John Jelderks: An Oral History
John Jelderks
An Oral History

FOREWORD BY JUDGE OWEN PANNER

US District Court of Oregon Historical Society
Oral History Project
Portland, Oregon
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The Oral History Project of the District Court of Oregon Historical Society began in 1983. Through the efforts of Judge James Burns and his wife Helen, a gathering of lawyers, judges, and historians took place at the Society’s inception. The Honorable Robert F. Peckham, District Judge for the Northern District of California, discussed the Northern District Historical Society and the inspiration was born for Oregon’s District Court Historical Society, the second such organization in the country. The original Board of Directors of the Society was composed of twenty-one members with bylaws including the Presiding Judge of the Court, the Chief Justice of the Oregon Supreme Court, and the President and a representative of the Oregon State Bar. The original officers and directors included outstanding judges and lawyers – Judge John Kilkenny, Honorary Chair, Judge James Burns, Chairman, Randall Kester, President, Manley Strayer, Vice President, Elizabeth Buehler, Treasurer, Susan Graber, Corporate Secretary, and Robert M. Christ, Executive Secretary, along with many other top names in Oregon’s legal history.

The Society decided to collect, study, preserve, analyze, and disseminate information concerning the history, development, character, operations, and accomplishments of the United States District Court for the District of Oregon. It was therefore logical that the Oral History Project should be established to preserve the histories of the judges, law firms, and lawyers who actively practice in the Court. With the assistance of Rick Harmon and James Strassmaier, the Oregon Historical Society held seminars to educate volunteers in taking oral histories with a biographical and Court-oriented focus. The Oregon Historical Society has been most
cooperative in agreeing to maintain these histories in their permanent collection for study by scholars and other interested parties.

These oral history interviews have been taken by recording devices, and are either transcribed or transcription is underway. A transcript reproduces, as faithfully as possible, the original sound recording that reflects the special value of oral history, namely its free and personal expressiveness. Most of the transcripts in the District Court Collection have been lightly edited and reviewed for clarity and accuracy by the narrators. That process continues. It is through these wonderful oral histories that the story of the Court is told. We now have recorded nearly 120 individuals since the project began. The goal is to record the individual histories of all the judges of the Court, as well as those of participating lawyers. The Court has a rich tradition reflected in the activities of the judges and lawyers of the Court. The recording has been done not only by professional historians, but also by dedicated volunteers. As one such volunteer said, “The opportunity to interview someone that you always admired is truly an exciting experience.”

The history of the Court is being created by the men and women who have participated in its collection and activities. The Society’s goals are to collect as much of that history as possible, because is it the history of the law and those who make it that constitutes the moral development of humanity. All of us who are students of the law venerate it. We are also interested in the people who make it.

Judge Owen Panner
February 28, 2006
Magistrate Judge John Jelderks began recording his oral history with Donna Sinclair in 2006 and concluded with Janice Dilg in 2009. His oral history marks the transition from cassette tape to digital recording format for the US District Court of Oregon Historical Society oral history project. Jelderks’s oral history recounts his early life growing up in the Willamette Valley, his education from primary through law school, and aspects of his personal life. The interview centers on his legal career from the District Attorney’s offices of Marion and Hood River Counties, to his selection as a Magistrate Judge, and to his current status of Extended Service Recall with Substantial Service.

John Anthony Jelderks was born October 30, 1938 in Salem, Oregon to Katherine “Kate” (Marshall) and John Jelderks. Kate moved with her family to a farm near Gervais in 1904. His father’s family migrated from the Midwest and eventually became farmers in the Gervais area as well. John has an older brother Marshall. Many of the ways that John Jelderks earned spending money or to pay for college reflect the Willamette Valley’s agricultural history: picking strawberries as a youth, and later working at a food processing plant.

John Jelderks enjoyed learning and found academic success easily at primary and secondary schools in North Salem. Extracurricular activities included 4-H Club, clarinet lessons, and, in high school, attendance at all sports games. John was a regular participant in Young Life, a non-denominational Christian group. Upon graduation, Jelderks enrolled in Willamette University. He joined the Sigma Chi fraternity, played intramural sports, and graduated with a Bachelor’s Degree in Psychology in 1960.

After college graduation, John signed up for the Oregon Air National Guard, and then the US Air Force Reserve. During that service, he attended the Willamette University College of Law. In 1966, Jelderks was commissioned as a Legal Officer in the Naval Reserve and was assigned to Multnomah County Circuit Court Judge Robert E. Jones. John clerked for Oregon Supreme Court Justice Gordon Sloan, and then went to the Marion County District Attorney’s office in 1965. He moved to the Hood River County DA’s office in October 1966. After four years, John had a brief tenure in private practice in Hood River.
In 1972, John Jelderks was appointed to his first position on the bench in Oregon’s 7th Judicial District. His case load ranged from domestic relations and child custody cases to lawsuits against large aluminum companies and, after 1981, many cases related to the Bhagwan Shree Rajneesh and his followers. When the U.S. District Court of Oregon added another Magistrate Judge to the district in 1991, John Jelderks was selected for that position. One of the high profile cases that he handled during his tenure was Bonnichsen v. United States, which determined the legal ownership, and disposition of, ancient human remains found near Kennewick, Washington in 2002.

During law school, John married fellow Willamette student Ann Marie Aronson, and they had two children, Sarah and Joel. They divorced in 1977, and in 1979, John married Suzanne, and they remain married today. She had two children, Bruce and Cyndi, and, in 1983, Jeff was born to John and Suzanne. Daughter Sarah died in a tragic automobile accident in 1983 when she was an exchange student in Australia.

This interview covers Jelderks’s campaign for the Oregon Supreme Court in 1987, and his views about sentencing guidelines, writing opinions, choosing law clerks, and changes in the courts. John has always taken community involvement very seriously and discusses the value of that work. His involvement with professional organizations is also discussed, as well as various awards that he has received.

When asked to list his memorable cases, John replied that while multi-million dollar corporate cases are important, they can be appealed, and the outcome is not so personal. “A child custody case or a termination of parental rights case . . . that is a more important case. It’s going to really affect somebody; one or more people’s lives are going to be really impacted by that. To me, that is really important.”

Janice Dilg
October 2011
Family Background

DS: This is Donna Sinclair. Today is December 19, 2006. I’m interviewing Magistrate Judge John Jelderks in his chambers in the U.S. District Courthouse in Portland, Oregon. This is tape one, side one, and today we will be talking about his family history and his childhood.

I’ll just have you start by stating your full name and date of birth and place of birth.

JJ: My name is John Anthony Jelderks. I was born October 30, 1938 in Salem, Oregon.

DS: Let’s start by talking about your family history.

JJ: Let me just say that’s the same year that the gold man on top of the current Oregon State Capitol was born. I like to say I was in the same neighborhood as the Capitol Building, not far away, where I was born and went to grade school. When I’m in Salem now and look at the gold man on top, I like to think that he and I arrived in Salem at the same time.

DS: Well, that’s nice. Let’s start with family history. Tell me about your family background and how they came to the Pacific Northwest.

JJ: My mother was born in Baltimore, Maryland in 1903, and when she was about a year old her parents came across the country and settled in the vicinity of Gervais, Oregon, just north of Salem. They rented, as I understand it, for a year while their house was being built on a farm about a mile west of Gervais, on the St. Louis Road.

Why they came across the country, I really don’t know. I don’t know that I ever discussed that with my mother or my grandparents.

DS: Can you give me their names for the record?

JJ: His name was Robert Semple Marshall, and her name was Kate Marshall. Her maiden name, her true name, was Katherine Kalb.

DS: And your mother’s name?

JJ: My mother’s name was Katharine Marshall.

DS: And what kind of work did they do when they came to—

JJ: My grandparents always had a farm. As far as I know, never worked for anyone else. My grandmother, particularly, was perhaps the most self-contained, hardest-working person I’ve known in my whole
life. By self-contained, everything that they ate, wore, rugs, whatever, my grandmother made all that. So she made all her own clothes—her kids’ clothes—made beautiful braided wool rugs for not only her two daughters, my Mom and my Aunt Vesta, but for all of her grandchildren.

We used to go there to have Sunday dinner every Sunday when I was a boy. For example, Sunday dinner would always consist of fried chicken. The chicken, which my grandmother had raised and had butchered Sunday morning in order to clean and pluck and fix for dinner. If there were vegetables in season, we’d have fresh vegetables from her garden. If it was not garden season, we would have vegetables, which had come from her garden and been canned by her and then used during the wintertime. She generally always had a cow, so to the extent there was milk and cream, they came from her cow. She had a cream separator that separated the milk from the cream; the old hand cranked type. From the cream she would make butter. We’d have buttermilk.

So when I say totally self-contained, the things that she would buy at the grocery would be like staples—flour, sugar. She did all of her own baking. All of the bread. You’d never eat any store-bought bread at my grandmother’s house. She, I say “she” because my grandmother lived quite a bit longer than my grandfather, and my grandfather was pretty ill in his later years, so my grandmother was really the driving force during most of the time I remember them.

They had a wood stove for heat and they’d buy slab wood from a nearby sawmill every year. She’d get big piles of slab wood, which she would chop and cut into burnable size wood and kindling. She had a wood cook stove. The wood cook stove not only was used to cook everything—she was a wonderful cook—but also used to heat hot water and heat the kitchen area. On Sunday there was always a fire in the cook stove where she was cooking Sunday dinner.

DS: When did he die?

JJ: You know, I can’t remember when my grandfather died. It was when they still lived out on the farm. They had a little old four-apartment building in the Hollywood district in Salem. Sometime after my grandfather died, my grandmother stayed on the farm for several years and then moved into her old apartment house in North Salem.

DS: And were you an adult at that point?

JJ: I was in college and/or in law school when she was living there, I recall. My Aunt Vesta moved over from the coast during the time I was in law school and three of my friends from school and I had a rental truck and moved her over—or, two friends and my cousin’s husband,
Bud. I distinctly remember my Aunt Vesta moving into one of the apartments because there were four apartments in this old apartment building.

DS: Were there any other siblings besides Vesta?

JJ: Just Vesta and my mother. Vesta was ten years older than my mother.

DS: And where was the farm located? You talked about them being in Gervais and then moving to the farm.

JJ: Well, yeah, they were on the old Highway 99E. Actually, they lived in a historical house. I think it’s still there with maybe a historical marker; the Sam Brown House I think it’s called. I’m quite sure that’s where my mother and her parents lived that first year in Oregon, and then that’s when they moved to the farm, one mile west of Gervais, on what’s called the St. Louis Road. You can see it if you drive to Salem. You’ll see the St. Louis Road on an overpass over Interstate 5. And interestingly and coincidentally, Interstate 5 went through one edge of my grandparents’ farm. So when you drive from Portland to Salem, you actually will drive through part of their farm. You’ll see some big cottonwood trees on the east side of the I-5 where their home was. And then if you go another twelve or fourteen miles south, you’ll drive through what was my parents’ little farm east of Salem, because Interstate 5 went right through the nice big barn that we had on the little farm where I spent most of my growing up years.

DS: How about your father’s side of the family?

JJ: My Grandmother Jelderks came over from Germany, somewhere between the ages of twelve and fifteen, I believe. She came from the town of Wiener, Germany, which I went to visit some years back to see if I could find any roots, and I couldn’t. So she was actually born in Germany, came to the United States, and met and married my Grandfather Jelderks, whom I believe was born in Illinois. And back then; as I understand it, his family had come from the town of Neermoor, Germany, which I went to see. It’s just a little crossroad now. Maybe there’s one little store or something there as I recall, but it wasn’t far from Wiener and it’s my understanding that in those days people from one part of Germany who came to the United States would tend to congregate in a little town somewhere in the U.S. where other people from the same area were. I assume that’s how my grandmother met and married my grandfather.

DS: What were their names?

JJ: His name was Balster Jelderks, which is an interesting name. I also had an Uncle Balster and there’s another Balster.

DS: How do you spell that?
JJ: B-A-L-S-T-E-R. And her name was Hermina, which would in this country probably be called Minnie. Because my dad’s siblings all have different names, like my Uncle Steenus we’ve called Neus. My Aunt Minnie I think was probably really Hermina. My wife has become interested in genealogy and she probably has all of this down somewhere, but the names changed a little bit and became more Americanized, I think. But her name was Hermina, my Grandmother Hermina. She died in 1947, so I wish I could tell you more about her, but she died when I was about nine years old and actually was living with my family when she died.

I didn’t ever know my Grandfather Jelderks. He had died before I was born, but my Grandmother Jelderks lived across from my Marshall grandparents on this old St. Louis Road. They had a farm that was right across the road and about a quarter mile closer into the town of Gervais. So the typical Sunday for me as a little boy involved going to my Grandmother Marshall, Little Grandma we called her; she was small. We went to Little Grandma’s for Sunday dinner.

Then my dad and I and my brother, when he was younger, would go to—usually my mom would stay at her parents’ place—then my dad and I and my brother Marshall would go to the Big Grandma’s house, Grandmother Jelderks, and spend some time visiting. And my Uncle Ben, who never married, lived with my grandmother, and so we’d visit with my Grandmother Jelderks and my Uncle Ben Jelderks—whose true name was Balster—we’d spend some time with them. Then we’d drive a mile to the east into the town of Gervais where my Aunt Rickstra, who was known as Rexie, where she and her husband Charlie Vogt had a place in town in Gervais. And we’d kind of make that loop and visit them.

DS: And that was a regular activity on Sunday?

JJ: That was a regular, like clockwork, Sunday activity as I remember it.

DS: What did you call Grandmother Jelderks?

JJ: The Big Grandma.

DS: The Big Grandma.

JJ: And now in this more politically correct world, I don’t know if she would have appreciated being called The Big Grandma or not, but there were never any repercussions from that that I can recall. And whether we called her The Big Grandma to her face or whether that was just how within the family we referred to her, I don’t know.

DS: So, you mentioned that your other grandmother, The Little Grandma, was very self-contained. What was your Grandmother Jelderks like?
JJ: I think my Grandmother Jelderks was probably a typically strong, of good, sturdy stock, German housewife. But unfortunately, she became pretty ill when I was still relatively young. And my Aunt Minnie, who worked at the Fairview Home in Salem, took a leave of absence from her job at Fairview, and both my Aunt Minnie and my Grandmother Jelderks moved in with my family. And my Aunt Minnie took care of my Grandmother Jelderks until she died in 1947.

DS: And your Grandmother Marshall, your Little Grandma, was—you told me when we talked last that she was a very strong woman.

JJ: Strong mentally and I think strong physically. She lived to be almost one hundred, ninety-nine and two thirds, and I can remember when she was seventy-five years old, she saw me doing some pushups. Next thing I knew she was down on the floor seeing if she could do pushups and my memory is that at age seventy-five, she could. But her typical week included giving nursing care to my grandfather. He was bedridden during the last part of his life and required quite a bit of care. So in addition to those nursing duties, her typical week was to do something productive from sun-up to sundown every day except Sunday. And on Sunday she would go to church, always go to church on Sunday, prepare the Sunday dinner, and then Sunday afternoon till bedtime after the dishes were done, that would be her few hours of relaxation per week. The rest of the time she was, and I kid you not, she was literally doing something productive.

DS: What do you mean? Like taking care of the farm or other kinds of things?

JJ: Well, taking care of the farm, the animals. And the farm, in her later years, was running down, but she would be sewing, knitting, tatting, making rugs, canning, baking, something productive.

DS: How big were the respective farms? Do you have any idea?

JJ: Oh, man. They had, it wasn’t a big farm, maybe forty acres. My grandparents’ farm, the Marshall’s farm stayed the same. And my grandparents Jelderks’ farm probably stayed the same, but it seems like my dad ended up owning part of that at one time and doing a little farming there. And then our farm in Salem would change size from time to time as my dad would buy or sell some property that adjoined us. But they were not big farming operations and not particularly successful financial operations as best as I can tell. They were more like The Little Grandma’s farm took care of them. But as far as raising a lot of crops that made money, the soil was not particularly good, it was not a good part of the Willamette Valley. It’s not like out by Pratum or Central Howell [Silverton area].
where there’s really good soil out in that area. Where they ended up settling, the land was pretty poor. And that’s probably why they ended up there. It probably didn’t cost as much to buy as the more prime farmland in the Willamette Valley.

DS: So they didn’t have to work outside of the farm, though, that you know of?

JJ: Never that I know of. My grandmother never had a job off the farm. My Grandfather Marshall to the best of my knowledge never had a job off the farm. My parents, my father never had a job for a salary or wages from the time I was born. Well, I don’t know if he ever had what you’d call a real regular job. He had a little insurance agency, but that was before I was born. My mother, in contrast, almost always had a job working outside of the home.

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Parents

DS: Let’s talk about your dad. Let’s start with you telling me his name and a little bit of what you know about him before you came along.

JJ: His name is John Jelderks, with the same middle name as mine. And I’m not sure if he actually had the middle name until I was born, but anyway, it’s John Anthony Jelderks. He was born February 5, 1894. He was forty-four years old when I was born, and he was born in the Midwest, I want to say Illinois but I get mixed up sometimes. They were in that area. And they must have spent some time in Minnesota as they crossed the country, because my oldest aunt married a Rasmussen and lived in Roseau, Minnesota way up near the Canadian border. And the picture I have is they were moving across the country, she met Mr. Rasmussen, and stayed behind as the rest of the family moved to Oregon.

As best as I can recall, my father had a lot of siblings, but they came to the Portland area. Then at some point, my grandparents and a couple sets of aunts and uncles and their kids went back to the Arlington area up above the Columbia River and homesteaded. I think just stayed long enough to prove up their homesteads—to stay long enough to have title to the property, and then they sold and moved to the Willamette Valley, with some settling more in the Portland area and my grandparents and at least my Aunt Rexie and Uncle Ben in the Gervais area. I don’t know what year that would be, but my dad talked about spending time in Portland as a young man. But while his folks were homesteading, and my aunts and uncles were homesteading, his one sister and one brother maybe in Arlington, my dad worked on a sheep operation out of the Shaniko area—a big sheep company out herding sheep. And I’m told he had a beautiful horse and then during World War I, I know that he rode his horse into the town and enlisted in the Army and went off on a train in World War I.
DS: Into which town, do you know?

JJ: It would either be The Dalles or Arlington. I don’t think they had a car, because my older cousin, she was a very bright lady and interested in history and genealogy. And actually I have a tape recording of my son interviewing her that I would like to go back and listen to myself, because I think she told some of that early history that I’ve never really talked to my Dad about. But she lived in Arlington. She was a little girl when they were homesteading in Arlington and so has a memory of my dad’s nice horse and told me my dad was a good musician—played the violin, which I never heard him play the violin, which she said he did. And there was something in the story about the first time he ever rode in a car. It was maybe when they left Arlington and went to the train. That doesn’t sound right as I say it, but it was something about a car in there too, as well as the horse.

And then when my dad came back from the Army, by then his parents, I believe, had the farm in Gervais, and he probably went back there, and that’s probably where he met my mother.

DS: Okay. Because I think you told me that they came to this region around 1905? Do I have that wrong?

JJ: Which side?

DS: Your father’s side. I thought you said 1903 or ‘04 or ‘05.

JJ: No, that would be my mother, for sure would have been in about 1904. I think it would have been later, like in the teens, when my father’s family got here.

DS: Okay.

JJ: I did have some deed records from Arlington or from Gilliam County. I’d like to dig those out someday because that would say exactly when they were in Arlington or Gilliam County. [Narrator comment: My grandparents sold the Gilliam County 160-acre homesteaded property in June of 1919.]

DS: So he would have been a young man?

JJ: Young man, yes. He was ten years older than my mom. I kind of picture them meeting when she was in college.

DS: Well, tell me about her.

JJ: Okay. My mom grew up on the farm in Gervais. She went to Salem High School, which is interesting. The old Salem High School is where the Meier and Frank Store is now in Salem. She took the train every day to school. The old Oregon Electric train used to run at least from Eugene to Portland. I don’t know if it went any farther south or north, but it was a regular run between Eugene and Portland. And she would go over to the St. Louis train crossing just down the road from their house and catch the train.
to Salem every morning and back home every evening.

My mom was quite bright as a book learner. Good grades, I’m sure probably perfect grades. She was valedictorian at Salem High School, and then she went to Oregon State.

DS: What did she do at Oregon State? Do you know?

JJ: Well, she was the editor of the yearbook. It was either the yearbook or the newspaper. I get mixed up. She was involved with that and got her degree in, what did they used to call it, business sciences, something like that because she was a good typist and they had a name for that, but it’s not coming to me at the time. Stuff they don’t even have anymore because now it’s keyboarding. She taught high school for one year in Estacada. That was her first job out of college, was to teach school in Estacada. And she and my dad were courting then and then they might have gotten married right after that year and moved to Salem—somewhere in that area because she only taught school for one year.

DS: And then when they moved back to Salem, where did they settle?

JJ: They had a new house, maybe had it built, it was 1564 Center Street. Which, as I say, isn’t too far from the state capitol. And we lived there from the time I was born, I lived there through the first grade, and then they bought this farm out just east of the Salem city limits. And while my dad was fixing up a house there that he bought and had moved out there from Salem near the capitol. They put in the Capitol Shopping Center it was called, I believe, and a lot of the houses that were there were sold and moved. And that’s what my dad did for a number of years. Bought houses that were in a highway right-of-way, or in this case, in the way of the shopping center and moved them. And then fixed them up and either rented them out or sold them.

Then we moved over to an old house on 16th Street, a few blocks away, while the house was being fixed up and getting ready out in the—I say country, but it was really just the edge of town where I-5 is now and right across the street from what’s now the Lancaster Mall. But that was all nice countryside when I was a boy, particularly before the freeway went through.

DS: So North Salem?

JJ: Yes, Northeast Salem. And so we moved over on 16th Street for just two or three years. That’s where my aunt and grandmother moved in with us. My grandmother died there. My aunt went back to work. We moved out to the farm.

DS: And your farm was the one that your parents purchased, or was it your grandparents’?
JJ: No, my folks purchased it.

DS: And it was near to where the Marshall grandparents’ farm was also?

JJ: Well, not near. I-5 went through both of them, but they’re about fifteen miles apart.

DS: Oh, okay, that’s further down.... Okay, we’re back on. You mentioned that your father bought these houses and moved them. Can you tell me a little bit more about him? He sounds interesting.

JJ: My dad was kind of a character. He was very bright. I honestly don’t know if he even went to high school. You know, I always assumed that he did, but I talked to my brother recently about it and if he went to high school, we don’t know where or when, and I never asked him. But he was very bright, very mechanical. He could do lots of things. Just as an example, my brother had a two-cylinder French car. He bought it one time and then it wasn’t running right and my dad wrote to Paris, got a book, took the engine in and out two or three times. And so, stuff like that. He built a house. With some help he could build a house. All of the equipment we had on the farm was, nothing was new. It was all older equipment, horse-drawn equipment basically that would be modified to be used with a tractor. So he was good at gadgets and making stuff work. I don’t think any of it ever really made any money other than the real estate that he bought and sold, but he farmed some. As I say, he fixed up houses, sold them. What else did he do that we’d consider work? You know, he kept busy, but he was kind of a character.

DS: What year did they buy the farm?

JJ: That would have been about 1948 or ’49.

DS: So you lived in the city until you were about ten years old?

JJ: Yes, through the fourth grade. So that actually would be, maybe I was eleven or twelve when we moved out to the farm. But I still went to school in town. I was close enough to walk home from one of the nice city grade schools, so it wasn’t like we were remote. But it was country, where you had animals and tractors and stuff like that.

DS: And your dad at that point started farming?

JJ: He always farmed a little. He had, you know, we had some ground there where one year we had five acres of good strawberries. Next year they weren’t so good. Next year they probably weren’t any good. He had some land out at Lake Labish. Both there and out at Gervais, he raised some onions, I know. He raised some grain at times. He had an old-fashioned threshing machine that he’d crank up. I think probably one of the last
real threshing events in Oregon was an old Dutch couple that lived not too far away that wanted to have their grain threshed. I remember my dad taking the threshing machine over there and a tractor to operate it with. He had the old harvest lunch and the whole bit. And it was like an anachronism like maybe something people would have done twenty years earlier, thirty years earlier, forty years earlier. But everybody else was using more modern combines and my dad still had this couple of functioning old threshing machines.

DS: Did you work with him around there when you were a child?

JJ: Oh yeah, some. My brother liked the animals and raised hogs, particularly. But I wasn’t much of a farmer. We were involved with 4-H, so I had showed animals at the fair and things like that, but my brother was more into farming.

DS: And your brother’s name was Marshall?

JJ: Marshall, obviously named after my grandparents.

DS: Did you have any other siblings?

JJ: No. Just my older brother. He’s three years older than I am.

DS: And how about your mother? Tell me about her.

JJ: She was a really good person in that she tended to see the best in everything and never really hurt or said much of anything negative about anything. You know, she was super-bright book-wise, I know, because of being valedictorian and doing well in college. I think the jobs she had though, for the most part, were clerical-type jobs. So, it wasn’t like she went on to get a Ph.D. or become a college professor or things that intellectually she probably was capable of doing. I think work-wise she was happy to do other things. She was active in the American Association of University Women, AAUW. I know she was active with them and maybe president of the Salem chapter at one time. So she belonged to some organizations like that. She was, I don’t know if I’d say real active, but she was a regular attendee of the First Presbyterian Church in Salem.

After she moved into the Capitol Manor, a retirement home in West Salem where she lived that last fifteen years of her life, she was very active, right up until the time she died. You know, with playing canasta one night, Scrabble one night, getting together with one group of mainly men for breakfast, whose wives didn’t get up for breakfast, and she had a different group that she’d have lunch with, a different group for dinner. So she had lots of nice friends that she enjoyed over the years.

DS: And what was her job when you were a child?
JJ: She worked for the State Forestry Department for a little while, but most of the time she worked at the Marion County Courthouse. I can remember her working at the courthouse when it was still the old historic courthouse that was torn down when the new one was built—late in the fifties maybe it was torn down. But I can remember going with her to the old courthouse in downtown Salem. Then she worked at the new courthouse after it was built. She was a Deputy County Clerk. She worked in the County Clerk’s office. And then she retired and was kind of called back to work, so she worked I think into her seventies at the clerk’s office. She enjoyed that.

DS: So you went to the courthouse as a child?

JJ: Yes. I’d see my mother at the courthouse and then the second year I was out of law school, when I worked in the Marion County District Attorney’s Office, I was on the second or third floor and my mother was on the first floor. So that was kind of fun.

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Early Schooling

DS: Let’s go back to your childhood and talk about school. Why don’t you tell me about school? What kind of student were you?

JJ: Kindergarten was not very successful because I was young and I was small. I was very small until I was about sixteen and then I grew. I looked at a picture the other day from the eighth grade, from a spelling contest, that was given to me at a recent reunion. I was surprised how small I looked compared to the other people in the picture.

DS: How tall are you?

JJ: I was 6’ 3” before I shrunk a bit. But I didn’t get to be 5’ 3” even and a hundred pounds till during the ninth grade, so I really was pretty little. I was young. I started school when I was five and probably in hindsight, since I was physically small, it might have been just as good if I had started a year later. Because although my brain was good you know, I was always a good student, I think socially and sports wise—I liked sports, but was always too little to play school sports. It doesn’t seem like a big deal now but I really would have liked to have played basketball. I gave some semi-serious thought to moving out with my grandmother my senior year in high school so I could play basketball at Gervais because I figured I could make the team there where at a big school like North Salem, I knew I couldn’t make the team. And at the time, that was important to me, but not important enough to change schools and leave my friends.

First three grades were okay. Fourth grade, I really liked my teacher and did well. Got to spell on the radio. I can remember, I think maybe that’s an overstatement, but blossomed and I was
pretty good at a lot of things. The tests, you know you took standardized tests, and in the fourth grade I was testing way above, I want to say ninth grade in some things, but that’s probably an over-optimistic memory, but anyway, way above grade level. So school was pretty easy for me. Law school I found to be very easy. I mean I could study literally an hour or two a week and get along pretty well, whereas some of my classmates would study eight or nine hours a day and not do as well. And that’s not something I’m proud of because you should study more than an hour or two a week [both laughing].

DS: What was your family’s attitude towards education when you were growing up?

JJ: I think it was very important to my mother and I think it was something—although we didn’t ever talk about it, I think it was something that was expected. There was never any question about going to college, at least at that level, and it was interesting. You know my grandmother had such a strong work ethic and just thought productive work was fine, whatever you were doing. I had a fun job reading electric meters during college and even into law school. And she really wondered, as I recall, why I’d want to go to law school to get further education when I could have a good job as a meter reader.

And, you know, I think about that sometimes and I’m not prepared to say she was wrong, but I really enjoyed reading electric meters. I think I would enjoy doing it again, in fact, but I guess if you have, if you’re lucky enough to be born with abilities to do other things that maybe some people can’t do, not everybody can get through law school and pass the bar. And to me that’s more a matter of luck. Some of its work, but if you are born with a good brain, that’s not anything that you can take credit for. But I think if you are born with a good brain, that you have some obligation to try to use it, not just to make money, but to come closer to doing your potential.

And if there’s somebody who’s not as bright who can read electric meters as well as you can, but just because of pure luck you are born with the ability to go farther in school, do some things that maybe that person couldn’t do, they should probably have that job and you should be doing something else that usually translates into more money. But even if it didn’t, it makes sense to me.

DS: Did you think about it that way when you were younger, when your grandmother had sort of a different attitude toward work or education, actually?

JJ: I don’t know if I thought very deeply about it. I just thought it’s the thing to do to advance your education.

DS: Your mother went to college, too, and it sounds like her mother didn’t.
DS: Do you have any ideas how your mother was able to do that or why?

JJ: I’m sure, knowing the family dynamics, that they probably expected her to do that. And since she was such a good student in high school, I think it was probably, even way back then as a female, it was probably the thing to do. My Aunt Vesta who was ten years older went to Normal School. Now you’re young, do you even know the term, Normal School? [DS nods affirmatively] Good for you.

DS: I’m a historian [laughs], that’s why.

JJ: Sure. And my Aunt Vesta actually taught school some for a while. So I think within their family, even though as far as I know, neither my Grandfather Marshall or my Grandmother Marshall had any higher education. I think it was probably expected that their daughters would.

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**World War II Homefront Memories**

DS: You started school around when you were five years old, so it would have been around the time that World War II was going on.

JJ: Yes.

DS: Tell me what things were like in terms of that?

JJ: My memories of World War II are a bit limited, but actually quite vivid. I can remember, for example, that people didn’t have tires or new cars, nobody did. I can remember my parents covering the windows with some kind of paper, so if there was a night air raid, you could have the lights on and the city wouldn’t show up. I can remember, distinctly, ration stamps. Going to the store with my mother, the corner grocery store and buying, I think sugar and other things that were rationed where you’d have to use your little rationing stamps to get the food. I can remember squashing tin cans, which we do now again. But we actually had a little machine, as I recall, that you’d squish tin cans, which are actually made of steel with a little bit of tin, I guess. So those could be recycled and used for the war effort.

I’m just thinking as we’re talking, I can remember war bonds, buying war bonds and collections at school and saving for war bonds. I can remember victory gardens. It seems like people had victory gardens. I can remember, my dad, as I indicated, had some land and my grandmother had some land in Lake Labish, Oregon, which is the dry lake bottom just north of Salem. If you drive to Salem, you’ll see now where the Salem Volcanoes baseball field is. My dad owned that at one time, or the lake bottom right next to it and farmed there. And he had several friends who were either Japanese or of Japanese descent, because one time and maybe still, the
Lake Labish area farmers, a number of them were of Japanese descent and my father was quite good friends with some of those families.

I have a memory, which might be false, but I still have the memory of being at the Salem train station when my parents’ friends, of one family particularly, when they got on the train to go off to one of the camps. I don’t know where they went first, or I don’t recall now where they ended up. But I have a memory of being at the Salem train station when that important part of our history, when not only Japanese, but Americans of Japanese descent were put into the camps. And whether that memory is absolutely true or not, it is absolutely true that my dad bought a 1939 Buick from one of the Japanese families that was our car then. Whatever car he had prior to that, he sold, and then our family [car] was the 1939 Buick that had been owned by one of the families from Lake Labish. And my memory is that we also got a brown Springer spaniel from that same family. That was our dog that we had when I was a little boy there on Center Street during the war.

I also had a very vivid memory that brought home to me at a very young age that war is not a football game. I have real concerns—I don’t want to digress, but real concerns—that too many Americans think of war like they think of a football game. And they don’t think of the human cost and the carnage and the extreme difficulty it causes for families who lose loved ones. But as a little boy there on Center Street, I can remember when Billy Slick, who went into the Army or the Marines as a teenager, as a lot of teenagers did when they were seventeen or eighteen or nineteen. But I can remember when Billy Slick came back, whether this was a leave or the end of the war, and he had a Japanese flag. He had a Japanese sword, but most importantly for my story, he had a whole bunch of Japanese teeth with gold fillings that he had knocked out of the mouths of dead or dying Japanese soldiers. And that wasn’t unusual. If you watch, there was a movie a few years back that had to do with the American invasion of the islands in the South Pacific where Billy was. There’s one scene in that movie where there’s something rattling in the helmet that most people wouldn’t pick up on. Those were Japanese teeth. And that made it clear to me as a little tyke, as I say, that war is more than a football game. It’s a very violent, messy business. I think as little kids, you know, we were in awe of all of this, but it really, I think about that from time to time that war is not pretty.

DS: Well, you say that you think of it as not being a football game. I’m curious, as a child, what you thought of that because some little boys would say, “Wow, that’s really neat,” you know, and may not have that kind of interpretation. Did he show that to you?
JJ: Oh, yes! Yes, I mean, it was no secret. It was part of his souvenirs from war. And I’m sure that that didn’t stray all that far—well, I don’t know this, but I suspect it didn’t stray all that far from the norm. And it was ostensibly for the gold, I think, because my memory is what we looked at weren’t just teeth, they were teeth that had gold inlays. And if he had other things, I don’t recall what they were. But you’d have the flag, the sword, and the teeth are what I remember.

And then also, interestingly enough, after World War II, you could go to the Oregon State Fair, which I did and still do every year that I can. But after the war and maybe for several years, there was an army exhibit, a tent where they showed actual combat footage—films, not the movies. And, of course, that was before TV, but actual footage from combat. And that made an impression, too, on a young guy that it’s really tough. It’s not a football game, it’s people getting shot and burned up with flame-throwers.

DS: Was there anyone else that you knew who had been in the war as you were growing up?

JJ: My mother’s cousin Helen was married to a fellow named Newley who had a career in the Army, so we also looked forward to seeing Newley at family events. And he was, in those years when you saw him, he was wearing his uniform and he was in the South Pacific also and developed malaria as I recall. I’m trying to think. My dad and his siblings were too old, so none of them were in World War II. I think my cousin Earl was, first cousin. I have a cousin Helen who’s ten years older, one of my Aunt Vesta’s two daughters. Helen’s more like, in a lot of ways, like an older sister to me. And her husband Bud was in the Navy, so, of course, I knew Bud. They got married later after the war was over and whatever. But her sister Donna, who was two or three years older than Helen, when they were in high school they lived in Astoria, Oregon and there was the Tongue Point Naval Station. A big, big Navy base right at Astoria with lots and lots of sailors. And my cousin Donna married Noel Jackson, who was a naval officer who she met in Astoria when he was stationed at Tongue Point. So I knew him, went to their wedding I’m sure as a boy. So as I think back to those times, people I knew personally, no others are coming to mind.

One of my friends in the fifth grade, Kenny Carl, had an uncle. I get the Carls mixed up. There’s Manton, there’s Marion, there’s one who was a famous marine pilot. So in the fifth grade, that was Korea by then, we’d get reports on what his famous uncle was doing and he really was famous. He was a highly decorated officer and an ace pilot. But none of the parents of friends of mine were in World War II as best I recall, probably because they were all just a little past draft age.
DS: And you were pretty young, so your friends weren’t.

JJ: Right. But Billy Slick is the only neighborhood kid I can remember. But I have a vivid memory of when he came home and showed us that stuff.

DS: You said maybe this is a false memory about seeing the Japanese family at the train station. Why did you say that?

JJ: The reason it could be a false memory, I think that I’ve seen a picture of the Salem train station, which would have been that same day. I don’t have that picture and I can’t tell you where I saw it, but there’s at least a possibility that I’ve seen that picture and substituted it for my own memory.

DS: Was it something your family talked about that you recall? Your parents?

JJ: Well, we talked about, I know my parents talked about the event itself. I know my parents talked about some people apparently cheating and taking advantage of the Japanese farms that were left behind. So I can remember some specific conversations about that. I can’t say, even though these were good friends of my parents, I don’t remember an expression of outrage or how is this happening. But those were the times. With some exceptions, it was just kind of accepted. It was wrong, but of course, these are the memories of a little boy, that it seemed to be accepted. By the same token, my grandmother born in Germany, I can’t remember us trying to hide her out anywhere.

DS: This is tape two, side one of the interview with Judge John Jelderks in Portland, Oregon. I was just asking you about when the Japanese Americans came back to town. What do you recall about that?

JJ: You know, I don’t remember a lot about it, other than I know that some of those families came back to the Lake Labish area. I feel good knowing that when my dad died, and not having much contact certainly the last year or two when he was quite sick, I can recall some of those folks of Japanese descent coming to his funeral. I felt good about that, which reinforces my memory that my dad really did have a very cordial, warm relationship with the people at Lake Labish. Not only just the family we got the car and the dog from, but others as well. I haven’t really followed up on that other than the little bit with one fellow [Narrator Edit: Tom Yoshikai] who was on the Board of Trustees at Willamette [University] when I was, who lived still just north of that piece of Lake Labish ground I was telling you about. He confirmed for me six or seven years ago that that family with
the Buick did, in fact, have Springer Spaniels.

DS: Right, because you told me that your brother didn’t remember the dog.

JJ: My brother didn’t remember that and so that at least fortified my memory that we got the dog from them because they had the same kind of dogs. And if we got the car that makes sense that when they had to go away that we got one of their dogs.

DS: Do you recall what their name was?

JJ: You know, I know it, but I could say several names and I’m not sure which they were. There was a Fukuda family that my dad liked a lot. There is a deputy district attorney here in Portland [Narrator comment: Bette Yada] who is the daughter of one of the other families. I’d have to think about it.

DS: Well, let’s talk a little bit more about school.

JJ: Okay.

DS: So, you were in school. You said something about you got to spell on the radio.

JJ: Yes.

DS: Now it sounds like you liked spelling, or you wouldn’t have said, “I got to.” [laughs]

JJ: I was good at spelling and three of us got to go over to Corvallis where the public radio station was operated at Oregon State, I believe. And at that time, there were these spelling contests for grade school people. You’d listen to them on the radio in your classroom. And we got to go over and spell on that program. Jim Backstrand and Judy Seely and I were the three that went, and we drove over in the Buick.

DS: Who drove you, your father?

JJ: My dad. My mom never drove. I can remember riding over. That would have been the fourth grade.

DS: And how did you do?

JJ: I think we did okay. I can’t remember the words from that spelling contest, but I think we did fine.

DS: What kind of books did you like to read? I guess I’m making an assumption that you read.

JJ: I didn’t read a lot. I remember reading The Little Lame Prince. I remember reading a book called T-Model Tommy. I kind of like to read, but still the same as now, I never quite get to it and I
probably didn’t then because I was busy doing other stuff.

DS: So books weren’t a tremendously big influence in your life?

JJ: No. I can’t say that I’ve read all that many books.

DS: And so who was a big influence on you as a child?

JJ: My peer group as much as anything. I had one especially close friend from diapers on that was probably a pretty good influence. But, you know, the peer group is very important from grade school through junior high and high school. I had a good group of boys, peers. None of them smoked all the way through high school at least. None of them drank. The class behind ours was different. My brother’s class three years earlier was considerably different. My class, I don’t think we created problems. We created problems for our parents, I suspect, but not some of those issues that parents of kids a year or two ahead and a year or two behind. So there was a very strong peer group to be reasonably behaved as far as alcohol was concerned. Most high school kids drink some. My friends didn’t drink a drop. I had not consumed, I tasted beer, but I hadn’t even drunk a beer when I graduated from high school. And that wasn’t just because I was an oddball, that would be my friends also.

DS: Did people in your family drink?

JJ: My dad did. My mother drank very little. She would have a cocktail. They had a group they played cards with several times a year, and my mother would maybe have one drink at one of those card parties. But my dad would have a beer. We would also often stop at the Gervais Tavern where my dad would have a glass of beer, maybe two glasses of beer, not more than that though. And my brother and I would have a bottle of pop because in those days, kids could go into taverns with their parents. So, that would not be unusual even after a workday on the farm or whatever for my dad to stop at the tavern and have a beer and I’d have a bottle of pop. But my dad never ever, just so you have the whole picture of him, to my knowledge, would go to the neighborhood tavern and hang out like some dads did.

DS: He’d just stop in and visit a little?

JJ: Visit a little, have a beer and go on home.

DS: Now what grade school did you go to?

JJ: The first four years I went to the old Washington Grade School in Salem, which isn’t there anymore. I think it was originally called the old East School. But like the old Marion County Courthouse
I was telling you about where my mom worked, the beautiful old style architecture, the old Washington School was that nice old architecture, not spread out concrete, brick whatever. It was a nice big building that probably had a big wood-burning furnace in the basement. It’s where there’s a Safeway store now, right next to 12th Street, not far from the Capitol Building.

So four years there and then when we moved out to the country, I went to Englewood Grade School for the fifth and sixth grades, which was a very good grade school. Bigger than Washington, it had, for example, two full fifth grades, two full sixth grades and then one mixed fifth and sixth grades, where the old Washington school was one fourth grade, just one of each year.

One of my post war experiences—one of my interesting memories from the old Washington Grade School—was that during the war a number of people were relocated to Salem from other parts of the country. I read something a while back that explained that better than I remembered it. But those non-neighborhood people were bussed in. I think they lived out by the airport somewhere. I don’t know if they all came to our school, were distributed to other schools, but those of us from the neighborhood kind of considered some of these folks a little more down and out.

DS: Were they former shipyard workers?

JJ: Or current shipyard workers, they would have been current shipyard workers then and that might be part of it, that they actually lived in Salem, but commuted to the shipyards in Portland. For example—

DS: This was during the war?

JJ: Yeah.

DS: Okay, they probably were.

JJ: This was during the war, and it had something to do with the war why they were relocated. But it did change the composition of classmates a little bit because these were not the kids from your neighborhood, but these other kids came in. But back to the shipyards, my Uncle Ben, who I mentioned, and I think my Uncle Herman, another of my dad’s brother’s, at least the two of them and maybe one other brother, all worked here in Portland in the shipyards during the war. My dad never did.

