



Bill Bradley

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Bill Bradley's career in the forest industry may have been more in the office than out in the woods, but he played a crucial role in clarifying the tax rules regarding a number of timber issues. These clarifications helped to encourage continued tax efficient investment in timberland and the continued growing of trees.

Born in Chattanooga, Tennessee, in 1944, Bill recalled a childhood spent outside, but that was not a motivation for how he chose his career path. In 1965, he graduated with high honors from Emory University with an undergraduate degree in history. When asked why he chose to attend Harvard Law School, Bill said simply, "I got in," but then added, "I had an interest in teaching history at the college level, but I decided to go to law school. When I had the opportunity to go to Harvard, it was not an experience I could pass up." While at Harvard, he was an editor of the *Harvard Law Review* and graduated *cum laude* in 1968.

Bill started his law career in 1968 clerking for Judge Edward C. McLean in the Southern District of New York. At the time, he wanted to pursue litigation, and the Southern District was the place to see litigation in action. One notable case Bill participated in involved the validity of the base patents for xerography and whether the patent holder had committed fraud on the Patent Office in the description of the invention. Copy machines were relatively new at the time, and Bill recalled having to learn about corona dischargers and how paper had to be coated with a precise layer of zinc oxide to produce a photocopy. "It was all quite scientific, but it was a great intellectual exercise to be forced to immerse yourself in something like that," he said. Of his experience working with Judge McLean, Bill described his boss as a "terrific lawyer and a terrific judge."

After his yearlong clerkship, Bill began his two-year commitment with the U.S. Army as an artillery officer; he had joined the ROTC while in law school. With Vietnam winding down, he found himself stationed at a Nike missile base in New Jersey.

At the end of his service in 1971, Bill accepted a job at the Atlanta office of Sutherland Asbill & Brennan (now known as Eversheds Sutherland). "The firm was at the time quite small with offices in Atlanta and Washington, and a total of forty-four to forty-five lawyers altogether," he said. Sutherland Asbill & Brennan had a long history with both tax issues and the timber industry. The firm's founder, Bill Sutherland, grew up immersed in the lumber business because of his father. When Sutherland opened his practice in Atlanta, many of his father's colleagues came to him. "And we still have relationships that go back to the 1920s," Bill proudly shared.

During the 1920s, the rules regarding the taxation of timberland and timber harvesting began to be codified, and Sutherland became one of the early experts in this field.

When Bill arrived at Sutherland Asbill & Brennan, he expected to be assigned litigation work. Instead he was assigned to work with Randolph W. Thrower, who was returning to the firm after his service as Commissioner of Internal Revenue. Thrower had a national reputation for both tax expertise and steadfast integrity; he had been fired by President Nixon because he would not open tax audits of the people on Nixon's "enemies list." One of Bill's first cases delved into the independent contractor status of long-haul truck drivers. The IRS was asserting that these owner operators were common law employees, and consequently, that the trucking companies owed back employment and withholding taxes, which could have

bankrupted them. The matter was resolved when the IRS reversed course and handed down a ruling that truckers were independent contractors.

Other cases Bill worked on dealt with the valuation of standing timber for tax purposes. "At the time it made a big difference at the corporate level whether the company was taxed at capital gain or ordinary income rates," Bill explained. "Under the law, you received capital gain treatment on the harvest. How a gain is taxed is highly significant to how the underlying asset is valued. An asset that has a high tax means it is worth less."

There was not a formal process for how the valuation of standing timber was calculated, and Bill's team pioneered an approach that took into account a careful analysis of economic issues to make the company's valuations more defensible in its annual audit. Developing the calculations and identifying the factors that should be considered, such as hauling distance to the mill, the markets for the timber, and application of appropriate discount rates to take account the length of time before timber could be economically harvested, was an intellectual exercise that Bill enjoyed. "We spent a lot of time on this work and developed approaches that had not been used before," he said.

Another significant timber case he worked on dealt with Roseburg Forest Products Company and the calculation of the depletion allowance when the harvest involved timber tracts spread over a wide area. Bill's team challenged the IRS interpretation of a regulation that was written in the 1920s, although the issue had not been addressed before. The case was decided favorably for Roseburg in the Tax Court, in a decision that was affirmed by the 9th Circuit Court of Appeals, which declared that the regulation, as interpreted by the IRS, was invalid.

