAY HARVEY**

Dan, why don't you start in?

**WILKINSON:**

**DANIEL BRESS:**

Yeah, I'd be happy to. I worry that the stress associated with the clerkship process has an adverse impact. In my own case, things were probably a little different when I was in law school. At least for me, it wasn't something I was as focused on early on. And it was probably to my benefit because I was more focused on just trying to learn how to be a lawyer, and to enjoy my classes, and to make friends, and to find out what I was interested in in this profession. And then the rest of it sort of fell into place.

Let me offer a couple of thoughts. I think it's very important to realize there's no one size fits all. I think that law students have great and diverse interests. And as

you go through your law school career, you're going to take a class, and you're going to say, that's it for me. That fits me perfectly. And there'll be other ones where you just feel great dissonance, and where you realize it's not for you. And the same is going to be true of your jobs you have over the course of what will likely be a multi-decade career.

For me, I'm looking for people who are engaged. I'm looking for people who are engaged and excited about practicing law, and who have diverse interests, and who care about the federal courts and who want to make a contribution. And I've been blessed, obviously. I've been doing this a lot less time than Judge Wilkinson. But I can tell you I've had fabulous clerks.

And the thing that they share in common is just a passion for learning. I always tell them, when you guys do your clerk draft and it's your turn, pick the case that looks the scariest to you. Pick the one that you're most afraid of working on because that's what this is all about. It's about challenging yourself. And the same is true in law school. Take tax. Will you be a tax lawyer? I don't think so. Not everybody will. But it's a great class to take because it's going to test you analytically. And the same is true of clerking.

And so I think clerking is a great springboard. But let's not forget it's one year in the arc of what's going to be a lengthy legal career. And I want mostly law students to know that wherever you end up, whether you work or not, or whether you work right after law school or clerk a little bit later, these things all have a way of working out. A lot of things happen for reasons you just can't figure out at that time. It certainly was the case for me.

But mostly I'm looking for people much like the people I clerked with who are good in chambers, and who are able to fight back and to stand their ground and to help me get to the right decision because I think there's a huge value in discussing legal issues.

I saw that with the judge when I clerked for him. I mean, one of the great benefits of running around the track every day as we did is that we weren't burdened with books and cases and notes, and we could just talk freely. And I encourage that in my own law clerks because I think when you have that chance to set some of those

things aside and just talk about principles and to do it without notes, I think there's a huge value in that.

So that's an c answer to many questions, Micah. But let me just also say how grateful I am to law school for the clerkship process. And I know, Micah, you're a huge part of that. And I can tell you many of my colleagues here are thrilled to have UVA students. And I'm sure I'll have many who come through these chambers. But I also hope a lot of UVA students will think about spending a year out on the west coast and joining us here in some of the many great states we have.

**JAY HARVEY  
WILKINSON:**

Well, Dan, you make some wonderful comments. Here I don't know that I'm looking for any one thing in law clerks. I just look for a variety of qualities that I think anyone would. Dan used that word engagement, and he's absolutely right about that. I want people who really love the law as much as I do. I've spent my life with it, and I am intellectually fascinated by it. It's like a very interesting geometric structure, and I like to see how it fits.

And I like clerks that will take the same pleasure in seeing how law fits and will take the same pleasure in looking at a finished legal product and getting that sense of satisfaction. Yes, this is how the different pieces of this case interrelate, and this is how we could answer not just the what questions, but the why questions.

And so I want people who share my unabashed love for law which I have spent my life. And so much of what I look for in clerks are just a combination of qualities that anybody would. Obviously, integrity is at the head of a list, and a sense of discretion, and a sense of an ability to work well with other people, generosity of spirit toward other people, and a belief that everybody in the courthouse is somebody you would want to respect.

I want to see a clerk who I think is going to say hello to the service staff in the courthouse, and who's going to have a nice rapport with the court security officers who guard us. They're very important people, including those in the clerk's office and the library staff and so many others. And I want clerks who treat them with decency and respect.

And I'm also looking for somebody, ideally, that would be a lifelong friend and that would keep in touch. And I want somebody who realizes that we have a very

important job to do. Legislative process acts on people with a broad sweep and in generality. But the judicial process acts on individuals much more particularly. And in some ways, when you realize just how much of a person's life is bound up in that case, it imposes a special sense of responsibility upon you. And I want clerks that are humbled in the face of that responsibility.

I want clerks who will stand their ground. But one thing that bothers me is if someone marches into an interview and feels that they have all the answers because they've gotten wonderful grades and they've been successful at each step along the way. I don't like arrogance because I've been on the bench for a long time, and I have to tell you I don't have all the answers, and I doubt that I ever will.

There's a lot that I don't know, and I want to be conscious of not just what I know, but of what I don't know. And if somebody comes in to my chambers for an interview and speaks as though they have every answer in the world, I say, well, my gosh, has done in one year you know what it's taken me decades to do.

And I don't like that. I want a certain sense of modesty and gratitude, and this feeling that being a graduate of the University of Virginia Law School or some other top law school, and getting a good clerkship and having a wonderful career stretching out in front of you-- I want you to understand just how much you have been blessed. You are among the most fortunate people in the world.

And so there's no real room for being jaded or cynical or arrogant. Just feel your blessings because, really, there are people all over who would give anything to be in your shoes. And you should have a certain sense of modesty and humility and gratitude in recognizing that.

And Micah, before we leave, I want to thank you for this wonderful conversation and to tell you how much I've enjoyed it, and how much, again, I respect everything that you've given to the law school. And I want to say also that I could not be with a finer person and a more loyal friend than Judge Bress. And having his friendship is really one of the true blessings of my life.

So thank you, Micah, and thank you to the officers and members of The Federalist Society for making this possible. I've enjoyed every minute of it.

**MICAH** Judge Bress, you want a last word?

**SCHWARTZMAN:**

**DANIEL BRESS:** Well, I wish we could all be in person. I really do. But I think what we're learning in COVID is that these online conversations and phone conversations can actually be almost just as good. And I'm just deeply appreciative and touched by being asked to be here.

But mostly, UVA was, for me, where it all began for my career. And I feel like I owe a tremendous debt of gratitude to the law school and to all my professors there, and all my classmates there, and to Judge Wilkinson, who I view as part of the larger UVA community.

And I think we should all recognize we have a very special thing going on at the law school. And I think there's just so many wonderful features of the law school. And Micah, you're at the very top of that list for me. And like the judge, I'm just deeply impressed by you and the rest of the faculty and the students that I continue to see. I saw them as a lawyer, the new associates coming in. I see them now through my clerks and through the clerks of other judges.

But I think every student should know that there's a great career that's ahead of you. And it's thanks to people like Micah and mentors like the judge that those kinds of things are possible. So thanks again for having me.