DS: So, you went to school at Washington School and then Englewood Grade School.

JJ: Englewood School and then ran for student body president, even though it was my first year there. My fifth grade class put me up for student body president and the other class put up the other candidate. The signs in the main
entry hall, mine had a picture of a boat and said, “Get on the boat and give John your vote.” And the other one right across from it in the hallway said, with a big aspirin bottle said, “Don’t be a pill, vote for Jill” and Jill prevailed. I came in second. I just saw Jill at my reunion and we joked about that.

DS: Your reunion from the high school?

JJ: High school reunion, yeah. Englewood was a school with a big woods out back where we’d go out and run around at the time, lunchtime, and I had a good experience there. All good teachers for the most part, really good teachers growing up.

Activities of Youth

DS: What other kinds of activities were you involved in? You said you always intended to read a little more, but you were just too busy. What were you too busy doing?

JJ: Well, back then I’m not sure I even intended to read. Now I intend to read more than I do. Well, we had animals, as I say, so 4-H activities, 4-H meetings. I got a nice bicycle in the ninth grade, but I always had a bicycle. I liked to bicycle and hang out with my friends, play games on vacant lots. What else? This is in the early days.

DS: What kind of games?

JJ: Oh, I suppose we played war some. Things like that, you know, games that boys play. Activities on the farm. Just fooling around in the barn and the hay. We had a nice big barn with a big hayloft. I had a pony when I was little. We had a pony who was half Shetland and half Welsh and we had a beautiful little four-wheeled cart that we didn’t use much, but had it in a parade or two. As I said before, I wasn’t all that much into animals. I had a beautiful horse later on that I never rode. I can’t remember ever riding it one time. I was much more interested in bicycles and later on in cars, mechanical things.

I’m trying to think. Fourth, fifth and sixth grades, what did I do? I took clarinet lessons starting in about the seventh grade for a while. In the eighth grade I was in the big spelling contest, which I intended to win, where it got down to two of us spelling from a hard word list in front of an audience of a thousand people, believe it or not. Only two of us left. Sharon Muller and me and we’d been spelling really hard words, and I got a really easy word. “reservoir” and I got up from my chair and walked up to the microphone and said, “reservoir, s-e-r.” In my brain, I’d either reversed the r-e-s to s-e-r or skipped the first two. So I think I just reversed them in my brain because it was an easy word to spell, but the rules were you didn’t get a second chance. I had hoped to win at our own school and
then go on as my friend Mack Harris had done and win it in the whole region. And then Mack later got a nice scholarship to Yale. So I kind of followed along with him having won that a year or two before me, and I did work at that.

I went to my clarinet lessons, the clarinet teacher—and I wasn’t a good clarinet player and I didn’t practice—the guy I took lessons from was a good old German guy, Emil Otto Bandell was his name. And during that spelling season he would always give me my spelling words. And the Salem Statesman paper had a list of spelling words in the paper every morning that were words that were going to be used in this big contest because they helped sponsor it. Not only my mom, but my music teacher would give me the spelling words to see how I’d do.

DS: That’s nice. What other kinds of family activities were you involved in? I mean, you had the Sunday afternoons?

JJ: Yes, when we were little that was a Sunday afternoon thing. Oh! One of my dad’s forms of recreation, maybe his main one, was to go to auctions, at least twice a week. Men of his generation would go to the sale, meaning the auction sale. And so when I was a little kid, up through grade school anyway, I’d go to the auctions with my dad once or twice a week, probably.

DS: He went that often?

JJ: Oh yeah! Probably at least average twice a week, I’d say. And if there was a big farm sale, they weren’t all that common, but going to a true old-fashioned farm auction was really something to do. You know, that’s where they were selling the farm, or gone broke or whatever, and they sell literally everything off the farm, in some cases, probably including the farm. But all the tractors, whatever, and there’d be a big lunch that a bunch of the farm wives would get together, and so we went to a few of those. But mainly the neighborhood auction sale.

DS: So the neighborhood auction sale, where was it held, do you know?

JJ: We had one right around the corner on Lancaster Drive and another one over on Silverton Road where the people that owned the auction actually lived in a nice house that my dad had bought in the I-5 right-of-way and had moved it and sold it. And so they lived in one of the houses that my dad had owned. One was one night and one was probably on Saturdays, so there was twice-a-week auctions.

DS: Any other kinds of things that you did as a family? You said that you went to the State Fair regularly.

JJ: Well, as a little kid I would have gone with my folks, but I was pretty independent from my parents. I was close to my parents on the one hand, but believe it or not, from age fifteen, my parents did not enforce any rules as to
either my brother or me. So I could really
do anything I wanted. And, from the time
I was fifteen-and-a-half, I had activities
literally every night of the week. So, you
know, I was home for dinner, but I was
never home after dinner.

DS: What kinds of activities?

JJ: When I'd come home later, well
after we had cars, it was going to see
people, going to ball games. You know I
never missed any of the high school games.
Young Life was very popular when I was
in high school, so one night a week would
be Young Life. In junior high, it was Junior
High Y one night a week. High School,
High Y one night a week.

DS: What was Young Life?

JJ: Young Life is a Christian group.
They're still in existence. In fact, there's
a Young Life camp at the old Rancho
Rajneesh.

DS: Oh, right.

JJ: There's a big one up in Malibu,
Canada. I never went to any of the camps
as a lot of my friends did, but there would
be hundreds of high school kids. It was the
thing to do to go to Young Life on Tuesday
or Wednesday night, whatever night it
was. It got too big to meet at a home, it
was at the Izaak Walton Clubhouse, and
there would be literally a couple hundred
of us there, I suppose. Doug Coe was the
leader. He later went to Washington, D.C.,
I think with Senator [Mark O.] Hatfield's
sponsorship,1 and started maybe—I'll be
careful what I say because I'm not sure—
but prayer breakfasts and big hoop-de-
dos with the political world. But he had
a house not too far from the high school
where we'd go over some. So that was one
day a week.

We'd go over to girls' houses, go
down to the library to see what was going
on. Tell my folks, "We're going down to
the library and study,，“ and just drive
around. My friends and I liked cars and in
high school we'd go a regular route of the
drive-in restaurants where you'd go see
who was out and about.

DS: The drive-in restaurants, were
there also the drive-in movies?

JJ: There were drive-in movies; I went
a few times, but the drive-in restaurants,
by the time I was fifteen-and-a-half, we'd
go to a drive-in restaurant easily five times
a week, probably more than that, to get a
Coke, see who was there.

DS: I wanted to ask you about your
religious background, too. You said your
mother was involved with the Presbyterian
Church.

JJ: And my dad was, before I was
born. I know he was a—there are deacons
and what else are there in the Presbyterian
Church? He actually took an active part,
but I don't recall after I was born, other
than going to men’s night. I can remember going to a dinner for fathers and sons, I can remember going to that with my dad. I went to Sunday School when I was little, and I can remember my dad dropping us off and picking us up.

DS: From church?

JJ: Mainly Sunday School. But I can’t remember him being dressed up going to church. Maybe on occasion, but my mom would go. My dad would take my mom and pick her up. Take us to Sunday School, pick us up. So I went to Sunday School, had some good teachers. One terrific, good teacher I still like to see every year at the Fair, Wes Sullivan, who was a writer with the Salem Statesman Journal for a number of years.

DS: So the Presbyterian Church was a pretty big presence in Salem at the time?

JJ: Yes, and a good church. Actually, even when I was in junior high school, and maybe high school, I played basketball on the church league for the team. I can remember when I was at Willamette going to Sunday night youth group meetings. So I did quite a bit of that, I guess, looking back at it. I can’t really remember going to church all that much, but I took part in some of the youth group activities.

DS: So was Young Life associated with the Presbyterian Church?

JJ: Young Life was non-denominational. It seems like the leader was probably a Baptist, but I can’t say that for sure. But it got to be a pretty big national or international, maybe a phenomenon is an overstatement, but it’s still in existence as a viable organization.

DS: I’m curious about Catholics in Salem. Did you hear about Catholics in those days? People had different attitudes than they do today.

JJ: Very different. And young people today don’t understand it. Let’s take a break for a minute.

[Recording stops, then resumes.]

DS: Okay, we’re back on and we’re talking about J. Wesley Sullivan, who was the editor of the Salem Statesman Journal and also your Sunday School teacher.

JJ: Right. And a really good guy. You should go to the State Fair and go to the area where they have Oregon authors, and Wes’s son Bill will be there with his outdoor books. And Wes helps out some and has done a lot of writing.

DS: And he’s still alive?

JJ: Yes, and doing well. But back to activities in grade school, going to auctions with my dad. We took two family vacations when I was growing up. One to San Francisco, California, and
one to Victoria, Canada. My family now, we’ve taken nice vacations, spring break, when we still had kids at home, we’d go to Disneyland or Hawai’i or San Diego or somewhere. But in my family growing up, we took the two vacations, one to San Francisco, one to Victoria, both of which were nice vacations, and an occasional trip to the beach. But my dad wasn’t a real traveler. He didn’t have much interest in going places.

DS: Would it have been a financial difficulty to, do you think?

JJ: You know, hard to say. My folks never had money, but I know when I went to college I could never get any financial help because my parents owned too much property. So if you’d look at a net worth statement, it would look pretty good, but they never had extra money. My dad always shared. My folks were very generous, so my dad always had change to give me every day when I’d ask for it. If I wanted fifty cents, pocket money, my dad always had it for me.

Summer Jobs

DS: Did you earn money as a child?

JJ: Oh yeah. For sure.

DS: What did you do?

JJ: I’ve prided myself on working hard as a young man. I started in the summertime picking crops when I was twelve or thirteen. I think, between the seventh and eighth we used to have what were called platoons. And unlike today’s harvest that are all done by migrant labor 99 percent—in my growing up days in junior high school the crop harvesting of strawberries, cane berries, beans, those crops particularly—were all done by Caucasian students. I mentioned the fourth grade, how much I liked the fourth grade and I loved my teacher. When I got to be in the seventh grade, she and Miss Gold, who was a junior high teacher, were platoon leaders. On the platoon I went out to pick strawberries and beans. I bought my first really good bicycle. I had one of the first really good English bicycles in the city of Salem. I can’t say I had the first, but for $74.20 when I was in junior high school, I bought a really nice Raleigh 3-speed bicycle which I rode every day of the summer from our place on the edge of town into town to hang out with my friends.

DS: That’s a lot of money.

JJ: It was a lot of money. It was a very nice bicycle, 3-speed, had a cyclometer. Now you get a computer with a bike, but this had a cyclometer. It had what is called a dyno hub where it generated its own electricity for a really nice bright headlight if you were going fast at all. And a nice tail light. It had a nice horn that came with it,
English honker horn, very bright silver. But it was really a nice bicycle. The point of my story was I bought that with money from picking beans.

DS: Did you have any other kinds of jobs?

JJ: Picking jobs through junior high and you couldn’t get a work permit for real work, like cannery work, till you were sixteen. As soon as I turned sixteen I worked in different canneries, starting at the old Star Cannery where the manager was a friend of my parents. That helped me get my first job and then I got to know the union guy. Once you get to know the guy that runs the union and he thinks you’re a good worker, he’ll always find you a job if there’s work available.

I liked to work and liked to make overtime and I can say that when I worked in the cannery I would work—well, first I was putting sugar in gooseberries. It was kind of messy because you’re dumping sugar into big three or five-gallon tins of gooseberries and so at the end of the shift you got a lot of powdered sugar in your hair and whatever. When I went to Kelly-Farquhar [Salem food-processing facility] I got hired to be a dumper, and that was a good job because it was good physical exercise, dumping crates of strawberries onto the head of a belt. They go through a little washer, then up the belt where the women—they were all women—then would pick out the bad ones and pick out the leaves and whatever. I really liked that job because it was physical exercise, but I soon realized that the person that got the most hours in was a fellow named Mossa Watanabe, who was a Willamette student, good guy, who I befriended. And then he and I ended up being the cleanup crew. So my idea of a good day at work was to stay as long as you possibly could to get that last tenth of an hour of either time or overtime.

Later that same summer that I was sixteen, I got hired at Blue Lake Packers, and I worked back in the bean-grade, stacking boxes of beans seven high as I recall. I worked on the seven to seven shift, seven at night until seven in the morning. And that was a good experience.

DS: During the summer?

JJ: Yes, just during bean season, during the harvest. I went from being a bean picker to being a cannery worker. And working on a seven to seven shift, I had my first hundred-dollar-week working at Blue Lake Packers and that at a $1.26 an hour.

DS: That’s a lot of hours, isn’t it? [laughing]

JJ: So, a lot of hours. But those were great years and you know, I missed out on some things if you worked nights, but some of my friends went into construction,
a couple of my friends who were a little bigger and stronger than I was. But I just kind of got in at the canneries, and then I could see that the best job in the cannery for a seasonal worker was working on the receiving dock. So I worked on the receiving dock at Kelly-Farquhar, even after I was admitted to the bar. During cherry season, they asked me to come back.

The boss said, “John, can’t you come in and help us out?”

“Well, I have a job, I’m clerking at the Supreme Court at the time.” I said, “I have a day job, so I can’t work long hours.”

“We really need the help.”

“Okay, I’ll help you out as long as I don’t have to work long hours.”

I went to work that first night at five o’clock, after I finished at the Supreme Court, and Harry, my supervisor, who was a great guy, had a heart attack. I was kind of in charge of the receiving dock and then worked long hours.

I worked every year during cherry season, even when I had a day job reading electric meters. I can recall one night getting home from work on cherries at seven o’clock in the morning, and I was living at home. I had to have my mom wake me up at 7:30 to go back to work for another seventeen-hour day. I did that about three years in a row. Every year I got sick. The first year I went to the doctor thinking that my heart was going out because I started having pains in my chest. I actually went to the doctor and said, “Well, man, is my heart giving out at twenty some years old?”

“No, you just need some rest.” [laughing] I liked to work. I felt good about working.

I mentioned Harry. Harry Osmus was my supervisor. A nice guy, I’d call him “Sup.” He’d call me “Sup.” [Narrator Addition: Superintendent] I ran the night crew getting—kind of ran it, I guess—getting cherries in the barrel. One year we had a guy dumping them in, a kid that was very vigorous. Our motto was “Roll ‘em.” Work was rolling boxes off of truckloads of cherries. He or I, somebody, had put in chalk, “Roll ‘em” above where he was and we could unload a truckload of cherries really fast.

I was in charge of book work and buying the cherries at the dock. If you’d bring in a load of cherries at the dock from your orchard or your back yard, we did a lot of backyard people. My job would be to weigh your load, if it was small enough to weigh on the small scales, other than the big truck scales, grade your cherries, decide what percentage of dock there would be, if any, and write up the slip that would, in effect, be money for you.

They would hire high school students, not necessarily for those jobs, but high school students, college students, schoolteachers off for the summer. I got a chance to work with one of my college professors, Clarence Kraft, who I later had for Spanish. Terrific good guy. Bruce Stewart, who was my algebra teacher in the ninth grade, I worked one summer with him on the cannery dock where we all pretty much were equals. Had a music
teacher who was a really good guy, but didn’t know much about working in the cannery. He was hired as the boss when I was seventeen. He didn’t know nearly as much about it as my friend Arbie and I. Vic was his name. Super good guy, but he didn’t know how to do that physical work or keep track. We took good care of him and really enjoyed those times.

DS: That’s when you were in high school?
JJ: Yes. That was when I was in high school, and I made some serious mistakes, never got fired there, worked hard. Harry, who I mentioned to you, told me one time—and I’ll tell you a few of the things from my memory that I’m proud of, and this is one of them—Harry said, “John, you’re the best help I’ve ever had.” And I’m real proud of that.

DS: You have to work hard when you’re a kid to get a compliment like that.
JJ: Yes, and when I went to work at five, I would work till ten o’clock at night before I’d take any kind of a break. You know, union rules were different. I could have taken a break, whatever, but the work was there. People were lined up and that was just the way it was.

DS: So it sounds like that was a pretty formative period for you.
JJ: I think so. And it’s always been easier for me, like telling you that I could work that five hours before taking a break, where I always have had problems as a student sitting down for an hour, much less five hours. So that combination of physical-mental stimulation, coupled with work for somebody else—I’ve been able to work real hard if it’s something to benefit me, but to study, boy, an hour when I was in high school or college was hard. And it didn’t matter in high school because most of the stuff you did you could spend fifteen or twenty minutes and do fine.

But where I had trouble then in college was instead of having daily quizzes or whatever, where I was really good at in high school, you’d put stuff off to the end of the semester or the mid-terms. And then you’re expected to have absorbed it over the last however many weeks. And my style was to absorb it in twenty minutes to an hour and to do that for a mid-term or a final in college, you just can’t do it. But it was interesting because work, work for pay, I always enjoy. I enjoyed working, and I guess still enjoy working.

DS: But you didn’t enjoy school in the same way?
JJ: Well, I liked school, but I just don’t have a long attention span for doing school.

DS: How did you do in high school?
JJ: I graduated with a 3.75 and I think through the ninth grade, the only
“C” I ever had was in shop. Shop was compulsory in the seventh grade, and I really like building things now and doing woodwork. I just installed some cabinets, built some bases. I’m building a built-in bed, but I’m not naturally good at it. I think one of the things I learned from my father, though, is you can really do anything you set your mind to. I mean my dad wouldn’t have hesitated to build a house from scratch. A lot of people wouldn’t [think], “Gee, I can build a house.” But I say, “I can build a house. I can build a bed.” I can do that stuff, but it’s not that I have a natural talent for it. So shop, I got a “C” even though I’d like to take a shop class right now. Maybe I’d still get a “C,” but I think I’d enjoy it more than I did in the seventh grade, or eighth grade. It might have even been ninth grade, but I got almost all “A’s” in junior high and high school.

DS: Did you have any favorite subjects?

JJ: I was good at math, and English. I took a course to fill out my senior year that turned out to be a good course in practical finances, or stuff that all kids ought to have to learn about interest rates. And we didn’t study credit cards, but people should study more of that practical stuff. And that was very easy, and I enjoyed it. Probably my favorite was physics. I really liked physics. I wish I still had the same textbook that I had in high school. I really enjoyed Latin, had a terrific Latin teacher who died this last year. I went down to Salem for her funeral. And later just half a dozen of us were at the cemetery because she’d outlived most of her friends, and then went back to her home for a little memorial. You couldn’t have a better teacher in any class at any level. She stimulated us. We learned not just Latin, we learned Greek, Greek roots. We had what she called cultural affairs—learned about ancient Rome and ancient Athens and the buildings. Just terrific. But then I did very well because, again, in that period of time and their mode of teaching, you had to learn it for the quiz the next day. And so I was very good at doing that and doing it the next day. I don’t want it to sound immodest, but I have a high IQ, I’m in the top two percent or so.

DS: What is it?

JJ: 137, I think, was what it was. That’s a long time ago, which I think is in the top two percent. Does that sound right?

DS: I don’t know if it’s high enough for Mensa. I’m not sure what percentage it’s in.

JJ: But what all that really means is a lot of things then came pretty easy to me.

DS: I think 110 is average.

JJ: Somewhere in there.

DS: So something like Latin would include memorizing and spelling too.
JJ: Yes. I was a good student, all the way through high school. I was President of the Honor Society. Enjoyed that.

DS: What were your aspirations at that time?

JJ: Are we in high school now?

DS: We're still in high school.

JJ: An interesting story. I didn’t know what I wanted to do, but I was thinking some that being a lawyer might be interesting. I only knew one lawyer. One of my mother’s best friends was married to one of the most reputable lawyers in Salem, but I didn’t know anything about it. And on career day, my debate partner—I debated one year in high school—and friend, George Andrews, and I went to hear a lawyer talk on career day. And that lawyer painted a terrible, dismal picture of what it was like being a lawyer and so I kind of lost interest. Then when I finished college, I didn’t know what I wanted to do, so I thought, “Oh, I’ll go to law school if I can get in.” And it’s interesting, my friend George ended up being the head of the Math Department, I believe, at the University of Pennsylvania. A big deal, a big school, a big name who used to be on *Nova* at times, the TV program, George did really well.

George’s Aunt Mary Eyre, who was a friend of my mother’s—there’s a school named after her in Salem—she was a longtime high school teacher. One of Salem’s real solid citizens who died a few years ago around one hundred. Anyway, George and I used to study over at his Aunt Mary’s, so I knew George well. Bright guy who was thinking of being a lawyer, he went to Oregon State, I believe, and then moved away and I really never saw him again. But I called him, it must have been when his Aunt Mary died, and I said, “George, refresh my memory. I was thinking you wanted to be a lawyer. How is it you ended up in Mathematics?”

And he said, “Do you remember that guy that came to talk to us on career day?” And interestingly, I won’t mention his name, but I later actually did a little work for him at one time when I was in law school. He later was elected to office, kind of under almost semi-fraudulent circumstances, but was a real dud. An absolute dud by others, by his peers. Other lawyers didn’t respect him, and it was pointed out to me the importance of people setting up career days really knowing what they’re doing, because you have young, impressionable students whose life plans might change as a result of that experience.

DS: What do you think it was that drew you to consider being a lawyer in the first place before that?

JJ: I really don’t know because I
actually maybe thought at one time of engineering, and it’s interesting how a little twist changed things. I’ve been fortunate in applying for jobs. Almost every job I’ve ever applied for, I’ve gotten. It used to be different when I was young, jobs were a lot easier to get than they are now, I know that. For example, I talked about cannery work. I was already working at one cannery, so I didn’t need a second job, but I thought, “Oh, we’re not getting a full eight hours. I’ll see about getting another job, fill in that gap, make a little more money.” So, I went over to Cal-Pack, and I had the experience a year before at Blue Lake. But [there] were fifty, seventy-five people standing there in line, looking for a job, and the superintendent or supervisor would come through and pick up one, three, five, however many people they need to fill in for that shift. I’d get picked. So here I am at Cal-Pack, not even needing a job, but I was picked out of the line.

I don’t know if it was the look on my face or whether I looked like I wanted to work or what it was, but I’ve just been lucky getting jobs. One exception is when I was in high school I applied for a job as an engineering aid with the state, and I think they only had two positions, and I didn’t get it. And one of the guys I just saw at my high school reunion got one of those two jobs, and he went into water engineering and being a water master and all of that. I suspect if I had got that job and liked it, maybe I’d have gone to Oregon State and been an engineer. But I didn’t get the job. So even though I liked physics and math, I guess I wasn’t motivated to go into engineering, although my natural abilities might have been more that direction. I don’t know. But what I found was if you’re good at math—the law is generally easier for people who are good at math, believe it or not, because the law for the most part is a logical process. I think you process, let’s say a bar exam question, you kind of process that like solving some math problems.

DS: Sort of piece-by-piece.

JJ: Yes. In a logical step-by-step progression. But I digress, where were we?

DS: No, actually, I think that’s very interesting. I asked you about your aspirations.

JJ: Oh, right. I’ve known people who are totally goal-oriented who at a young age say this is what I want to be twenty years from now. I’ve never ever done that in my life.

DS: So you didn’t really know, but you’ve had an idea that maybe that’s something you might like?

JJ: Yes. Obviously in high school I had some interest. I can’t tell you now really why or how deep that interest was. I know that that experience with the dud of a lawyer at career day killed whatever serious interest I had at that time. I didn’t
really develop that interest again until four years later when I said, “Okay, I’m about to be a college graduate, what should I do now? What am I gonna do now?” I didn’t have an education that I thought warranted going out in the work world. There weren’t any particular jobs I wanted, and I thought law school might be interesting and it was.

DS: Well, you grew up in a university town, too. So did that have any impact on you at all?

JJ: None.

DS: None.

JJ: The only time I ever set foot on the Willamette campus was to either play some basketball in the gym or, once or twice, to watch sporting events. But academically, the last thing I had in my mind was going to Willamette. I had no intentions whatever of going to school there, so I can’t say that influenced me at all.

DS: You didn’t interact with any college students while you were working in the cannery in the summer?

JJ: Well, actually, come to think of it. I did interact with some. I mentioned Mossa Watanabe, who played basketball at Willamette, was a good guy. I interacted with some other college students. The nice bicycle I told you about, I actually sold that when I was working at Blue Lake Packers in West Salem that first summer, when I was sixteen. I sold that bicycle to a college student. I had very good interaction with some college students through Junior High Y and probably High Y. But, just to give you an example, I had a Junior High Y leader named Mike Hovis who was a student at Willamette. Played some sports.

So I got out a Willamette Alumni directory, discovered there was a Mike Hovis living on the Oregon Coast. I called it, and he remembered being a Junior High Y leader. I don’t think he remembered me, certainly not by name. But I had a really nice visit with him and was able to thank him and tell him what a positive impact he had had on that group of boys, that he was willing to take the time as a college student and come be an advisor for a group of teenage boys once a week for I don’t know how long.

DS: What was High Y?

JJ: Junior High Y was for junior high school boys. High Y was for high school boys. Both of those groups were sponsored by the YMCA. I’d go down to the Y in junior high school and high school also, play basketball. One year there was a YMCA high school basketball team that some friends of mine and I played on.

Junior High Y would meet one night a week, High Y, one night a week. The Junior High Y meetings were at the Y. The High Y meetings, I think we met in kids’ homes. But there was just a group
of guys who’d get together. And I’ve always enjoyed that. I was in a fraternity in college. I enjoyed that camaraderie and getting together with a group of guys. I still enjoy that.

DS: How large was your graduating class?

JJ: Three hundred forty-eight.

DS: That’s really large.

JJ: My memory is I was 15 out of 348.

DS: Is there anything more you want to say about high school before—we’re almost at the end of the tape, and we had two hours scheduled.

JJ: High school was good. I also came in second place in some things. I ran for student body president and out of several of us running, I ended up second to my good friend Jim Gordon. I think for senior class president, I came in second to my friend Jim Michaelis. I had a lot of experience being in second place. I played football one year in high school. Wasn’t any good, but I had lots of friends on the football team.

DS: Had you grown up by then?

JJ: I had just started to grow some. It was interesting because even by the time I was a senior in high school, I hadn’t filled out at all, and with the uniform, could not run very fast. By the time I was a freshman and particularly a sophomore in college, the guys thought I was a big, strong, fast guy. I went from being little Johnny Jelderks to being big JJ.

DS: Did that change the way that people responded to you socially?

JJ: Very much so. I think it actually changed how I responded to people from different periods of my life. Because to some people I’m still little Johnny Jelderks by their main memories from growing up, and to other people from a little later in my life, I’m this pretty big, strong guy. Different perspectives.

DS: Almost a different persona from each?

JJ: Yes. My high school years were good. My parents made no requirements, so I went out literally every night. Had a car—my brother had a car that when he was away at college his car was home, and I could slip his car out of the garage.

DS: What were you doing with all your money? You were working during the summer and working hard to make more money.

JJ: Clothes and I think when I bought my Oldsmobile convertible, I had the money for the down payment, and my folks made the payments. Probably my mom after the down payment, but I had enough money for the down payment. I
bought my own school clothes. What else did I do with my money? Well, I ran out of my pocket money from the summer.

DS: The other question I had for you is about politics. Is that something that you talked about at home? I mean, you ran for student body president.

JJ: You know, I can’t remember my folks having any serious political discussions. My dad was a Republican and my mom was a Democrat, but I can’t remember them having real arguments. I can remember my mother listening to the radio when President Roosevelt died, and my mother crying. I don’t think my dad was as upset that President Roosevelt had died, but I can’t say that for sure. You know, as far as partisan politics were concerned, I can’t remember that being an issue. I always took part, I say always, to some extent it seems like I was involved in student government, student councils, and things like that. So if that’s political, I was interested in things like that.

DS: Did your parents vote?

JJ: Oh, for sure! I can remember going to the polling places with my parents, certainly with my mother and hanging out while she got in a booth and voted. To me voting was a bigger deal to me, in some ways, before we had vote by mail. The process, the production of—

[End of Tape Two]
My brother was going to Willamette at the time. He was young and married, three years older than I am. And after he got married, came back to Salem and went to Willamette and said, “Why don’t you come over to Willamette?” I’d never thought of going to school there in my life. It was the last thing from my mind, but I went over and the registrar, who was a terrific good guy named Buzz Yocom, showed me around, rolled out the red carpet, which he did for everybody. He was just that kind of a good guy. I thought, “Oh, I can go here for a semester” and actually was there then, off and on, for the next eight years because I went all four years to undergraduate school at Willamette, stayed out a year and went back to Willamette to law school. So the school that I had absolutely no interest in going to, I ended up going to both undergraduate and law school.

DS: And what did you say your major was?

JJ: My degree was in psychology.

DS: Why?

JJ: Because I liked one of the psychology professors and there really wasn’t anything else that I was that interested in studying. Most of my four years in undergraduate school were not well focused. I was there and I got my bachelor’s degree, but I went from being a well-focused high school student to a pretty-much-unfocused college student. And it took me probably four or five years to really settle down and become focused again.

DS: Where were you living at the time?

JJ: It depended on my financial situation. One of the things that troubled me at Stanford was that I realized right away, I didn’t really have much money to be there. My folks didn’t have any extra cash. Things were pretty expensive. So at Willamette I lived part of the time at the Sigma Chi house. I pledged Sigma Chi fraternity because my brother was in that house. Great bunch of guys. So I’d live in the house, and then if I ran out of money, I’d move home. So I lived, off and on, actually all the way through law school, I lived part of the time either on campus in the fraternity house or later in law school, I had a little cottage for a while.

My last year of law school I was married and had a place. It kind of depended on money, where I lived. And at one point I had a Buick that I bought from my folks. A 1956 Buick and I can’t remember what year it was, in the springtime, I started taking the title of the car to the bank and borrowing enough money to finish school, and then paying it off, paying the bank back over the summer and at some point, the banker—and I don’t know if it was because the Buick wasn’t worth much any more or he realized I was going to pay the money back—I didn’t have to give him the title
anymore every spring. But I, you know, I had pocket money and I had jobs, so it wasn’t that I was destitute, but I did save money by living with my parents, and my parents were very kind and generous and I was always welcome to live at home.

DS: Did you work while you were in school, during the school year?

JJ: I did, off and on, have different jobs. I drove a delivery truck for the commercial book store my freshman year, and I had other jobs. I had the candy concession in the fraternity house that made a little money, till I realized I was losing money. Three of us took turns staying up all night, and we caught the thief, who fortunately was the paperboy. I was very relieved that—I just couldn’t imagine anybody that lived in the fraternity house was stealing money from me. So I was very happy that it turned out to be the paperboy who would come delivering the papers early in the morning and would sneak up and take the money away from my candy stand.

Then I read electric meters off and on. The same Buzz Yocom I told you about—can’t remember whether it was my sophomore or junior year—had a call while I was sitting in his office from a fella named Pat Crossland, who was with Portland General Electric in downtown Salem, asking Buzz about if he knew anybody that might want to be a summertime meter reader. Buzz hung up the phone, talked to me, and to make a long story short, I got that job and read electric meters off and on then in the summertime and some during the school year, all the way through law school.

DS: Do you remember how much something like that paid? Reading meters?

JJ: I know at the bookstore, I got paid a dollar an hour. Reading meters, I think I made $2.50 an hour. I think it was $20 a day, which was pretty good.

DS: So what was the fraternity house like? You mentioned last time that you were close to your fraternity brothers and that you liked these kinds of groups.

JJ: Yeah. I liked the group activities and, unlike today, there could be what I would call light hazing and I really liked, not necessarily doing that, but being the recipient. You know, I liked going to basic training in the Air Force. A lot of guys don’t like basic training. I liked it. I liked being a pledge. I liked the pink belly sessions where guys would get you down on the floor, sounds pretty juvenile now, but get you down and slap your stomach till it turned red. And wrestling matches in the living room and all of that fun, physical stuff, and camaraderie that you have with a bunch of guys who are your close friends and brothers. I made some really good friends there at the house and took part in lots of activities. Back then we did a lot of singing, serenading the sororities. I couldn’t sing well, but it was pretty much mandatory.
Pledge duties were mandatory. When you were a pledge in our house every morning you had a duty whether it was vacuuming the carpet, polishing the brass on the front door, waking up the members that lived in the house. Then after you did your pledge duty someone would sign off that you had done your job satisfactorily. Now I guess those types of things are considered hazing. To me, they’re okay. I don’t believe in hack paddling or tying them to a chair and putting them in the shower or some more crude things that I know have been done in some fraternities over the years. But I think having a good work ethic, having pledges clean the house and keep it nice and clean, I think that was good for us.

DS: How long is someone a pledge?

JJ: It varies, at least a semester. Since I started late in my freshman year, I elected not to be initiated after one semester. Then the second semester I didn’t take school very seriously and was gone a lot and didn’t make my grades. I actually didn’t get initiated for a year and a half. But usually, it’s one semester. I didn’t mind being a pledge. I didn’t get to take part in all of the fraternity activities as the members did, but still, I enjoyed the experience.

DS: I don’t know anything about fraternities—so once you’re no longer a pledge, then you don’t have to do the household chores?

JJ: Right.

DS: It sounds pretty functional actually [laughing].

JJ: It worked well for us, and once you’re initiated then you’re a full brother—full member with privileges.

DS: You went for a year-and-a-half [both laughing] and unless you’re making the grades, you can’t be a full brother?

JJ: Correct. You have to: one, make the grades and, two, be approved. But, if there’s been any kind of good screening when you’re first pledged—like they do some checking out your history to make sure you have reasonably good character, and then you make your grades, you usually would be initiated. If someone’s done something really bad, or mistreated members of the opposite sex, or you turned out to be just an eight ball, then you probably would not be approved for membership.

DS: You met some people there that you’ve had long-term friendships with?

JJ: Oh, very much so.

DS: Do you want to say who they are?

JJ: I enjoyed intramural sports, so the different living organizations had teams. I played intramural basketball, football, volleyball. It seems like there were some
activities going on most all of the school year. And some of my best friends—I had a roommate from a little town of Connell, Washington, that’s always been a friend.

My friend Wayne Feller didn’t come to Willamette till I was a sophomore, and he transferred from Oregon State. He’s been one of my best friends in the world for forty-eight years, or forty-nine, years. We still get together and go to the fair every year, just the two of us, and get together for other activities. A group of us, when we were in our twenties, would get together every Thanksgiving. We’d play a game of football on Friday after Thanksgiving, have a big party with wives and girlfriends during the Thanksgiving week.

As we grew older and moved more apart, some marriages came to an end, those kind of parties ended, but just this October, we got together with about ten guys who are all from the class ahead of me. There were eight of them, got together here in Portland for dinner. And a couple guys came down from Washington. Three guys came up from California and we had a nice get-together.

DS: How many people were in the fraternity house, approximately?

JJ: Thirty-two people could live there, as I recall and then there were town members or people that lived off campus. We probably had forty to sixty at any given time.

DS: And so at that time, scholastically you weren’t very engaged?

JJ: No. I had some good grades and some really bad grades.

DS: I’m curious about what motivated you to go to college, because I remember you telling me that your grandmother said, “What’s wrong with your meter-reading job? That sounds like a great job.” So what was your motivation then?

JJ: It was the thing to do. I never gave any serious thought about not going to college. Even though I had trouble focusing academically when I was there, there was just never any doubt that I would go to college and graduate. I never thought about not doing that.

DS: And then you decided to go to law school.

JJ: Yes.

DS: And so you graduated from college in ’60 or ’61?

JJ: I’m in the class of ’60. Technically, I was a couple hours short and got my degree in ’61, but I’m considered by the university to be the class of ’60, so I accept that as my class.

DS: Your major was psychology. Did you have a minor?
JJ: No, I took some math and science courses but not what you’d call a true minor.

DS: What kind of psychology were you interested in?

JJ: Just general courses. I took it not with the idea of ever being a psychologist. I took it because I really liked one professor. It was relatively easy and it was interesting, and I really wasn’t focused on doing anything else.

DS: Has that experience served you?

JJ: I think so. Actually, the course work was good, and I learned things certainly. As a judge, and prior to being a judge, I used to do a lot of mental commitment hearings and just knowing the terminology would be helpful. Dealing with people with serious psychological issues, I learned a lot about that and abnormal psychology. I learned good anatomy and brain—I could probably recite the cranial nerves and things like that.

One of my professors was a really solid guy, and he did work for the Department of Motor Vehicles that I was interested in, and kind of carried over in my work in dealing with people with very significant criminal driving problems. But for any practical go-to-work-type use, no, that wasn’t what I had the degree for.

DS: At what point did you decide that you were going to law school when you were at Willamette?

JJ: Probably my senior year or so. I had a friend, Ted Carlstrom, who’s still a friend, a lawyer in Palo Alto I got to know. He’s several years older than I am, but I admired him, still admire him a lot, very bright guy. He was on the small team at the law school that in 1959 won the National Moot Court Competition and brought some recognition to Willamette. I haven’t really thought about that, but I expect my friendship with him influenced me a bit. And when I really decided I wanted to go to law school, I really didn’t apply anywhere but Willamette because I’d been away some that year between college and law school. I did my basic military obligation and spent some time in California and decided there really wasn’t anywhere I’d rather go than back to Willamette. And so I applied and was accepted, and it seems like I got my acceptance notice when I was in basic training at Lackland Air Force Base near San Antonio. So that would have been February, March, April, so I knew quite a bit in advance that in September I’d be going to law school at Willamette.

Military Service

DS: So you graduated from Willamette with the B.A. and then decided to go into the Oregon Air National Guard, right?

JJ: Yes.

DS: How did that decision come about?
Jlderks, Tape Three, Side One

JL: Well, it’s interesting that when I was eighteen—I guess, from eighteen on—all of us had a basic military obligation that could be satisfied by going on active duty for two years in the Army, say, longer in the Navy. Marines were two or three years, I guess. Or, going into a military reserve or National Guard program. And my friend Jim Backstrand and I—Jim was a friend of mine from diapers, literally diapers. We lived next door to each other when we were born. And he graduated from Stanford and we knew we had our military obligation to take care of, and we heard about a program with the Oregon Air National Guard, where maybe you only went to basic training and then back to do your duty at the airbase.

So we worked and worked. I don’t know how many times we came from Salem to Portland to meet with Mr. Rylander. He was a warrant officer who was the guy you had to convince that you ought to be in the Oregon Air National Guard. And we finally got accepted, and they had two openings in the weather flight. And so we went to basic training for eight weeks knowing—and looking back on it this was kind of stupid, but we had a goal to get back home as quickly as we could. And we knew when we went to basic training that there was a four-month school, weather school, somewhere in the Midwest, but all the slots were full. So we knew that we wouldn’t go that four months, we would only do basic training, then come back to Portland and learn on the job.

In retrospect, one of the things I would do differently in my life, I think I would take more active duty in the military, because again, kind of like the fraternity, I enjoyed the military and later voluntarily stayed in the Navy Reserve for a number of years, long after my six-year obligation was up, because I enjoyed that camaraderie and learning from it and being part of it.

Jim and I went to basic training at Lackland, that to me was an interesting and mostly fun eight weeks, and then back assigned to the unit here in Portland.

DS: What was it you liked about it, because people typically don’t say that they enjoyed basic training?

JL: Oh, basic training? The most fun was the obstacle course, because my friend Jim was a real good athlete and by then I had grown and was pretty athletic. We’d go out to do our P.T.—it was called physical training—and it was pretty hot and well, by the time we left there it was hot. You know, we’d be out doing push ups and I heard a thud one day and one of the guys had collapsed. And to Jim and me it was just easy fun because the National Guard troops, believe it or not, were in better shape than the regulars.

The regular Air Force were there at the same base. We didn’t mix much, but on the athletic fields and on the obstacle course you’d see them, and they were generally younger. Most of us had been to college so we were physically more mature, maybe
more motivated, I don’t know. But for Jim and me, running the obstacle course was just a lot of fun. I wish we could have done it twice a week instead of maybe twice in eight weeks. I remember some of the sayings from the T.I.s [Training Instructors] when we first got there that were humorous, but maybe not totally P.C. Well, I’ll tell you one of the stories.

I only used this once in court, in Juvenile Court with a boy that was pretty mature, but I’ve thought it a number of times. When we first got there and the T.I.s, one of whom was tough and one who tried to act tough—Sergeant Kelly wasn’t really a tough guy. He was a softie. But Sergeant Ellis was really a pretty tough career Air Force Sergeant. I remember when they first had us lined up off the bus saying, “Okay men, you play ball with us, and we’ll play ball with you. You don’t play ball with us and you get the bat up your ass.” And it was true. And it’s really good advice. It’s how things work. It’s like I’d like to say that to a lot of probationers who need to get along with their probation officer. They need to get along with their employer. They need to get along with the court and a lot of people just never learned that lesson, that what you get out of life or basic training or how you’re treated depends a lot on how you play ball with people. I liked those guys.

One of the things, too—on the obstacle course, one of the things I’m kind of proud of is—sounds silly to be proud of it, but I remember flying over a little cliff where the object was to go down, to let yourself down on the rope. And there’s guys kind of inching their way down and we had had a practice run the day before so you knew what to expect. I remember coming, not quite a full speed, but jogging along pretty fast when I got to the little cliff, grabbing the rope, kind of flying through the air down the other side. And there’s this Air Force regular guy who’s monitoring that particular obstacle, yelling out, “There’s one son of a bitch who won’t get his ass shot off.” And that felt good to me. I remember that these forty-seven years later. I can remember going over, grabbing the rope, flying through the air and him yelling that out. And that was part of the fun of it.

DS: You enjoy a challenge, it sounds like?

JJ: Sure. When I was younger I was pretty competitive. I always would have liked to have been a good athlete, and my friends were real good athletes. After I was in my early twenties I was a pretty good athlete, but not quite that same level. Good enough to have lots of fun competing in various things. I ran in all-comers track meets, and I might even still do some of that if I get myself back in shape.

DS: Right, because you’re a bicycle rider now.

JJ: Yeah Maybe when I turn seventy in
a couple years I might see if I can run. I
used to like to run sprints. I don’t know,
how many fast seventy year olds are there
out there? [laughing] Not that I’d be fast.

DS: I have no idea.

JJ: But I still think about those, and to
some people—and I can’t fault them at all—they
think that’s just silly, but that’s part of who I am.

DS: So you went to Lackland and then
you came back to Portland. What was the
expectation for the National Guard at that
point?

JJ: Well, what our obligation and the
requirements were, that one weekend a
month we spent out at the air base.

DS: Which was where?