During the 1980s, Bill also made significant contributions to increasing the ownership of timberland by the tax-exempt community, such as university and college endowments, charitable foundations and pension funds. His team sought clarification from the IRS on the question of whether a tax-exempt organization was subject to tax when it granted rights to harvest standing timber. The reason this was significant, Bill said, is because, "if the harvest generated unrelated business taxable income, the normally tax-exempt organization would be taxable on the gain. If so, these tax-exempt organizations would not invest in timberland because they do not want investments that generate taxable income when other investment income, such as corporate dividends, were not taxable."

The firm obtained a ruling from the IRS that said the revenue was not taxable. "And that opened up timberland investment to these tax-exempt investors," Bill explained.

From this ruling, new investors in the form of timberland investment management organizations (TIMOs) and real estate investment trusts (REITs) started investing in timberland, and Eversheds Sutherland pioneered the REIT ownership structure that has now become the prevalent model in timberland investment.

After the Roseburg case, Bill found himself handling more timberland acquisition work, which he said was also challenging. The firm's team, which included himself and lawyers with expertise in fields such as real estate environmental and antitrust law, were negotiating transactions worth billions of dollars.

Outside his law practice, Bill fulfilled his original career goal of teaching through a connection with Dr. Bill Sizemore,

an appraiser and economist (and long-time member of the board of the World Forestry Center) whom Bill had worked with on timber valuation. In addition to his appraisal practice, Dr. Sizemore taught courses at Duke University on timber appraisal issues, and he asked Bill to be a guest lecturer for his classes. When Dr. Sizemore offered these same timber evaluation talks at the World Forestry Center, he asked Bill to participate there as well. This was Bill's introduction to the World Forestry Center, and in 1996, he was asked to join the board. He served as an active member of the board for the next fifteen years before transitioning to serving on its honorary board.

It was through his relationship with the World Forestry Center that Bill created *Who Will Own the Forest?*, an annual conference convening the leaders in forestry, taxation, real estate, and investment to discuss issues related to domestic and foreign investment in timberland. "Nobody in the country was talking about these issues, and there was a lot of these issues swirling around at the time," Bill explained. "The question was whether exempt investors would become the dominant owners of the large forest properties traditionally held by the integrated forest products companies and whether the forest products companies would divest their timberland holdings to concentrate on manufacturing. No one was really sure."

For the next fifteen years, Bill was personally involved in recruiting speakers and developing the conference theme. Even after he stepped down, the conference has remained popular and attracts over 400 participants each year. Bill said that the extraordinary success of the conference was much more than he could have predicted.

Bill is also a board member of the Forest Stewards Guild, a position he has held for the past ten years. A colleague in Sutherland's Washington office was a childhood friend of the Guild's executive director and they were looking for a lawyer to serve on the board. "And I said I would do it," Bill succinctly explained when he was asked to serve.

In addition, he has served on the Board of Visitors of Duke University's School of Forestry (now the Nicholas School of the Environment) and is an honorary graduate of the Warnell School of Forestry at the University of Georgia.

Bill is a senior partner at Eversheds Sutherland resident in the firm's New York office, but he no longer handles significant casework. Throughout his career at the firm, he has held several different positions. He was the managing partner of the firm's Atlanta office from 1990 until 1995 before moving his practice to New York in 2002 to serve as the partner-in-charge of that office until 2015.

In looking back upon his career of more than fifty years, Bill said he has been fortunate to have had a number of varied assignments and the opportunity to work in the niche specialties of timber taxation and timberland investment. He is also modest about the role that his team at Eversheds Sutherland has played in codifying taxation rules that promote the investment in timberland. "At the end of the day, we are just lawyers," he said. "We try to serve our clients, to help them in their transactions, and help them accomplish what financial and other goals they need to accomplish."

And of the people he's worked with along the way, "I have thoroughly enjoyed the people I have met in the forestry community. They are by and large talented, smart people, generally both modest and honest. That part has been a great deal of fun."