JJ: It’s just this side of the commercial
airport. The Oregon Air National Guard was
flying F-89 jet airplanes, kind of the leftovers
from the Korean War, I believe. I was in the
weather division, and we had an office right
in the hangar, where upstairs we could look
over the balcony and they’d be working on
the F-89s down on the hangar floor. And
we had some very knowledgeable people.
I didn’t know much about the weather, but
we had a fellow, a George Miller, who I
read about in the paper once in a while. I
haven’t seen him since 1964. I’d like to look
him up because he ended up being the head
guy with the U.S. Weather Service here in
Portland.

Another fellow who was full time
with the Weather Bureau, our original
commanding officer, I think, might have
been a fireman, but he seemed to know a
lot about the weather. But we had at least
two guys who really were sharp who,
when you were trying to figure out how
to chart something—and they actually did
the weather stuff for the F-89 pilots, as I
recall, they were part of doing real stuff,
not just training or reading books. They
were right there as part of the operation.

DS: So there were these people who
were involved in actual work that had
to do with the Air Force and F-89’s. That
was at the beginning of Vietnam, and was
there any possibility at that point of your
being called up?

JJ: Yes. I was in the Oregon Air Guard
from ’61 to ’64 and it was the basic six-year
military obligation of some combination
of active duty and reserve duty. My dad
died in the summer of ’63, and we had a
new commanding officer in the Air Guard.
My friend Jim moved to Seattle, so he and
I, that last year or so, weren’t going to our
meetings together. When my dad died, I
didn’t call the commanding officer to get
permission to miss that weekend of my
dad’s funeral. And when I went back the
next month, he chewed me out. I didn’t
say anything to him but I thought, “You
know, when my three years is up, I’m not
going to re-up,” knowing that I had a six-
year commitment though.

So I didn’t re-sign for the second
three years with the Air National Guard and was involuntarily assigned to the Air Force Reserve, which I knew would happen because I knew I had a military commitment. Then I was assigned to a law office, because by then, I was in law school and about to finish law school, or maybe had finished law school. It was right in that period. I got assigned to a law office and there were just two of us, the commanding officer, John Gilbertson, and me as the clerk typist. Unfortunately, I couldn’t type, but I knew about the law. And then John retired and a real good guy, Lou Hampton, who was a long-time Beaverton lawyer, was in the Oregon Legislature for a while—Louie was my commanding officer.

Met a new bunch of guys, good bunch of guys—actually, a fraternity brother from Salem was in another division of the Air Force Reserve. Met a really good guy who was in a car dealer family from McMinnville, Allan Larsen. Anyway, we’d get together for lunch and different things. So I enjoyed a relatively short period in the Air Force Reserve, but I was looking into the idea of getting a commission as a legal officer in the Navy Reserve. And one day, Lou Hampton came back from lunch, my commanding officer, and he said, “John, if you can get that commission in the Navy, you’d better do it, because we’re going to get activated.” At the time they were activating a lot of reserve units around the United States, not to go to Vietnam, but to take the place on the air bases of the units that were going overseas. I really didn’t mind getting activated, but I had a new baby by then and, as I say, I couldn’t type. I was a low-level enlisted person and I thought, “Well, if I’m going to be going on full time active duty, I’d much rather go as a lawyer and an officer with an income that can support my family than as a clerk typist at a low pay, not knowing how to type.”

I applied for and got a commission in the Navy Reserve, being assigned to the unit here in Portland where Judge Robert E. Jones was the commanding officer. I went from meetings at the air base to meetings in Judge Jones’ courtroom here in Portland at the Multnomah County Courthouse. I still lived in Salem, and I enjoyed the experience as a legal officer and stayed in the Navy Reserve in a non-paid category for a lot of years after my reserve obligation was up. I finally gave it up because I was living, I think maybe in The Dalles at the time, in a non-pay unit meeting in Portland. It was actually costing me too much money and time to stay in the reserve, but I enjoyed that experience as a legal officer in the Navy Reserve and did my two weeks active duty every year at different Navy bases around the United States, and, I think, learned from that experience.

DS: So you were never actually deployed while you were in the reserves?

JJ: No. Never called up. My Air Force unit, although they were told they
were either going to or very likely to be activated, they were never activated as they thought they were going to be.

DS: So you had that year out of college and that’s when you went into the Air National Guard?

JJ: Yes.

DS: And then you went back to law school. What was that process like, getting back into law school? You said you applied and you knew you were going?

JJ: Yes. Well, law school is totally different from undergraduate school, and I maintained some contact with undergrad school because my girlfriend at the time was an undergraduate at Willamette. But it’s kind of a different world, even though the law school was a few hundred yards from my old fraternity house. I’d go over there on occasion, and knew some of the younger people, but you develop a new set of friends. Law school is kind of a life unto its own. But law school was a good experience. I enjoyed the instructors, enjoyed my classmates.

DS: Who did you go to school with?

JJ: I had some friends. One of my best friends had come down from Washington State, Denny Chorba, who later was a success story, couldn’t have happened to a nicer guy. He became a lawyer with Georgia Pacific here in Portland, and he was one of the five people who spun off the Georgia Gulf Corporation from Georgia Pacific. He became one of the founders of the Georgia Gulf Corporation, which was later a Fortune 500 company, and when they went public—or maybe before, but at least then—he became an instant financial success. But just a really good, fun classmate.

Another of my classmates was Joe Balfe, who worked full time as an Oregon State policeman on the swing shift all they way through law school. He and I were good friends. Probably got my first job in the District Attorney’s office in Salem in part as a result of my friendship with Joe. Roger Ling was a friend. He was over from Idaho. He was married and had kids. But to show what a small world it is, his daughter Dawn was an FBI agent who did my background check when I took this job. There’s a pretty extensive background check and she was the FBI agent assigned to do my background check. I said, “Boy, I hope her dad doesn’t tell her everything he knows about me.” [both laughing]

DS: Anybody else who you’ve been connected with through the Federal Courts?

JJ: Let me think for a minute. Well, several of my classmates became state court judges. Greg Milnes was a circuit court judge out in Washington County. Jim Donnell, who I later worked with, was a district judge in Wasco County. He’d
grown up in—his family had a cherry orchard up in The Dalles and he went back to The Dalles and ultimately became a judge there.

I’m trying to think with the federal courts, people I knew in Salem when I was in the D.A.’s office, Otto Skopil. I knew his partner Bruce [Williams] and, of course, everybody in Salem knew Otto Skopil, and he was a longtime district judge and now senior judge on the Ninth Circuit.

Malcolm Marsh, I knew not well at all, but knew who he was in Salem and, of course, knew his father and uncle had been very highly respected lawyers over in McMinnville. But from the school connection itself, nothing jumping out at me right now.

Memorable Professors & Classmates

DS: And how about your professors? What did you get from them?

JJ: My favorite professor was John Paulus, who was a very no nonsense, straight forward, super bright guy, and I really enjoyed the courses I took from him. Real Property I, Real Property II, Federal Taxation, and I think at least one, maybe two other courses. I later had the privilege of being the master of ceremonies at his retirement celebration where Senator Hatfield was the featured speaker. So I got to have some fun with John Paulus. He had come from Iowa. He was a terrific tennis player and still played tennis, it seemed like most every day, when we were in law school. But he was just a good guy.

When I go down to Willamette now, I went down a couple months ago to speak at a cultural affairs seminar, speaking about the Kennewick Man case that I had—the 9,000-year-old skeleton that was found on the Columbia River,—and the room where that program was the John Paulus classroom. So I have good memories with Dr. Paulus.

DS: I’ve heard a lot of people say that he was one of their favorite professors.

JJ: Well, he was really good. The other professors were good guys. Courtney Arthur I had for Criminal Law, and Courtney, later in 1971, called to see if I knew of anybody who might be interested in teaching criminal law and procedure at the law school. It took me quite a while to figure out that he was interested in whether I would want to come back to Willamette to teach. I was in private practice at the time and, I think, either just put my name in to become a judge or had been selected, I can’t remember which. But in any event, I’d made plans to move on to a judgeship or I might have talked to him about going back and being a professor. Actually I recommended someone to Professor Arthur who was contacted and took the job and put in twenty years or so.

DS: Who was that?
Jelderks, Tape Three, Side Two

JJ: Who was the fellow that took the job? Don Turner, who at the time was the District Attorney in Wasco County, and I’d gotten to know him when I was the District Attorney next door in Hood River County. We actually had each other cross deputized because neither of us had a deputy, initially, in our offices. And his wife had a pretty serious medical condition, and so I think it worked out real well for them to come back to the Willamette Valley where she could get medical care. I think he enjoyed his many years as a law school professor.

DS: Any other professors that you’d like to talk about?

JJ: Well, Ted Butler was a good guy. Charlie Jens, who I had for Contracts, was funny and was good and was practical. He would tell us, “Always check the statutes,” and he was right. Before you get into too much fancy legal research, check the statutes. So that was very good practical advice. He was humorous and certainly made Contracts fun.

I’ll never forget the “a deal’s a deal.” We had one black student in my class in law school, which was relatively unusual at the time. Horace later became a judge in San Francisco, but I’ll never forget that first year of law school. Professor Jens really liked Horace Wheatley, liked him a lot. Horace was a good guy, good student, but Charlie Jens just had especially liked him.

You’d maybe say, in a way, he was picking on him, but he really wasn’t, but he would call on him fairly regularly and one day we’d read some Contract case and Professor Jens called on Horace and said, “Well, what do you think of that, Mr. Wheatley?”

And Mr. Wheatley said, “Well, I think a deal’s a deal.” And so, from that point on, some of us would say he was “A deal’s a deal Wheatley.” And again, it’s pretty basic, but that’s what Contracts is all about, a deal is a deal. If there’s a deal, it’s a deal. But Professor Jens made it fun.

DS: Were there any women in law school at the time?

JJ: Yes, there were. There were several women, in fact, my class was fairly large. And it might have been Charlie Jens, Professor Jens who our first semester said, “Take a look around because a lot of you won’t be here next year.” And interestingly enough, the two guys that sat next to me, one on my right was a schoolteacher who had come up from California to go to law school. The fellow on my left was a business man, actually, a former legislator. They were older and I think law school is a little harder for older people. You know, they weren’t old, but they were somewhat older. I think it was tougher for them, they weren’t back next year.

There was an older woman, I can’t think of her name now, she wasn’t back. Donna Dahlke, who was not only
a classmate, but she was on the Dean’s List, I think every semester, one of the top students in my class and she was there all the way through. And later she and her husband—she married a fellow who was a year or two ahead of us in law school. And she had a practice over in Bend, Oregon. So there were some women.

Norma Paulus. I shared one class with Norma Paulus. She was a couple years ahead of me, but we had a class in Domestic Relations together, as I recall. I can’t remember that professor’s name, but he was very good also. He had come out from the East Coast and that class was very helpful to me later on because I heard thousands of domestic relations cases as a state circuit judge. So that was a valuable class, and he was a good instructor. I have no idea if Norma remembers this, but we had a mini debate one day in our class, and the issue was whether, as I recall it, whether the state, the government, had the right to sterilize a woman who would be probably incapable of raising children, a retarded woman. And Norma was on one side of that, and I was on the other. I have no idea if this is a hundred percent accurate, but I think I had the position that if a person is incapable of raising a child, it’s going to be the state’s child anyway, so the state should have the right to sterilize that female. I think Norma was on the other side of that issue.

DS: And were those sides appointed or were those sides that—you don’t remember that part?

JJ: I don’t remember, and it might have been a case that we read—because it wasn’t like it was like a setup debate where you’re gonna be on this side and you’re gonna be on that side, it was more of a spontaneous thing in the classroom one day that maybe arose out of a case we read on that point, just to try to make that point where did the individual’s rights stop and the state’s rights take over.

And again, as a circuit judge, having to deal with termination of parental rights, you know those are really important long-term decisions. Much more important in my view than whether some big corporation gets ten million dollars or whatever, when you’re deciding whether a parent no longer has a right to be a parent. Those are big, big, serious decisions in my mind.

DS: How do you make a decision like that? Where is that line? Is it a subjective decision every time? Are there criteria?

JJ: Well, it’s like you make every other decision as a judge. I think you do your best to understand the law. You do your best to determine what the facts are, what the person’s capabilities are and apply the facts to the laws. So, that’s really what a judge does in every case. First, you need to know the law, and whether you agree with the law or not really is irrelevant. You figure out what the law is and then you do your very best to apply that law according to your understanding of what the facts would be. The discussion in that
Domestic Relations class, that gets a little more philosophical and the gray areas of the law may be, depending on where you are philosophically, that’s where it might enter into how you make decisions. I expect it does.

DS: Well, I’m curious about something like domestic relations, especially in light of your having ruled in a lot of domestic relation cases later on and learning about that in the early sixties, I wonder if there’s any difference in the interpretation of the law then and the interpretation of the law forty years later in terms of something like domestic relations. I don’t know that I’m framing that very well, but there’s a whole social context that was very different in the early sixties, when there might have been one woman or so on a domestic relations court. And the way that that has evolved over the last forty years, I’m just wondering if you could comment on that?

JJ: Well, it’s interesting in that, you know, there were maybe relatively few women in the law, but that certainly didn’t mean they always would get the short end of the deal. For example, forty years ago in child custody cases, the women always prevailed unless they were found to be unfit. Well, there’s probably somewhat more equality now between men and women, but women really had the edge then. Men, probably who were equally qualified, or slightly more qualified, were never awarded custody of children.

And it wasn’t because women dominated the law, it’s just because that’s the way the law was interpreted and enforced at that time.

DS: And would that have even been a subject of discussion in a classroom like that, at that time?

JJ: You know, I don’t remember. And even though the numbers were low, I have no memory whatever of the women in any way being treated differently from the men, treated as anything less than equal. And, you know, I’ve heard the stories and they’re true, I’m sure, of like Justice O’Connor having trouble getting a job or being offered a job as a secretary as happened to a lot of women lawyers many years ago. My own observations from my generation forward were that women were treated pretty much equally.

You know, I can’t say they always were, and I’m sure there are true stories to the contrary, but looking back, I had a lot of respect for the few women that were in law school when I was. A woman named Marian Embick, whose husband was a doctor in Salem, was a little bit ahead of me and practiced law in Salem, I think, was respected both as a student and as a lawyer.

I can’t remember what happened to her, Jean Christiansen I think was her name. She was a little ahead of me in school. Norma Paulus was ahead and certainly she was very well respected as a lawyer and as a politician. Donna
Dahlke Davis who was my classmate, we all respected her. You know, we didn’t pal around with her as such, but I think that was just because she wasn’t palling around.

I’ve always felt bad that I didn’t get to know Horace Wheatley better. I’m hoping to look him up. He’s probably now retired as a judge in San Francisco, but I can remember a number of times asking Horace if he’d like to come have a beer with us or whatever. But being one of the few black people in the whole city of Salem at the time, his social life seemed to be here in Portland. I think he had friends in Portland and when weekends came, if he wasn’t studying,

I think he probably came up here. But I didn’t get to know him well enough to know that for sure. I know that it wasn’t because he was in any way rejected or treated differently by certainly the vast majority of his classmates. It’s just that his social circle was in a different area than where ours was, you know, where we’d get together after an exam and go have a beer. I can’t remember Horace taking part in that.

DS: Are there any other examples of things that have changed in terms of, going back to the domestic relations, of things that have changed, like the automatic assumption that women get custody? That’s something that has changed.

JJ: Mm-hmm.

DS: Are there any other things like that that you can think of?

JJ: Oh, I think it’s changed also in the criminal area, where because of sentencing guidelines, I think primarily, there are a lot more women going to jail and prison now than there were when I was first involved in the legal system. I think the system in general, and maybe judges to some extent, for whatever reasons, were a little softer with women. And part of it, you know, women don’t do violent things and whatever, but most judges, being male, might have been a little more paternalistic, I don’t know. But now because of the guidelines, both state and federal courts, you see more women going to prison.

I read a story in *The Oregonian* the other day about a nineteen-year-old girl who is serving time in jail as a result of being the driver in a fatal automobile accident. When I was a young prosecutor, she’d have never been prosecuted. This op-ed [opinion-editorial] piece, the writer, I don’t know anything about the case other than reading this op-ed where he thought she shouldn’t be in jail. And from what I read, I would probably agree with that and certainly early in my career as a prosecutor, defense attorney or judge, she wouldn’t have been in jail. But, now she is and part of it is this equality. And part of it is being the laws are really more punitive now across the board than when I was first in the criminal justice system.
**Sentencing Guidelines**

**DS:** We’re on tape four, side one. And the question I was going to ask is how you feel about the sentencing guidelines. That’s something that comes up for us in all of the interviews that we do.

**JJ:** Well, before sentencing guidelines were enacted, I was told that sentencing guidelines shift power from the courts to the prosecutors, and I think that’s absolutely true. Which isn’t all-bad if you have fair-minded, objective prosecutors and, fortunately, most are. But I personally would rather have my future in the hands of a judge than in the hands of a prosecutor. Just going across the board and on averages, I don’t think they’ve been good for the system. I think mandatory minimums don’t make good sense. I think people are now even, even people who feel they’re innocent and want to have a trial, they and their lawyers can’t take the chance because there’s too big a downside risk that if they get convicted of what they’re charged with. They just have too much at stake.

I have a young friend who was given the choice, after being ten months in jail waiting trial on a crime where he professed his innocence, he was, in effect, given the choice of pleading guilty that day or the next day and being released on probation, or taking his chances with the trial and if convicted, I think at least eight years in prison. If you’re his lawyer, you think there’s about a fifty-fifty chance.

What advice are you going to give him? Plead guilty to something you don’t want to plead guilty to and walk out of the courthouse or take your chances and have a fifty-fifty chance of doing eight years in prison with no parole?

**DS:** What kind of crime was it?

**JJ:** It was a sex crime. It’s serious, if he did it. I wasn’t there. My point is, people in that position, and I followed his case because I was interested in what happened to him, are put in a position of really having no choice. And I’m a believer that guilty people should be found guilty, and people that don’t think they’re guilty should have the opportunity to have their day in court. There’s been some of that as long as I’ve been in the system. Prosecutors have always had a lot of power, but pre-sentencing guidelines, if the prosecutor is over-zealous, the judge could smooth it out.

I had a series of cases once as a judge where the girl’s boyfriend broke into her house or apartment and trashed the place, didn’t horribly beat her up, but roughed her up and broke up some furniture. Then her brother and a couple of the brother’s buddies found the perpetrator, took him out to the edge of the little town where they all lived and worked him over. Well, that was wrong. But the prosecutor in that case chose to disregard the burglary and the assault on the young woman, and charged the brother and his two buddies with kidnapping and a very serious assault.
because one of them, when they worked him over a bit, hit him with a tree branch. I think. Didn’t do grievous bodily injury, but you know, they beat him up. There’s no question about that.

Some would argue, well, maybe he had it coming. But we’re a civilized society, so you would never condone taking the law into your hands. But my thought was that the boyfriend shouldn’t have been charged with burglary, a felony, that he should have been charged with disorderly conduct or maybe a simple assault, misdemeanors assault and battery since he hadn’t seriously hurt the girlfriend. And that the three guys should all be charged with disorderly conduct and that all four of the males involved would be guilty of misdemeanors and go on their way, maybe with some year or so supervision to make sure they didn’t do it again. But instead the three guys were charged with very serious felonies.

Well, as a trial judge in those days you had sufficient authority to kind of smooth that out. And even had they been convicted of first-degree kidnapping, under the current rules they would be going off to prison, no questions asked under the guidelines. Whether the people on the jury thought he should go to prison or not, and I think even with the guidelines, jurors still think, “Well, if he’s technically guilty of this, we’ll find him guilty.” And these guys were probably technically guilty of kidnapping because they did toss him in the car and haul him off to the edge of town, which, a little town, it was maybe two blocks. But the juror in some of the little towns I covered, they would have, even under the guidelines, not being told how they work unless they were pretty sophisticated, they’d say, “Well, we know John, he’s going to smooth this over.”

Well, with the guidelines, neither John nor anybody else has the authority to smooth over something with a few minor modifications and those guys, who I thought should get a relatively minor penalty, could have been off doing a lot of time in the penitentiary. I don’t think that would be—I wouldn’t have thought is was right then, I don’t think it’s right now.

The nineteen-year-old girl who was written up in the paper didn’t sound like she was drunk, didn’t sound like she was doing anything terribly reckless. I wasn’t there, so I want to be careful what I say, but those were always the hardest cases I had to deal with, I think, as a judge in the criminal system where the result is so horrible. Somebody’s died but the intent, there was absolutely no intent to hurt the person. And I’ve always been of the philosophy that the criminal law ought to deter and penalize intentional behavior.

So I was highly criticized a time or two in negligent homicide cases where there was absolutely no intent to hurt someone, but somebody died, where I imposed what some people perceived to be too light a sentences where under the guidelines, the people would be doing a lot of time in prison, just like this girl is apparently is doing, time either in prison or in jail. As a result of another girl in her
car dying when she had absolutely no intention of hurting anybody.

It was difficult for me in the old days; this has changed because, properly, drinking too much and driving is taken much more seriously now. But when I was first in the system, if old Joe had way too much to drink at the tavern and ran in the ditch on the way home, and his blood alcohol might have been .20, people would laugh about it, pull his car out of the ditch, and not take it very seriously. But if old Joe, with the exact same mind set had too much to drink and as he was running off the road, hit a kid on a bike and killed him, then everybody wants him hung up by his heels when he’s done exactly the same thing. And my view, which not everyone would agree with, those things should come much more close together. The person who has too much to drink and runs in the ditch should probably be treated almost as seriously as the person who did exactly the same thing, but just through bad fortune hit somebody on the way into the ditch. And that’s been a hard thing to reconcile with results being so bad and I’ve kind of come around to the view that maybe if the result is so bad, somebody dies, that society demands that there be a pound of flesh even if it accomplishes absolutely nothing and destroys other lives. Because of the sentence that was imposed, it doesn’t just impact that driver, it impacts the family, it impacts a whole lot of things. But it’s the one area of the law that I wrestled with quite a bit.

DS: Well, that’s interesting because these days if you drink and drive and you’re blood alcohol level is .20, you get a DUI and there are consequences.

JJ: Serious consequences.

DS: There are serious consequences. You’re not just sent on your way.

JJ: And should be serious consequences.

DS: Mm-hmm.

JJ: Don’t get me wrong, there should be. I think when we’re talking about drinking and driving, I don’t think a system will ever work successfully when that system depends on a person making a rational good decision when they’re least able to do so. I think then we won’t see it because we’re too much of a drinking society. I think if we’re ever going to really deal effectively with alcohol and serious accidents on the highway, we have to do like some countries have done and say, “If you drink, you don’t drive, period.” Because a person, I don’t know how familiar you are with blood alcohols and the affect they have on people, but let’s say somebody has a .10, .12, over the .08 limit now, and they’re trying to decide, “Now did I have too much to drink tonight or not?” That’s when they’re least able to make that decision. So unless they have something to blow into or somebody says, “Okay, Charlie, I’m going to take your car
keys because you shouldn’t be driving home.”

But what the system does do, it does tend to weed out the serious alcoholics, and my psychology professor, Noel Kaestner, Dr. Kaestner, did some work for the Motor Vehicle Division, where he did a profile of the people who killed on the highway. I wish I had a copy of that now. I’ve tried to call his widow, he died some years ago, and I’ve tried to call her this last year actually to see how she’s doing and to see if a copy of that would still be around [telephone ringing] because I think that work that he did in the –excuse me. [Tape turned off so the phone could be answered]

JJ: Anyway, I think if I found that research project that he did, that what we would find is that a lot of the people who cause these serious accidents probably have multiple convictions for driving under the influence, reckless driving, driving without a license, whatever. It can be the first timer certainly, but my experience with DUIs is most people—some people just have bad luck and they can have too much to drink one time, get picked up on the way home. Most people, in my experience, who get charged with a DUI, have a serious drinking problem. A lot of them don’t know it, but by definition if you get a DUI, you have a drinking problem. In my view, anybody, say over the age of thirty-five who I see drunk, to me has a serious drinking problem. I don’t think people my age, with my experience, get drunk unless they have a drinking problem. They might drink some, but too, you know, I’ve known people that have gone back to college reunions or gone back to their old fraternity house where you have young people who like to drink a lot on some campus and there’s some alum just tossing them down with the boys. To me, one, you set a bad example, and two, even though those young people don’t understand it, somebody like me says, “There’s a guy with a serious alcohol problem,” and I could name names of well known people who I’ve either seen or heard of doing that, but I won’t [chuckling].

DS: I won’t ask you to [chuckling]. In a case of something like a DUI, then those kind of mandatory minimum sentencing guidelines, it seems that they’re somewhat effective.

JJ: Probably so.

DS: Whereas in the other case that you talked about, you would prefer—or maybe that’s not the way to put it—but more judgment on the part of, based on the specific circumstances, might be called for?

JJ: Yes. But probably, now here a well-educated, sophisticated judge in today’s world—without mandatory minimums or mandatory alcohol classes, license suspensions have been around for a long time—but a well-educated, sophisticated judge would impose those types of
sanctions anyway in today’s world. Much more so than forty years ago.

You asked me about other big changes, and I think a giant change involves domestic violence. That’s been just a giant change, and I think that’s all worked out pretty much for the good. I wasn’t so sure, when we first had the real strict domestic violence laws, how that would all work and I’ve become a believer.

I remember when I was the district attorney in Hood River County, going to visit Babe in the hospital. The sheriff took me up to visit Babe, was her first name, well-known woman in a small town other than Hood River. Anyway, Babe was black and blue literally from her neck to her calves. I mean, her husband had just beaten her unmercifully.

I’d had those cases in Salem as a deputy district attorney and almost without exception, we’d file the charges—the victim would always—and I can say always advisedly, not 60 percent of the time, not 70 percent of the time, always wanted the charges dropped. And they were usually dropped because the victim didn’t want to prosecute. Babe, who was just beaten to a pulp, to the extent she had to be hospitalized. I went to visit her in the hospital; we filed the charges. A few days later, weeks later, whatever it was, she wanted the charges dropped and they probably were because that’s the way the system used to work. If charges were filed, if the victim didn’t want to pursue them, the victims almost never did, the charges were dropped. And those domestic violence issues are taken much more seriously now, and the charges are not dropped. There are ways to go around them. Prove them without the victim’s cooperation.

We had one woman in Hood River, the system got to the point where she wasn’t going to dictate what happened because we were all convinced her husband would probably kill her someday. It got to the point where every time he beat her up, he would spend six months to a year in jail, and she wouldn’t want that to happen, but whenever he got out of jail, he beat her up again. We’d go through that same cycle. And you’d think if he was gone for six months, that would give her an opportunity to leave that. And we could discuss that the rest of the day, the psychological reasons, but I think the changes in dealing with domestic violence where women are the victim 99 percent of the time, if not ninety-nine-and-a-half, those have been for the good, and maybe is helping cut down on some of the things that previously were swept under the rug.

DS: In the case like—I’m going back to the one that you referenced earlier where the men were charged with kidnapping—it sounds to me like the issue is really in what they’re charged with. Not that there’s an arrest or some sort of consequences for what they did, but they’re being charged with a felony versus a misdemeanor.

Jj: Right. And that’s really the

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prosecutor’s decision. The grand jury comes into play to some extent, but like in that case, there was a technical kidnapping, and if the prosecutor presents the jury with the evidence and an indictment drawn up finding kidnapping, they’re going to find it. So that’s where I say, the power’s gone to the prosecutor because the prosecutor decides what the charge is, and the sentencing guidelines and mandatory minimums, in large part, determine what the sentence is going to be, rather than in the old days, no matter what the person was convicted of, a judge pretty much had the discretion to, let’s say in a Class A Felony with a potential sentence of twenty years in prison and I think a hundred thousand dollar fine, if the judge thought it was appropriate, he or she could impose a sentence of discharge—up to anything from discharge, which is get out of here, to twenty years and the maximum fine.

DS: Now, haven’t some of those mandatory minimum sentences then relaxed a little bit?

JJ: Well, in the federal courts, as I understand it, because as a magistrate judge, I don’t do any felony sentencing. Let me digress for a moment, I really thought I would miss being involved in felony trials and sentencing because such a big part of my career was with the criminal justice system and where I really felt I had the most expertise. But, one of the advantages in my not becoming a U.S. District judge, in my view, was that I did not have to impose sentences under the guidelines or the mandatory minimums, because I’m confident, as I sit here, that on occasion I would have been required to impose sentences that I didn’t personally believe in. And as a judge before, I never really had to do that because the sentencing guidelines were just in the process of being fully implemented when I left the state bench.

So, most all of the felony sentencing that I’ve done in my life was when the judges had a full range of penalties to impose. Under federal law, now, the guidelines have been declared, I guess unconstitutional, I haven’t really read the cases because I don’t need to know exactly what they say, but you’re absolutely right. In the federal system, judges now have more discretion, but still not absolute discretion, and the mandatory minimums, I believe, are all still in effect. It’s just the guidelines sentences that, other than the mandatory minimums, the guidelines sentences, the judges have more discretion now than a couple of years ago.

DS: And in the state courts?

JJ: State court, I think everything is still pretty much controlled by the guidelines and mandatory minimums. I don’t think there’ve been any findings in Oregon, unless I’ve missed something, that Oregon sentencing guidelines are unconstitutional. As I say that, I have to stop and think about it because there might be some federal decisions that
impact that. I guess I just should say that I’m not fully up to date. It’s something that changes almost week by week.

DS: I was planning on researching it before we talked about it. I didn’t expect to go into that today. I will do that.

JJ: But let me just say for this record that I don’t think that the strong sentencing guidelines, in particular mandatory minimums, have been particularly good for the legal system or society in general.

DS: I wonder if those things will continue to balance themselves out in some ways as they work through the Supreme Court, through the Constitution.

JJ: Well, I think it’s a great thing about our society, is that things do tend to balance. They tend to go too far one way and maybe they’ll swing back a little too far the other way. But built into our system is a need to find equilibrium and ultimately it’s found.

One of the problems, though, with laws in general, is it’s much easier to pass a law, good or bad, than it is to repeal a bad law. So the books, both at the state levels and at the federal level, are full of laws. Every session of the legislature, every session of Congress, pass more and more laws, and they aren’t all good laws. And it’s pretty hard to get rid of bad laws because they take on a life of their own. And there’s always people who have a vested interest in keeping certain laws on the books. That’s all I’ll say about that.

**Marriage & Family**

DS: Okay. We’ll probably come back to some of those issues later on. Let’s go back to law school [laughing], that’s where we started. I just wanted to ask, were there any courses or issues that were your favorite things to investigate—you said law school was a different experience for you. And you told me before that you really, you enjoyed it. You learned a lot, and it was a good experience for you.

JJ: I had a little trouble settling down but by about halfway through, I really had the ability to focus on what I needed to be focusing on. So I was on the Dean’s List each of the last three semesters.

My third year, I attribute part of that to being married because as a young married guy, I think you just tend to get more rest and are more focused and not as likely to be staying out late with your buddies or whatever. I think marriage, of course, has a settling influence in general. So the last two semesters, I had good grades, in the top ten percent and, actually, the semester before that, I was in the top ten percent. So I had the ability, by that point, to focus on what was important, to be reasonably well prepared for exams and to have good grades.

DS: Tell me about meeting your first wife.
JJ: She was a Willamette student, and I knew her before she and I ever went out. She was from Palo Alto. Her dad was in the cannery machinery business. He and his partner had a very interesting business in that they bought the fish canneries on Cannery Row. I was watching a program on aquariums last night and there was land Wes and Ted had owned, my father-in-law’s name was Ted Aronson. His partner was Wes Dodge. Dodge and Aronson had an office on Cannery Row. And they owned most all of those old fish canneries that had gone out of business after the sardines left Monterey Bay.

They bought them for the machinery that was in them. So they would remove, like the electric motors, would remove those and I worked for them a couple weeks one summer and helped with the motors and what have you. My father-in-law’s portion of the business was in an old cannery in Santa Clara, just on the edge of San Jose. And Wes was over in Monterey, and together they had Dodge and Aronson. When Ann and I would go down at Christmas time or whatever, we’d usually go over to Monterey and so I spent some time on Cannery Row before it was as famous as it is now.

My first wife was from Palo Alto, graduated from Willamette. We went out in law school and then we were married September before my third year in law school. And she worked the Marion County Juvenile Detention Facility when we were in Salem. I’m trying to think what else she did after we were married. She primarily worked at the Juvenile Department. She had a degree in psychology.

DS: Okay. But she didn’t go to law school, though?

JJ: No.

DS: And you said you had a baby?

JJ: Sarah was born December 23, 1965 and we brought her home in a Christmas stocking, a Christmas sock. She was a wonderful little girl. And she was really a nice girl. She helped people when we lived in The Dalles; she was still not all that old. She volunteered at the grade school just down the street helping take care of migrant babies.

DS: Really?

JJ: While their parents were out picking cherries, she was taking care of babies and little kids.

DS: And you were finishing law school the year that she was born?

JJ: No, I finished and graduated June of ’64, admitted to the bar, September ’64. Clerked at the Oregon Supreme Court for Justice Gordon Sloan from September ’64 till September ’65. Sarah was born the last year I was in Salem, when I was in the district attorney’s office in ’65 – ’66. Because we then
moved to Hood River, and I started as the Hood River County District Attorney, October 1 of ’66.

DS: Okay. You got married in ’63 and then, okay. Is there anything more that you want to say about law school before we—

JJ: Just had a good time. Played intramural sports.

DS: In [laughing] law school?

JJ: We had a fun flag football team. I played on the law school basketball team. We had fun with that.

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DS: So you played intramural sports.

JJ: Had fun playing intramural sports. We had a good intramural track team. We probably had an advantage over the undergraduates because if they had people that were good at track, they were probably on the track team. We had guys who had been good athletes in college, or at least at the small college level and were now in graduate school. So I can remember really enjoying running on the relay team, because I could run pretty fast and ran with these guys who, a couple of them had been college sprinters. And so won both the what then was called the 440 relay and the 880 relay. I can remember running one leg of the 880, running the 220 yards and passing the Willamette football team’s halfback going around the curve, although to this day, he denies that I passed him [both laugh]. But I had fun with that.

And one other thing about law school, made good friends who were older. Jack Cooney, who I’ve worked with the last few years. Jack was ahead of me in law school, but I got to know him then. Wally Carson, who I’d known from before, but Wally was in law school a bit ahead of me. We maintained that friendship that we have to this day. He later was the Chief Justice of the Oregon Supreme Court, and I consider him a good friend. Knowing those older people in law school—you know, I can’t say I really knew Norma [Paulus] well, but I enjoyed getting to know who she was back then and following her political career later. So I enjoyed my association with the other students and with the professors.

DS: Did you consider University of Oregon at all?

JJ: I guess not really.

DS: Why Willamette?

JJ: I thought Willamette had a good reputation as a law school. And once I kind of got back on track and decided I wanted to go to law school, and thought
Willamette would be a good place to be, I can’t say that I gave serious consideration to going anywhere else. If I had my life to live over again, I think I mentioned to you earlier, I would probably like to spend more time on active duty.

My friend, Denny Chorba, who I told you about with the Georgia Gulf Corporation, he had his military obligation when he was in a law firm for a short time in the Willamette Valley, then he was a legal officer in the Navy. I think it was a real good part of his life. He made lifelong friends from that experience at Kodiak Island. After he got out of the Navy, he and his wife lived with Ann, my first wife, and me in Hood River for awhile while he did a job search and ultimately went to work for GP [Georgia Pacific]. But in a way, I kind of always envied him having that experience.

One of my best friends in the world, Ted Gooding, was a Sigma Chi fraternity brother a couple of years younger than I am. He and another fraternity brother, Tom Hemingway, were career legal officers in the Air Force. I don’t think I would have wanted to have been a career legal officer, but I think the military is a valuable experience that not enough people have anymore. I think I’d have enjoyed another two or three years of that type of experience to really fully understand it. You know, I understand the military some. I had two years of ROTC [Reserve Officers’ Training Corps] and then all these years of National Guard and Reserve duty. But I really would have liked to have been a little more on the inside to know exactly how the military ticks and to hopefully contributed some.

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**Serving One’s Country**

DS: Where do you see its value? I mean the value for people in serving in the military?

JJ: Ultimately what’s the goal of the military if it’s called upon? It’s to kill people. And what’s a more important endeavor in life than either making the decision to kill other human beings or to be part of that process. I think if you sit on the outside, it’s easy to be a Monday-morning quarterback, but what’s a more important decision than that? I talked about terminating parental rights earlier. That’s a big, big thing, but that isn’t on the scale with deciding whether you ought to be taking other human life or not.

I tend to think too many people look at war like a football game, rah, rah, rah, go get-um, without really thinking that means somebody’s head’s going to be blown off. And somebody’s intestines are going to be lying on the ground, and it’s really not pretty. And little kids are going to get killed. I think the more people understand that and have some working knowledge of it, just the better citizen they can be.

I think we all have some obligation to contribute something to our government
and society. For example, I might favor compulsory government service at age nineteen. I thought a lot about this in relation to the draft and the military, but maybe each of us at age nineteen, after we’re out of high school, but before we start college, should have a year of compulsory government service where we either go into the National Health Service, the Peace Corps, the military. Some type of government service where we have some choice in it, hopefully, unless there’s a real need for a draft-type military. But where, one, we’re giving back some and, two, where we’re learning something about it.

For example, I think if you know how things work in a military base, and you’re later a congressman or a voter, and they’re talking about those things, you have a little more insight into what’s going on and maybe the ability to ask more critical questions.

DS: And that could be obtained through some sort of compulsory government service and in other ways, not just military?

JJ: Yes, I think it could.

DS: A better understanding of the system.

JJ: Yes. And giving back some. You know, I think it’s good for people to give back some.

DS: Where did that come from for you?

Was your family engaged in community service? Was that an idea that developed as a child?

JJ: You know, I don’t remember my parents being real involved in organizations like the Red Cross or the Salvation Army. They were giving-type people, you know, and my dad was in the service in World War I, but he probably didn’t have a choice in that. He might have, I really don’t know. I’m sure my folks, if somebody came by and needed a handout, they would have helped them and not yelled at them and sent them down the road. But I don’t know, I just think it’s the thing—it’s like going to college—it’s the thing you do.

DS: Right. Well, I wonder about that because it seems to be, maybe it’s part of the legal culture because a lot of the individuals who I talk to, who are prominent in this community, are people who have that very basic idea that one ought to give back to the community.

JJ: Yes.

DS: And for some people, that’s instilled when they’re children, and for other people, I wonder if it’s part of the culture in some way.

JJ: Well, I’m sure my grandmother would have helped other people out. And, you know, my folks would have done anything, including starve if necessary,
for my brother and me. I don’t know if they’d have done that for a stranger, but I have the feeling that although my grandmother would help other people and her church would help other people—and she believed in helping other people—it would be more as an individual, rather than as a government. I expect my grandmother would have gone hungry rather than taking a government handout, as such. She probably would have taken a basket of groceries or fruits and vegetables from the neighbor. I can’t see her, she had very minimal needs, but if she’d ever gotten to the point where she had to apply for welfare, I don’t know if she’d have done it. I know that a friend of mine with the Employment Division talked me into getting unemployment benefits for awhile just before and just after I was in basic training. It sounded like a pretty good deal. It’s $40.00 a week and he said, “You’ve earned this.” He worked there at the office. It was his business and he said, “You know, you’ve paid into this, it’s insurance, go sign up.” I would have to tell you that when I—and that’s not welfare, that’s unemployment compensation, like insurance.

DS: Which both you and your employer have paid into.

JJ: I felt like a criminal the first time I went into that office to sign up for it, but it was a valuable lesson. Second week it was easier and then, you know, I didn’t receive it all that many weeks, but it got easier and easier. I think that’s probably true of any kind of government, or other benefits that you don’t earn yourself. Even if you have a strong work ethic, and some ethic that tells you not to do that, it probably gets easier and easier., and ultimately, you’re entitled to it. Maybe there’s an analogy to people who embezzle. I’ve known some pretty good people that have embezzled, and I’m sure the first time they did it they might have even put the money back in the drawer—or if they didn’t put it back, they intended to. And maybe they took a little bit of money the first week, a little bit the second week, down the line, more. And sometime later, depending on how soon they get caught, ‘cause they usually get caught, they have kind of worked it around to not that I’m really doing something bad, but you know, I should be getting paid more than I am, so I’m entitled to do this. So they worked themselves around from being a very guilty criminal—for most of them, if they have a conscience when they first dipped in the drawer—to thinking it’s an entitlement. I observed that in myself, to feeling this is really wrong. And to this day, I don’t feel real comfortable taking something for nothing. I mean, I feel that I’ve won prizes and immediately donated them back to the club and said later, “Why did I give them that nice camera back? I could have used that.” [DS laughing] I realized later it was because I wasn’t comfortable getting something for nothing.
DS: Those are the kind of ethics that you were raised with?

JJ: Apparently so.

DS: Through this experience of being in law school, were they any major changes in your ideas or attitudes that you can identify?

JJ: Well, not directly from law school, but I can remember when I was in law school going across to the Oregon Supreme Court, watching arguments a time or two. But, more importantly, I can remember going just across State Street over to the Capitol Building—and this is back in the early ‘60s—and hearing legislator after legislator, when they were talking about passing a state law, saying why that was or wasn’t necessary to comply with federal law or to get the matching funds or whatever. It became apparent to me at that stage in my life how much of our life is dictated by the federal government. And here were state legislators doing their job with a lot of it dictated by something that had happened in Congress. And since I’ve been involved in government at the local level, the state level, and the federal level, the most efficient government is the local level. Some things have to be done at the federal level. I think way too much is done at the federal level. I told you earlier that once laws are passed, it’s impossible, in many instances, to get rid of them. All legislators at all levels like to say, “Boy, we accomplished this,” but I think our Congress, in order to go back home and say, “Boy we dealt with that issue,” a lot of those issues could much better be dealt with at the state or local level. And as I went from being in charge of, being real close to a county budget to state budgets to federal budgets, that money is spent much more efficiently when the people are right there in that small area that are spending it.

DS: Now, I think that’s an important issue because one of the experiences you’ve had is the shift from local to state to federal government, essentially. And being very engaged in all three. So face-to-face interaction makes a difference, it sounds like.

JJ: Very much so. One of the things I learned in law school was that, for the most part, the law is very logical and fair and I think it’s why I found law school, for the most part, pretty easy. And enjoyed professors like Professor Paulus so much because he was a very logical thinker and laid the problems out and the issues out in a very logical order. I mentioned to you earlier, my aptitude probably was as much or more in the mathematical, physics area where problem solving is a very logical sequence. I think that’s what made it easier for me to resolve issues in law school, because it is a very logical process. And as a judge even, particularly when I was a judge without having really high-powered clerks—and we have a luxury here in federal court. We have very bright law clerks to...
research things and one thing about law clerks, they don’t like to say something unless they do the research and it’s been said before.

When I was first a trial judge, I didn’t have time to do the research. I always felt if you did what was logical and equally importantly, what was fair, you’d be right most all the time even if you didn’t know the precise rules of law. As laws have become more complex, that isn’t quite as true because not all of our laws now are intuitive. But back when I was first a judge and a law student, the laws were logical and fair, and if you knew logic and you knew fair, everything else would kind of follow along.

I took him literally and then kind of eased off on study. I can’t remember if I was working or goofing off, but once he said, “You’re not going to have any trouble,” this was a professor you could rely on, so I didn’t take it very seriously, thinking well, he says I’m gonna pass, I will. I can remember that first day of the bar exam—in those days it was two and half days of pure writing. No multiple choice, no interstate exam. It was just all writing it out. I hand wrote, I didn’t type and that first day one of the questions kind of threw me for a loop, and I—“Oh man! Why did I listen to Dr. Paulus? I should have been studying every minute.”

And so, that night, between the first night and the second day, and between the second day and the third day, I was studying, thinking I had kind of slacked off. But as it turned out, I passed. Justice Sloan, who I’d signed up to work for, called me to let me know that I had passed the exam. In those days, they posted them on the front door of the Oregon Supreme Court. I think most of us probably went to the Supreme Court to see whether we’d passed or not. But, I’ll tell you, after that first day or sometime that first day of the exam, I really tensed up, thinking, “I might not pass this thing.”

DS: That sounds pretty tough. [both laughing]. So what was that process like of signing up for Justice Sloan? Did you just go sign up, or did you have to go through an interview process?
Jelderks, Tape Five, Side One

JJ: I had a friend, a law student that was ahead of me, actually a Sigma Chi who somehow got wind that Justice Sloan either hadn’t hired a clerk or had hired a clerk who had changed his or her mind and I got in contact right away. It wasn’t through quite the ordinary process. I heard that there might be an opening. I met with Justice Sloan, we hit it off real well, and he hired me kind of on the spot. At some point before I started, it wasn’t like the day I started. So I did have it lined up in advance, but it wasn’t like clerkships now where they’re lined up a year or two in advance a lot of the times.

DS: And you had not yet passed the bar at that point?

JJ: Correct. So I was scheduled to start right about the time the bar results came out in September of ’64.

DS: And what did you do as a law clerk?

JJ: Research and, you know, some appellate judges and trial judges like to use our law clerks to draft our opinions, and I did a little tiny bit of that for him, but I’d say mainly legal research and editing. I was good at grammar and English—and he’s passed away this last year—but let’s just say I was good at that. But he liked to write his own opinions and what he relied on me for were editing those opinions, seeing that they were structurally correct, punctuated properly. If I had ideas on how something should be worded or maybe what a case said, he would ask me to do that. But he liked to do a lot of his own work.

But I learned a good lesson from him. In one case, I know that he was leaning one way and he said, “John, find me a case on that.” I spent a full day at the library and couldn’t find anything. Went back to him, reported that at the end of the day. He said, “I want you to keep looking.” I don’t know if I spent two full days or went into the third day even. Finally, I found a case out of some state a long ways away, and in those days we didn’t have the sophisticated search engines and computers. It was more, literally, doing it by the book. But I found this case that was authority for what he wanted to do.

It made me realize, and this is a lesson I’d learned, too, actually through my fraternity. I can’t really go into it in great detail, but where I learned from an older fellow who was a Navy veteran, sometimes if you don’t find what you’re looking for, where you think you’re going to find it, keep looking and it’s probably out there. And here was an obscure point of law that I found. The other thing that just a very few years earlier somebody that was older, more mature, said, “Well, let’s just keep looking. Let’s travel on farther.”

When some people would easily have quit and sat down by the side of the road, maybe including me, that an older fellow who said, “Let’s go on for awhile.”
Maybe like a metaphor like if you were going down the road looking for something and you’d already walked for miles and thought if everybody said, “Let’s quit” except one person says, “Let’s go on a little more,” you’d go on a little more.

DS: And what was legal research like then, when you were dealing with the books? Because now, you just pull up search engines and if you know what you’re doing, it’s—

JJ: It was good because you’d use the key words and shepherds and cross references and things and you know, we had an excellent law library there at the Supreme Court, a good librarian and assistant librarian who could help you if you needed help finding things. I always liked, more so than a lot of lawyers and judges, textbooks to start with a text on the point and then get the basic understanding of what you’re dealing with and then go to the more specific cases.

DS: What was it like to work with Justice Sloan? What was he like?

JJ: It was good. It was a good year. He was a good person. He and I liked each other. He had good stories about Kansas from when he was there. I knew him socially, just a bit. He’d have us over.

I remember when Sarah was born, I wasn’t working for him any longer, but he and his wife gave us a diaper service. You know, disposable diapers weren’t, I don’t know if we even had them then, but the cloth diapers, that was a terrific present to get a diaper service where the dirty diapers would go into a hamper or whatever. And then the diaper service would bring you clean ones and take those away.

I really valued that experience on the Supreme Court, because there were only seven appellate judges in Oregon then and I got to know every one of them personally. Maintained a varying level of acquaintance or friendship with them over the years. But when you get a chance to work with people behind the scenes, it’s a lot different than just reading the opinions or arguing a case.

I remember when I had a chance to argue a case before the Oregon Supreme Court that it was really nice to look up and see seven friendly familiar faces. So it made that oral argument easier for me. The lawyer on the other side who became a great friend had a really good argument. He had the better of it because he’d been there on the same similar issue before and lost. And that was the argument he made. He said, “Well, I was here two years ago on this same issue and lost, and now it’s my turn to win.” And there wasn’t much I could say to dispute that. And a simple argument like that, I don’t know if he said much more than that, really. But that was the thrust of his argument. I was here before on this issue, I lost, now judges, it’s my turn to win, or my client’s turn to win, and it was a very effective short, simple argument.
DS: Do you remember what the issue was?

JJ: The issue was a tax issue of some kind [Narrator comment: Whether the County had to continue paying the salary of the County Judge whose jurisdiction had been transferred to the district court by the legislature, and whose office had been abolished by the new county charter]. I was representing Hood River County, wearing my hat as county counsel, which as the district attorney at that time I also was the county’s lawyer for several things. I could look it up because it’s in the book. It’s Hood River County versus Imbler, I think, Doreen. [Narrator comment: My case was actually Higgins v. Hood River County, which I argued on 11/1/66, one month after I took office. In the earlier case, Travis v. Doreen Imbler, Mr. Travis was attempting to get his name on the ballot claiming that incumbent judge Higgins’ term had expired.] He had had the flip side of the same issue probably representing a potential candidate and then the issue got turned around and that was—Wayne Annala was his name. Great guy in Hood River.

DS: And he won?

JJ: He won, yeah, and he deserved to win.

DS: And who were the Supreme Court Justices that you worked with?

JJ: Oh, well, Justice Sloan, who I worked directly for, but I got to know Kenneth O’Connell, who had been a professor at the University of Oregon Law School, later chief justice—was just a peach of a guy.

Arno Denecke was one of the justices who took several of us young clerks down to play volleyball. I ended up being on the Salem YMCA volleyball team during the year I was a clerk because we would go over at lunch time and play volleyball, and I ended up playing on the competitive team in some tournaments around. That was a lot of fun, and I would never have done that if it wasn’t for Arno Denecke.

Bill McAllister was the chief justice when I was there. I got to know him a little bit and knew his son, Bill, who was, I think, a third year law student when I was a first year law student. Bill was later a lawyer, is still a lawyer here in Portland.

Ralph Holman who was a circuit judge before in Oregon City, replaced Justice Rossman while I was there. I barely knew Justice Rossman. He was getting pretty old and I met him, but I can’t say I knew him. But I got to know Justice Holman a bit. He tried to line me up with a job later that was very helpful, but I decided to go to Hood River instead. But a very helpful person to know, and one of my long term contacts.

Justice Ted Goodwin. Ted later was appointed to this U.S. District Court and then later to the Ninth Circuit Court of Appeals. Became the chief judge on the Ninth Circuit Court of Appeals and still is
actively involved as a senior Ninth Circuit judge. And it was great to meet him. I had him come give a talk to the Mid-Columbia Bar. He and Mary, his wife, who I consider a friend, a professional friend certainly, we played tennis and had a great time.

Justice Goodwin gave a talk back then in the early ’70s that I thought of today, in relation to one of my best friends, who is literally on his deathbed, going to die in the next day or two, but I thought of my friend Wayne Feller, in relation to a talk that I heard Judge Goodwin give up at Kah-Nee-Ta to the Mid-Columbia Bar Association in the ’70s, as a result of my invitation for him to come speak.

His talk had to do with how a society is best judged by how it treats its least fortunate people, not by how it treats its most fortunate people [sadly and emotionally]. I specifically thought of Judge Goodwin’s talk when I was thinking of my friend Wayne visiting him for the last time this morning. Because Wayne was a person, who, as his son said to me, “He would treat you the same if you were a down-and-out person off the street needing dental work, he would treat you just as well as if you were a federal judge.” And that was absolutely true of my friend Wayne, would treat everybody very well regardless of their status in life, regardless of their title. As a dentist, he would take a patient in whether they were going to be able to pay for them or not. I thought of Judge Goodwin’s talk and thought, you know, applying that not to a society, but to an individual. He was talking about my friend Wayne [very emotionally].

So I’ve enjoyed that contact over the years with Judge Goodwin. Still look forward to seeing him at the Ninth Circuit conferences and other meetings. So was that seven? Did I get up to seven? Is that all of them? Seems like I’m leaving somebody out who shouldn’t be left out. But in those days with seven justices and seven clerks, we really did all get to know each other as people. It was just a terrific experience for me.

DS: Sounds like it had some long-term impact on you.

JJ: Very much so. When I ran for the Supreme Court in 1988, Justice Denecke was one of my chair people. When I was sworn in as circuit judge on January 10, 1972, Justice Denecke came up to The Dalles from Salem and placed my black robe on me.

DS: Oh, that’s nice.

JJ: So those were great contacts. Really good people. I really enjoyed getting to know them.

DS: Do you want to talk about moving on to your next job or are you ready to—it’s up to you in terms of time.

JJ: Sure. Let’s move on and I’ll be succinct. So where did we leave off? [DS laughing], Oh, from the Supreme Court. And then I did then have a chance to go
to work in the District Attorney’s office in Salem partly because through my friend Joe Balfe, I’d actually helped Gary Gortmaker get elected in a small way. I passed out pamphlets. It was actually a paid position when I was in law school, but through Joe got lined up to do it, passed out pamphlets, got paid a little bit. As a result, either met or knew Gary Gortmaker and he needed a new deputy, so I signed up as the intake deputy which is the first rung on the scale.

And as a result of some turnover and as the result of him liking me, within the space of a year, I went from being the intake deputy to doing District Court trials to grand jury. And there was some overlap in all of this, to becoming what he called the Chief Deputy District Attorney and then before I left, I was promoted from Chief Deputy District Attorney to the title, Assistant District Attorney.

So, I went from just being a year out of law school, being on the low rung, to when he was out of town—and he was in the military reserves and was gone quite a bit because he liked it and liked to go away for military duty, and I think signed on for extra in addition to the two weeks a year. So I had the privilege of being less than two years out of law school and at times being in charge of what I believe then was the second largest district attorney’s office in the state. I think Marion County was a little bit bigger than Lane County, close, but so I had that remarkable experience of being a very young lawyer with a whole lot of responsibility.

I think that really helped prepare me for going to Hood River because I wasn’t going to stay on long in Salem. I was ready to move on after a year. At that time I was young and hard-charging and will say had learned a lot, learned a tremendous amount there in a year and was going to be moving on. I had a call from a law school acquaintance about a job in Albany. I had a call from Justice Holman about a possible job in Oregon City. I’d always thought McMinnville would be a nice place to practice law and was thinking of looking into that when I had a call from a friend who had been a law school friend who was practicing law in The Dalles who told me that the District Attorney in Hood River County had just defeated the District Judge in Hood River County in the May primary in 1966. And that there was going to be an opening for the District Attorney in Hood River County, and I ought to look into it. It turns out I knew two people in Hood River County, Gary and Gayle Lockwood.

But it sounded kind of interesting, so my wife and I drove to Hood River, thought it looked like a nice little town, and so I put my name in and ended up, it was still a partisan political position at that time. Because the way it worked as I best recall, because the incumbent [pause], well, the Governor would appoint someone to fill in the unexpired term. It was up to the Hood River County Central Committee to pick the name to be on the ballot. And so I met with the Republican Central Committee, and they narrowed it
down to, I think, two other people. And one of them, a sharp guy who I knew—I knew both of the other candidates, but one decided to go down south. He would have been a strong candidate for the job. And two of us met with the Republican Central Committee, I guess gave a little pitch, answered questions, met in the back room of a law office in Hood River. And then the Republican Central Committee sent us out on the sidewalk, we stood around on the corner while they deliberated and then a lawyer named Ken Abraham, who I later got to know well, had a lot of dealings with, had never met him before. But anyway, he came out and said to the other person, “Thank you for coming and John, you’ve been selected.” So, because I was going to be the Republican candidate, it just made good sense for the Republican Governor, Mark Hatfield, to appoint me to the unexpired term, but he didn’t really have to.

I met with his legal counsel, my memory is it was Ray Underwood. But I went down to Salem, met with Ray Underwood, and he and the governor agreed that I should be appointed to take over as district attorney in Hood River. I guess the district judge then resigned and so the district attorney was going to start before—January is when you’d ordinarily take over for an elected official, the first Monday in January. But anyway, one way or another, I was appointed to take over in October.

Then I was elected unopposed at the November general election because I’d been placed on the ballot. Then I guess started my official elected term in January of ’77, but actually went to work, appointed by the governor, October 1, 1966. I had that job for three months and then the full four-year term and decided not to run for a second four-year term. I decided I wanted to hang out my shingle in Hood River, which I did.

But—again, that was a great experience because at that time there was just one of me. Now there are at least two in the office and an outside hired county counsel. But I had the opportunity to be not only the chief and only criminal prosecutor for the county, but also to be the legal advisor for the County Commission and all of the appointed officials as Hood River was one of the few charter counties in the state. So there was no longer an elected assessor or county clerk, whatever. Those were all people appointed by the County Commission. But I was their legal advisor, and like I say, argued that case at the Supreme Court.

Got to go back to Washington, D.C. on behalf of a private bill for the benefit of Hood River County. Attended all of the county commissioner meetings for four years and three months. So, got to be good friends with the county commissioners, both socially and professionally. Got to do the civil work. Learned about property taxation, those types of issues, elections. Learned a lot about that by wearing the county council hat. I already knew, or thought I knew a lot about criminal prosecution. I learned that as a hot shot
young lawyer coming from a bigger county, I learned that I could learn a lot from the crusty old sheriff and his then-only-two deputies, that they knew a lot of things that I didn’t know.

DS: Who were they at the time?

JJ: The sheriff was R. L. Gillmouthe. He had two deputies: Bob Lynch, who later became Sheriff; and Ken Mays, was the only other full-time deputy. They’d work eighteen/twenty hours a day at times. Back then, when I first went to Hood River, it was still a crime to be publicly intoxicated. And at the time, most all of the orchard workers were not Mexican immigrants. They were Caucasians, and many were alcoholics. And so every morning there were a lot of drunk people literally lying along the edges of the roads, and the streets in town. And a big part of my work was sorting that all out and we would file cases every morning, a number of cases charging people with public intoxication. And they’d stay in jail until they were sobered up and went on their way.

I had a very great experience with Ken Mays once. I’d get called up for all the major crimes, so I actually was on the scene and enjoyed that. I would have liked to be a detective, I think, but for all of the report writing. But I’d get called out for rapes and other major felonies and all of the automobile deaths, whether they were of a criminal nature or not, because under the law at the time, might still be the same, the district attorney was called out for all unexplained deaths. And we traded off in Marion County so you’d have what we called “death call” for a week. But in Hood River County, I was it, so I was on death call every day. If there was an unattended death, I would get called out. I learned a lot. I learned a lot in Salem. There’s a story I might tell you if there’s time.

What I learned with Ken Mays was patience in dealing with unruly people, because I was called out one night where a car had gone into an irrigation ditch. Three people had drowned and three had survived. And so there were three dead people when I got there and three guys, two pretty drunk and one guy who was real mouthy who was probably the car driver who was responsible for three people dying. All he was concerned about was a cigarette. I took an immediate dislike to him and he took an immediate dislike to me. I had never met him before, although the deputy sheriff knew him. The sheriff’s deputy was by himself and the sheriff had an old paddy wagon that was a converted ambulance, so I rode along with Deputy Mays to take these three drunk guys down to the jail. And one was mouthy, one was a little bit out of his head, and one wasn’t paying much attention, but one of them started saying, “Well, I killed you, you something or other son-of-a-bitch during the war, and I’m gonna kill you again.” Started kicking on the screen behind our heads, obviously disoriented a bit. And lo and behold, down the road a few more miles, the screen came off and Ken, of course, was fully armed. I didn’t have a
gun, but did have quick access to a police club. This one fellow wanted to fight.

The deputy would say, “Come on now, settle down, settle down, Marvin.” Got out his mace and said, “Settle down, Marvin or I’m going to have to shoot you.” Stayed perfectly calm, I mean shoot him with the spray. My thought as a young active guy was, “Okay, Marvin, you probably just killed three people, you’re mouthing off, you’re lippy, you want to fight, step on out.” [laugh]

DS: Mm-hmm.

JJ: I wasn’t adverse to physical contact and probably would have hit him with the club. But Ken, what I learned, wanted no part of being a violent police officer, kept very calm. Ultimately did use the mace. Marvin settled down. Loaded him back in. A Hood River citizen, good guy who had a store in Odell, John Weber, very fine guy, saw there was a problem, stopped to see if we could use a hand, not like you hear about people not helping out people in trouble. We didn’t need any help.

The three in the back settled down, we got them on down to the jail, but the police officers I worked with and my friend, Joe Balfe, who had to make a decision one time whether to kill a kid who was aiming a gun at one of Joe’s best friends, a state policeman—a retarded boy was holding a gun, pointing at Joe’s friend, and Joe had to make a decision whether to shoot him or not, elected not too. They ultimately got the gun from the retarded boy, and he was—I think the gun turned out to be unloaded, but Joe had no way of knowing that.

My point simply is, it seems like in today’s world, we as a society are much quicker to shoot the mentally ill people, the out of control people. I thought a lot about why that is because going back forty years, the police officers who were friends of mine would go a long, long ways, maybe sometimes almost too far, to avoid hurting another individual. Doesn’t mean they’d let themselves get beat up. They wouldn’t do that, but they would take every reasonable step possible before hurting another human being, either by hitting them or shooting them. So I learned that good lesson from—

DS: You had a story about Marion County when you were the deputy D.A.

JJ: I learned a lot from this so I’d like to tell it. We got called out in the D.A.’s office to a nice home up in Candelaria Heights. And we got there and the woman was lying dead, pitched face-forward in the hallway between the kitchen and the bedrooms or the bathroom, with a big
gash in the back of her head. It looked like an obvious homicide. We got there and the medical examiner was in Portland, and we waited several hours till he got there and I stayed on the scene till he got there. And the husband turned out to be a fellow I knew, who I’d bought his cherries when I worked on the dock at Kelly-Farquhar. Every year he had several nice cherry trees in his backyard. Every year he brought his cherries in, so I’d gotten to know him as a really good guy. He owned an insurance agency there in Salem, but anyway, what he said was that wife had had some mental problems. He had been home that day and he had had lunch with her and that they’d had cheese sandwiches. And she was baking some berry pies that they found in the oven there. And he said when he had left to back to work, she was fine.

The medical examiner arrived and I hadn’t met him before, but I wasn’t too impressed when after examining her head wound, he wiped his hands on her blouse to wipe the blood off his hands. Later I attended the autopsy that evening and at the very end of the autopsy, he concluded that she had a broken hyoid bone and had probably been strangled. That she hadn’t been killed with the blow to the head, but had died of strangulation.

His initial autopsy examination, he had concluded that she had—he didn’t fix an exact time of death because that’s almost impossible to do anyway. But at the end of his initial examination, you would have concluded that she had probably died in the morning, that she didn’t have any indication of cheese sandwiches, and that she had died of strangulation with an arm or a blunt club drawn across her neck.

Her husband hired a lawyer, Charlie Burt, a good lawyer in Salem, got Charlie’s advice. Was asked if he would take a polygraph exam. For reasons I’ll never fully understand, and Charlie’s gone now and I don’t know that this gentleman is still alive or not, but he elected to not take a polygraph exam. Well, if he’d been an ex-con, he’d have been probably arrested right then. But he wasn’t going to go anywhere, good solid citizen otherwise, but you know, the fingers were all pointing at him right then.

But later, the chemist up at the crime lab here in Portland, a nice lady named Ruth Swinney, examined the stomach contents and it turned out—well, let me tell you one thing. There were splotches on the kitchen floor, which we had concluded probably were berry juice, but we didn’t know. It just looked like it was berry juice or something else from the pies she was making. Ruth Swinney said that she had enough strychnine in her body to kill a horse. A further search of the premises found a partial bottle of strychnine up in the kitchen cabinet.

What I concluded and I think the boss, Gary Gortmaker, and I agreed on this, was that she had been having these mental problems thinking she had bugs in her head. What we concluded or else
I’ll say, what I concluded was she had taken the strychnine, she had put it back up high on the shelf, she’d begun to have convulsions, she’d banged her head really hard on the kitchen floor. It turned out, we had asked a police officer to go to all the neighbors, all the whole neighborhood to see what they’d seen or heard because there was no club found. And we thought, well maybe it’s in the yard somewhere. Somebody in the neighborhood had heard a loud bang at about two in the afternoon. And it appeared what she did, she took the strychnine, put the bottle back, started to have convulsions, which you do with strychnine poisoning, banged her head really hard. Hard enough to split it open and to leave what turned out, under examination, to be blood splotches on the floor. Ran down the hallway, never made it to the bathroom, which if she was bleeding she was probably trying to get to the bathroom or the bedroom. Pitched forward. Her pedal pushers were partially unzipped, but there was no indication that she’d been molested or raped. But she just pitched forward and died right there in a pool of blood from her head.

What I learned from that, or hope I learned from that, don’t take things at face value. And just because somebody is known to be an expert, don’t hesitate to question expert opinions, because even the best experts with the top credentials aren’t always right.

DS: That’s interesting. What prepared you for something like? I mean, that sounds, going from being a kid in Salem and going to school and staying in Salem, to this sort of, I guess, adventure [laughing] in the D.A.’s office and, you know, that’s very different. Maybe how did you respond to that?

JJ: Well, I kind of liked excitement. And I’m a kind of guy, if, you know, there was a fight going on or if somebody was beating up a woman, I would never—as an adult, once I got my size, anyway and became an adult—I would never look the other way. I would rush over and try to help. So, going out with the police on raids a couple times on the serious criminal investigations, and I really enjoyed that. That’s why I say, I would have enjoyed being a detective, but for all of the paperwork. You know, I liked the excitement. I like solving things, figuring things out, working as a prosecutor, helping with the detectives or the deputies or the sheriff or the police chief. Work on solving crimes.

DS: And as the D.A., you’re right in the thick of things, aren’t you?

JJ: Yes. So you not only get to work on, as I did, on the investigation of serious criminal acts, you get to work on the prosecution side of it, knowing what the facts were in the serious cases, because I was there.

DS: Well, I think we’re, we’re right at the end of this tape. So it might be a good place—
JJ: I really think all of that helped me be a better judge and better understand when somebody’s describing a fight scene or somebody’s saying, “I don’t remember what happened exactly, or I was blacked out,” I’ve been there with all that. So I think those were valuable, not only valuable, but very interesting and a lot of times, fun experiences.

DS: Is there anything else during that time that you can add in the next minute?

JJ: Well, one good story about the armed robber rapist who raped a young married woman while holding a gun to her head with her husband in the same bed and me being involved apprehending him later that evening. That’s an interesting story. I learned something about myself out in the dark woods, unarmed, thinking there was a guy with a gun in the bushes.

DS: What’d you learn?

JJ: I learned that we don’t always react the same as we think we would, or the way we would if we had some time. Because I found myself, just the sheriff and I, I’ll never know whether he had his gun or not. Sometimes I carried a gun on these things because I’d have a sheriff-issued gun and I knew how to shoot. But the sheriff and I were going up this dark road in the woods looking for this fellow who had just raped and robbed, sodomized the woman while holding a gun to her head, after entering their home without a stitch of clothes on. And we were going up this road to where we thought he lived.

[Narrator Addition: In the woods at the end of the road I saw the suspect’s cottage with a light on and the back door open. I assumed he was hiding in the woods watching us. It was a moonless night and very dark. Suddenly there was a noisy commotion in the bushes next to me. To my surprise and embarrassment I instantly jumped behind the sheriff. He was very calm and we soon realized that there was a dog in the bushes. I was very happy when the sheriff suggested that we walk downhill to the victim’s house and bring up an armed deputy, Mark Puddy, with his patrol car. Although I was disappointed with my reaction to being startled, I had no fear when confronting the suspect face to face a few minutes later. He was convicted at trial and sentenced to a long term in the penitentiary.]

Interview sessions Tapes 1-5 were conducted by Donna Sinclair in 2006, and recorded on audio cassette tape.
Hood River County District Attorney

JD: My name is Janice Dilg, and I am the interviewer with the U.S. District Court of Oregon Historical Society. Today is May 28, 2009. I am in the chambers of United States Magistrate Judge John Jelderks at the Mark Hatfield Federal Courthouse and this is a continuation of his oral history that was begun in 2007. Judge Jelderks, in previous recording sessions you recounted your life growing up, your education, including law school, and the early years of your legal career. Those interviews concluded with your appointment as the Hood River County District Attorney. Why don’t we pick up your story there and begin by talking a little bit about the scope of work that was involved in the Hood River County D.A.’s office.

JJ: That was a great job. I had been a deputy district attorney in Marion County, and because of some turnover in the office, in a very short time I had become the chief criminal deputy district attorney and then the assistant district attorney, meaning that when the district attorney was out of town, I was in charge of the office. Within two years of being out of law school I was in charge, a few times, of the second largest district attorney’s office in the state. So I had really good experience, particularly in the criminal area. And, as you know, the district attorney is the chief prosecutor in each county.

But in Hood River County the district attorney was also the county counsel. So I really wore two hats: one as a prosecutor, and being a small county there were no deputy district attorneys at the time. I was the prosecutor for Hood River County, and also a new role for me, county counsel, meaning I was responsible for advising the county commissioners and the various county officials. I found that quite interesting. So, for a period of more than four years, I think I attended every single county commissioner meeting, got involved in some interesting property tax issues, interesting land exchange issues. I went back to Washington, D.C. one time, with a Portland lawyer, Carl Neil, to basically lobby for a private bill to relieve Hood River County of a debt to the Forest Service where there had been an inadvertent timber trespass, or something of that nature. So that was all very interesting. I really enjoyed working with the sheriff’s office, the city police, the state police. A lot of it was hands-on, because the police would call out the district attorney on most all major crimes and all unattended deaths, by statute the district attorney would get called out. So, I enjoyed my role as a quasi investigator as well as a lawyer.

JD: Having been in Marion County, and then Hood River County, what would you say were the significant differences between a more urban and a more rural D.A.’s office?
JJ: It was a big surprise to me. I went to Hood River County thinking I was kind of a hot shot. And also thinking that I had worked with bigger city police and that when I got to Hood River it would be a step down in the quality of the law enforcement. I was very pleasantly surprised to find that the quality of law enforcement, even though there were very few officers, that they were of very high quality. The sheriff had a lot of moxie, understood things. I learned a lot from the sheriff and his two primary deputies that I worked closely with from time to time. So, the pleasant surprise was there wasn’t a step down in quality. If anything, there was a step up.

The other thing I found, that maybe wasn’t quite as pleasant: I wasn’t quite the hot shot that I thought I was. And so I learned a lot, not only from working with the police, but with the local lawyers and the small town, being what it was, I learned from them also.

JD: So are there any particular stories that might demonstrate your realization that you weren’t quite the hot shot you thought you were?

JJ: Well, I can recall specifically trying one driving-under-the-influence case where a well-thought of Hood River lawyer—later good friend of mine—Wayne Annala, was defending, as I recall, the butcher at a popular grocery store in the little community of Odell. I had one witness, the state police officer who had arrested the defendant, who, it turned out, was a very popular person. Back then there wasn’t the same discovery there is now in criminal cases, so I had no idea who the witnesses would be. Before the trial was over, I realized in order for my side to prevail, the jury had to find not only that this very popular grocer was untruthful, but also the head Catholic priest from the neighboring community of The Dalles, and the Hood River County Director of Records and Assessment, who worked on the first floor in the courthouse and who I was responsible for giving legal advice to—and was a friend—that those people were giving false testimony. I recall in my closing argument looking over at the state policeman, who was my only witness, and he was sitting in the first row with his head hanging down. If I were to have that experience over again, I would have looked at the jury, and I would have said, “Ladies and gentlemen of the jury, I see no reason to take any more of your time. You are obviously not going to find the state has proven its case beyond a reasonable doubt.” And then I would have turned to the judge and said, “Your Honor, I move to dismiss the charges.”

I didn’t do that. The jury promptly found the defendant not guilty, and then I observed several of them shaking hands with the defendant, giving him big smiles and a high five as they were leaving the courtroom. And the defense attorney, Wayne, I’m sure instead of marveling at my abilities, was probably thinking to himself, well, if he thinks he is a hot shot
I guess we taught him better today. \( [JD\text{ chuckles}] \)

But it was a good experience. And there were probably more of them. One time I had my prize witness in disguise in the back of the courtroom. In that case, the defense attorney, [was] a long-time lawyer in Hood River who did very well in trials. I appointed him later for at least two murder cases because I had great confidence in his ability to represent criminal defendants very well—he had told the jury what his client was going to say, and I was going to come back in rebuttal with my star witness, who was in disguise. And, again, this was fairly new in my term there as district attorney, my side was not only going to triumph, the jury was going to find the defendant guilty, and then I was going to charge him with perjury to teach the local criminal element and the local Bar that you had better be careful in defending these cases, that your clients don’t lie.

Well, unbeknownst to me, the defense attorney decided not to put on a case. Rested after I rested, keeping my star witness in reserve, and under the rules, once you rested—they caught me so much by surprise I didn’t even think to ask the judge to reopen the case. He might or might not have allowed it. It wasn’t a big deal case. It was an unauthorized use of a motor vehicle. But anyway, with my best evidence sitting in the back of the courtroom unused, the jury quickly found that defendant not guilty. And so, again, the young hot shot who was new in town didn’t teach the local bar or criminals much of anything that day.

JD: Describe just a little bit what the district attorney’s office was like during the period you were there, which was 1966 to 1971. What kind of staff did you have?

JJ: I had one secretary who was a fine person but probably about as resistant to change as anyone I have ever worked with, which made it harder in some ways. I’ll never forget the first day I was there. I said, “Give me a list of the pending cases.” Because in Marion County we always kept very accurate lists of what was pending and what the status was, I was the first full-time district attorney in Hood River County. My predecessor, a fine guy, was part-time as D.A. and he had a private law practice as well, and, let’s just say their record keeping was not at the highest standard. So, when I asked her to give me a list of the pending cases, I might have well have been asking her to explain Einstein’s theory of relativity, because it was an impossibility because there was no such document. So that was kind of an eye-opener.

Also, I was responsible for, in addition to criminal prosecution and representing the county, child support enforcement. I had not done that in Salem. My friend Al Norblad was a deputy district attorney in Marion County and responsible for child support enforcement. And he was very good at it; knew all there was to know about it. So I had brought a
bunch of forms with me where you could fill in the blanks, actually, to process those cases, and could call him from time to time or the woman who worked with him specifically on those things. So, I had access to very good help from a ways away.

One of the things I wanted to do to save time was to start using those forms. My secretary prided herself on her typing. She was an excellent typist. The work product, even though we didn’t have computer word processors then, IBM typewriters, her work was absolutely beautiful. But, I had a terrible time convincing her that we wanted to now use forms, even forms that you could do on the Selectric typewriters at some point and just fill in the blanks, because she was old school. Even though it would take five times as long, she would want to do it the old way, even though at the end of the day she would be hard pressed to get things wrapped up and leave because there was so much work to do. Although I had a very nice personal relationship with her, that made the job less enjoyable because there was always some tension there with the resisting new ideas and change and I was the new guy, but had definite ideas that we needed to modernize. But that pretty well worked itself out after a while.

JD: And so, what factor changed the position from the half-time of your predecessor to you being a full-time district attorney?

JJ: Well, the Legislature must have changed that, obviously, and I think it was probably based on workload. There was plenty to do, and I think in that same office now there is one district attorney and maybe two deputy district attorneys. My successor, Don Hull, it wasn’t too long until he convinced the county, who did at least part of the funding back then, to authorize him to hire a deputy. So it went from a part-time to one full-time, to—not long after I left after four years and three months—to being two full-time lawyers in the office. Part of that was the civil work, because land-use planning, for example, I was the advisor to the county planner. Land-use planning was in its infancy, but still a pretty big deal back then, as it was getting under way. Now, not only is there a district attorney, one or possibly two deputies, but I think they hire outside counsel for some of the land use work and other civil work.

JD: So, you were relatively new to Hood River when you took this position? Do I understand that correctly?

JJ: Brand new. I think I knew two people in the county.

JD: How did you go about getting familiar with the community both outside your job and professionally?

JJ: Well, the nice thing about small communities, first, people that read the
paper or pay attention, they know you’re there. And in small communities you meet a lot of people in a hurry. I think small towns are great places to be, especially if you try to do a good job, because people appreciate that. And compared to say, Portland, in a town like Hood River, you get a reputation in a hurry. If it is a bad one you can spend the rest of your life trying to live it down. If it is a good one, then it might stick with you the rest of your days there.

Just by virtue of my job I met lots of people and I was quite active in the community in those years. I got involved in a lot of things. I coached Little League; I was on the board of directors for Little League. I ended up being on the state law enforcement council, which was responsible for distributing probably hundreds of thousands, if not millions of dollars in federal grants under the L.E.A.A. [Law Enforcement Assistance Administration.] I think the 1968 Congress made lots of money available for law enforcement purposes around the country. I got appointed, probably by the governor, to the state law enforcement council, and also I chaired the District 9 Law Enforcement Planning Agency, which was the local group that under the structure proposed grants that went to the state law enforcement council, which I was on, to get grant money to assist in local law enforcement issues. As a result of that job I got to know law enforcement people in Wasco County and Sherman County, because that was the District 9 Planning Agency jurisdiction. I was on the board of what was then the Tuberculosis Association, so I got to know people in connection with that. Oh, I was invited to join the Rotary Club, so that is a built-in way to meet people outside of the legal community and I maintain a special membership with the Hood River Rotary Club to this day because it has always been my anchor outside the legal community.

JD: I am guessing a variety of those activities, or all of those, were what led to your distinguished service award that you received in 1970, which would have been this time period?

JJ: Yes.

JD: Can you talk about that a little?

JJ: Hood River County had an annual awards banquet, like for the orchardist of the year; I think there was a woman of the year award, citizen of the year. One of the awards was the distinguished service award that was given by the Jaycees for someone that they felt had made a substantial contribution to the community over the past year. I wasn’t a Jaycee, but I was very pleased to receive that award. I think it was probably, as you said, from doing a variety of community activities and getting out into the community.

JD: You were appointed by Governor Mark Hatfield, correct?
Jlderks, Correct. But that was all an interesting process. I enjoyed representing the various county officials. Hood River was one of the very few charter counties in Oregon, meaning it did not have the traditional form of government that most of Oregon’s thirty-six counties had with, say, an elected assessor, an elected county clerk, whatever. Five members of the Board of Commission were elected, and the sheriff was elected. The sheriff had enough political clout that, even though it was a little before my time, I am confident that the charter would not have passed if it had made the sheriff an appointed position. So, in order for the sheriff to not resist the change in form, the sheriff was kept an elected position. So there was a director of records and assessments, who was also in charge of elections. So I worked on election issues. All those people were friends of mine. It was great. My office was on the second floor of the courthouse. Most of the county officials were on the first floor, so you would see tax people on a daily basis, the assessors on a daily basis. It was just a very pleasant working relationship.

Private Practice

JD: You mentioned that you decided not to seek reelection after completing your four-year term and went into private practice. Talk a little about making that decision and the transition from the district attorney to private practice.

Jlderks: I guess I was young and eager. I was moving on. And although I really enjoyed being the district attorney, I guess I just felt that four years, coupled with the prior year that I had been a prosecutor in Salem, that that five years plus a little bit was enough for that stage of my career, and I was looking forward to doing something else. I probably could have worked with one of the established firms in Hood River, but at that time there were really just two firms doing the lion’s share of the business, so there was a real spot for a third firm. And it worked out quite well for me, because if one of the primary firms had a conflict of interest in a case, they didn’t want to send the case to their long-time competitors, they would send the case to me, or suggest that the people come see me. I was concerned that I would not have enough to do. I had one client who had—there was a land issue, and the lawyer on the other side had agreed to hold up doing anything until I got into practice, so I had just one appointment my first day that I opened the door. My original plan was to go skiing on Friday afternoons because I knew I would have extra time, but I think that I went skiing one Friday afternoon, and after that I was too busy.

And, it’s a different practice. I came a time or two to a big firm in Portland to meet with a lawyer or something, and I would go into a firm—one of the biggest firms in Portland—and I would be the only person in the waiting room. I go back to my little office in Hood River and there...
might be two or three people that would come in hoping to see me that afternoon. No appointments—totally different style of practice.

JD: And what was your case load like? What types of things did you handle?

JJ: I handled—and again I was young and didn’t know better—I handled, almost without exception, everything that came in the door. I had land-use cases, and of course I knew something about that having worked with the county commissioners and the planning commission. Those were kind of natural cases for me to handle. I didn’t bill very heavily, and I think about that now when I see some of the attorney’s fees petitions that come through this court. I would do some land use work, and in today’s dollars maybe charge two or three hundred dollars and now I see tens of thousands of dollars being charged for similar work: domestic relations, divorce cases, criminal work. The judges appointed me on a variety of criminal cases. I had some paying clients for criminal cases. I had personal injury cases, a wrongful death/personal injury type case. Did estate planning of a minor nature, drew a lot of wills, drew lots and lots of real estate contracts. There was a tradition, a lot of home sales were done by contract rather than mortgages, where the seller would sell on a contract to the buyer, and so I did a lot of that work. Prepared tax returns, prepared estate tax returns, did a couple of bankruptcies. The only thing that I did in federal court was a couple of bankruptcies. Drew a variety of contracts.

Like I say, if I had it to do over again, one, it would be impossible in today’s world to do as many—I did collections, I had friends with stores that I helped with some collection issues. I represented a couple of car dealers, including, well, I don’t need to go into the types of cases, but two of the local car dealers. Worked for one of the local hardware stores. So, a little bit of everything.

JD: I see. Well, your comment about billing rates is something that has come up in quite a few of the interviews. And some of the— [phone rings; recording stops, then resumes]

So, we were just talking a little about the difference that some other lawyers and judges have commented on between the legal profession prior to billable hours and since then, how that has changed things pretty dramatically.

JJ: And that was just changing about the time I went into the private practice of law, because I still had the Oregon Minimum Fee Schedule that I thought worked quite well. And then it was found to violate the anti-trust laws. But I think, well I am sure it was Norm Wiener who wrote an article on how he felt that the billable hours have really altered the practice of law and not for the better. My problem in practicing law was having grown up with dollar-an-hour jobs as late
as when I was in law school. But then I had some that paid a little more. I think I had one job that paid $3.50 an hour in the brewery for a couple of weeks in Portland one summer. But to me, even $30 an hour, which I think was recommended by the bar schedule, seemed like a lot of money for me to be charging people.

So I did much better with contingent fee cases than I did hourly billing because I would say, “Well, this is maybe something I should have known already if I had been in practice for a while, so I won’t charge for those hours.” So I probably billed closer to $15 an hour. And if it had not been, frankly, if it had not been for the contingent fee cases and my wife working it might have been pretty lean. I figured one time if I just billed ten percent more my net would probably be twice as much because of the ratio of expenses to income. But I wasn’t, you know I was good about sitting down and getting the bills out at the end of the month, but I had trouble even at those low rates charging what the services were really worth. I would have to say now, I was reading in the paper the other day about some internal stuff, lawyers billing $350 to $500-600 an hour, I am hard pressed to think that there are very many lawyers that are worth that many times what the custodian in their building gets paid.

I think, that just like with professional athletes, some other professions certainly as well as the law, that the fees are getting so high that it is fundamentally going to alter the nature of the business. We are probably seeing that already with the reduced trials. Everybody says, “Well, we can’t afford to go to trial. It costs so much.” My view is if a lot of the money that was being spent on pretrial discovery was saved with certain efficiencies, that those cases could be tried—for maybe less money than is being spent now in discovery. I tried lots of cases with no formal discovery, just with doing some good investigation work, making some phone calls, and the lengthy depositions that we often see now just were not part of my personal history.

JD: While you were still being very active in the community, you also received another award in 1972 that stood out as I looked through your biography, which was that you were chosen as one of the Five Outstanding Young Men in Oregon in 1972. And if you could talk a little about how that came about and who made those decisions. What was the criterion they used? If you remember the other four recipients?

JJ: I am trying to remember the details, because that is an award that is sponsored by the Jaycees and at the time the telephone company, Pacific Northwest Bell I believe, was the chief sponsor. As I said before, I was not a Jaycee so I was not on the inside. The Jaycees, as I recall, were a group of, I think, men, at that point. I don’t recall if there were women involved also. But it was Jaycees’ Junior Chamber of Commerce, people under age thirty-
five, so I assume the award was probably for someone under the age of thirty-five, which I was. I really think it was my friend and campaign manager who came to me and said, “What would you think?” And he wasn’t a Jaycee either, I don’t think, but you know, small community. Everybody knew everybody that was involved in the business community, which he was. And he said, “What would you think if I put your name in, or talked to the local club about it?”

And in any event, I believe it was the Hood River Jaycees, then, who had given me the Distinguished Service Award, they put my name in for the state-wide award. I was very pleased and honored to be one of the five people named. I’ve been meaning to look up the other four to see how they are doing. One of the fellows, I know, was a legislator who died young in; I believe it was a tractor accident of some kind. But he was a legislator, I believe, from the St. Helens area. One was a very well respected funeral director from Salem, as I recall. There was a lawyer from Salem who had been very active in the Salem community. How many is that? Is that three or four?

JD: I think that’s three.

JJ: Three. As I sit here, I can’t tell you the other two. I will have to look that up.

JD: That’s fine.

JJ: Oh, let me tell you a funny story.

JD: Oh, absolutely!

JJ: Before I was a judge, as I said, I did some criminal practice, and Judge Malcolm Wilkinson, the circuit judge, had appointed me to represent a man and a woman. Back then there weren’t such strict rules on conflict of interest, and he had appointed me to represent a man and woman who were charged with kidnapping and armed robbery. A man and his grandson had been kidnapped at gunpoint from the Starvation Creek rest area in the Columbia Gorge and had stopped then for gasoline in Hood River. As I recall the gas station attendant realized there was something going on that shouldn’t be. Police got involved. Three people were arrested. Rita Jean Johnson and James Hawkins were the two adults. And then there was a juvenile with them also, who was processed in juvenile court. But I was appointed to represent the two adults. We actually ended up having a trial there in the Hood River Circuit Court, and they weren’t both convicted of everything they were charged with, but convicted of something, and properly sentenced to the penitentiary.

And at the banquet, which I believe was in Tigard for the Five Outstanding Young Men Award, I was up at the head table and this fellow who I recognized came up. And it was my former client, James Hawkins, who was in the Jaycee program at the Oregon Correctional Institution. And apparently, because of good behavior, some of them were allowed—I am sure
they had officers with them—but they were allowed to come to this banquet. But was I surprised to see him, who I thought was in the penitentiary! But he and I had had a pleasant relationship, and he came up with a smile and to say hello.

JD: That is a great story. It is a very small world.

JJ: Mm-hmm.

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**7th Judicial Circuit Court**

JD: You briefly mentioned, after two years of private practice, you were appointed to the 7th Judicial Circuit Court. Do I have that correct?

JJ: Correct. Except that it was less than two years. It was wasn’t much more than a year, which I really wished I had been a little older and had a little more experience in private practice. It would have been helpful. But when I was contacted to see if I was interested in putting my name in, I was aware that the position had only been coming open about, on average every twenty-five years or so, so I realized that it was, maybe, a now or never thing. I thought I would like to be a judge, perhaps, someday, I didn’t think it would be quite so soon. Judge Wilkinson, we all thought, would be in office another year or so longer than he was, but one day he sat down and figured out his retirement benefits, his Social Security benefits, and weighed that against doing the job. He had had some serious health problems, heart problems, a few years before that, and he looked at all of that and the next day he said he was going to retire. It caught us a bit by surprise.

JD: Mm-hmm. So, talk more in detail about the process of how you were contacted and by whom. How that worked that your name was put forth for that position.

JJ: I can’t remember if my initial contact was from a lawyer in The Dalles, who was the head of one of the long-time firms in The Dalles, or a Hood River lawyer or two of them together. They, of course, knew the position was going to be open, knew the governor was going to be making an appointment. Also there was another candidate that was going to be backed by other lawyers, primarily in The Dalles, and they preferred me, apparently, and had me put my name in. Or, they didn’t have me, they talked to me about it, and I put my name in. But it was a very divided bar; between the three counties, the bar split about fifty-fifty.

In fact, one interesting historical item: at the time the bar polls that were done had lawyers rate judicial candidates, as I recall, from being exceptionally well-qualified, qualified, I can’t remember how many categories. But it kind of ranged from being exceptionally well qualified at one end of the spectrum to being not qualified at all at the other end of the
spectrum. In that part of the state there were very strong advocates. The lawyers were not always totally objective, including on the bar poll. I would have said that we were both certainly qualified for the job. But strong advocates being what they are, when the bar results were released about half of the lawyers polled said that the other candidate was extremely well qualified, and that I wasn’t qualified at all. The other half did the flip-flop. I think I was one of few that, and hopefully the other candidate was objective also, I know that I didn’t do anything that extreme because it just wasn’t accurate. But as a result of that, I remember a couple of things, a letter to the editor that said, “What is this with the lawyers and these candidates? How can one of them be extremely well qualified and the other not qualified at all? And then the other half of the lawyers say just the opposite?” Very legitimate question. But as a result, I think that was the last bar poll done in the state that had those categories, because I don’t think that it looks good for lawyers to be split that way.

JD: I guess I never realized that those bar polls were made public.

JJ: Oh, yes. That is one of the purposes of them, too, to help the voters. Now, that was, of course, for the election, not for the gubernatorial appointment. But all of that happened pretty fast because, I can’t remember when I got the call from Governor Tom McCall. I do recall that I was litigating a contested child custody proceeding in The Dalles. And since we want to be historically accurate, Ed Dick, who was the lawyer on the other side, had just placed in evidence Polaroid photographs that my client had taken of his penis. Well, if you knew Judge Wilkinson, the one thing that would cause him to turn purple was anything dealing with a sex case of any kind. Again, with limited discovery, I had only found out that day in the court room that [phone rings] that my client had been involved in something a bit perverse.

[recording stops, then resumes]

JJ: Okay, so I knew as soon as I saw the pictures that the case was over. But my client didn’t see it that way, and so we went ahead—with the outcome, to me, a foregone conclusion. And, somewhere in the midst of that, I think it was after the pictures had come out, somebody came out from one of the offices behind the courtroom in The Dalles and said, “You have a phone call. It is important.”

It was in the judge’s chambers and I went in and took the call, and it was Governor McCall. The last time I ever talked to him. Maybe the first time I ever talked to him. And I’ll never forget. He said, “John, I am going to appoint you to that vacancy that is coming up.” And he said, “I hear there is a real backlog, and that you’re a hard worker. I expect you to take care of that.”
I said something like, “Thank you sir. Yes sir, I will.” And that was it. This was in the fall of 1971, I can remember thinking, “Wow, I won’t have to deal with stuff like this messy custody case I am involved in out in the courtroom any more;” not fully realizing that once I became a judge I would have thousands of domestic relations cases. None quite like that one, though.

**Becoming a Circuit Court Judge**

JD: The governor calls you and says he is going to appoint you, and then what is the process that you go through? Who swears you in? How did that work?

JJ: Oh, we had a terrific swearing in ceremony. I was sworn in January tenth, I think it could have been the week before, but I had one case set for trial that I needed to finish up. We ended up settling it the day of the trial, probably the week before. January 10 of ’72 is when I was sworn in. I was sworn in in the morning in the courthouse in The Dalles. And keep in mind that I knew there was going to be a hotly-contested election. It was an interesting swearing-in. It was a wonderful ceremony. Since I had clerked at the Oregon Supreme Court I knew the justices personally and was on friendly terms with them. Justice [Arno] Denecke came in to robe me. Judge [Charles] Crookham, who was a Multnomah County Circuit Judge who was president of the Circuit Judges Association, came to take part. One other Supreme Court justice was there. I have to think for a minute. But anyway, it was a very nice ceremony. We had reserved seats in the first couple rows in the spectators’ section for the Bar.

Interestingly, I don’t hold grudges, I hope, but I thought it was a little bit low class that the local lawyers who were supporting my opponent did not come to the swearing-in. And the court reporter did not come to the swearing-in. And I’ve thought about that. If I had to do that over again, I probably would not have retained him because although I had not talked to him about it, I expected him to be there to take down the nice ceremony. I might have wanted to look back at a transcript some day. But the lawyers who were supporting my opponent, it wasn’t that they had anything personal against me. I mean, it wasn’t that I had had bad dealings, but there again, strong advocates. I think their thinking was if they were there at my swearing-in that that might be interpreted as some sign of support, and they wanted to be sure that I would have as little public support as possible. But there were a lot of people there, a lot of my friends from around the state, my mother and my brother up from California and his family. Anyway, it was a very nice ceremony.

And then that evening I know that we had a party at our home in Hood River, a nice party that lasted until late at night. I had taken the file home because there was a trial set for the next day. And when I
finally got to the file I realized there wasn’t just one plaintiff and one defendant, but it was an inter-pleader suit with eight parties including the United States of America as one of the parties. I stayed up a little later to get prepared for the case the next day, and we had the trial the next day.

But as I say, the bar was divided. And another thing that happened that was not real classy—I haven’t talked publicly about this, but this is for history—I didn’t think it was too classy that, again, a certain number of the lawyers who were not supporting me, well, very frankly, one of the leading senior lawyers in a firm that was not supporting me, said they expected how I would not be there after the election. They were filing affidavits of prejudice in each case. I still had plenty to do. There really was a lot of work to do. But the affidavits of prejudice, I questioned how in good faith they were because most of the clients were in the other two counties, most of the parties I didn’t know because other than one or two or three cases in Wasco County, I didn’t have any practice in Wasco County. So I didn’t know the people. I’d had relatively few dealings with the lawyers. The dealings that I had, had all been good. But in any event, after the election in May, when I prevailed, not just in Hood River County, but in all three counties, that kind of sent a message and everybody settled down, and no more affidavits of prejudice.

JD: If you took office in January, you didn’t have much time before you needed to mount your campaign for the election?

JJ: Correct. Yeah, it was a busy time because I had a brand new job, that some parts of it very little training for. I considered myself an expert in criminal law and procedure, so that part was easy. But I was doing civil cases and had had relatively little experience with civil litigation. So, I was doing my job full time every day. At that time the only employee was the court reporter, who was a serious alcoholic, but had been historically relied upon to do the case scheduling, the letters, the secretarial work, as well as the court reporter work. To his credit, some years later he recognized his problem, went to a treatment program, sobered up. It was probably the best thing that I personally observed in that almost twenty years, was to see that person transformed from a pretty bad, I’ll say, drunk. And it did affect his work some. He would not acknowledge that, I don’t think, but when he sobered up, cleaned up—totally different person. It was remarkable and very pleasant to see that transition. As I said before, if I had it to do over again, I wouldn’t have seen that transition because I probably would have fired him on the day he didn’t show up for my swearing-in.

JD: So, I believe you commented that even though you hadn’t planned to—

JJ: Oh, I want to finish my thought.

JD: Sure.
JJ: You said it must have been busy, or whatever. I thought about this a lot. For ten straight weeks I was only home one evening. And the evening I was home was to meet with my campaign manager and a couple of people who were involved in the campaign to do some planning. That was the only evening I was home in the ten weeks. [Phone rings] Other than that I was somewhere speaking to a group, doing something, which you would call campaigning. [Answering the phone; Recording stops, then resumes]

JD: Okay, so you were saying that for ten weeks you were home only for one night. That it was a very overwhelming time when you first became circuit judge.

JJ: Yes. I know there was some stress because I developed a condition called alopecia areata, where I lost part of my hair—a bald spot back where men get bald spots. I’d tell people, “Oh, that is just temporary. That will grow back.”

And they said, “Oh, sure it will.” But it did.

But that was the only outward sign of stress. But I am sure it was stressful because I was dealing with a job where a lot of the people I was dealing with did not want me there. I was trying to do a good job being a judge, which took time. And then, literally, breakfast, lunch, dinner, I was out in the communities in the three counties. And it paid. Because the nice thing about small areas like that, if you do make an effort, by the time the election rolled around, even in that relatively short time, I’d like to think that most of the people voting either knew me or knew somebody who knew me that they could find out. For example, on election day in Hood River County, Loretta Annala, Wayne’s wife, the lawyer that had some fun with me in that DUI case, she organized a calling campaign to every registered voter in Hood River County. I think that it worked. So, just things like that that you can do in a small area.

I talked to almost every group that met and that would ever have speakers, like Lions clubs, Rotary clubs, Soroptomist clubs. Just go on down the line. Any group that would get together, the fisherman’s group out at Maupin in Wasco County. Went to a dime a dip dinner in Kent, Oregon. Had a real supporter from Sherman County; got to be friends with some people who were politically active in Sherman County. They had a barbecue at their ranch, where they had a significant percentage of Sherman County voters, because Sherman County is small, but some well-thought-of people had me.

Out at Wasco County, Bob Bailey, who was from an orchard family, a very good orchardist, Bob agreed to be my Wasco County campaign chairman. I had never met Bob, but people that knew me, knew him. And they arranged for us to meet, and he agreed to be my campaign manager in Wasco County. His name, the Bailey name, was so good in Wasco County that just having his name next to mine was worth hundreds and hundreds of
votes, plus whatever work he did. Again, in a small county people say, “Well, if the Bailey family is supporting this guy from Hood River, he must be okay.”

JD: I see you have a flier here. Is that from that election?

JJ: Yeah, that is from that one. You can take a copy of that. It is a little bit corny, but—

JD: It says, “Retain Judge John Jelderks” and there is an image of you there with some text. I will submit this for the historical record. I see Bob Bailey’s name is right there on the bottom of your sheet as part of your election committee.

JJ: And I’ll tell you, in Wasco County, even though that’s in pretty small print down there and some of this is in large print, other than my name, which it is important for people to remember your name, having Bob Bailey’s name at the bottom was worth more, I think, than the rest of the page full of stuff for orchardists in Wasco County. And not just orchardists, but Bob is the kind of guy that was on the county budget committee, the State Board of Higher Education, just an outstanding citizen.

JD: So, it sounds like this was a somewhat contentious campaign.

JJ: Contentious in a way, but you’ll see just from looking at that, that I ran from the standpoint that I was the judge. Because incumbents do have a natural advantage. And so, I ran as the judge. In all of those talks I gave and all of those people I met with—the talks start with the talks—I never once mentioned the election. I never mentioned having an opponent. I told the people that were working for me “Don’t mention his name. Do not say anything negative.”

I think it is not judicious for a judicial candidate or his supporters to be saying anything negative about the opponent. It is kind of like what my mother taught me, “If you can’t say something nice about somebody, don’t say anything at all.” So, say something nice about me. Promote my qualities. Forget that there is an opponent. What I tried to do when I would speak to, say, a club meeting, a luncheon speech, an after dinner speech, I would try to pick a legal topic of interest—some changes in the law or something about the criminal law. My goal was that they would remember my name, remember that I had something to say that was interesting, and that I sounded kind of like I knew what I was talking about. And, as I say, never mention the election. They are going to know there is an election. The election is going to be there whether I say, “Vote for me” or not. And again, I think it is a little bit non-judicious for a judge to be asking people for anything.

I can remember I only got to say it once, but of course, judges or judicial candidates cannot solicit funds, but you have treasurers who do that. And totally unlike
political campaigns—people contribute to true political campaigns because they think they are going to get something out of it. What I would say was if somebody said, “What do I get if I contribute to your campaign?” I would say, “You get treated exactly the same as the people who contributed to my opponent’s campaign, and that ought to be worth something to you.”

You will have to think about that for a minute. But if you really wanted a judge with the right qualities, the judge is going to treat you exactly the same whether you helped him or helped his opponent. I really believe that.

JD: There is certainly the general issue that gets discussed in some of these interviews, and in general in the legal community, about whether electing judges is the right thing to do or whether they should be appointed. Have you considered that topic in that large context?

JJ: Sure, I have. Let me tell one funny story, though, that just came to me.

JD: Sure.

JJ: In spite of my thinking that I wanted a totally positive campaign, I got a call pretty early one morning from a lawyer in The Dalles, and he said, “John, there is a problem. There is a big flat bed truck parked in the big parking lot downtown with a great big sign on it.” And I’ll use my opponent’s name. He wouldn’t mind. He is a good guy. “With a big sign on sheets of plywood on the back of a flat-bed truck that said, ‘VanValkenburgh is a crook.’” [JD Laughs]

And the fellow, I didn’t know him personally, but when I was told, I knew his name because he was a fellow who was a little bit different who had some interesting issues with the law. Not with me, but apparently, had some negative feelings about my opponent, let’s put it that way.

So here is this big sign that says, “VanValkenburgh is a crook.” I find out about it, and I think, “Man, somebody is going to think that I am responsible for that. That is going to be totally contrary to everything that I was attempting to do and believed in.”

I think it was Chuck Phipps who had called me and who was one of my supporters and I think he was the vice president of the bar, anyway, so we talked about how to talk to this other fellow about getting rid of the sign. I said, “Tell him that you talked to me and that I really would appreciate it if he would take the sign down.” He did. By the time I got to the courthouse in the Dalles that morning the sign was gone. Somebody had taken a picture of it. Meredith VanValkenburgh, who was my opponent, and who I had very good dealings with then for years as a lawyer.

And he did come to the swearing in. So I appreciated that he came. Actually he was in Portland just a few months ago and we got together for lunch. I hadn’t seen him for a lot of years. So there was
no personal animosity, whatever. I had never had any negative feeling toward him, and I never saw any indication that he had had any negative feelings toward me. Although, there were very strong people on both sides, as far as the two candidates, we didn’t have any negative feelings whatever.

JD: After this first election you went through a couple of other election cycles, correct? In the number of years that you served as circuit judge?

JJ: And nobody ran against me, which in a way is too bad, I think, because it is good for judges to know that they do stand for election. But, let me tell you. I can only speak for myself, that you are constantly aware that you are working for the public and that you are subject to potential serious review and evaluation every six years. I think the process works much better in smaller areas.

You asked me about elective versus appointive. I did run for statewide judicial office for the Oregon Supreme Court in 1988. And it is not just because I didn’t win that election that what I learned in that process was that very few people have any understanding of what happens at the Supreme Court. Very few people know who the candidates are. Very few people know much of anything about them. And it really boils down to name familiarity in many instances. Now, there will be Appellate Judges who won elections who perhaps have convinced themselves that perhaps it was because they were doing a great job. I say it helps to have done a great job, but a lot of it is just the name at the state level. Now, you go down on the streets of Portland right now—I would challenge you to go down and ask the first ten people you see to name the seven members of the Oregon Supreme Court. And unless you happen to catch a lawyer, you might get zero at the end of that survey. On the other hand, if you went to Hood River and asked people to name their judges, asked ten people on the street, and most of them will name one or both of the judges that live in Hood River.

JD: I think you alluded to the fact that the judges didn’t change very often. I know in the notes that I had that you were only the ninth judge in that district when you were appointed?

JJ: That is my recollection. The fourth of the century, I know that to be a fact.

JD: I believe you were the youngest at that point, who had ever been appointed?

JJ: Yes. I believe so. I was the youngest in the state at the time. I was the youngest circuit judge in Oregon. And that is before the District Court merged with the Circuit Court. So there were a lot less judges in 1972. A lot less circuit judges than there are now.
JD: Right. So, you also talked about hitting the ground running; that you were trying to learn about being a judge as well as having to campaign almost from the day that you took your position there. Talk a little about how you learned to be a judge. Who helps you along, or what is the process?

JJ: I knew the judges in Marion County pretty well. Judge [Val] Sloper had been a judge for a long time. I didn’t hesitate from time to time to make a phone call. Usually when I was thinking of doing something that I wasn’t too sure it was the right thing to do, either procedurally, or sometimes on a point of law, but more often on some more practical issue. I got to be good friends with the judges in Central Oregon. Judge [John] Copenhaver—turned out, I didn’t know him until he sent me a nice congratulatory letter—we had gone to the same junior high school, high school, college, and law school and belonged to the same fraternity. Our mothers had gone to the same church, and he would come to my district to help out sometimes when I had conflicts. I’d go over to Central Oregon at least once a year for a couple days or up to a week at a time to help them out. So I developed a good relationship and camaraderie with some of the other judges from the other parts of the state. So you learn from them.

But also, I believe it was in August that first year, I went to the National College of the State Judiciary on the University of Nevada campus in Reno. And it’s a really good school for state court judges from around the country. And what it does, you learn some new things, certainly, but when you exchange ideas with other judges, hear about some of their experiences, hear how they handled things, in addition to the real substance, you get a better feel for yourself and your self confidence. So that was the formal training.

Also, the Oregon Circuit Judges Association had an annual meeting at Salishan in the fall. An excellent brush up on the law. Judge [Edward] Leavy every year did a criminal law review. Judge Harlow Lennon from Multnomah County did a domestic relations law review. Judge Bill Dale, who as you know was later a U.S. Magistrate Judge, reviewed the pertinent civil, or most significant civil cases that had happened in the prior year. Plus we had other topics, educational topics for a day, day-and-a-half, I guess, every year. That was very helpful.

There were—not especially for judges—but I took part in a lot of the state bar CLEs, either as a panelist or just as a member of the audience. So there were a lot of programs available, not too many geared specifically to judges. I think now they have some more in-state training for state court judges. When I started this federal job, within the first year I went to what they call “Baby Judge School” back in Washington D.C., where we had an excellent, probably three-day program. So there is some very good training. But a lot of it is, hopefully, stuff you have
learned as a lawyer that you carry over to be a judge.

JD: You were the only judge in the district, and I’m not sure how common that was throughout the state. I’m assuming some of the districts; perhaps with the larger metropolitan areas like Portland, there were multiple judges.

JJ: Oh, a lot of judges, yes.

JD: I guess you did have to reach out to someone in another district. You didn’t have a peer right there across the hall from you.

JJ: Except the two District Judges were generally very good at helping out. They were designated as pro-tem circuit judges as well as being District Judges. So in Hood River, Judge Cushman did a lot of the juvenile work and the probate work. Judge Jim Donnell in The Dalles did a lot of the juvenile work. He wouldn’t do that as a steady diet, but he was as much a juvenile judge there as I was. Although I had, at the time under the law the presiding circuit judge was kind of the administrative head of the juvenile department—so, hiring and firing the juvenile directors and counselors. That’s changed now. But it was a little different role. As well as being a judge, you were responsible for the day-to-day operation of the juvenile courts, although from quite a distance.

Courthouse Activities

JD: Talk a little bit more about the day-to-day operations at the courthouse. What your staff was like, just how did the Circuit Court function at that point?

JJ: For the most part, excellent staffs. People that think that public servants goof off or don’t serve the public well should have seen some of the people that I worked with in the different counties. Very, very dedicated clerk’s office personnel. Initially, when I was first a judge—the judge, of course, is an elected state official, but the court staff people, all of the clerical people, were county employees. And the court was dependent on the counties for the court’s budget to pay lawyers for indigent defense, jurors. Individual counties provided the funding for the court operations in their counties and the county clerk in the counties where they were elected, still, or like in Hood River, the deputy in the Department of Records and Assessment was assigned to the Circuit Court, if we had trials, was there to work with the court. I found them all to be excellent people. Very nice to work with.

In 19—I want to say, ‘83—the state took over the funding of the court system, mainly because of funding issues in larger counties. I want to say Multnomah County was probably the reason for it. I was very happy with county funding because I had a good relationship with the county commissioners. I think the public
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JD: What were the numbers of staff who supported the court and your work and all of the trials?

JJ: Well, in each of the counties there would be one person in the clerk’s office who would be your primary in-court person when you had a trial—the person that would handle the exhibits, administer the oaths, take care of the files. There were other people that, when documents were filed in the clerk’s office, they would know how to do that. So exactly how many? They were cross-trained. Other than for the in-court work, there would be one person who would ordinarily do that, with somebody else, if they were sick or something, there would be somebody to back them up. But relatively few people, I would say. But I guess when you got into paying jurors and processing attorneys’ fees claims that would take another person. So, I would be hard pressed to say how many right now.

JD: That’s fine.

JJ: In Sherman County I can tell you how many. Probably one. The county clerk, who would, probably, herself, handle almost everything. Her and maybe one other person in her office. And then somebody in the treasurer’s office that handled the checks. But Sherman County is very small.

Workflow

JD: Right. So, talk a little more about, — you had three counties—how that worked with trials and different courthouses, and just the process, which counties had more cases? How did that divide out?

JJ: Well, as you mentioned before, it was one of the several, one-judge circuits in the state, but it was the busiest. And you could look at the official state records, and they would easily bear that out. For a number of years I had lots and lots of trials, practically lived in the courtroom. And that was true in all three counties. We litigated a lot. I couldn’t figure out how Multnomah County could have more cases or trials, more cases, per judge than I had because there just didn’t seem to be
enough hours in the day. Then I discovered that in Multnomah County they had referees and pro-tem judges that were doing part of the work. So, then it made more sense to me that even though they had a certain number of judges, they had additional people doing judge work that weren’t counted in per-judge statistics.

We would try. The first year, I know I had fifty-two trials. The second year, eighty. After the first year I realized that we just couldn’t process the work we had with my personal staff being the court reporter doing not only court reporter duty, but secretarial duty. It just was out of touch with the times. It was too many cases. So after the first year, I got funding from at least two of the three counties. Hood River and Wasco counties shared the cost of a secretary/judicial assistant. I hired a person who was really good. Janice Akse was her name, and she was as smart as could be, organized as could be. I would joke that I thought she was going to work me to death because she could schedule cases in a highly efficient way that we were just cranking all the time. She was there for three years until moving out of state. That would have been from ’73 into the middle of 1976. And that was a real busy time, remembering what Governor McCall had said.

JD: I was going to say, you had an edict from him.

JJ: I wanted to keep my word to him, and we just kept very busy. But once we had that additional staff person then I no longer had to set the cases. One of the things that has given me a real appreciation for courtroom deputies here, trial court administrators later, trial court clerks, county clerks, whatever, who do scheduling and docketing, I personally did that for a year. So I know how much work it can be. Say you have one plaintiff and three defendants, that’s four law firms you need to coordinate just to get a hearing set. So I am not a judge who, knowing how much work that takes—.

I saw a judge once—a lawyer wanted to set something over, and it really wasn’t something that had to be set over—say, “Okay, we’ll do that. Take care of that.” I won’t mention the woman’s name that was the trial court clerk, but “Take care of that, will you?” I know that that staff person had literally spent hours and hours coordinating that. I saw her almost break into tears when that judge said, “Take care of that, please.” But, in fairness to him, he didn’t realize how much work it took because he had never had to do it. I had had to do that. So I would never, for a flimsy reason, tell somebody that I knew from my experience had spent a whole lot of time patching something together, just willy-nilly say, “Okay, we’ll take that off. Take care of it, please.”

JD: That is a great perspective to have.

JJ: And a helpful perspective.

JD: Mm-hmm. Absolutely.
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It gives me a great appreciation for the clerical staff. I know how hard they work and how hard some things that seem pretty simple can really take a lot of time and effort.

Being a Judge

Mm-hmm. So, talk a little bit about what becoming a judge was like. How did it meet your expectations? How was it different? And just the transition going from bar to bench.

I can remember for quite a period of time, when a case was being tried, looking out in the courtroom and kind of wishing I was out there doing it. The other thing I learned was, where I thought it was real easy to sit up there, what I found, it could be very tiring to concentrate for long periods of time. I concluded that it is a hard job on your body because you don’t move around enough. I gained some wisdom that I, for a number of years, probably spent too much time in court moving things.

I had a juror once tell me, and I learned from this, he said, “You know, on our regular job we get a break every two hours. The rules require it. Why don’t we get that here?” I thought about that, and so from that point on we took more breaks and rest stops. One difference was, you can feel pretty isolated. I will never forget the night that I won the election. I told you that Loretta Annala had done a terrific job organizing people in Hood River County to help me get elected. And she and her husband were pretty good friends. We had lived just a half a block from them in Hood River for a while. They had great dinner parties. We socialized. The night I won the election she called and said, “Congratulations. I am sorry that we won’t be able to socialize anymore.”

And it hit me, then—this is different. She and her husband had a real sense of propriety that judges and lawyers didn’t mingle much socially. And they were probably my best friends in that legal community, and that community generally. But I never once went to their house again for dinner, and we’d had some great times. They moved, and at both their houses we’d had great times before that.

I realized you have to be real careful with your conduct because, maybe I took it too seriously, but you are not just representing yourself, you are representing the judiciary. I have always had a lot of respect for the judiciary as an institution. And when you realize you are a part of it, you are representing that and whatever you do is going to be a reflection, not just on yourself, but on the position. That first year was pretty tough because of the divided bar. But that’s kind of an unusual—I think that’s a pretty unique situation, to have that much divisiveness when you are first starting in.

But, as I say, that all smoothed out. I think of one lawyer, deceased now, who was a very strong advocate, staunchly opposed to my being elected, we developed a very pleasant relationship,
and I know from things that he said that before he died that he thought I was a really good judge and appreciated coming in and trying cases. So, as I say, those early things smoothed out later.

People look at you a little differently as a judge. In a small community they all know who you are. I’ve had two wives and I don’t think either one of them ever appreciated going to the grocery store and being treated as a judge’s relative rather than an individual. People initially said, “Oh, are you the judge’s daughter?” If they didn’t know us. Or later saying, as we all grew older, “Oh, are you the judge’s wife?”

I remember with my first wife, Governor [Victor] Atiyeh had come to Hood River to speak at a banquet, and Senator Jernstedt’s wife, who had been my legal secretary when I was in a private practice, it was the first time my wife had met him. I’ll never forget when Gen introduced my wife, Ann, to Governor Atiyeh she said, “Oh, and this is Ann, the judge’s wife.”

And Ann said, “Yes, and I am a person too.” And you know from that, that in today’s world there are spouses, women and now men, married to public officials who really like that, kind of, aura of being part of that. There are other very independent people who don’t like being considered an appendage of the judge, or knowing that they might be scrutinized a little differently because they are the judge’s wife.

JD: Right.

JJ: But for the most part it has been a great experience.

JD: So, you become a judge one day and pretty shortly after that you have to start rendering decisions. And you talked some about talking to some of your peers in other courts and going off to judge school. But, how did you develop your process, or what was your process for making decisions? And, did that change over time?

JJ: My successor met with me before I took over for him. He said, “John, when I took this job, Judge Wilson gave me the keys and said, ‘Don’t make up your mind until you’ve heard both sides.’ Here are the keys to the office. Don’t make up your mind until you have heard both sides.’” That was the total transition—period. [JD Laughs] I am serious!

JD: I can tell you are.

JJ: But it was very good advice. And it is a lot easier said than done. But a lot of things can look differently at the end of the day, if you try to be careful not to make up your mind early in the process. I have heard experts talk about this, and we tend to make up our minds, all of us, fairly early on and then hear things that fit with our expectation. And even if we deny that, that is just the way the human
mind works. So you really do, as a judge, try to keep an open mind until you’ve heard everything. And then, of course simplistically, you apply the facts to the law and render a decision. And that is really what you do.

Judge [J.R. “Doc”] Campbell—who was a dear person, good judge—he was a trial judge in Central Oregon, later on the Court of Appeals, then on the Oregon Supreme Court. He came over to hear a case for me once that, either I had a conflict on, or it was early-on when one of those affidavits of prejudice had been filed. So I sat in a little bit, because he was a well-respected trial judge and a wise, very wise person. I watched him, and I heard him talk about the burden of proof. And we all learn in law school about the burden of proof; what it is in a civil case; what it is in a criminal case. But, particularly, in civil cases, where you can stew and stew if you want to, about which way to go, or what really happened, and so I often think back to what Judge Campbell said, “If you are not really satisfied that the moving party, or the plaintiff, has convinced you by a preponderance of the evidence, then they lose.”

Again, sounds very simplistic, but, you know, if you keep an open mind until you hear everybody and then apply the burden of proof, then it works pretty well in most cases. You get into a situation, though, where, maybe the issue is termination of parental rights of a—I want to say mentally retarded. There is a more politically correct term that is used these days—a learning-disabled person. But, what traditionally we would say mentally retarded. And you are trying to make up your mind whether that mother, who loves her child fiercely, really has the ability to raise that child. Then, you can still talk about burdens of proof and this or that, but it gets a lot tougher than just coldly saying who has the burden of proving what? You are really trying to decide, “Does this person have the ability to give this child what this child really needs?” Not to thrive, but maybe to survive. Those are tough cases.

JD: When it comes down to it, how did you go about making your decisions? Did you take a long time? Are you required to render a decision fairly quickly?

JJ: In some of those tough ones I find that everybody is better off if you make the decision sooner. I can remember one of the toughest decisions I ever had, where there were two kids whose stepfather wanted to adopt them, but for a variety of reasons I will probably never understand, their mother killed herself. The stepfather, not technically the father yet, her husband, still wanted to adopt the kids. They wanted to stay with him. The natural father, in the process of the adoption, was located in California. He wanted the children. They were his natural children. And the kids were afraid of him because mom had always told them what a bad guy the father was. The father said, “I didn’t know
where the mother and the kids were. That is why I couldn’t support them. I couldn’t see them; she disappeared.”

And it doesn’t sound hard to say it now, but it was a really hard case for me. I didn’t want to put it off and so after hearing all of the evidence that took, I think it took more than a day, day-and-a-half, I said, “I will have my decision for you in a half hour or forty-five minutes because I really wanted it to gel.”

There were no factors that made it easy. I walked into the courtroom the same time I said I would, and looked over my shoulder and I said to myself, “God if you are there, if there is a God and you are there, help me out on this one, will you?” I didn’t get any great pronouncement from above, but I started reciting what the facts were to make the record, all the time saying to myself, “What am I going to do? What am I going to do?” But I got to the end of the reciting of the facts and I did something. I made the decision. But I, literally, in that case, literally did not make up my mind until I was reciting the facts in the courtroom. I could have taken a month to decide that case; it wouldn’t have been any easier. The people would have been on pins and needles for a month.

What process did I follow? You know, usually you do your very best to sort out the facts. There, I had a good understanding of what I perceived the facts to be and it still; it didn’t weigh totally heavily one way or the other. I ended up placing the children with their natural father, finding that he— I didn’t see any evidence from him personally—his current wife who was a very nice person, step-daughter from California who was a very nice person—that the mother’s fears that she had always told her kids what a bad guy he was, there was no objective evidence of that. And obviously Mother was not totally squared away because at the one time in her life when everything seemed to be going well, because her husband was a nice guy in Hood River, he was a well-thought-of guy, she killed herself. So, she wasn’t absolutely rational, obviously. A couple of things happened later. By the time that we got to trial in that case, it wasn’t terribly long, but the husband, as I say he was a very nice guy and he was going out with a widowed school teacher, who was a very nice person, who would have then stepped into the mother role for these two kids. Shortly after, she developed cancer and died. So she would not have been there for them.

I checked later to see how those kids were doing, and was told that one of them was doing well and one of them not as well. So, who knows what would have happened if I had made the different decision? But to tell you that I had a very rational, straight-forward, cut-and-dry process in deciding that case, all I can say is that I did my best to do what I thought in the long run would be best for those children. In some cases I could go through a very rational, fact-finding, show you where I carefully applied the legal principals to each of the disputed facts after determining what I thought the
facts were. You know, in a jury trial I could give you a very analytic outline of how I approached the case, how I structured it so that I felt the jury would understand it. So, a part of what we do is almost a mathematical structured approach. Part of it is, frankly, doing your best. To do what you think is right.

JD: Well, I think you mentioned before we started recording today that there was a system in place at one point that, kind of helped the decision process along, which was that in order to get paid you had to—

JJ: Oh, early on.

JD: Describe that process.

JJ: Oregon used to have a requirement that I kind of liked, because it kept you from keeping cases under advisement too long. You had to file a certificate every month certifying that you had no cases, no decisions, motions, trials, anything under advisement for more than, it was either sixty or ninety days. It might have been sixty. And that assured that judges like me didn’t let a case get away from them, because every month I would carefully sit down, do my certificate. Or the week or two before it was due, I would check to see if I had any undecided motions or trials. And if I did, I would get busy and get them finished up because I wanted to get paid that month. And then the attorney general of Oregon determined that process violated the separation of powers, as I recall, and we no longer had to do it. I was kind of sorry when it went away because it was a built-in way to be sure that you didn’t let cases go too long.

I knew a judge some years ago who did let cases sometimes go too long. He would take a week or two of non-court time every year where he wouldn’t schedule anything, and he would just sit down and get everything that had not been previously heard, decided.

Second 7th Circuit Judge

JD: So, it sounds like you came into the job with a backlog and had to catch up, and then, how did the case load play out, then, over time? I know you mentioned that in 1985 they actually added a second judge as well as two more counties to the district.

JJ: Correct.

JD: Talk a little about what spurred that.

JJ: Well, it stayed pretty busy. I continued to have the heaviest case load of any single-judge district in the state. I was on the State Bar Judicial Administration Committee and ended up chairing that committee. And perhaps just coincidentally, while I was on the committee, one of the functions of that committee was to recommend when it thought new judgeships were needed. I
think it would have happened anyway, but I was there as part of the process, that there was a recommendation made to add a judge to the 7th Judicial District, which was Hood River, Wasco, and Sherman counties. And also to restructure the counties a bit, so that in connection with that district getting a second circuit judge, Gilliam and Wheeler counties would be added to the district. Sometimes I call it a district; sometimes I call it a circuit; it is both. It is 7th Judicial District, but it is now a five-county circuit.

So J~1q 9, a very fine guy, came on board as the second circuit judge, and my life went from something nipping at my heels all the time to being a much more deliberate approach. Because if you have too many cases you are always, kind of, like you’re on a tread mill, and then, when that slows down it is just, [claps] you kind of take a deep breath, life is different. I liked to go out to the smaller cities, and so I went out at least once a month to Fossil, to Condon; made a regular trip out there to take care of business. If there was anything important, we’d take care of it when I was there. There was always paperwork and I would meet with Sue Miller, a very nice trial court clerk that covered both those counties. She worked in Condon in the morning and Fossil in the afternoon, and I would cover those. I always enjoyed going into Sherman County. I had friends in Sherman County, and really good people there. Lots of jury trials over the years, so the people I didn’t meet when I was campaigning, a lot of people I would meet at the courthouse on jury duty there. We tried some pretty significant cases out in Sherman County. The courthouse there, if you have never seen it, in the judge’s chambers you look out back to a field, wheat fields, pasture, and cows.

JD: I haven’t been to the courthouse in Moro. How did you and Judge Kelly figure out your case load, and how did you divide up the work between the two of you? You were both responsible equally for the five counties, am I understanding that correctly?

JJ: Correct. I was still what’s called the presiding judge. It’s a little different when you are the presiding judge, and you are the only judge. You are only responsible for yourself. But when Judge Kelly came on board, my primary office had always been in The Dalles, and unless I had a multi-day trial going on in Hood River, my typical work week was four days in The Dalles, one day in Hood River. When Judge Kelly came on board, since he lived in The Dalles and I lived in Hood River, it just made sense for him to take over The Dalles’ office in the Wasco County Courthouse, me, then, to make my primary office the Hood River Courthouse. So, it’s just kind of how things naturally flowed: I probably did most all of the Hood River County stuff and the Sherman County and Gilliam and Wheeler County cases. After that, he probably did the lion’s share of the Wasco County work since he was
there, and I liked to travel to the smaller counties anyway.

But there were always cases where you’d move back and forth. I tried to go to The Dalles every Monday morning to do administrative work with the trial clerk there to, kind of line out the schedule. That just happened to coincide with a noon racquetball game in The Dalles on my way back to Hood River. So, in lieu of eating lunch I would play racquetball, because the racquetball facility in The Dalles was on the west edge, right on the way to Hood River. I had been in the habit, when my main office was in The Dalles, instead of eating lunch for a number of years after they put in the court club there, I would, two or three times a week, try to play racquetball at lunchtime.

[Recording stops, then resumes]

JD: Okay, so we took a little break, and we have been talking about your time as a circuit court judge. You talked a little bit about going around to the different counties and that that district was one of the busiest, and that just doesn’t seem that logical given that they were not very populated counties. If you could talk a little bit about what you think the reasons were that it was such a busy circuit. And maybe talk a little more specifically about the types of cases that you handled.

JJ: Maybe one of the reasons it was pretty busy—keep in mind that Interstate 84 runs through Hood River County, Wasco County, Sherman County, and Gilliam County—and freeways generate a certain amount of courtroom business from accidents. There have been some horrendous accidents on that highway, so that generates some business. Highway 97 runs through Sherman County. I can remember trying one case in Sherman County where a bus carrying the Willamette [University] football team got involved in a fatal accident out on 84. I can remember more than one fatal accident on Highway 97 going through Sherman County, it ended up in litigation. So the highways generate some litigation.

The Columbia River, of course, borders Hood River, Wasco, Sherman, and Gilliam counties, and particularly those first three counties back in the ‘70s, ‘80s, all along the way, but particularly ‘70s and ‘80s, the Columbia River generated quite a bit of litigation revolving around fishing on the river, primarily the Indian fishing and questions relating to treaty rights that were being sorted out during that period of time.

The Dalles is a rural county. A lot of wheat land and orchard land, but also a very large aluminum plant. Harvey Aluminum was put in after The Dalles Dam was built in the mid ’50s, because aluminum plants use a tremendous amount of electricity, and so both the plant in The Dalles and the plant across the river close to the John Day Dam were located to have a close-by source of electricity. Harvey Aluminum—later,
Martin Marietta purchased them—that generated some very significant litigation involving fume damage. The longest trial I have had in thirty-five years as a trial judge was a case where the plaintiff was a cherry orchardist. The defendant was Martin Marietta and the question was, “Did fluoride fumes from the aluminum plant wipe out a lot of cherries?” It was agreed by everybody, I think, that the fluoride fumes had wiped out the peach orchards in the area, and this question had to do with cherries. So, the fact that there was a large industrial plant probably generated some litigation.

There were forest operations. I can’t say that the logging generated a lot of litigation, but some, certainly. I don’t know what else. Those are the things that come to mind as we are talking that might have contributed to litigation. But it was more the fact that there was only one of me, I think. Because when there were two of us, you wouldn’t say that there was a heavy case load. There was a moderate case load. When there was just one of me it was heavy.

JD: It sounds like, certainly there were those larger cases like the Martin Marietta one that you just referred to, but then I am sure there is also the more routine cases, whether they are the domestic relations, or something like that that you are dealing with a whole array of litigation. I recall from our pre-interview meeting that you commented that perhaps it wasn’t the famous cases so much, but the ones that really affected people’s lives more directly that you thought were important. I wondered if you would talk a little about how you went about—domestic relations cases might be an example to use, of how you ruled there—and considered them.

JJ: Sure. I considered the domestic relations cases to be very important. I hear people, sometimes say something like, “Oh, it is just a domestic case.” Well, to me they were highly important, and I did my best to develop some expertise there and took part every year in CLEs, both as a participant and panelist, to try to keep up as best I could with domestic relations law. Because, in those cases, in my experience, you were making decisions that really impacted human beings’ day-to-day lives. In this court, I have had multi-million dollar verdicts involving giant companies. But I don’t think probably very many people, if any, ever lost any sleep or missed a meal over what happened in a multi-million dollar anti-trust case. I don’t mean to minimize those cases. They’re important. But to me, they are certainly no more important, and maybe in some ways less important, than the decision you make fixing child support or spousal support, or who gets custody of the kids. Or a relatively small dispute, money-wise, between neighbors, but something that is going to affect the rest of their lives. It is going to affect that day certainly, when they leave the courtroom, but maybe in some instances, the rest of your lives.

I knew that in ninety-nine percent
of those cases there would not be an appeal. There just was not going to be. Unlike the big anti-trust case, the chances are the losing party is going to find some question in the record to make an argument on appeal, and if you are wrong, if the judge made a mistake, it will get corrected. In those domestic cases, or a termination of parental rights case, those kinds of cases that the state circuit courts deal with, if you don’t get it right—well, sometimes there is no real right answer—but if you don’t get it as best as possible, there is really not a mechanism where it is going to be corrected. There are theoretical remedies, but in my experience in almost twenty years, I can only recall two domestic or juvenile cases where one of my decisions was ever appealed. I would like to think it is because the parties were willing to accept it and thought there were no grounds for appeal, but I am not naïve, I know that in some of those cases, maybe one of the parties violently disagreed but didn’t have the money to file an appeal. So, I felt those were very important cases.

JD: Well, and there are a couple of issues that came up where, I think there’s evidence that you took your role as a judge very seriously, and as part of the overall legal profession. One of the issues I am referring to is a letter that you sent to Chief Justice Arno Denecke in January of 1981, asking him to modify an Oregon Supreme Court opinion on an issue around Judge Kim Jordan. And it is a topic that has come up in some other oral history interviews, and I would like you to talk a little bit about what the issue was, what the Oregon Supreme Court’s ruling was, and what your perspective was, and why you were moved to write this letter to Chief Justice Denecke.

JJ: Judge Jordan was disciplined. He was from a small county down on the coast, as I recall, down in Southern Oregon. I had no quarrel with him being disciplined, but the Supreme Court had kind of a laundry list of reasons supporting the discipline, some of which I thought were perfectly justified, but one that jumps out at me now as I am recalling it, was that he had set bail in a case of someone he presumably quote, “knew and liked.” And that was one of the justifications, is that he shouldn’t have done that. I thought that at that point those people on the Supreme Court didn’t really have a good understanding of how it worked in a small county, in a small town. I was really concerned about that because, it wasn’t that I was concerned about getting disciplined, but I set bail for people that I knew all the time. For example, I don’t know if I put it in the letter, but what I thought of was, okay, if my next door neighbor gets charged with driving under the influence on Friday evening at five-thirty, okay. He has lived in the same house for twenty years, had the same job for twenty years, has never missed an appointment with anybody, owns his home. I know him to be a person that you can rely on to do what he says he is going to do, be where he says he is.
going to be. That opinion would have said that—and let’s say I am the only judge in the county that particular weekend—and the police call me and they say, “We just arrested John Doe. What would you like us to do with him?”

That opinion would have forced me to say as his next-door neighbor, “Well, I know John Doe. I know he owns his home, has a steady job, I personally know he has never missed an appointment, but because I know him and like him, or dislike him,”—it wouldn’t matter—“because I know him and have some feelings one way or another about him, I can’t set bail, so he is going to have to sit in jail until Monday morning. And then I can’t see him in court on Monday morning because I will still know him and like him. I’ll have to get a judge in from some other district to see him.” And that, just to say that, makes no sense.

And so there were a couple of other issues that I wrote to them about. If I saw a copy of the letter it would refresh my memory on it. But that was one of the biggies. And, frankly, that is one of the reasons that I ran for the Oregon Supreme Court in 1988. I felt it was important for there to be someone on the Oregon Supreme Court with experience from outside the Willamette Valley who had had a better understanding, that it’s not as simple as, “There is another judge down the hallway.” Maybe you are the only judge in the county at that particular time. I see I had some problems with their trial without the presence of a witness and then the judge speaking to a witness and obviously he should not have done so. I think my points were well taken. And if my memory is correct, the Oregon Supreme Court modified its opinion and addressed the issues that I had brought to their attention.

Here was the one that really got me, though. I said in my letter, “You state that Judge Jordan clearly violated his duty to disqualify himself under Canon 3C because he had known and liked Mrs. Weaver. If, in a small county, the judge disqualified himself every time he had known somebody, and perhaps liked them, you would have outside judges coming in all the time.” Let me tell you my Oscar Posey story, which is somewhat extreme. And others could differ and maybe make a reasonable argument that I could have, should have stepped aside. Far different from this very broad statement. But Oscar Posey I met when he was a young man. I first saw him sitting just outside the Hood River County Jail, just outside the sheriff’s office. As a prosecutor, I prosecuted Oscar. When I was in private practice I defended Oscar on a burglary charge. As a judge, I terminated Oscar’s parental rights, granted his divorce or his wife’s divorce from him, committed him to the Oregon State Hospital, and sent him to the penitentiary. These were all different events over a period of years. Now, a judge from Los Angeles or New York would just roll their eyes when they heard that story. But I always took the position, as a judge in a small area that I was not going
to disqualify myself just because I knew somebody. The people there elected me to be their judge. I wasn’t going to bring in an outside judge unless there was a good reason to do so.

This wasn’t Oscar, but say someone who was arrested and charged with possession of a small quantity of marijuana. I treated everybody the same. I didn’t think it was fair to the people that elected me that if I just happened to know them, that I would bring an outside judge in and maybe instead of getting the same sentence that everybody else would have had from the regular judge, they got either a much harsher sentence or maybe a much more lenient sentence. So my rule of thumb was, unless, obviously if I thought it was going to make a difference how I treated them, I would disqualify myself. Or, if they were close enough friends that we visited back and forth at each other’s homes, went to ball games together, rode in the car together to things, I would disqualify myself. But otherwise I would not.

And with Mr. Posey, and I’ll call him Oscar, he knew what I knew about him. Like, when I ultimately sent him to the penitentiary, he knew he was going to the penitentiary. He wanted me to be his judge. He didn’t have any problem with me being the judge. The prosecutor knew that I knew Oscar from the past. The prosecutor had no problem with my being the judge that handled the case. And sending somebody to the penitentiary is a lot more serious than setting bail for your next-door neighbor. But as you can see under that language, “had clearly violated his duty to disqualify himself.” Listen to this, change the wording, I would have said in that letter, “You state that Judge Jelderks clearly violated his duty to disqualify himself under Canon 3C because he ‘had known and liked Oscar Posey.’” Okay? It didn’t matter if I liked him and had known him. I was still going to send him to the penitentiary if the facts warranted it. He knew that. His lawyer knew that. The prosecutor knew that. If I had stepped aside, got somebody in from the outside, it would have been disruptive to the process, taken more time. Oscar, if he was going to the penitentiary, he probably felt better that I had done it than some stranger. So anyway, does that make the point?

JD: Yes.

JJ: And the Oscar case is extreme, much different from this one. But it is just an extreme example of how this language could have created havoc more in the bail situation it talked about here. But I sentenced a lot of people in the criminal system that I knew. I heard a divorce with the lady that worked in the courthouse. Her husband was our pharmacist. They lived in the neighborhood until they broke up. I had to decide, in their case, which one of them got the stainless steel thermos bottles. It was awful! They were fighting over everything. But if I had disqualified myself, it wouldn’t have been
because, in my view, it wouldn’t have been because I “had known and liked them,” it would have been because that was going to be a nasty divorce. I knew I would be seeing her, at least, on a weekly, if not daily basis, and she maybe, wasn’t going to like what I did. But, again, in a small town if you disqualified yourself if you were going to run into one of the litigants, you would be running to outside judges all of the time.

JD: On that same point, you also wrote a letter during this same time period, actually October of that same year, to Justice [William] Rehnquist of the U.S. Supreme Court bringing his attention to the judge’s use of the term “cow counties.” And, in a ruling that he had made in a case, Robbins v. California (1981), and I guess I am curious what spurred you to, again, take the time to write a letter to Justice Rehnquist?

JJ: Yes, and I am not a big letter writer! But I had just worked on a case involving a search and in connection with that I had relied in part on some language in the case of Robbins versus California (1981). I was interested in, not just the result of the case, but also his use of the term “cow counties.” I think he said something like, “Apocryphally, at least, there are some counties in the United States that have more cows than people.” And so the first thing I had to do was to look up “apocryphally.” Is that a word that you use regularly? You have heard it.

JD: Apocryphal, probably more than apocryphally.

JJ: Okay. Well, the apocrypha, as you probably know, were the books that were written, but were not adopted, in the Bible.

JD: In the Protestant Bible.

JJ: In the Protestant Bible. And so the word means, “It is said, but it isn’t necessarily so.” So, he was saying, it’s said that there, basically, he was saying it’s said that there were counties in the United States where there are more cows than people, but it isn’t necessarily so. So, I was curious. I knew there were a lot of cows in Sherman County, and I said to him, as of today—this was October 16, 1981, Sherman County, a small county in my district, has a population of 2,200 people and 10,000-plus cows. One of the issues in his case had been how far it was to the county seat or to a judge to get a search warrant. I also said, “The only Magistrate who resides in the county is a part-time justice of the peace. When Wasco County, the largest of three counties in this district, was created by the territorial legislature, it embraced all of Oregon east of the Cascade Mountains, most of Idaho and parts of Montana and Wyoming. Of course it is much smaller now, but there are still areas in the county which are more than one hundred miles from the courthouse here in The Dalles.”

Along that line, when I had jury trials when the Rajneeshees were living
out in Rajneeshpuram, we always had Rajneeshees on the jury panel and often had Rajneeshees serving on a twelve-person jury. And they came a hundred miles, or thereabouts, to serve on the jury. And so it tied in with what his case was. But I wrote that letter on October 16; his letter back to me was dated October 19. I was surprised at a couple of things. I thought either he is extremely well organized, or he doesn’t get much mail! [both laugh] I don’t know which it is. But he wrote back a very nice letter and indicated that he and his father-in-law had an argument back in the ‘50s after he was first married as to what were the largest counties then in existence in the United States. And they were trying to decide how big Nye County, Nevada or Coconino County, Arizona, which one was the second largest. They agreed that San Bernardino County was the largest, and they decided, I guess, that Coconino was the second largest. He said he realized that didn’t compare with Wasco County when it was first created, but it does indicate that judges from the East have a great difficulty in comprehending the vast areas of space that may be encompassed by one county in a western state and how difficult it may be to locate a judge in that county. A very nice letter back from him.

And also, though, it does point out that things are different. I was just out in Harney County a couple of weeks ago on a drive back from Arizona. My wife Suzanne and I, on one stretch of road, coming from Nevada into that part of Oregon of a hundred miles, we saw more antelope on the highway, five antelope right in the road, one Hereford cow right in the middle of the road that we had to stop for, and we only saw five cars in that hundred-mile stretch.

JD: Right.

JJ: A judge in downtown Los Angeles or downtown New York City, who grew up in New York City, has a harder time comprehending things like that.

JD: Absolutely. So, are there any final thoughts you have about this earlier period, the general position as a circuit judge that I haven’t asked you about that you have thought that you wanted to comment on as we have been going through so far?

JJ: No, it was overall a good period. I can remember at the end of my first ten years I was really tired out for some reason. Well, I got very tired in 1983. There was a lot going on. There was a lot of Rajneeshee litigation. There were some complex Indian fishing cases, and my daughter died June of that same year. I found that different people respond to tragedies like that differently. I didn’t miss much work. I was actually too busy to take much time off work so I only missed a very few days, but for me at least, that period of very significant grief was very tiring. And so at some point, just before that even, and just after that, I was very tired. So I took off some extra time that following summer. I
don’t want to say burned out, but kind of
tired out in ‘82 and ‘83. And then, I think
particularly when we got the second judge
in ‘85 I kind of got revitalized. Then when
I took this position in ’91, I did it in part,
not because I wasn’t happy with my job,
I had what I thought was the best judge
job in Oregon before coming to the federal
court. This has worked out very well. But
I didn’t change because I was unhappy.
I changed, one, everything was going
really well, no problems and I thought
that I wanted to do something new that
would, maybe, further revitalize me and
be challenging and that I wouldn’t look
back when I am the age I am now and say,
“I just did that one thing for all of those
years.”

JD: Well, I think at that we will end this
session and pick up at our next meeting.

JJ: Alrighty.

[End of Recording Six]

Wasco County & the Rajneesh

JD: This is Janice Dilg, interviewer for
the U.S. District Court of Oregon Historical
Society. Today is August 20, 2009, and I
am here in Judge John Jelderks’ chambers,
interviewing him for the District Court
oral history project. So, when we left off a
little while ago, we had talked about your
appointment and some of the other aspects
of your position as the circuit court judge
in District Seven. Do I have that correct?

JJ: Yes, 7th Judicial District for the
state of Oregon.

JD: And, there were a few years there
where it was pretty standard judicial fare,
and then in 1981, an Indian guru named
Bhagwan Shree Rajneesh and a group of his
followers bought some property in Wasco
County and began to move in and develop
an ashram in that location. And things
changed considerably for the next few
years. In your position there, you certainly
had a lot of experience with them in court,
mainly. If you would start by recalling
your first recollections of knowing about
the Bhagwan and the followers and what
your initial interactions were with him
and/or the group.

JJ: Well, the summer of 1981 is when
they bought the 64,000-acre Big Muddy
Ranch. It was located in southern Wasco
County and northern Jefferson County.
The ranch itself, as I say, was 64,000 acres,
which is, what is that? A hundred square miles. So, it was a big, big ranch. I was a bit interested. At the time, I think, I followed just out of curiosity because, I might have told you before, when my dad was young, he had worked for a big sheep company and actually herded sheep in that area. I have a picture of my father somewhere taken on the Big Muddy, which I have always assumed was the same Big Muddy, the Muddy Creek that goes through the ranch.

Anyway, it was more of a curiosity at first. And the first I can remember getting involved with any Rajneeshee litigation was the following summer when they wanted to have a large festival. In Wasco County the county commissioners granted the permit and that was challenged by, I believe, a land-use group, and that came to me. I think they had a similar issue in Jefferson County, where a similar permit—since the festival was going to cover some of both counties, I think the commissioners in Jefferson County turned down the permit, if my memory is correct. And that was appealed by the Rajneeshees to the Jefferson County Circuit Court. But sticking with Wasco County, I upheld the commissioners’ decision to allow the festival. And as I say, that is the first of a lot of litigation that I can remember coming from there.

The very last thing I can remember doing, and I don’t remember now what year it was, but was signing the decree of foreclosure when the large insurance company, which had loaned money to the Rajneeshees on the ranch, foreclosed when the payments stopped coming to them. I signed a decree of foreclosure, which was the last involvement I can recall having. In between, there was all kinds of litigation in both the state court, the federal court, and a lot of litigation going on and bouncing back and forth between the Land Use Board of Appeals, and the Oregon Court of Appeals, and occasionally the Oregon Supreme Court. The cases I can remember, a lot of them involved enforcement proceedings to enforce land-use decisions, but went beyond that, to probably what people remember the most, would be the final downfall of the leaders of the Rajneeshees, leading to criminal charges being filed, both in state and federal courts. And in 1986, I took guilty pleas and sentenced Ma Anand Sheela, who basically ran the Rajneeshee operation, and a couple of other women, and I also sentenced, not at that exact same time, but earlier, David Knapp who had been the mayor of Rajneeshpuram. Well, let me back up.

As I say, the first thing I can recall being involved in was the festival permit, but at some point the Rajneeshees petitioned to form the City of Rajneeshpuram on the ranch itself. The Wasco County commissioners granted permission to have the election, and that was challenged in two different ways. It came to the circuit court. It came to LUBA, the Land Use Board of Appeals. I ruled that it was a land-use decision, and it wasn’t up to the state circuit court to get involved with that. LUBA, interestingly
enough, ruled that it was not a land-use decision. They are the ones that handle land-use issues; they said it wasn’t their issue. I said it was their issue, not mine. That was appealed to the Court of Appeals and my decision was affirmed.

One of the things I feel good about is that during that several-year period, and I can’t remember all of the different cases right now, but I can remember and state with some pride that of the decisions that I made that were appealed to the Oregon appellate courts, specifically, the Oregon Court of Appeals, none of my decisions were ever overturned. They were all affirmed. So, I feel good about that because some of them were, you know, maybe where the law was not crystal clear prior to that. There had never been litigation over the formation of a city, at least to this extent, certainly. There had never been all of the wide variety of land-use issues that came up out there that, as I say, I got involved on the fringes of that because, although Oregon has a specific land-use procedure through the Land Use Board of Appeals and the planning commissions, county commissioners, the only way their decisions can be enforced is through the State Circuit Court.

So that is how I got involved in a lot of the land-use problems, when somebody was asking that a particular ruling be enforced. So I was involved, kind of, from close to the beginning, to the end, when the ranch was foreclosed and the Rajneeshees all were gone.

JD: It sounds like your first interaction with them was in your official capacity. It wasn’t seeing members dressed in some shade of red so it was pretty clear who they were. Your first interaction with them wasn’t seeing members, followers, walking down the streets of Hood River, or in The Dalles, or—?

JJ: There became a point where you would see Rajneeshees, not all over the state of Oregon, but certainly if you spent any time in Portland, the Portland Airport or Wasco County, you would see people dressed in red. In Wasco County, they pretty much kept to the ranch, other than I saw a number of Rajneeshees who came in to serve on jury duty.

You mentioned the interaction. Other than in the courtroom, about the only Rajneeshee I had any personal interaction with was Krishna Deva, also known as David Knapp, who was the mayor of Rajneeshpuram, actually the only male that seemed to have any significant role, at least as outsiders saw them. All of the other people other than Bhagwan himself were women. But David Knapp was the mayor of Rajneeshpuram, and he was kind of the public face, at least in that area. He was the one who would speak to Rotary clubs or other service organizations. He would be out and about. And, again, I never saw him person-to-person, but I did see him at more than one public meeting and spoke to him. I shook hands, met him. But I don’t recall ever doing that with any of the others. I got to know some of them, a little

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bit about them, though, because a lot of them changed their names, and I handled the name changes in the circuit court in Wasco County. When people would come in for a change of name from John Smith to Swami whatever, I’d ask them a little about themselves, why they wanted to change their names. It was standard in a name change, Rajneeshees or others, to say, “Do you have any creditors looking for you under this prior name?” I had a feel for the type of people that were living there.

The only time I went to the ranch was in the fall of 1984; my brother and his wife were visiting. They had flown up from California and had a rental car, and they, of course, were interested in what was going on there. I thought with a rental car, people won’t recognize me. I did not want to be recognized on the ranch. My brother Marshall, his wife Lynne, my wife Suzanne and I took a nice drive and drove on the public road in the ranch. I did not talk with any Rajneeshees, but talked to one street person, who had been one of the many hundred who had been recruited in that fall to come out and live at the ranch. It seemed pretty obvious at the time, and was later confirmed, that they were recruited to come live there in hopes that they would vote in support of Rajneeshee candidates with the ultimate goal of taking over the county. That, as everyone knows, did not work out that way. My dealings were really professional, not personal at all.

JD: And, I know there were a variety of land-use issues that came up. You mentioned the first world festival, where they needed a permit to do that. But then there were also the more substantive issues of if they were going to build this city in an area that had been a ranch that was a large shift in use of that land. It sounds like land use continued to come up, and you had some back and forth with that.

JJ: It seems like there was always one or more land-use cases pending. I counted in the fall of ’84 that at that point there had been close to thirty circuit court actions filed. A lot of those dealt with land-use issues of one type or another. The Rajneeshees bought land in the little city of Antelope, and I recall one of the issues that I dealt with [was that] the long-time residents of Antelope were concerned that the Rajneeshees wanted to take over the city. And their fears were well taken because the Rajneeshees did want to take over the city of Antelope. The city of Antelope people scheduled an emergency election to disincorporate. Well, that triggered a lawsuit by the Rajneeshees, taking the position that the city of Antelope did not have the authority to have an emergency election on that type of an issue, that that would have to wait for a regular election. So that came to the circuit court, and I ruled that the townspeople were entitled to have an emergency election. But then the Rajneeshees—a number more moved into the city of Antelope because they owned property there.
Then we had another issue arising out of the emergency disincorporation election as to whether the Rajneeshees, who had moved into town, were eligible to vote because the city of Antelope had a residency requirement that wasn’t met by the new Rajneeshees. There had been a case in the U.S. Supreme Court, there had been a practice by the Oregon Secretary of State following that, that residency requirements of any kind were suspect. Oregon, for example, you could register and vote the same day; that is still the law in Oregon, as far as I know. Well, that led to another lawsuit then, to determine who was eligible to vote in the city election, and that came to court. I know the secretary of state later got involved in an issue as to who was qualified to vote or not qualified to vote. I don’t remember if that was the same election. But I do know we had court litigation over the disincorporation of the city of Antelope. The election was ultimately held. The vote was not to disincorporate. So the city of Antelope remained a city.

The Rajneeshees, then, had enough votes to take over the council, take over the city, basically, and it was renamed Rajneesh. So then we had Rancho Rajneesh, the 64,000-acre ranch. On the ranch was the city of Rajneeshpuram, which was an ongoing battle—Was it a city? Could it be a city? Ultimately the federal court, I think it was much later, maybe 1986 or so, ultimately said there was an unlawful integration of church and state, and the city was void. But that wasn’t decided until much later. But we had the three distinct things, where the names could get mixed up. Rancho Rajneesh, City of Rajneeshpuram, and about eighteen miles away, the former City of Antelope, now the City of Rajneesh. And there was litigation being spawned out of all three of those entities.

To make it more complicated, the Rajneeshees were not just one corporate entity. They had multiple corporations. They had a trust that handled the Rolls-Royces, as I recall. They had a foundation. They had multiple—I don’t necessarily want to say layers, but multiple corporate entities, and I never had to, as I recall, sort out—well, to some extent I did a little bit. I did have one jury trial on a slander case where a woman, Marsha Wickleman, a resident of Antelope, or right in that area, was the plaintiff. And what had happened to her, her husband had accidentally shot himself, a hunting accident, something of that nature. In fact, Dr. Devaraj, the Rajneeshee doctor, had tried to save his life. At least one of the Rajneeshee doctors.

Anyway, Marsha Wickleman’s husband had accidentally shot himself and died. At a big public meeting that was carried on national news, at least the regional national news, Ma Anand Sheela stood up and pointed at Marsha Wickleman, who was dressed as a widow in black, and said, “Everybody knows why her husband killed himself. It was because she
“was,” and I am quoting, “because she was screwing around with another man.”

An absolute untruth. One, he hadn’t killed himself intentionally. It was an accident. Two, there was never any indication that Marsha Wickleman was anything other than a good faithful wife, as far as I know. And there was the T.V. footage that was played in court, and you could just see Ms. Wickleman wilt when—Sheela could be a very, very nasty person, and that just exemplified it. But, what I am getting back to is, Ms. Wickleman sued Sheela, Bhagwan, and one or more of the entities. I think that is the one time that, that I did spend some time trying to sort out who was who. Who is the proper party to be sued here? I had moved that trial from The Dalles to Hood River and a Hood River jury found in favor of Ms. Wickleman with a substantial verdict.

JD: So, what was the reason for moving the trial from The Dalles to Hood River in that instance?

JJ: Just because there had been so much publicity in The Dalles. I felt, you know, Hood River is far enough away. It is only twenty-one miles from The Dalles, but far enough away that there wasn’t, really, the intense feeling at all. And particularly in southern Wasco County, people were very, very concerned and were being treated badly by some of the Rajneeshees. I just felt it would be very difficult to get a jury in Wasco County. Also, on all of the juries we were having, at that time, there would be several Rajneeshees on the jury panel, serving on juries in several cases. I would have had to deal with Rajneeshees: could they be fair, not fair? And that would have taken a lot of time and probably would have been controversial in itself. It just seemed to me that it was more fair for everyone to have the case moved to another county. It was easy for me to move it to Hood River County since I covered that as a part of my own district, rather than moving it out of the district with some logistical problems with that. I also felt we could get a fair jury in Hood River County. And not that we couldn’t have in Wasco County, ultimately, but it would have been much more difficult, and would have taken much more time.

JD: You are bringing up another interesting part of that whole time period, which was, feelings were running high. Every move that the Bhagwan made or the Rajneeshees made, and, they were both the subject of, and often generating, news interest. And you were very involved in a lot of the cases, some of which might seem not that significant to outsiders, but certainly were significant—the land-use issues and the disincorporation of Antelope that were very important to the people that lived there. What was that time period like for you, being in that position of ruling? You have mentioned in a couple of other places that the press in the area, or at least some of the press,
was not always completely fair to your perspective. Or to your view of what a fair journalistic reporting would be. Talk a bit about how this time period affected you professionally and personally and how you dealt with high level of emotional intensity that the Rajneeshees generated.

JJ: If you are a judge for very long you get involved in some highly emotional cases. The one thing that was different for me about this was that it was almost never-ending. One of the advantages, I’ve always felt, of being a judge is that you get a particular problem, you do your best to get the problem resolved, you work hard on it for a relatively brief period of time. The case is over, and you move on to something else. Here, although technically the cases were different, you couldn’t apply that same reasoning because there was always something going on. There wasn’t a day that you didn’t have something pending that was involving the Rajneeshees and at least some members of the community.

You mentioned the press. I think the press was generally fair, although there was one local newspaper that was very anti-Rajneeshee, perhaps with good justification, but I felt the coverage was not always totally fair to me. I’ll give one example. There was a lawsuit filed by a very nice woman, the former mayor of the city of Antelope, and there was one other person, I believe, as plaintiffs. It involved something that had happened at a public meeting. Her lawyer filed the case a day or two after two years, and there was a statute of limitations of two years that applied. There was some minor argument of when the statute started running, but to me it was very clear-cut; the lawsuit had been filed too late. I dismissed the case, properly, and that particular newspaper ran a headline, “Jelderks throws out,” I don’t remember exactly how it was worded, but I remember the “throws out” the case. The news article consisted almost entirely of quoting the plaintiff’s lawyer, who, in my opinion, had made a mistake and hadn’t filed the case on time. And the whole news article was how surprised he was at my ruling, implying that, “Where is the judge coming from?” Well, I didn’t think that was totally objective to use the inflammatory term, I “threw out” the case. That’s used from time to time, but in an inflammatory situation I would rather have seen, “Court dismisses lawsuit. Judge Jelderks ruled that the case was filed a day too late,” whatever it was, instead of the more inflammatory language.

Then, the case was appealed to the Court of Appeals. When my decision was affirmed, there was no big headline that said, “Jelderks affirmed.” There was a very small article acknowledging that maybe this wasn’t such a wild decision on my part after all. Maybe I am being overly-sensitive. You have to be fairly thick-skinned, I think, to be a judge in a highly emotional situation, but that’s just one example of where I felt that the community, maybe, was getting, in some cases stirred up with justification, and in some cases without.
JD: What was the publication? What was the newspaper that—?

JJ: Oh, the newspaper was the, I should be able to say it. It is a part of the chain of newspapers that I like the people and that one of their other newspapers is very supportive of me over the years. I can’t remember the name of it.

JD: Okay.

JJ: Anyway, it was a publication from the Eagle chain that publishes the Hood River News, a very fine small-town newspaper and at the time, at least, and maybe now, a number of other publications around the state. It was not The Dalles Chronicle. I felt the Chronicle reporting was, as far as I can remember, objective, and probably doing their best to be unbiased. A lot of rumors, for example, were not reported. Things that were strong suspicions. A lot of people thought there had been poisonings. A lot of people thought that the salmonella poisoning from the salad bars couldn’t have just been coincidental. But a lot of people, kind of stayed back and wanted to see real proof. There were rumors about somebody, maybe, trying to poison The Dalles’ water supply. Well, some of those rumors turned out to be true. The thought about the salad bars turned out to be absolutely true, that certain Rajneeshees planted the salmonella poisoning in the salad bars. The fact that there had been people around the reservoir turned out to be, as I recall, true—that the Rajneeshees were considering poisoning the water supply.

So some of the things that were thought to be far-fetched, really weren’t. The Planning Commission office burned down. Well, obviously you would be suspicious of the Rajneeshees, but without the proof that there later was, nobody could say for sure. And the newspapers weren’t running headlines: “The Rajneeshees Burned Down the Building and Get Away with It.” So, it could have been much more inflammatory than it was.

JD: And in addition to those very public, pretty widespread, or large numbers of people in The Dalles who were poisoned by salmonella, there were some individual cases, too, which I hadn’t realized until I was doing research for this interview, which were also related to the Wasco County commissioners. Not only did the planning building burn down, but there were some individual commissioners, Raymond Matthew and William, is it, Hulse?

JJ: Hulse. Bill Hulse, who was the county judge.

JD: Oh, right.

JJ: The county judge is like the chair. At that point in time, the county judges in Oregon, there were still—a few of the smaller counties had “county judges” who were really chairs of the Board of County Commissioners, but still had the
historic title of “Judge,” and in a few of the smallest counties, still had some judicial functions.

JD: But the two of them were individuals who the Rajneesh poisoned with salmonella.

JJ: Correct.

JD: And you ended up having three of those cases before you.

JJ: The criminal cases. Yes.

JD: The criminal cases, which you, I think alluded to earlier, that were in the summer of 1986. It was Katherine, is it, Else or [phonetic] Elsee?

JJ: [Phonetic] Elsee, is how I said it.

JD: E-L-S-E.

JJ: Yes.

JD: And Diane Onang, and of course, Ma Anand Sheela. Why don’t you give a little background on those cases and, if you are able, what some of the process was in them pleading guilty. And then, your sentencing of them.

JJ: Well, Bill Hulse was the county judge, chairman of the county commissioners. Virgil Ellett was a county commissioner and Ray Matthew. And the three of them had gone out to Rancho Rajneesh, in part, at least, to see if the Rajneeshes had done what they said they were going to do, and that was to remove certain, I don’t know if was the tents, or something, after the festival was over that summer. The festivals, as I recall, were in July each year.

JD: Yes. That is correct.

JJ: I think the three commissioners went out in August of 1984. On the way to the ranch they were driving Virgil Ellett’s vehicle. They stopped at the restaurant in Antelope. Now, I guess it was Rajneesh by then. But in any event, they stopped at the restaurant, and they purchased or were given something to drink and went on to the ranch. Well, it turned out that in the drinks they had been given at the restaurant, two of the three drinks had been poisoned with some strain of salmonella poisoning. The Rajneeshee waitress, or whoever was working at the restaurant, had poisoned Bill Hulse and Ray Matthew, both of whom were perceived as being not, I don’t know if they were perceived as being totally anti-Rajneesh, but not favorably disposed to do any favors for the Rajneeshees. That was the perception. Virgil Ellett, on the other hand, was a really nice, easygoing guy. And he was perceived by them as being more tolerant of their being there.

Let me just say what I said at sentencing. I never personally observed Bill Hulse, Ray Matthew, the county commissioners, doing anything other than doing their best to do their jobs and
follow the laws. But in any event, two of the three of them were given poison. They went on to the ranch. And instead of taking Virgil Ellett’s vehicle, whoever was giving them the tour or showing them what they wanted to see put them in a Rajneeshee vehicle. They finished looking at what they were looking at, got back to Virgil Ellett’s car, and it had a flat tire. And probably in hindsight, pretty obvious that some Rajneeshees let the air out of the tire or somehow gave them a flat tire, which delayed things a little longer. But to sum it up, Bill, as I recall, got terribly ill. Ray Matthew was ill. I will call them Bill and Ray because, although we weren’t personal friends, we were in the same courthouse. I’d see a lot of them. I’d had more interaction with Bill Hulse, but saw Ray around town and obviously knew them both, as good, solid, local citizens. But they both got ill, and Bill, it was very serious. And, again, no way to prove what had happened. Some suspicions, but later, when the Rajneeshees kind of imploded, it came out that, there is no question, they had, in fact, been intentionally poisoned.

JD: And was their case before or after the salad bar incident? I couldn’t figure out the timeline.

JJ: It would have been before because they were poisoned in August, and I think the salad bar poisonings were a little later than that. No, wait a minute. Yes. It was later. It was September of 1984. I jotted that down that in September of 1984 at least 750 people were poisoned in the salad bars of several restaurants in The Dalles. Let’s stop this just for a moment.

JD: Okay. [Recording stops, then resumes]

JJ: So anyway, the salmonella poisoning of 750 people in the salad bars. The month before we had had the poisoning of two of the three Wasco County commissioners. And somewhere, and I don’t recall where this fit in because it was in Jefferson County, the Jefferson County district attorney, Mike Sullivan, was poisoned. And Mike, I knew him a bit at the time, he is a professional friend now; he is a circuit judge in Central Oregon now. And some years later he had some very significant medical issues that could not be figured out. In some people’s theory it was that it was some kind of recurrence from his poisoning.

JD: Wow.

JJ: So, this is no fun and games. It was very serious. Bill Hulse—his was life threatening.

[Recording stops, then resumes]

JD: You were walking us through the process of the salmonella poisonings and how, at least, the three defendants that you dealt with came to plead guilty and what happened at their sentencing.

JJ: What did happen? As I recall,
Katherine Else was sentenced to ten years in prison. Diane Onang, fifteen years. And Ma Anand Sheela, twenty years. There was $400,000 in fines that were imposed, and with some repayment of expenses, some $60,000. I got involved later because of the $400,000, $200,000 was paid up front and the rest to be paid later. I can recall presiding over the deposition in the Wasco County Circuit Court, where Sheela was being deposed with the state of Oregon trying to trace assets, later, and collect more money that was due. And that was, I don’t want to call it a circus because it was dignified, but with the state’s attorneys trying to pin down Ma Anand Sheela on anything at that point was very difficult.

JD: So were you involved in whatever pre-sentencing process went on between those three defendants as far as how they decided to plead guilty? They each had their own separate lawyers and, even though you were sentencing them at the same time.

JJ: No, actually, of all of the litigation I was involved in involving the Rajneeshees, the three significant defendants who plead guilty that day and my involvement in it was minor from a time standpoint because, by then, there had been a lot of cooperation between the state and federal authorities. Unlike most felony sentencing that I did over the years, where, really it was up to me to figure out what the sentence ought to be and what was most fair, in those three cases of Katherine Else, Diane Onang, and Ma Anand Sheela, there had been an agreement worked out between them, their lawyers, the state officials, and the federal officials. They had all met with me to see if I would go along with the agreement. A judge has the ultimate authority to say, “No, that is not what I am going to do.” But in this case there had been so much time and effort to bring a resolution to those charges, as well as a number of other things I think, that it seemed to me what they had worked out was fair.

So my role, rather than carefully analyzing people’s histories and reaching an independent determination, was just to decide whether I would or would not go along with the plea bargain that they had worked out. I said I would. I had agreed to that. I had met with the lawyers before they ever came into court and plead guilty. So I did not order any pre-sentence evaluations and actually imposed sentence at the same hearing where the three women plead guilty.

JD: And during that sentencing, there were a couple of things. One, you had them sentenced in Portland rather than in Wasco County. And you had some very specific reasons for doing that.

JJ: Well, I had some personal reasons for doing that. There were also some good logistic reasons, it turns out, because the way we worked it out, they appeared in front of Judge Leavy in federal court on the same day. So I made arrangements to handle the state cases in the Justice
Center, here, which is a part of the Multnomah County Circuit Court system, the court part of it. That was relatively easy to arrange. But it worked out better for everyone because they were just two blocks away from the federal courthouse. So it could all be easily handled the same day, transportation, security, all of that could be coordinated. The people that were involved in one case wanted to be involved in the other. Dave Frohnmayer was part of the audience. He had people on his staff who handled the cases, but he was then the attorney general for Oregon. He was there. Charles Turner was there in the state court proceeding as part of the audience. I recall I called upon him to confirm something. It was just easier for everybody to have it all in one general place.

The other thought that I had was that there had been a statue placed on the lawn at the Wasco County Courthouse, which people had a perfect right to do. The commissioners had to approve it, but it was basically a statue that could easily be interpreted as anti-Rajneeshee. I didn’t feel comfortable, whether it was an agreed deal or not, having people come in to a court of justice in a courthouse that in the lawn outside the courthouse had something that could be interpreted as being anti-them. It just didn’t fully comport with my sense of how the court should work. Maybe not a big deal to anybody but me, but I just felt more comfortable with those cases being on a neutral playing field at that point.

JD: All through this time period and all of the different legal issues that were raised when the Rajneesh were in Oregon, I think raises interesting questions about, how does the judiciary keep the law at the forefront and the interpretation of the law at the forefront when there is just so much emotion swirling around, in this case, for a number of years, as you said, kind of non stop?

How did you check yourself, or is there a process of talking with other trusted members of the judiciary, either completely removed from the situation or in another part of the state—did you feel the need for that? Or, are you aware of other situations that, maybe, people called on you for—?

JJ: Well, since I went on the bench very young, there were a couple of older circuit judges, one in Salem, Judge Sloper, one in Central Oregon, Judge Copenhaver, that I was good friends with, felt close to. I can recall calling them a time or two for some guidance. Not as much on legal issues as practical issues sometime, where I thought, they have been around, they are experienced. I would like to have the benefit of their thinking. And they were always good to give me wise counsel in those situations.

But back to the pressure that you were asking about. You can’t say you don’t know that things are going on, but I would have to say that in all of that Rajneeshee litigation, and it’s true of most all of my judicial career, I’ve made decisions, oh,
one had to do with chalk markings on the sidewalk in downtown Hood River. A friend of mine, she and another friend had a store downtown, and I know that she didn’t like my decision. She couldn’t have liked my decision, but never a word was spoken. And, of all of the Rajneeshee hearings, the only feedback I ever had, even knowing that people had lots of feelings, the only thing that was ever said to me, I got a letter from a couple of women who sat in on one of the hearings, and they thought that I had allowed the Rajneeshee lawyers to argue too much. And it really was not an unusual argument, and they hadn’t done anything out of line. I don’t think that those two women were used to sitting in on court arguments and just thought that that I had let them say too much. And all I did was let them have their fair say. I don’t know how I ruled. I think I probably, in that case as I recall, I probably ruled against the Rajneeshees, but the court observers thought I wasn’t hard enough on their lawyers, I guess.

Other than that, I don’t remember ever hearing a comment or criticism, believe it or not, in any effort to influence me in any way. And I’d like to think that it is because people respect the independence of the judiciary and know it is not right to try to influence a judge. And how you deal with that, I always said from when I was very first a judge, and being an elected judge in the state system, that I would rather do what I thought was right and lose my job, than to do something that I didn’t think was right and keep my job. I honestly believed it. And so I just lived by that, knowing that some decisions were not going to be popular.

JD: Well, so, when you did get to the sentencing of Else, Onang, and Anand Sheela, as your right as a judge you offered some comments. I think particularly to Ma Anand Sheela, that had some follow-up reporting on them. Partly, I think, because she was the very public face, particularly much more broadly than outside of Wasco County or Hood River, certainly across Portland. She was the public face of the organization, and as you noted earlier, had a certain edge to her style of speaking to the public. And so, I would like you to, for the record, repeat a little, paraphrase what you told the defendants that day.

JJ: Well, I hadn’t prepared any remarks prior to the proceeding. But with Sheela, I had never talked to her before. I had seen her before, but I hadn’t personally observed any of the outrageous conduct that I know she took part in. I should say that in all of the court hearings I had, the court was always treated with respect. I would have a packed courtroom in a big courtroom in The Dalles, and I would hear that before I came in people were jostling for seats and that Rajneeshees were pushing non-Rajneeshees off the benches and vice versa. When I stepped into the courtroom the decorum was good, the lawyers were proper. The audience was always proper. I never had to raise my voice, much less pound a gavel. And that
included Sheela, who sat in on several of the hearings.

But I had developed strong feelings over the years about the need for checks and balances. I have often marveled at our forefathers, how wise they were when they drafted our Constitution with its built-in checks and balances. It is why I think that, although we are relatively new country with a relatively new Constitution, our government has lived under a written form of government, that being our Constitution, longer than any other country in the world today. Even though it is a relatively short time, and hopefully it will last. If it continues to last, and the reason it has lasted this long I am absolutely convinced, is because of the checks and balances. The executive branch has limited powers. The legislative branch, powers are limited by the other two. The judicial branch has limitations. And what I talked to Sheela about a bit as I recall, was one of the reasons that things did not work out for the Rajneeshees was that Sheela was a person, as probably most of us are, who, if we get too much power, and there aren’t checks on that power, people tend to become abusive. The history books are replete with rulers, who if they weren’t abusive to start with, they became abusive. And people with very much power don’t like to have it challenged. Sheela, I don’t know if she did evil deeds right from the start, but at the end certainly, particularly when her power was being challenged both from within as well as from without, she did very evil things to try to preserve that power.

I talked to her a bit about that. I also talked to her about all of the people she had hurt. And not just the Bill Hulses and Ray Matthews of the world, but her criminal acts were very destructive to certain well-meaning Rajneeshees; one of whom I talked to at some length about it, who was just totally devastated to find that his leaders had engaged in these horrible criminal acts. So there was a real let down from the good people from within the group, and there were a lot of good people within the group. There were relatively few who were really criminals doing some really bad things. So I talked to her a bit about that. I know that the Oregonian picked up on my off-the-cuff comments and Fred Leeson who was a very good, still is a very good reporter, but was an excellent legal reporter, I know, wrote a column that was interesting.

JD: That’s right. The title of which, I have here, about Ma Anand Sheela finally listening. I’ll probably include a copy of that article in your file, when I submit all of your oral history interviews, too.

JJ: Good, because that was well written. And, as I say, I had never met Sheela face-to-face. I would like to think that she was not all bad. She was bright, had a somewhat interesting background. I have known a lot of people who have done some very bad things, and most of
them had some good in them. I would like to think Sheela has some good in her.

There is another person, the one male that I sentenced on a felony charge, David Knapp, who is the one person I met. I would like to see him again someday. I am not sure I’d like to see Sheela. I wouldn’t be opposed to it, but the last time I saw her in court she was so devious, and I am just not sure that you could have a productive conversation with her. David Knapp, who I knew quite a bit about because I did sentence Mr. Knapp, formerly Krishna Deva when he was at the ranch. He actually was one of the reasons that the state and federal governments were able to successfully prosecute the wrongdoers and to put an end to some of the real shenanigans that were taking place out there because he thought better of what he had been involved with and, as near as I could tell, came clean and pretty much told it like it was. One reason I know more about him, is that as part of his sentencing and thereafter, I, for a significant period of time, received reports from him. He was in the witness protection program, so I never knew where he was living, but I knew quite a bit about what was going on. I don’t remember if it was because I requested it or it was volunteered by him or his lawyer, but I have somewhere a document that he wrote of his background, how he got involved with the Rajneeshees, and what he was doing. I think I might have had him prepare that before I sentenced him, and it’s very interesting.

JD: So, those were the areas that I had to cover. Do you have any thoughts or recollections, or issues that I haven’t brought up while we are still talking about the Rajneesh period of your circuit court judgeship?

JJ: No, I did want to make the point that there were a lot of Rajneeshees who enjoyed that experience and who were not involved in the evildoing. Those that showed that people who otherwise don’t have a criminal background can be capable of very, very serious things, up to and including murder, because although nobody died as a result of the poisonings, a couple people could have. And Dr. Deveraj was one of the victims in the cases that I sentenced the three women on—they had plotted and actually injected him with some form of adrenaline with the idea of killing him. And he was able to get some medical attention, even though they didn’t plan it that way, and he survived. But he could have died. Bill Hulse could have died. People involved in the restaurant poisonings could have died if they hadn’t had good care and things had gone otherwise, so—

JD: Well, this was a very busy time for you, but during that time period, I have down 1985, you were named Judge of the Year, by the Oregon Trial Lawyers Association.

JJ: Yes. I was honored.
JD: How did that come about?

JJ: I think because I knew a lot of trial lawyers, of course, from having so many trials over, what would that have been? The thirteen years before that I had probably spent as much time in the courtroom actively trying cases as any trial judge in Oregon, in either the state of the federal systems, so I was exposed to a lot of trial lawyers. I think I would have to say that the Rajneeshee experience, the Rajneeshee litigation, gave some exposure that more people were just aware of me as a trial judge. I would say also, one of the things that I feel good about out of that whole experience in a wide variety of cases, in Oregon it is very simple to remove a trial judge from a case by filing an affidavit that says you feel the judge would not be fair in your case. You don’t need to explain why even. And in all of the Rajneeshee litigation, none of the Rajneeshees or any of their lawyers or people on the other side ever asked me to step aside from a case. So, I’d like to think I got the award because they thought I was a competent trial judge who did a fair job, was fair, not did a fair job, but was a fair judge, sometimes under—a bad pun—but sometimes under trying circumstances.

JD: In relation to this, one of the things that you had mentioned in our earlier interview session was that you were, if not the only district in the district in the state, one of the few one-judge circuit courts.

JJ: Yes. There were several of us east of the mountains.

JD: But you had a tremendous case load, and before we started this interview you were showing me a chart of case load, and it really skyrocketed the first few years you were on the circuit court in your lone position. But at some point, the decision was made to add a second judge to the 7th Judicial District.

JJ: Correct.

JD: Talk a little bit about that process and how that changed and, you know, you had the transcript of the investiture of Judge John Kelly in your file, which I looked at.

JJ: John Kelly was a fine lawyer in The Dalles. Very fair-minded person. And when the legislature concluded that the district should be expanded by two counties, about that same time we picked up Gilliam and Wheeler counties to add to Hood River, Wasco, and Sherman, and the legislature authorized the creation of a second circuit judge for what would then be a five-county area. I was pleased that Judge Kelly was selected by the governor to take that second slot. He lived in The Dalles. Actually he grew up in The Dalles, he came back to The Dalles to practice law. And since he lived in The Dalles and we lived in Hood River, I gave up my main office in The Dalles. He took that over because historically I would
spend probably four days a week in The Dalles and one day a week in Hood River. Occasional trials out in Moro, the county seat of Sherman County. Since Judge Kelly lived in The Dalles, it made the most sense for him to be there primarily and for me to be primarily in Hood River. And then I continued to take care of most of the judicial business in the three smaller counties of Sherman, Gilliam, and Wheeler. But he handled most of the things in The Dalles, and he got in on the tail end of the Rajneeshee litigation, as I recall.

JD: So, I am guessing that your workload changed pretty substantially as a result of that?

JJ: Dramatically. It changed dramatically. It is interesting that, as a judge, and this is whether you are a single-judge district or a multi-judge district, if you have too much to do, it seems like you are on a treadmill all of the time. And the case loads can drop—in my case, dropped significantly, dropped in half, but even if sometimes they changed just 10 percent, 20 percent, if feels quite different. So, so I actually went from being what I thought was certainly the busiest judge in a single-judge district, and I am sure some of those months and years I was as busy as any trial judge in Oregon. And the reason I can say that, I was in the courtroom so much, I don’t think that anybody could have been in the courtroom more than I was. Because I was there sometimes from first thing in the morning until ten or eleven o’clock at night, waiting for a jury verdict because I had something to start the next morning. But when Judge Kelly came on board it became much more manageable, much easier for me. I was still the presiding judge, meaning that I suppose I could have assigned cases, but Judge Kelly and I really never had to, I don’t think we ever had any disagreements as to who would take what cases, really. It just kind of worked itself out. And he is a real easy guy to get along with. I would like to think that I am easy to get along with. So we had a very pleasant working relationship.

Oregon Supreme Court Campaign

JD: Well, you didn’t let all your extra free time last for very long, because in 1987, the opportunity presented itself to run for a position in the Oregon Supreme Court. J.R. Campbell had had that seat. And, from my research it looks like that had been an Eastern Oregon seat for a long time. So, why don’t we just begin by your decision to enter the race for the Supreme Court Justice position?

JJ: Well, Judge Campbell decided to retire. I felt it was important for someone with experience east of the mountains, particularly, to be on the Oregon Supreme Court. Things are different in a little county like Wheeler County, quite different than Multnomah County. And, more and more of the judges on the
Supreme Court were coming, just from the Willamette Valley between Portland and Eugene, and I really thought it was important for someone to be there with experience in places other than the Willamette Valley. When I clerked on the Supreme Court as my first job out of law school, there were seven justices, as there are now. But then, they were from Medford, Oregon City, Eugene, Astoria, Portland, Eastern Oregon somewhere, but anyway, pretty well spread from around the state. And then by the time Judge Campbell retired, most all of the appellate judges—because by then there was a court of appeals, also—most of the appellate judges were coming just from the I-5 corridor.

Anyway, I think I was in Eugene when I found out that he was not running for reelection. I know I was in Eugene talking to some people about it, and I stopped through Salem to visit with Judge Campbell on my way back to Hood River. I will never forget the conversation. I knew Judge Campbell pretty well because he was still a circuit judge when I was first a circuit judge, and we would exchange benches once in a while. I would go to Central Oregon to help him and Judge Copenhaver; they’d come to Hood River or The Dalles to help me if we had conflicts with cases. And he went from being a state circuit judge to the court of appeals and then the Supreme Court, in that order. So I knew him pretty well. I stopped to see him to talk to him about my running.

And I’ll never forget, he said, “John, as your friend, I would advise you not to do it.” Because he missed being a trial judge. I think he always missed the good times he had as an excellent trial judge. But, he said, “If you decide to do it I’ll give you all of the help that I can.” Because, he, like me, he thought it was important for somebody with my background to be there. I thought about it and talked to some people, and I decided that—that maybe this is egotistical, but I really honestly believed that I would have as good or better a chance to get elected than anybody else in the eighteen counties east of the mountains. Partly because I had grown up in the Willamette Valley, and Hood River isn’t that far away from Portland, so I knew a lot of lawyers and others in Portland.

Anyway, I decided to run. Not because it was the be-all-and-end-all of my life; in fact, I preferred living in Hood River to living in Salem. My wife Suzanne preferred Hood River to Salem. But I really thought that I almost had an obligation to do it at that point. So I put my hat in the ring and gave it a good shot, worked hard, and was probably fortunate to not be elected. [JD laughs] I remember watching the election returns the night that they were on T.V., of course. I can honestly say that when we went to bed that night knowing that I would not be a justice on the Supreme Court—nobody likes to lose if you are competitive at all, but I did not feel at all bad about not getting the job. I felt that I had worked hard, I didn’t get elected, and that was just fine.
JD: Well, just elaborate a little more on the campaigning process. You certainly had to do some campaigning because your circuit court position was elected.

JJ: And hotly contested. When I was very first a circuit judge in three counties, I would just say that campaigning for a statewide judicial office was totally different than campaigning in three smaller counties for a circuit judgeship. In the three counties, by working hard for ten to twelve weeks, whatever it was, where I worked every day, as well as doing the court work that needed to be done: I was speaking to luncheon groups, dinner groups, breakfast groups, shaking hands, really getting out and meeting people. And in Sherman County, for example, if you work at it, you can meet a substantial number of the voters in the county. In Hood River County I knew a substantial number of the voters in the county. In Wasco County I was fortunate in that Bob Bailey agreed to be my campaign chairman. Bob was from a very well-respected family in The Dalles, orchardists, very good orchardists. Bob was active in community and public affairs. Very, very well-respected person. And frankly I’d have to say that just having his name listed as my campaign chairman was worth hundreds, if not thousands, of votes. So there were good people willing to help me out once we had a chance to talk. Even people that I had never met before and didn’t know personally.

But my point is, that in a small area like that, by the time the election comes, people either know you, have met you, or at least know somebody who knows you and knows something about you. When you campaign statewide, whatever anybody says, it’s based primarily on getting your name out, and if you don’t already have a well-known name, it would cost literally millions of dollars to finance the type of campaign to really get your name and your message out to the voters. So, when I would go to far parts of the state, for example, the lawyers would be interested, the newspaper would be interested, if there was somebody that was well-respected helping you, they could get some other people out. But for the most part, people can’t even name one of the seven Supreme Court Justices, don’t really understand exactly what goes on there and don’t have a lot of reason to care a lot. They have theoretical reasons, but it’s not like you are electing your local legislator from your small district who might pass a law that’s going to change your life. The appellate courts are enough removed from the average person. I am not faulting the average person. They just don’t have a real reason to fully understand that process.

JD: Their lives don’t intersect it the same way they would with a local court or, as you said, an elected official.
JJ: And name familiarity is very important. I think the way that names sound is important if you’re running in a low-profile election where people really don’t know the people they are voting for. I say, half in jest, if I were to run for statewide judicial office again in my life, I would change my last name to my mother’s maiden name and would run for office as John Marshall rather than John Jelderks because Jelderks is a very harsh sounding name. It’s fine if you know it and know who has that name, but if you are just marking a ballot, trust me, if you did a blind study and put John Marshall, John Jelderks, maybe a couple of other names on, John Marshall would get far more votes than John Jelderks. And after the Rajneeshee experience, changing all the names, I thought, if I wanted to be a bit deceptive I would legally change my first name to Judge and middle name would be John, and my last name would be Marshall, so I would be on the ballot as Judge John Marshall. [JD laughs] Which, under Oregon’s liberal laws, could be done.

JD: Well, you talk about name familiarity and the east-west divide and that really became a pretty substantial issue in the election. Certainly at the beginning it seemed like people were slow to file for the office, and then, by the time the filing deadline came around, there were some established names, and I believe all of them, except for you, were from the west half of the state.

JJ: Yes. Ed Fadeley was from Eugene, Vern Cook from Gresham or east Multnomah County, and Frank Bearden from, was a Multnomah County Judge, and I think lived in Lake Oswego, but right on the edge of Portland.

JD: So, any other thoughts? Lessons learned about either that particular race or campaigning in general that you want to leave for the record?

JJ: Well, campaigning can be a lot of work. I wish there were a way to be able to have better information to voters for the statewide judicial offices, but to the general public they are pretty low-profile jobs. I just don’t know if that is possible. I think it’s probably up to the press to do its best to inform voters as to what’s going on in the state judiciary, because, of course, here in federal court, we are all appointed so are not concerned about elections.

JD: Right, right. And do you still hold the opinion that geographical distribution of the statewide judicial positions is preferable?

JJ: I think it is important to have people on the court that know what goes on in smaller counties. For example, how easy or how difficult it is to get a search warrant in the middle of the night. A lot of people don’t realize it, say, back to Rajneeshpuram for example, is over one hundred miles from the county seat. That is entirely different from being in
Portland, and maybe getting a search warrant at night, you are a few miles from some judge’s home, somewhere. Well, if you are in Antelope and need a search warrant in the middle of the night, maybe you are well over a hundred miles to get a search warrant. And, you can be from Portland and somebody can tell you that and you can understand it, but I think just having a feel for those types of things—how the police work in small police forces as compared to a large urban force. It doesn’t mean you can’t do a good job without those experiences, but it’s just like the U.S. Supreme Court. I like to see at least some members of the United States Supreme Court have experience as either trial lawyers or trial judges. Because frankly, you see opinions from time to time that just don’t work very well in the trial court, and it’s because the people writing those haven’t spent much time in the trial court. So, it is not like everybody on the Oregon Supreme Court ought to have experience in a rural county, but I would like to see at least one of the seven have experience other than in the I-5 corridor.

JD: Well, I think that’ll conclude our session for today.

JJ: That is a wrap?

JD: That is a wrap. Thank you.

[recording stops, then resumes]
Australia, and had a terrible auto accident, where the mother and the daughter of her host family, and Sarah, all died in the auto accident. That was in June of 1983. So, 1983 was a hard year for me professionally and personally; professionally because there was a lot going on. There was not only the regular case load, but the Rajneeshee stuff was heating up in 1983, and we also had some time-consuming Indian fishing issues to deal with, plus the regular case load of divorces, crimes, auto accidents, contract cases.

So 1983 was a tiring year for me. I took a little extra time off then in the summer of 1984, and then Chief Justice [Edwin] Peterson arranged for Judge Don Kalberer, a good judge, fun guy, stayed in our house in Hood River for a while and filled in for me, while I took a little more vacation than I ordinarily took.

And Suzanne has been very supportive of my career. We had, then, a son, Jeff, was born in 1981, and like my older children Jeff grew up going to judicial conferences, coming to the courthouse, being a regular part of life. As Ann was very helpful in my successful election in 1972 as a circuit judge, Suzanne managed the statewide campaign for the Supreme Court. Very well organized and did an excellent job in organizing that campaign, even though we were unsuccessful. And I’ve always been appreciative that I have had two wives that have been very, very supportive of my career. As I have tried to be of theirs.

JD: And what were their careers?

JJ: Well, Ann was in real estate. She is good at sales. She did well in real estate in Hood River and The Dalles. She has had a variety of things that she has done. She was with the bank in Hood River selling investments for a period of some years. That was after we were divorced. But she is just good at a variety of things. Suzanne went back to school after we moved to Portland. She had a couple of degrees from before, but went back to school and got her Bachelor of Science in Nursing and became an oncology nurse. Worked full time for some years and now works part time as an oncology nurse. [Narrator Addition: She is an excellent nurse and is very well-liked by her patients and coworkers.] But I have been, other than Sarah dying, I have been very fortunate having really nice children and stepchildren.

JD: Well great. That was a nice addition.

JJ: Yes, thank you.

JD: Thank you. We will conclude for today then.

JJ: Okay.

[End of Recording Seven]
Hood River Rotary Club & Women

JD: This is Janice Dilg, interviewer with the U.S. District Court of Oregon Historical Society. Today is September 16, 2009 and I am with Magistrate Judge John Jelderks in his chambers, and this will be our final interview session. I did want to just go back briefly to one topic that we didn’t cover in our previous session when we were talking about your time in Hood River and on the circuit court. I know that you talked about being involved with the Hood River Rotary Club, pretty extensively, and had given a number of speeches, including one about the Rajneesh, which we discussed directly, but apparently you were also involved in integrating women into the Hood River Rotary club. I wanted you to talk a little bit about why that was an issue and why you decided it was important to do that, and what the result was.

JJ: I became a member of the Hood River Rotary Club in 1967. I was the president of the club in 1972. It was a good club, did lots of great things for the community, a lot of real doers. A lot of the business leaders and community leaders were Rotarians. And somewhere along the line there was a case that went to the Supreme Court, *Rotary International v. Rotary Club of Duarte* 481 U.S. 537 actually, on women in Rotary or Kiwanis, that part is a little vague. But I do recall distinctly that the issue came up with the Hood River Rotary club. A couple things, really, I think it was just a matter of time until the court said if you are going to have an organization like that, that among other things promotes business relationships, personal relationships, that aid business, that, as a legal matter, it was time that women became members. But also, just from a moral, everyday issue, there really was no reason why women should not be Rotarians because of the type of service organization it is. I recall that—like integrating other organizations—that not everyone agreed. And one of our club meetings was devoted to a discussion of this issue, as to whether our club should vote to allow woman members. I don’t remember whether I was asked, or volunteered, to give the talk in favor of having women in our membership. I recall standing, giving the talk, and the reasons for it, and we voted and voted to have women members. The first member was a woman who had been a neighbor of ours, Linda Rouches, and she later became president of the club. And so women have not only been members for a number of years now, but very active contributors to the club.

JD: And do you remember what the points were that you made, or what the points were that the camp against integrating women into the club membership made?

JJ: Well, I don’t know that those who were opposed were particularly vocal at that point, because I don’t remember anyone standing up and saying, “If
women come in, we’ll get out.” As kind of a side issue, though, when I ran for the [Oregon] Supreme Court in 1988, I was a member of the Hood River Elks Lodge. I had only gone to three meetings. I joined the Elks Lodge for several reasons. One, it was a small town, and Elks clubs were very active in small towns like Hood River, and from a practical standpoint, it was the best place in town to eat lunch. It had an excellent cook and we had no private athletic clubs or athletic clubs of any kind, and there was a gymnasium at the club where I was very actively involved playing one-wall handball.

But I was well aware when I joined that there was a white clause [white people only] with the Elks club at the time. The only three meetings that I ever went to, actual lodge meetings, were when I was sworn in, initiated, and the two times that there was a vote to get rid of the white clause. The first time the vote failed. The second time the vote passed, and almost immediately our club became racially integrated. I thought that was a big thing. I had asked one of my colleagues at a national seminar, didn’t it bother him to belong to an organization that discriminated on the basis of race? Because it bothered me a lot and the only way that I could—I don’t know if I could ever justify it—I could rationalize it some by saying that I am doing my best to change it from within. And, as I say, the only two lodge meetings I ever went to were to vote to change that. But my colleague, to my surprise, said he had never thought about it. I thought about it all the time. So I felt much more comfortable, then, when the white clause was done away with.

When I was running for the Supreme Court, one of my women supporters said something about it bothering her that I belonged to the Elks Lodge that did not allow women as members. I really, I didn’t think that was an issue. The race issue was a giant issue with me. The men-women thing, I had always felt at that point that there were women’s organization, there are men’s organizations. If they are social clubs, so be it. But based on that one woman’s comment, I then withdrew my membership at some point in time, because I thought if this bothers people about judges, if that is an issue for them, I’ll remove that issue because I don’t want to be perceived as racist, sexist, or anything else.

JD: And, so, it sounds like once the issue came up, it was fairly quickly, or easily resolved at the Rotary Club?

JJ: Well, I can only recall the one formal vote. There was a lot of informal discussion leading up to it, and there was talk about this case that had been decided somewhere, but I think, like a lot of things, I think its time had just come. There were women business leaders in Hood River back then, as there are now. They owned businesses, and that was one of the advantages, really, of being a Rotarian or belonging to a similar organization like
Kiwanis or Lions, that you do interact with business people, make business connections, and the legal thought was it wasn’t fair to business women to not have that same ability to connect with business men through civic organizations like Rotary.

JD: There was some serious resistance to that happening in other clubs. I know the Arlington Club in Portland, for example, was a pretty protracted battle.

JJ: I have heard that.

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**Becoming a Magistrate Judge**

JD: At this point, why don’t we move forward. We have pretty much covered your professional career and life up through your Circuit Court time. But in 1991 you were selected to a new position as a U.S. Magistrate Judge. Why don’t you start by talking about how you were approached, what’s the process that a magistrate judge is selected, and your participation in that?

JJ: Well, as you said, there was a new position created. It would have been the third magistrate judge in Portland. And things were going really well for me. We had had a second circuit judge by then, that I told you about before, John Kelly, a fine guy, had come on board. I was the presiding judge in the five-county district. The workload was very manageable, now that there were two of us. And everything was going well. But my thought was, do I want to get to the age I am now and say, this is what I have done for the last thirty-some years, this one job? So I thought, I’ll look into it. Talked to a few people. I talked to [Magistrate Judge] George Juba, who was one of the two magistrate judges in Portland. I really did not know George, but I knew that we were fraternity brothers, and he had gone to Willamette some years ahead of me, so we know a lot of the same people. One mutual friend in Hood River was a good friend of his, so I knew that I could at least say hello to him with the Willamette connection that we had.

So I did stop in to see him in his office in Portland to talk to him about the job. And he encouraged me to put my name in, said it was a great job. I talked to Judge Ed Leavy, who I had known since I became a circuit judge in 1972, and he strongly encouraged me, said it was a great job, said it was kind of the best of both worlds. You had time in the courtroom as the trial judge, but unlike a state circuit judge, you had more time to read and analyze, write decisions more like an appellate judge. So he thought it was a great job for someone who would be interested in the academic side as well as the court side, so I decided to put my name in.

There were a lot of applicants since it was a new position, and other than handling a couple of bankruptcies when I was in private practice, the last time I had
been in a true federal district courtroom was when I was sworn in back in the ‘60s. I did not have any federal practice when I was in private practice. And as a state judge you actually have very little interaction with federal judges. So I really didn’t know much about the job. But I relied on George and Judge Leavy, especially, because I knew he knew what I did and knew me. I knew Judge [Otto] Skopil, knew he was a fine fellow. I had known Judge [Ted] Goodwin. He had moved on to the Ninth Circuit Court of Appeals by then. But the judges I knew were good people that were here, and I frankly just thought it was time to make a change. I was a little concerned about getting stale, that I had been doing the same thing, even though you always get new cases and each case is different, I thought it would be healthy for me to have a new challenge. And there was the challenge, one, of getting the job with lots of applicants, and lots of really good people applied. I don’t know who all of them were because that was secret, but I did find out who the finalists were, and they were all top people.

JD: And so, what was the process, how they narrowed it down and determined the finalists and made you their final selection?

JJ: Well, unlike the presidential appointments for the District Court, Court of Appeals and U.S. Supreme Court, the magistrate judges are selected through what is called a merit selection process, totally nonpolitical. And it’s a two-tiered process. There is a merit selection panel that is appointed by the district court, usually primarily the chief judge. And one of the statutory requirements is that no one on the selection panel can be directly connected with the federal court. So there is not the possibility that the panel is going to be stacked with court people who are going to pick out their buddies or friends, things like that, so that the merit selection panel takes this job seriously. I followed a number of selections subsequent to mine, and the merit selection panels are usually top lawyers, state court judges, and some laypeople also. But lawyers, judges, laypeople, none of whom connected with the federal court.

And generally the way that they have done it, and I think that the way that they did it with me—they review all of the applications, probably split it up some among themselves to do that, to get it done. And they interview however many people they want. But I think they usually interview at least ten of the candidates. And then the law requires that they submit five names, the merit selection panel submits five names to the U.S. District Court. And then the court, the actual sitting district judges and here in Oregon, unlike most places, the magistrate judges sit in also on the final interviews of those five names that are submitted by the merit selection panel. The court, making the final selection, is required to select one of those five. They cannot go outside the five names that have been submitted by the
merit selection panel. If the court did not want to appoint any one of the five, then the law requires them to reject the five and ask the panel to submit additional names. That has never happened. I don’t think it ever will, because if I were sitting on the merit selection panel and did my best and submitted five qualified people that I thought were the five best, and the court said no, give us some more, if I were on the panel, I would quit. And it has never been anything close to an issue because the merit selection panels have, as I’ve observed, always submitted qualified people for the court to select from.

JD: And then, do there tend to be some of the same people on a series of merit selection panels, or do they really start over from scratch each time?

JJ: They just start over from scratch. There maybe has been some carryover, over the years. But usually the positions don’t come up real often, so there has usually been some years in between. So new panels would be selected.

JD: And what is the size of the panel? Does it vary, or do you recall?

JJ: I can’t remember. It seems like it is ten, twelve people, maybe? There is probably some requirement. I don’t remember what it is. But a good cross-section of, like I say lawyers, state court judges, and laypeople. At least two laypeople.

JD: And what are the types of issues that they interview the nominees on?

JJ: Oh, they just talk to you about a wide variety of things. In my case, and in a lot of cases, you are pretty well known by the time you get there. Because I had been a general jurisdiction trial judge for well, almost nineteen years or so when I was interviewed. And so, I don’t really remember who the panelists were, but I am sure, probably the majority of them knew who I was and knew something about my work, and some probably knew me personally. Had some kind of—the judges, the state court judges, obviously, would have known me from state judges’ meetings.

JD: Sure. So then, who do you get the call from telling you that you have been selected? And what is your recollection about learning that information?

JJ: The call was from Judge Jim Redden, who was the Chief Judge of the [District] Court at the time. So I can recall specifically that he called me, and then we had some conversation about when I might be starting and what the process was for the FBI background check.

JD: And so this was, what time of year in 1991?

JJ: I took office in July of ’91. July 12. So this process must have been happening the first part of the year.
JD: That’s a big upheaval in your life, moving from a smaller town of Hood River to the big city of Portland, Oregon.

JJ: Well, I actually commuted for a year.

JD: Okay.

JJ: I would have to say that for a lot of days, when I got to Portland after coming through the last six miles of heavy traffic from Hood River, I would say to myself, “Now, why would a person want to be in downtown Portland if they could have a good job in a nice little town like Hood River?” But I ultimately overcame that, and I enjoy Portland a lot, but Hood River was a terrific little town. I had, I honestly felt at the time that I had the best judge job in Oregon as the presiding judge in an interesting and beautiful five-county district.

JD: Why don’t you start with the swearing in ceremony and then, kind of, your initiation to the job. What was learning on the job like?

JJ: Well, it was interesting. Fortunately I hired, sight unseen, a seasoned law clerk who had worked some for both Judge Redden and Judge [Owen] Panner. At the time I hired him he was in Belgium getting a masters degree in international law. But he had good qualifications, and I have a lot of respect for Judge Panner and Judge Redden. And when they said he was a real top law clerk, I thought, I haven’t been involved in federal court before, and it will be a big help to me to have somebody with some experience rather than starting with a green staff and learning everything at the same time.

So, I hired Keith Collier and he was back from Belgium by the time I got sworn in. He was at the swearing in ceremony. That might be the first time I met him! [both laugh] It could be.

But the federal court staff is very welcoming, very helpful. Keith had worked, before he went to Belgium, with federal issues and was just a giant help to me. I had said to myself that I wanted a challenge, and I realized it was a challenge because certain types of cases that you get in federal court—Social Security reviews, I had never done anything like that. Federal _habeas corpus_ cases, I had never done anything like that, although there, I had a real advantage that I did consider myself a real expert in Oregon criminal law and procedure. And the federal _habeas corpus_ cases, reviewing state prisoners cases have a lot to do with state law and procedure. So, other than learning the new _habeas corpus_ language, the underlying issues I was dealing with, and continue to deal with, I am very comfortable with.

But learning the language, the federal rules of civil procedure. I had taken a course in law school, but that had been a long time ago, and so that was new, to get up to speed on the federal rules. I was a little surprised, even though you still put on a black robe and go out in the...
courtroom, it convinced me that I was probably getting too comfortable in what I was previously doing because it was a bit of an adjustment and a challenge, I would say, the first six months to a year. And then, of course, as I became more knowledgeable, the position became much more comfortable.

**Relationships with Other Judges**

JD: You mentioned you were working with George Juba and Bill Dale at the time. Talk a little about how with you coming on, clearly their workload changed and you are working with your other colleagues who are Article III Judges. Talk a little bit about, just, the working relationship between the magistrates and the Article III judges.

JJ: Well, Bill and George were both great guys to work with. I had known Bill for some years as fellow circuit judges. I had a great deal of respect for Bill when he was a state circuit judge. I looked forward every fall to the circuit judges’ meeting. We usually had it at Salishan, and one of the best parts of the program was when Bill Dale would talk about civil cases coming out of the Oregon Appellate Courts over the previous year; he would give us an update. Ed Leavy, back when he was a state circuit judge, would handle an update on the criminal cases. And another, very bright Multnomah County Circuit Judge, Harlow Lennon would bring us up to date on domestic relations and juvenile law, because that was his specialty with the Multnomah County Circuit Court. So I knew how sharp Bill was. And just knowing him a bit personally, I knew what a good judge he must be in the courtroom, although I had never seen him in the courtroom until I got this job. But they were great to work with. Bill would invite me along to lunch once in a while. George was right down the hall. I would visit George. George was a heavy smoker at the time, though. Back then smoking was allowed in the courthouse. So there were days that I would come into my office, and the smoking room was right across the hall. George’s office was down around the corner at the end of the hall, and so we got a lot of second-hand smoke in my chambers. And everybody on my staff was very happy when the courthouse became nonsmoking.

You asked about the relationship with the District Judges. The District of Oregon, I can honestly say, having traveled around the country some and having friends and colleagues from all over the country now, I think the relationship between the District Judges and Magistrate Judges, historically, has been the best of anywhere in the country. In fact, I knew that before I applied for the job. I would not have taken this job if I was going to be treated second rate. I was a general jurisdiction trial judge, I was a presiding judge, I was a vice-chair...
of the State Judicial Conference. The Chief Justice was the chair. Personally—I wasn’t going to say this out loud at the time—but I wasn’t going to go from a top-level judgeship to be a second-rate federal judge, even if the pay was better and the retirement was better. I just would not have done that. At the time, there were places in the country where the district judges did not allow magistrate judges to ride on the same elevator with them. Or come to the meetings.

JD: I have heard that.

JJ: And that is changing, and Oregon has been looked at as the model for that changing.

JD: Right, right. Well, and I believe it was at Judge Juba’s memorial service that, and I don’t remember who it was, whether it was Judge Leavy or Judge [Michael] Hogan, who mentioned that, at one time, when the magistrate system was being developed, the district judges wanted the magistrates to wear gray robes and not black. And so, I have been aware of that, in many other districts, that distinction is much more starkly drawn than it is in Oregon.

JJ: Yes, and for the sake of full disclosure, I would have to say that I knew Judge Panner would be taking senior status in a year or so, and I honestly thought that I would have a good chance to be appointed as a U.S. District Judge because I had been on the short list several times when senators had committees to recommend people for the district court. But I did not take the magistrate judge’s job at all with the idea that it was a stepping stone to the District Court, because I have been around long enough and know how that political process works to know that those are things that either happen or don’t happen. I took the job with the thought that I would have a good chance to be a district judge, but if I didn’t, that wasn’t going to be a real disappointment because that wasn’t the reason that I took this job. I took this job because it was a good job, and I was partly right that I was then selected for the district court. But, I don’t remember, did we talk about this before?

JD: We didn’t, but go ahead. I was going to ask you about that anyway.

JJ: Well, as I say, in Oregon, the magistrate judges are treated so well, included, certainly, by the district judges, that you never feel any class distinction. There is a distinction, obviously, but as far as the way magistrate judges are treated by the bar and the bench, there is little distinction. But I did put my name in when Judge Panner took senior status and Senator Hatfield, who I had known since I was a freshman at Willamette and he was across the street as secretary of state. I can recall the first time I met him was sitting like this at dinner when I was, I had probably just turned eighteen. But then I had known people who had worked for
him over the years and I knew him and I can’t say as a friend, but we had a friendly relationship, and he knew about me and my work, certainly. I was selected to be appointed to take Judge Panner’s place. I had been through the interviews before. When I say “selected,” it was probably really Senator Hatfield’s say. But you needed to get through the interviews at the Justice Department, the FBI background check, the ABA [American Bar Association] background check, and I made it through all of that. I was told later by the guy who did the ABA evaluation that I had the highest rating, whatever it was at the time.

I didn’t hear anything on the FBI. I have never looked at mine. I guess I can get it through the Freedom of Information Act, but I didn’t ever hear that there was a problem with that. The Justice Department interviews in D.C. went well. I was on track to be appointed by the first President Bush, but at that point the first President Bush neglected to be reelected, and then, when there was a new president and Senator Hatfield retired, it was a whole new thing.

I did have the experience of being fully involved in that process. So I think that I can honestly say that I have had more first-hand experience with judicial selection than anybody in the history of the State of Oregon. Because I was appointed by a governor, I was elected in a hotly contested multi-county election, I ran unsuccessfully for a state-wide judgeship, but had the experience of running for it, had the experience of being appointed through a merit selection panel to this job, and actually, other than my name not getting into the Senate in time to be confirmed, went through the entire process of how presidential appointments are made. Senator Hatfield told me a few years ago, he’s told me several times, how disappointed he was. He was probably more disappointed than I was, from listening to him. But he said that he had worked it with Joe, who had to be Joe Biden, who was on the Senate Judiciary Committee, probably the ranking Democrat. Anyway, Senator Hatfield told me, oh, about three years ago, that he had talked with Joe and there wasn’t going to be a slow-down on my confirmation. Because, as you know, in any kind of presidential appointment with Senate confirmation, things other than merits can slow them down.

JD: The political process is fully engaged.

JJ: That’s an interesting process, all of it. I am been happy to have had the experience and the fact that I was not selected, or that my appointment did not go all the way through, is not a big deal in my life.

JD: So do you get a letter saying, things have been halted? Or you just know by the way things work that this is not going to move forward?

JJ: You just sort of know.
JD: Good enough.

JJ: I can’t remember ever getting a letter. I know that there are a lot of things going on in those appointments, sometimes they are not going how people think they are. I know Senator Hatfield, for example, thought my FBI check had been done considerably sooner than it actually was finally finished. They take a long time, because they don’t just take the FBI background check from these jobs and add to them. They actually assign a new person and they start all over.

JD: Oh, really?

JJ: And in these jobs I think it’s fifteen years that they go back. And presidential appointments they go back to when you graduated from high school. I know I had to find a witness who would confirm where I was for a short period of time when I was not working and not in school, just for short periods of time both before and after I was in basic training, in the military, because there was that gap in my chronology. I had to find a person who could tell the FBI, “Yes, we know where he was. He wasn’t over in the Soviet Union spying, [laughs] he was somewhere in Oregon.”

JD: Well, you mentioned that you were in the courthouse and Judge Juba’s down the hall, and Bill Dale was there. You were full time magistrate judges. But there were also a couple of part time magistrate judges in other parts of the state.

JJ: Correct.

JD: And so what was your relationship with those judges? How often did you get together?

JJ: Well, I had a number of trials over in Pendleton, just by the luck of the draw. There, for several years, at least once a year, I was over in Pendleton for a trial. I always got together with [Magistrate Judge] Steve Bloom for lunch. And Keith Collier my law clerk, had lived in Pendleton, his mother still lived there, so he always was along on those trips. We always take our law clerks when we have out of town trials. And so Keith and I would be there and would always get together with Steve for lunch when we were in Pendleton. So I had a very pleasant, ongoing relationship with Steve Bloom when he was the part-time judge in Pendleton. Jack Cooney was the part time Magistrate Judge in Medford. And Jack had been in law school when I was. He is older, but he had been in the military. Maybe played some professional baseball. I don’t remember what all now.

JD: Yes he did.

JJ: But he was, I believe, a third year student when I was first year. He and Wally Carson were good friends. Wally
Carson I had known since I was a little boy, and so I don’t know if it was through Wally, but anyway, I knew Jack and had a pleasant relationship with Jack going back to law school. I didn’t have the same level of interaction because I didn’t ever go down to Medford to hold court. I went to Eugene for a variety of trials because at that time [Magistrate Judge] Mike Hogan was in Eugene. I am trying to think of when Judge [Robert] Jones was down there as a district judge. Mike was there as a magistrate judge before he became a district judge. In any event, I had some interaction more with Eugene because I went down for several trials. The dealings that I had with Jack would be more meetings and judicial type get-togethers here in Portland, but all good, top people.

JD: And so, talk a little bit about how cases were assigned. What was the process between the magistrates and the district judges, just in the functioning of the workload?

JJ: Well, I had no real idea what the interactions would be. And before I got to Portland on the job, I kind of perceived that I would be more like an employee, rather than having been a long-time elected official running my own show; that I would be more like an employee, and Judge Redden would be checking on me and telling me what I ought to be doing. He never said that. I never talked to him about it, but that’s kind of the mental picture that I had. Well, I saw Judge Redden at the swearing-in, of course, and I had communications with him in setting up, when I would be starting. Then I saw him at the weekly judge’s meeting. But I think it was about six months before he stopped down in my office just to see how things were going. So, unlike my perception, the judges had almost total autonomy to handle their own case loads. I guess magistrate judges as well as the district judges were appointed and selected because of their backgrounds and people making those hiring decisions and appointment decision, figured they would have the ability to do the job. So I was pleased to find out that not only was nobody looking over my shoulder, they just said, “Here, your cases come out of the computer. You’re there. You handle it.”

JD: So, it is just a fairly random assignment of cases?

JJ: It is totally random. The magistrate judges here get a random selection of civil cases along with the habeas, Social Security, prisoner cases. Two types of cases we do not get: one, we don’t get death penalty habeas cases, and it’s a policy decision that we are all in agreement with. Those go directly to a district judge. And also, I think maybe when I was very first here in this job, that I got a case that was an appeal from the bankruptcy court. In any event, I know fairly early on there was some discussion, and I for one am in full agreement that if
I were a bankruptcy judge, same pay as a Magistrate Judge, considered equal level in some ways. Pay is the same, so if for no other reason, you are an equal level there. If I were a bankruptcy judge, and I am going to have a decision of mine reviewed by a higher court, I don’t want an equal-level judge, no matter how sharp they are, or how much respect I have for them, it should go to a higher level. So magistrate judges do not review appeals that are transfers from bankruptcy court. Other than that, to answer your question, the civil cases we get are identical.

JD: Then, at some point, not that many years after you began, there started to be transitions—George Juba retired and new magistrates were coming in. You said that the district judges select from the merit selection panels’ five finalists. Is there any discussion with the magistrates who you will be working with? Are there any discussions between the district judges and the magistrates about that final selection process?

JJ: Sure. The magistrate judges, ever since I have been here, including my own selection, the magistrate judges are present for the interviews for the five finalists and express their views, go around the—I won’t tell you any secrets—but everybody has a say, let’s put it that way. They go around the table, and everybody that has an impression about the candidates, whatever, it’s all a full-exchange of views.

JD: Okay. Go ahead.

JJ: Like in [Magistrate] Judge [Donald C.] Ashmanskas’s case, who was the next selection after mine, some of us knew him quite well because of his work as a state circuit judge.

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Varied Court Experiences

JD: So you have touched on the subject of, kind of, your state court experiences and now federal court. What are some of the other differences that you experienced, besides the obvious ones? Were there any striking differences between, either how the court operated or the procedures that you went through that stick out for you?

JJ: There is a lot more paper in federal court, a lot more briefing, and most of it good. All of our decisions are in writing. I put some of my decisions in writing as a state court judge, but frankly, I was too busy. For a while, I was actually [in] full-blown trials, up to a hundred a year. So I was in court all of the time. I didn’t have time to go back to the office, get out the books, and write things out. So that’s one big difference, a lot more things in writing. I was a bit disappointed to find that federal law, which I kind of naively thought would probably be a little more clear-cut than some state law issues, I found it to be just the opposite, with many more gray areas in federal law. I found
with a very large Court of Appeals sitting in multiple panels, that the appellate directives, appellate decisions were not as consistent and clear as decisions from the Oregon Supreme Court, for example. One big difference, I handled thousands and thousands and thousands of cases in state court, from what would be considered relatively minor to relatively big deals, and had relatively few appeals. And of those cases that were appealed, very few reversals. So just a tiny percentage of the decisions that I made, and as I say a lot of them were cases that wouldn’t merit appeal, but a lot of them were million dollar cases where the people could have afforded to appeal.

One example would be domestic relations cases. I did hundreds and hundreds of contested divorces and can only remember three appeals. I know that was different in Portland, because I would read in the advance sheets there were a lot of domestic relations appeals, but they weren’t mine, including where maybe where there were a million dollars in assets. I would like to think, in part, it was because I generally made good decisions, but I also know a part of that is just the local legal culture. In the area of the state where I practiced, lawyers did not file appeals unless they felt there was some grievous error that merited an appeal, and they were likely to win.

But coming to federal court, I found that to be totally different. And it is not just me. It is pretty universal, that it is more common than not, that in case of any consequence that we handle, there is an appeal to the Ninth Circuit. And it also is not, in my experience, I’ll speak just for myself on this, where before those cases appealed to the state appellate courts, very few were reversed. I can’t say that now. I don’t keep statistics, but I can say a much higher percentage of cases are appealed, and for me, personally, of those where there is an appeal, there is a higher percentage of reversals than I was used to in my prior life. There are a variety of reasons for that that I won’t go into, unless you want me to.

**Writing Opinions**

JD: We’ll see if we have time to come back to that. You touched on one of the differences of federal court was that there was a lot more paper, and that you wrote out your opinions. I would like for you to walk us through your process for writing opinions.

JJ: I could take you in the back room right now, and I could show you my opinions, some of them being written. There is another reason why in state court I did not write very many opinions because only occasionally I had law clerks, and I had two or three really good ones. A couple come to mind that were really good. But as a general rule, state trial judges either don’t have law clerks
or don’t have law clerks that are used the same way that they are here. Here, to me, it’s a luxury, but it’s a necessary luxury. We have really good lawyer law clerks. I could show you a stack of applications that have just come in this last week. Even though I am not in the market for a law clerk, you get blanketed from some top law students all over the country who want to be law clerks in federal court. So when we do hire, we have our pick of really top young lawyers who want to work in the federal courts.

In my case, each judge is different, but I rely very heavily on the law clerks for research and writing. I am capable of writing, but I find myself, I know how I want it to come out, a law clerk will write a very scholarly opinion, well researched, well documented, and I will carefully edit that, discuss it if there is something I don’t agree with in the way it’s written, and the end product is the work of several people. We have written opinions that go out that have been read not only carefully by me, written and read by a lawyer law clerk. I, one time, had a courtroom deputy clerk who was very sharp. She read all of the opinions, edited it if there were things that she thought could be, not from a legal side, but from the written side. And then I have a judicial assistant/secretary, and she proof-reads everything before final typing. Still, we find typos years later that none of us have caught. But, you know, it depends on the case. I will get much more actively involved in the actual drafting in certain cases than I will in others.

JD: And so, it sounds like there are multiple drafts that are created.

JJ: Yes.

JD: So there’s a fair amount of going back and forth.

JJ: Yes.

JD: So, if the law clerks—

JJ: We have a joke around here. If I write something it never gets past a law clerk without being altered. If they write something, it never gets past me without—we joke about my red pen. It is purple today. But we joke about my red pen. [JD laughs]

Choosing Law Clerks

JD: Fair enough. So, clearly law clerks are an important part of a judge’s work. And talk a little bit about how you work with them and how you selected your law clerks and, I know some judges tend to keep their law clerks for many, many years. Others have a more frequent turnover that they prefer. So, just talk a little bit about—

JJ: Well, I can’t say much about hiring because I hired Keith Collier when I started in ’91, and I only had a slot for one full-time law clerk. And Keith and I got along so well, worked so well together,
I’m so appreciative of his abilities and his work that we continue to work together. I think that I can honestly say that if I were to leave tomorrow and not come back, Keith would probably retire and move on. He’s told me that. If Keith were to come in this afternoon and say, “My wife and I have decided to move to California. It’s been nice,” I would probably wind things down over the next several months, rather than breaking in a new law clerk. I’d do that if I were younger and at a different spot, obviously. But I hope that, in some way, points out the importance of that good working relationship with at least one law clerk. Before Judge Panner moved his chambers down to Medford, he shared his law clerks with me for a certain percentage of cases. There are other law clerks around the building that I have used from time to time and have actually hired other people, but with the idea that I would be sharing them with other judges and have allowed them to, if they are going to be working more closely with the person than I am, I have left the final decision making up to them. So, I have hired others, but Keith’s really the main lawyer that I have worked with. Zan [Alexander] Turpen offices with me. A real, fine young man. I think he is thirty-four now, thirty-five. He offices with me, so we have become very close also. And he works for several other judges as well as with me, but we have a great atmosphere here. You have been around it a bit. [Narrator Addition: My Judicial Assistant, Ilene Tenbrook, has been with me since I became a magistrate judge. She is a legal secretary from the old school—absolutely loyal and faithful, never misses work, and willingly stays late if we have something going on.]

JD: Yes.

JJ: And we have a lot of fun. We take our work very seriously, but I don’t think any of us take ourselves too seriously. We have a good time. What I have always stressed with everyone I have worked with in the courts is, “Remember, we are here to serve the courts. It’s the public’s business. Do our best to serve the public, but let’s have a good time doing it.”

Memorable Cases

JD: As you are serving the public, you have certainly had a variety of cases between 1991 and today. But why don’t we begin talking a little bit about what you consider, perhaps some of your more memorable or your more important cases that you have had come before you that stand out that you would like to highlight?

JJ: Let’s take memorable. Because important is a difficult concept. A lot of people say, well in federal court, you really deal with the most important cases. I have had the multi-million dollar
cases involving the giant corporations, but to me those are no more important than deciding a child custody case or a termination of parental rights case in my former life. Probably, to me, that is a more important case. I know there is not going to be an appeal because there just weren’t, as I mentioned before. It’s going to really affect somebody, one or more people’s lives are going to be really impacted by that. To me, that is really important. So, what some people would consider less important cases, I honestly feel are the more important cases. Not that the big money cases aren’t important.

JD: Right. Well put.

JJ: But if you are dealing with a giant corporation, a Fortune 500 company, and you make a mistake, you know that they are going to appeal it. You know that the CEO of a Fortune 500 is not going to lose much sleep over what happens, even if it is a multi-million dollar case. Those are important cases also, but I would like to think that they are all important no matter how much money is involved, and particularly those that affect people’s lives. And we have those cases here but in a little different setting. Some of the civil rights cases, obviously, are very important to both sides. If someone feels that they have been discriminated against on the basis of their race or their sex or their religion, and they are convinced that they are right, that is very important to them. Their employer, on the other hand, particularly if it is a smaller company, and they are convinced that they did not treat the person unfairly, that is a very important case to them.

As far as the noteworthy cases, the two that always come to my mind as being among the most interesting that I have ever had, is the case of who shot down Admiral Yamamoto over Bougainville Island in April of 1943. In fact, part of the record that I reviewed in that case was this book [holds up a copy of Attack on Yamamoto.] It was actually copied, and I later bought this for myself. Attack on Yamamoto was actually a part of the official record that I reviewed in that case, and I found it fascinating. I am interested in World War II history. I was a little boy during World War II and was old enough to remember some of the interesting things that happened, including friends of ours, good friends of my parents being interned—my dad buying a car from one of those families of Japanese descent. We got a dog from that same family. I can remember blacking out the windows, or putting newspaper over the windows in case there was a bomb attack.

I can remember when Billy Slick from two doors away came home, probably still as a teenager, and had a Japanese sword and a Japanese flag. And what made the most impact on a little four, five, six-year-old boy, whatever I was when he came home, the Japanese teeth with gold in them that my brother reminded me that
I thought Billy had knocked them out with the butt of his rifle, but my brother told me this last year, no, that he had knocked them out with a bayonet. And that was, that wasn’t just Billy, that was war. And it left an impression on me that war is not a football game. War is not all fun and games. I still have a memory of those teeth and thinking about war differently, even as a little tyke.

[Recording stops and resumes due to technical difficulties.]

JJ: As a result of breaking the code, they knew that on a particular day in April at a particular time in the morning that Admiral Yamamoto was going to be flying into Bougainville Island. Admiral Yamamoto had lived in the United States for a while, I think he had actually gone to Harvard, some. But those that knew him, knew that he was absolutely punctual. So they knew that at the precise time they had heard that he would be flying into Bougainville, that he would be there. So a squadron of P-38s flew from Guadalcanal, and while most of them stayed up top for cover, expecting a number of Japanese Zero fighter planes to come after them, and I believe there were four planes in the attack, if my memory is right, including Rex Barber, who was from Oregon. And two Japanese Betty Bombers came into view at just the precise time. It was amazing that the P-38s found him, because they flew all the way from Guadalcanal with no radio contact, no contact with anyone, flying where they would not be observed. So the timing was incredible. But they got there at the precise time that the two bombers came in to land, and two of the bombers were shot down. Well, two out of two were shot down.

JD: Right.

JJ: Admiral Yamamoto, the one the admiral was in, crashed onto the island, and everyone was killed. The other Japanese bomber crashed into the ocean, and there were survivors, who were actually later interviewed as to what had happened. But a dispute developed over who should get credit for shooting down the admiral and with military pilots that’s a big issue. Many, many years, after the war was long over, the Secretary of the Air Force had approved an administrative procedure that had given both Rex Barber from Oregon and the other pilot each a half credit. And to my surprise, a lawsuit was filed, and by the luck of the random draw, I got the case. And my job was to review the decision of the Secretary of the Air Force. My first thought was, who am I to second-guess the Secretary of the Air Force? Didn’t we learn in law school that the court stayed out of military affairs? Well, based on some precedent, there was a case where a black Navy gunner had been denied a medal, and the civilian courts took jurisdiction of that. And that was part of what I relied upon that the federal district courts can have jurisdiction in a case such as this.
So, that was the first big issue, though the government argued that I did not have—I being the U.S. District Court—did not have jurisdiction. I concluded that we did.

Then the question was, not to start from scratch and decide who I thought should get credit, but in reviewing an administrative decision like that, the question was, was the decision by the Secretary, the ultimate decision by the Air Force, arbitrary? Was it supported by evidence? I concluded I should not change the Air Force’s decision, although I might have found differently had I been starting from scratch, evaluating the evidence myself and making a decision one way or the other who should get credit. But that was a very interesting, fascinating case.

The other case that comes to mind as being memorable—and it certainly got more publicity than anything I have ever been involved in—is what the news media called the “Kennewick Man Case.” That was the case involving the skeleton that turned out to be over 9,000 years old that was found on the banks of the Columbia River during the hydroplane races at Kennewick, Washington and started the controversy between the government, which supported a coalition of Indian tribes versus the eight scientists who filed their case against the government. And that lasted several years.

JD: You got in on the ground floor of that one.

JL: Yes.

JD: Which began in, I think it first came to you in 1996, or—?

JL: I believe it was 1996. And ultimately my decision was about the last day of August, or the first day of September of 2001, I believe. What do you have?

JD: I have August 30, 2002.


JD: That is what you said at the Famous Cases. [A presentation sponsored by the U.S. District Court of Oregon Historical Society about Bonnichsen v. United States on October 5, 2006.]

JL: Okay. 2002 it was. I think the argument was in 2001, and I worked on the case for too long. I did something I would never do again if I ever had something similar. I was having a hard time, in my own mind, figuring out why it seemed to me so clear that the government was improperly biased in favor of the tribal claimants. So I thought, I must be missing something, somewhere. So I reviewed the full 22,000-page record, which took a long, long time. I did not personally review every page, but I had a lawyer on the court staff who did, literally, page by page by page. When he found something interesting, he would call it to my attention. He did a summary of the record that was several hundred pages long, that I did carefully review. As I say,
I would not do that again because it took too much time. I would, just, probably rely on the briefs written by the parties and hit the highlights of the record that they had pointed out in their briefs. But I thought—there must be something more to this, and we went through the whole thing, and it took a long time.

JD: I did run across one letter that you sent to council earlier in 2002 saying, “I know it has been a long time since this information came to me, but I am wading through 22,000 pages of material. And it has taken longer than the average review.”

JJ: Right. And particularly because I had, maybe, a hundred and fifty, sixty, seventy other cases at the same time that I couldn’t just put aside and work exclusively on the Kennewick Man case.

JD: Right. I know that some of this was covered in the famous cases panel that was put on in 2006 by the U.S. District Court of Oregon Historical Society, but I think there’s a couple of points in particular that I would like you to talk about a bit more at length—if you would like and you’re able to—about the process of developing your opinion and the questions that you were asking to help clarify. For example, in your ruling you addressed, the definition of Native American and the definition of indigenous. And maybe you could do a few-minute synopsis of the case, and what the issues were on this recording before you go into that answer. Just for someone who might be coming into it fresh.

JJ: Okay. I did go through my decision some years ago and tried to boil it down to something simpler. The main thrust of my opinion was that the Secretary of the Interior’s definition of, “Native American” as that term is used in NAGPRA, which is the statute, the Native American Graves, Protection, and Repatriation Act, that we will call NAGPRA.

That the Secretary of the Interior’s definition was incorrect. The secretary, to my surprise, frankly, because it just did not make sense to me at the time in a careful review of the statute, but the Secretary had said that anyone who was here in what’s now the United States of America, prior to 1492, was a Native American. I can recall in one of the hearings, I said, “Do you mean that if a boat with blond-haired, blue-eyed people was found in an ice cave up on Mt. Hood, and it had what would appear to be Scandinavian markings on the sides, that those would be Native American?”

And they had to say, “Yes,” because that is what their argument was. And they were twenty-thousand years old, say. Ten-thousand years old.

Well, Congress could not have intended that, in my view. I basically just interpreted the statute and said that by using the statutory language in defining Native American, “That of or relating to a Tribe, people, or culture that is indigenous to the U.S.,” Congress intended that the
term Native American would require some relationship between the Kennewick Man in our case, and an existing Tribe or culture that is indigenous to the United States. That sounds like a lot of words, but there is really a big difference. One, the government was arguing, according to their definition, anybody who was here prior to 1492 is a Native American period, no matter what their background appeared to be. Maybe they could be—this is an example—pure black, appearing to be totally African of origin, they would be a Native American. I basically said that Congress intended the term Native American to be consistent with the language we use, to be what we commonly have grown up referring to as American Indians. Native American is the modern term that is often used, but really, I satisfied myself that when Congress used the term Native American they intended to mean American Indians, not people who had no relationship whatsoever or similarities to modern American Indians.

And so, once I applied what I found to be the correct definition, I concluded that the full 22,000-page record would not support a finding that the Kennewick Man was a Native American subject to NAGPRA. That was the end of the story, pretty much. But I did go on in the opinion because, again, a lot of our cases get reviewed by higher courts. I said that even if he had been properly classified as Native American, the next question to be decided was, had the tribal claimants established the necessary cultural affiliation that would entitle them to the possession of the remains? I said, “No,” pretty much for the same reasons that I said the record would not have supported the finding that he was Native American. I have carefully pointed out that I never have said that he was not Native American. I don’t know, but in order for the statute to apply, the record had to establish that he was Native American. It sounds like a distinction without a difference, but there really is a difference. To me it is an open question as to where his ancestors might have come from.

So, in that second part, it’s a little different definition, but there was not a proof of a relationship of shared group identity, which could reasonably be traced between a present-day Indian tribe and an identifiable earlier group of which the Kennewick Man, the decedent was a member, because the record couldn’t support any identifiable earlier group that he belonged to. Nobody knows. The record certainly didn’t establish what group he belonged to. But those two things kind of get intermingled. The question of Native American and cultural affiliation is really a two-step process. Had he been Native American by definition, then there still would have been the second question: was there cultural affiliation with a present-day Indian tribe? I said the record didn’t support that conclusion either. So I said the government was wrong on both those accounts.
One thing that the commentators never talked about, but that I felt was really important, and that has to do with the issue of what are called aboriginal lands. A good part of the United States has been classified by the Indian Claims Commission of the U.S., or the U.S. Court of Claims, as the aboriginal land of a particular tribe. You go to parts of the country, including large parts of the country, and you will find they have been classified as that. The reason, I think, our case was important was that if the government was correct on its definition of Native American, then, if a skeleton was found in the future anywhere on aboriginal lands, then the law would require those remains or cultural items to be turned over to the closest tribe, without any showing of cultural affiliation.

Again, my hypothetical of the blond-haired, blue-eyed people in the boat with Scandinavian markings, assuming the part of the country that it was found in was aboriginal land, if the government had been correct, that boat and those blond-haired skeletons preserved in the ice would have gone to the closest Indian tribe for whatever that tribe wanted to do with them. Including secret burial, which is what the tribal claimants here wanted to do, without anybody ever being able to challenge that they weren’t entitled to that because the law would be clear that if that couple was Native American, it would end up that they would go to the closest tribe.

Of course, a lot of tribes, I believe, are interested in the history and their background. I think I have read that not all tribes would be opposed to further evaluation and testing, but certainly the tribal claimants in our case were. I respect their right to have their views, but the view of some, and I can say this with respect for the view, because peoples’ religious views are their views and whatever your religion is might or might not agree with mine and the fellow next door or in the next country, and we are all entitled to our own beliefs. But it’s the view of some that Kennewick Man and anybody before him and anybody after him up until 1492 sprang from the ground along the Columbia River, and if this court said that there is no way that anybody could ever challenge that, then we would have got into some constitutional issues of religion and religion mixing in with the law. Can the courts of the United States of America take a position that essentially adopts a religious view, that any of us might have, or a religious view that the law says nobody can challenge in any kind of a scientific proceeding? I am happy that I didn’t have to reach the constitutional issues because at the end of the day the statutes were clear enough to me to lead to a conclusion without getting into some potentially very significant constitutional issues.

JD: It seems, from my reading of the record, that one of the types of evidence presented by the tribes were oral traditions. I am wondering how often that type of
evidence has ever come before you or whether that was unique? It’s certainly a different type of evidence than what you might normally get as far as written documentation, and how you handled that?

JJ: Well, I reviewed all of the oral history and frankly, it is fascinating. Very interesting stories, legends. But again, at the conclusion of reading those stories, and considering them as evidence, they didn’t prove the points that were necessary to be proven. There was a big gap. I don’t recall now. But there were a couple thousand years in there that just are not accounted for by anything. The oral traditions that were presented would maybe have explained certain things that happened, but when I say they were considered as evidence and would be, even if I had adopted every story as being literally true, it wouldn’t, to me, did not reach the conclusion that would have supported the government’s case.

JD: But was that unique evidence? Oral tradition?

JJ: It was unique. Yes. But we could even go beyond that and talk about written tradition as well as oral and say—I am going a bit afield here, but I am just trying to think that if there are stories in the Bible, either in the New or Old Testament, that would be accepted in a court of law as proving a point. And you see, just by saying that, you can tell that we get into very interesting territory because if one religion had its book and oral traditions that went with it, and another religion has its book and oral traditions, and they clash. And that is why the courts generally stay out of using that type of evidence. I am not suggesting that the oral traditions all are in the nature of religion, but to some extent they kind of, get toward that.

JD: During the Famous Case and probably in some other venues, one of the lawyers, I believe it was Alan Schneider, for the plaintiffs ran down a list of all the precedents that he thought your ruling on this case said.

JJ: Yes. I hadn’t thought about that until we had that program. I actually made a copy of that. I didn’t know if you would ask me about it. Do you want me to just summarize those?

JD: Sure. Because, I thought, boy, he had done a good job summarizing those. I knew that some of the issues were new, of course, because we rely on precedent, and I didn’t have precedent to rely on. So, I knew that there were a lot of issues of first impression, but his summary, and I believe it is accurate, says that the August 2002 decision was the first recorded case to, one, decide that scientists have standing to challenge the agency over the interpretation of NAGPRA. It was the first recorded case to rule on the meaning of the term Native American. It was the first case to determine what aboriginal occupation means for purposes of
NAGPRA. I mentioned to you that could have very significant importance in other cases. It is the first case that analyzed and discussed all of the elements needed to establish a cultural affiliation claim, that second prong that we talked about. It was the first case to rule on the probative value of tribal oral traditions offered as proof of a claim. It was the first claim to consider the validity of coalition claims, because remember that it was a group here, and Congress really didn’t contemplate a coalition. It contemplated individual tribes going into that. I went into that in my opinion, and in retrospect, if I had it all to do over again I might leave that out. It didn’t add a lot to the decision. It wasn’t really necessary. But, if nothing else, I think it would cause people to think about those issues and maybe it would be of some help if something similar comes up in any, in the future. It was the first case to find that a federal agency violated the National Historic Protection Act by failing to properly investigate and protect a prehistoric archaeological site. I told you before I was surprised that the government agency seemed to take a real one-way view in this. I don’t remember how many tons, but lots and lots of dirt covering up the site, I thought, almost thumbing their nose at Congress. I don’t know if you have seen it, but it is in the opinion, that while the case was pending, the government was going to bury the site—

JD: Yes.

JJ: —where they thought the skeleton had come from. And it is my memory that both houses of Congress passed a bill that said the site was not to be buried. And somehow they made it subject to the approval of the court here, which would have been me! And nobody consulted me about the legislation, but I knew there was something going on. And even after both houses of Congress had passed the law, but it had not yet been signed by the president, the government went in and dumped tons, I don’t remember how many tons, but lots and lots of dirt covering up the site, I thought, almost thumbing their nose at Congress. But in some ways that made my decision easier because ordinarily, or often, when you review a final decision of a United States government agency, if you feel they didn’t follow the proper procedures, you would ordinarily send it back to them for further review. And in this case, I felt that the government had shown such a biased point of view that it didn’t warrant sending it back because I didn’t think they would take an objective look at it. And part of my reasoning was that they thumbed their nose at Congress. How could I expect them to be totally objective? And there are a number of other issues, that each taken by itself might have been a little thing, but when you looked at the whole record it gave me a basis for saying, “No, it is not going to be sent back. It is going to be decided now.”

JD: I did find a quote from you in 1997 about this case saying, “I don’t want to see this case bounce back and forth for four or five years.” [JJ chuckles] And the case was finally resolved with
your decision in 2002. Do you ever get a sense—and you have mentioned a couple of other cases when we were not recording, that lasted a period of time—do you get a sense at the beginning of a case, that you are going to be seeing this one come back for a period of time? Or does it just sort of take on a life of its own and you never really know?

JJ: Sometimes they take on a life of their own and sometimes it is really up to the judges to see that life isn’t too long. We really do have an obligation to keep things moving. I think I had to make some rulings in this case to keep it moving; otherwise, it would have languished for even more years. And it did take too long. I guess, kind of jokingly, in the back of my mind as it was going on I was thinking that maybe there will be some, brand new, non-destructive, testing that becomes scientifically available. Because of course, some of the things that are done now with DNA and other modern techniques weren’t available fifty years ago. Maybe fifty years from now there will be a totally non-invasive way to examine relics or human remains without disturbing them. And that was an important issue here and certainly important to the modern day tribes who, feel strongly and justifiably, feeling that he was their ancestor, that in accord with their beliefs his remains should not be disturbed.

JD: Right. I believe that the Tribes referred to the remains as, “The Ancient One,” rather than the other terms that have been used by the press or the court. As you and Mr. Schneider noted, there were several precedents came out of this case. I am wondering how closely you follow subsequent rulings and cases that might be related to the issues that were raised in this case, which is technically called, is it, Bonnichsen?—

JJ: Bonnichsen [Narrator Addition: Pronounced Bon-nick-son]

JD: Bonnichsen v. United States.

JJ: And one of the arguments that the plaintiffs made was that the scientists were getting older. And it was a good argument, “Judge, you have to get this moving. You have to get the government to act, because our clients are getting older and they might not survive.” And in fact one of them died, I believe, before the case was over.

JD: [Quietly] That is correct.

JJ: Was that Mr. Bonnichsen? Was it him or one of the others?

JD: I thought it was Mr. Owlsley—

JJ: Okay.

JD: —of the Smithsonian [Institution]. I didn’t research that point carefully.

JJ: At the time I knew; now I don’t remember.
JD: Have there been some subsequent rulings since 2002 related to this, or do you just have so much to do you don’t really get to—?

JJ: It has been referred to but I haven’t looked closely for the last several years. Our librarians here in our building are very good and I know there have been some newspaper articles and things that they have flagged and made copies of for me that they thought I might be interested in. One of the things that I read or heard was there was supposed to be something out this fall, and I don’t recall what publication, but showing whatever findings have been made. To the best of my knowledge the remains are still suitably stored. I say suitably—it is a private area, temperature-controlled facility up at the Burke Museum in Seattle.

JD: Correct.

JJ: I used to get regular reports as to what had happened. I think I was getting the reports every three months. I finally wrote to the lawyers after the Ninth Circuit had decided the case, and no one had petitioned the U.S. Supreme Court for certiorari to take the case, I decided, “I am done. I don’t need to get these reports.” Although they were interesting and kept me up-to-date. I said, “As far as I am concerned, my part of this is finished. You don’t need to continue to submit the reports.” That was several years ago, so I am not as up to speed.

JD: Are there any other memorable cases that you would like to comment on before we move to other topics?

JJ: Let me back up just one minute.

JD: Oh, sure.

JJ: Because you asked about follow-up on it.

JD: Sure.

JJ: One of the things that I’ve always enjoyed about being a judge is that you get a case, you work hard on it for a finite period of time. The decision is made by you or a jury, whatever, and then you are done and you move on to something else. So, when you asked if I followed up on it, with very few exceptions I have not followed up on things I’ve had. Sometimes I have been curious what happened to certain people or how did a company come out later, but for the most part, the nature of the work is such, at least with my personality, I like being done with it, then moving on. And so, Kennewick Man, even though it had, you know, got on the cover of Time magazine and the New Yorker, I pulled out other articles. You know, somebody sent me an article from the New York Times, and things that in ordinary cases that I have had, don’t get involved in that, other than, some of the Rajneeshee things got a lot of publicity. But even though that is very interesting, to me, it was one more case in a series of hundreds or thousands of cases.
JD: Right.

JJ: I do intend this fall to keep an eye out for a publication that says what they found out, if anything, beyond the last report I heard from.

Other cases that are interesting? I find something of interest in most all cases. Even if it is the kind of case you’ve had a whole bunch of, each one has a little different twist. But what I enjoy are the cases that have interesting legal issues. I have one right now that I can’t talk about because I haven’t put out my decision. Probably in the next week or two I will. I can tell you what the case involves, it involves the area where there might be a new bridge across the Columbia River and interesting issues between a developer and the City of Portland. It’s a case where some of the issues, if I have had them, I haven’t had them for ten years, and I’ve never had the full range, so I found myself really digging into some books, trying to get things to fall correctly into a niche, and they ultimately did. Often when you start a case it is kind of a scramble. There are all of these claims, counter claims, disputed facts. Fortunately, I have found in the, however many years it has been now, thirty-seven years, by the time you get to the end, things tend to fall pretty neatly into niches. These are the issues. These are the variables. These are the parameters. This, ultimately, is the decision.

JD: Clearly you have so many different issues, just the material information that you are dealing with. You were talking about a case that was a cherry orchard versus Martin Marietta, and you learned all about how cherries were produced, and how aluminum is produced. So, is some of that process just understanding the—?

JJ: The facts. See, cases can be factually interesting. And that case where a number of cherry orchardists felt that their crops had been destroyed by fluoride fumes from an aluminum plant. And in the course of that three-and-a-half-week trial, we, and I would say me and the jury, learned a lot about botany and the formation of cherry blossoms and cherries. And we learned a whole lot about how aluminum was made in the aluminum smelter, and how electricity figures into that, and the pot lines. I took the jury on a jury view of the orchards and a jury view—I like jury views, I’ve done a lot of them—took the jury to the aluminum plant and put on the hard hats and went through the aluminum plant, kind of, learning how to make aluminum from A to Z, which was necessary, in my view, for the jury to really understand the testimony. When people were talking about a cherry block or a pot line or whatever, having seen it, it would make the testimony much easier to understand.

But cases can also be very legally interesting. The case I am working on now involving the area of the bridge, to me is very legally interesting. I have spent a lot of time sorting through the law, and
I have had tire cases where you learn how tires are made and the testing that is done. I had a case involving an aluminum ladder and we had experts on ladder making. So, I could go down the line. But the mild traumatic brain injury, we had some of the top people, certainly in this region, who were familiar with the concept of mild, as opposed to significant, brain injury and I find those things fascinating. My wife is an oncology nurse. So I was interested in a trial I had a few years ago where a—she was not an oncology nurse, she was an RN, but a phlebotomist—and while drawing blood hit a nerve, and the woman ended up with some permanent damage in her hand. I found the medical testimony very interesting, pointing out what different nerves do and where they are in relation to the blood vessel. So, there can be a lot of interesting things that you hear in connection with this kind of work.

Changes in the Courts

JD: Sure, sure. [Recording stops then resumes] So, we are going to move on to talking in general some about your reflections on the District Court and some aspects of the court rather than specific cases. So, why don’t we start by talking about how the legal profession and issues change. What were the chief problems facing the court when you came on in 1991 versus where you see things today?
JJ: Well—

JD: And that can be structurally as well as legally.

JJ: I guess one of the things that has changed is that there seem to be less trials now. And as a trial judge, I am sorry to see that. Litigation has become very expensive for a variety of reasons. But we have a great court here, I think, we have really good judges, really good staffs. This is, I think, a good place to try a case. And somehow the system has made that whole process too complicated, and maybe we are a part of it, somehow. But if I were a young lawyer practicing law, this is a place that I’d like to come to try cases because, like I say, we have a top-quality court. But right now, we get used, but there is a big emphasis, as you know, on mediation, which is good, but I would like to see us figure out how to try cases in a more efficient way so more people could afford to use the ultimate court processes.

JD: So, perhaps after health care reform, legal procedure reform will rise to the top of the agenda.

JJ: Maybe so. But, I’ve enjoyed it very much here in the years that I have been on this court. I have been well treated by all the judges, by the staff. It is just a very pleasant place to work.

JD: I know one of the things that has changed dramatically in the courtroom is the use of technology. I would like to get your views on how that has changed and the effect of those changes.

JJ: Well, I think it can save time. I can remember lots of trials where lawyers would ask for permission to pass something around to the jury, a document, or would be up drawing a board, drawing a diagram. Now, we have the TV-type screens in the jury box in the courtroom. Lawyers can use the ELMO. [Narrator Clarification: Document camera which sends a picture to TV monitors] They can put that document, instead of passing it around to the jury, they can put it down on the ELMO, do whatever and write on it, point things out to the jury. I think that has made us more efficient. I know that if a lawyer was skilled in those other techniques, they could get the point across, but I think that now they can do it more efficiently.

And it is fun. The technology is fun. I have had trials in this building where we have taken testimony from overseas, up on a video monitor. I had one trial where I conducted the entire trial, not in a courtroom, but in the judge’s conference room where there is a large video screen, and the plaintiff was actually 300 miles away on video, with most of the witnesses here on video. He could see them. They could see him. Thirty years ago we could not have done that.

JD: It sounds like overall you think it has been more of a help than an hindrance?
JJ: Yes.

JD: You have been a judge for, you know, a number of years now. Would you say that your views of how you decide cases or what influences you on how you decide cases has changed from when you first became a circuit judge to today, or even back from when you were a district attorney to today?

JJ: Not that I am aware of. I think the process is the same. You do your best to keep an open mind, to hear what everybody has to say, and do your best to apply the law to the facts. I think that maybe I have mellowed a little bit. I was young when I was first a judge, and I took it very seriously. I had a great deal of respect for the Circuit Court. And it wasn’t respect for me, but if there were people that I thought didn’t show sufficient respect for the court or the process, I, maybe would have reacted a little more than I would now. But not overreact, I don’t think, with maybe one or two little exceptions. One, when I threatened to lock up anybody who didn’t clean up the courtroom from the usage the night before, which I wouldn’t do again, I wouldn’t tack up an order on the courtroom door ordering the sheriff, who thought it was funny, to arrest anybody who messed up the courtroom after that. But I laugh about that now. I think other people laughed about it then. So, maybe I have mellowed a bit.

JD: And what about other judges influencing your judicial philosophies or approach to legal issues? I am not sure how much judges sit around and have these kinds of philosophical discussions, but do you think there’s been any influences or any mentors that you have had along the way?

JJ: Sure. I have had mentors. Particularly earlier on. I don’t know that it was, they were really mentors on the law, because most judges are pretty individualistic and probably most of us think that we can figure out the law as well as anybody. But, where mentors have been helpful to me is in reacting to certain situations. Maybe there’s a problem that you’re having with a particular lawyer. I have sought advice from older, wiser people, particularly when I was young. And now, sometimes people, I really feel good when newer judges on occasion will call me for advice. Again, not so much in figuring out the law, unless they know it is an area that I have had a lot of experience with. And that’s where, if I know a judge has had a lot of experience with a particular type of case, and I have my first one, I wouldn’t be reluctant to say, “How did you deal with...?” or “Have you had one of these?” But I think where judges can be helpful to other judges is being supportive on some of the other non-legal issues that come up. How do you handle a particular thing? What if you have a juror that does something? How have you dealt with that in the past? Or, what would you do if a lawyer won’t stand up when he makes
an objection? Should you deal with that in front of the jury? Behind the scenes? Whatever. That is where judges that have experience can be helpful to us.

JD: Are there any particular judges who have been role models or mentors that you want to name for the record?

JJ: Well, I used to on occasion, I had a lot of dealings with Judge Sloper in Salem. And he had been around as long as most any judge, and I'd contact him from time to time. Judge John Copenhaver, who was over in Bend. They are both deceased now, but they were both very practical people, who on practical issues, I would ask them about from time to time. And one of the things that I enjoyed, and still enjoy, is going to judicial conferences, seminars, sitting around with other judges. That's where you swap ideas and exchange a lot of information on handling things. It's where you learn that there isn't just one way to do something. As a young judge I learned that it was reversible error in one state to do things a certain way, and in a state right next door, Oregon, it was reversible error to do it just the opposite way. And that made it clear to me that there isn't just one, absolutely right way that things have to be done, because some people think it's wrong if you don't do it this way. Others think it is wrong if you do do it that way. And so you think about those things and decide for yourself what really works the best, I like practical things. I am the only judge you will ever talk to, I suspect, who has tried cases with twelve-person juries, eleven-person juries, nine-person juries, eight, seven, six and three. The three is where I would challenge you to find other judges who have tried cases with three-person juries. In one stage in my career, for certain types of cases, we found it was a very efficient way to process appeals from lower courts when they were entitled to a trial de novo in the Circuit Court and entitled to a twelve-person jury, but didn't want a big production like that. We tried some of those cases with a three-person jury with a two out of three verdict. I have had people say to me, “You can’t do that!”

Well, the defendant wanted to do that. The prosecutor wanted to do that. It was okay with me. And being practical I said, “Who is left to object?” And if you don't have an objection, it can't be reversed, ordinarily, on appeal.

JD: I think there are some other big issues that come up for anyone who is a judge, and one of the ones that has certainly come up in other oral histories for the U.S. District Court of Oregon, are the issues of the role of punishment in reform. I would like to have your thoughts on that relationship.

JJ: Punishment versus rehabilitation, but I think you have left out what to me is the most important prong that ties in with that—protection of the public.
Because I have sent lots of people to prison, and I see what is going on now, although I am not active and involved anymore in sentencing felons, I do pay attention. I think we have become, as a society in the United States, very punitive. More punitive than I am. I’ve never, and I am probably a little out of step with most people. I have never really believed much in punishment for the sake of punishment. I try to think about why. Maybe it’s because my parents never punished me. I was trying to think today, did my parents ever punish me for anything? I was scolded, but I don’t remember really being punished. So I don’t come from a punishment mold.

Rehabilitation works in some instances, but I watched Oregon go way too far in not protecting us from dangerous people. The people that I have locked up for long periods of time, and tried to keep them locked up, are those people who are really dangerous. I have sentenced murderers that were paroled way too soon. Dangerous people. One particular one that I predicted would kill somebody if they let him out, and he did. I had written letters. The murderer knew about it. He would have killed me, probably, if it had been convenient for him, but he went to another state and killed somebody else and then he got killed. Nobody felt a sense of loss when he was killed himself, nobody I knew felt a sense of loss. But we talk about rehabilitation, often times give it more lip service.

Let me give you an example. I saw a nineteen-year old man some years ago who was on pre-trial release and was in for some type of review. For the first time in his life—he was a minority, nineteen years old—first time in his life he had a job working at Wendy’s restaurant, I believe. He was cleaned up, he looked good, he was bringing home a paycheck. He was just waiting to have to turn himself in to serve a long mandatory sentence for having powder cocaine. We talk about rehabilitation. I would simply ask you, here we have a fellow who is working, being productive for the first time in his life. We are going to send him to the federal penitentiary for, I think it was five or six years, it was more than a few months, it was five or six years. He is going to get out. He is going to be an ex-convict. He is going to be living with convicted felons for five years, lets say. Now, have we done a great job rehabilitating him? Why in the world are we sending him off for a mandatory sentence when in my former life as a State Circuit Judge, before we had guidelines and mandatory minimums, I would have done my best to—I wouldn’t have just patted him on the wrist—but some county jail time, maybe a short prison sentence. But knowing that if I am hiring somebody or you are hiring somebody and they have “ex con” on their resume, are they going to be more rehabilitated than somebody that is not an ex con, even if they stubbed their toe, and in this case been involved in illegal drugs? So, this punishment mold of, “If they do this, I
have got to punish them,” it doesn’t do much for me.

On the other hand, if someone is really dangerous. We have people who rape women, kill women, have a sexual quirk, you know, I wouldn’t worry about rehabilitation. Those people should be confined and never take a chance on them again. I have sentenced people in those types of cases, and again, done my best to keep them in. One fellow I saw was paroled, and then I saw in the news that he had escaped parole. I personally went to the proper people to have him found, and he was found. You know, some people would say, “That is none of a judge’s business,” but I was so concerned that he would—he had killed a beautiful seventeen-year-old girl—and I followed up a little bit with him, and I thought he would still be dangerous to any women or girls. He should be locked up. So I don’t think I am soft on crime. But to lock somebody up or spend a lot of my money because they are smoking marijuana or growing marijuana in their backyard, I really don’t care.

I think we really should totally analyze our war on drugs before the Mexican death squads come over the border into the United States. Maybe we ought to decriminalize a lot of what are now illegal drugs. We ought to at least discuss it. Politicians today cannot even discuss that publicly. I have been told by one or more of them that they will talk to us privately, to you or me, but they won’t discuss it publicly because they are so afraid of being stamped as being soft on crime that they might lose their high level political jobs. But there are some things that I think we ought to discuss.

One is why we spend so much money punishing people if it’s just for the sake of punishment. Why we don’t do a better job of identifying truly dangerous people who will be just as dangerous twenty years from now as they are now, and totally removing them from society. Why we don’t give more than lip service to rehabilitation so we really try to, and the federal probation people do a good job getting people back into the work world and doing their best to get them off drugs. I would like to see more done in that regard. I would like to, as I tried to emphasize, see more dangerous people locked up for long periods of time, but non-dangerous people, deal with them some other way.

JD: Which, leads to what I would consider a slightly tangential question, which is, there is certainly a lot of discussion, I think about at every level of the judiciary these days, about judicial activism, or judicial legislation. What are your thoughts on whether that is a real trend or it depends which side of the argument you are on, whether it is activism or being a good judge?

JJ: Well, I think judicial activism has come to be a term, if a judge decides something and you don’t agree with it, you say it is an activist judge. If you agree then it is a non-activist judge. But, I guess,
if I were to have a philosophy, it is, judges should follow the written law as carefully as they can. But that is not always easy. Let me just give you an example.

JD: Sure.

JJ: When the Civil Rights amendments were passed in 1991, shortly after the time I had this job, I remember having to deal with whether those amendments were retroactive or not retroactive, or partly not retroactive. Congress could have put one sentence in that legislation; I could have drafted the sentence for them that would have made it crystal clear. But no! That would have made it harder to pass the legislation. They didn’t do it. So people like me all over the country are looking at those cases with literally millions of dollars being spent litigating whether something is retroactive or not. The legislative history we had to help us with that; you know we try to work with legislative history if we think it will help us, there was a position paper written by Senator [Ted] Kennedy, as I recall, as to why the legislation was retroactive. There was a position paper written by Senator [John] Danforth as to why the legislation was not retroactive. So those are two United State Senators giving us guidance, that we are looking to for guidance. Why they couldn’t just spend the extra time and put that sentence in there?

But a lot of things are that way. So depending on which way you rule on that, do you suddenly become a judicial activist? I don’t know. You just do your best to say, well, if this gets up the line, what will the Court of Appeals do with it? What do I really think, based on trying to apply some rules that are not hard and fast? That is just an example. I have never considered myself in any way an activist judge. I mentioned the interviews back in Washington D.C. I was interested because I wondered if they would be asking me—this was a Republican Administration, the first Bush Administration—are they going to be asking me my views on the death penalty? Are they going to be asking my views on abortion? No questions on abortion. No questions on the death penalty.

Almost every person that interviewed me asked me how I viewed interpreting statutes. Kind of what you are asking, I think. Would I be an activist judge? And if you are reading an act of Congress that has a result that just isn’t right, do you follow that act of Congress? My answer would be, yes. They make the law. My job is to follow it. They have the means to change the law. If judges start changing the law, our whole system of checks and balances begins to break down. Judges, if you have a statute that is clearly unconstitutional for whatever reason, you obviously strike that down. If you have a statute that is not clear, and you have a logical basis, you have to clarify it even if you do not want to, you are applying the statute. [You can’t] say, “This is too tough; I am not going to decide this.” But if it is unclear, you do your best, consistent with what
you think the intent of Congress was, to interpret that. If you have a statute that’s just plain dumb, I have always said, “Congress or the legislature, they can pass dumb laws, but they can’t pass unconstitutional laws and expect us to enforce them.” But I can look at a law and say, “That’s dumb.” Maybe that is just saying that I disagree with it. But some laws I think are really dumb, that require us to do all kinds of things that don’t make sense, to me. But I am not going to say that just because that is a dumb law we don’t have to follow it. In fact, we maybe should be very strict in following it rather than pretending it’s not there because then maybe somebody will correct it.

Is that judicial activism? I think that it is probably the opposite of judicial activism because maybe a true activist would say, “Well, that is obviously too dumb to enforce. They couldn’t have meant that.”

Let me ask you along that line, how many of the privacy statements that you receive in the mail have you read?

JD: Approximately scattered paragraphs on a couple.

JJ: And don’t you receive, probably a dozen or more a year? You go to your doctor and you sign a big thing that you don’t read. To me, that’s dumb. Congress, and I mentioned that to an Eastern Oregon congressman at a lunch in Hood River a couple months back. What he said to me, it was interesting, he said, [chuckling] “Well, don’t forget, for every one of those dumb laws, there was a dumb congressman who proposed it.” [both chuckle]

He made a joke of it, but there ought to be, and I have said this a number of times, judges could have some input on it. There ought to be a better way that Congress has as a follow up on laws to review whether they really accomplish what they want or not. A panel of congress people and judges, you know, we have very little interaction with Congress. We review their laws all the time, occasionally set one aside on constitutional reasons, but we see them maybe once a year, something like that. But I think judges could be a great resource if we had the ability, probably through the administrative office to say, “This law really doesn’t work well for these reasons. Could you get that to the correct legislative committee?” We don’t really do that now. I am thinking out loud. But that is an area that I would like to see explored.

JD: Another big issue that comes up is the process by which judges are selected. You’ve experienced both being an elected and appointed judge. And if you would elaborate on your thoughts on when either of those modes of selection is appropriate, or whether you think it should be one or the other, as a way to get the best qualified occupants in the judiciary.

JJ: Well, you know, at the federal level, all judges are appointed. Bankruptcy
judges, magistrate judges, administrative law judges working the administrative side of things, the judges with lifetime appointments appointed by a president. I honestly think that the best selection process at the federal level for trial judges at least is the selection process for magistrate judges because it is non political. It is purely merit based. We have been fortunate in Oregon that the presidential appointments have generally been very good. It’s because, historically, we have had United States Senators who are interested in the quality of the federal bench. I mean, I particularly knew senators Hatfield and [Robert] Packwood, both had a special interest in the quality of the bench. I don’t know Senator [Jeff] Merkley at all, barely know Senator [Ron] Wyden, and hopefully they will continue in that tradition. So it has worked pretty well here.

There can be instances, though, it is a political payback, whatever, with the merit selection process that I explained earlier, politics don’t enter into it. I honestly cannot tell you the political party of the other magistrate judges in Oregon. I have probably heard it sometime, but, and I probably can’t tell you the political parties of all of the district judges. I probably would come pretty close to naming them, with a couple of exceptions, by knowing when they were appointed by whom and what political party they were. But it has worked fine for Oregon. I just say that the merit selection process has worked well for every magistrate judge that has been selected at least subsequent to me, and I have been involved in that process.

Elected judges at the state level, which, as you know I have had a lot of experience with, I think it works well at the local level. When I ran in a hotly-contested election in three counties, I think I can say that by the time the election rolled around, every voter who had any interest whatsoever knew who the candidates were, either had met us personally or knew someone who had. I saw a fellow from Moro, Oregon this past weekend, and I could still remember meeting him in 1972 when I was traveling around Sherman County in preparation for the election, meeting people.

But—at the state level, no matter what anybody tells you, it has to do with name familiarity and the ability to advertise. And to really advertise effectively at the state level, particularly if someone did not already have a well-known name, it would cost several million dollars. Then you get into the issues of judicial independence. If you need to get several million dollars, where is it going to come from? What are people going to expect in exchange for that? I think I only got to use it once, but when I was first running for judicial office, as I say in a hotly-contested election, I only got to say it once. I wish I could have said it more. If someone said, “If I contribute to your campaign, what will I get?” My response was, “You will get treated exactly the same
as the person who supports my opponent. And in supporting a judge that ought to be worth something to you.”

Now, that is pretty philosophical, but I really believe that way; that unlike politics, where people are expected to get something in return. If they donate hundreds of thousands of dollars for a political candidate, they expect something in return besides a philosophical view. They expect if they go to Washington D.C. or Salem they will be let in and maybe have lunch. And they will be. With a judge, it is non-political. It should be non-political. And if you have to raise millions of dollars, where do you get it without somebody expecting something in return? That is something our current Oregon Chief Justice [Chief Justice Paul De Muniz] gives a talk on, judicial independence and the money involved.

Up to this point in time, I don’t think any judicial candidate in the state of Oregon in recent history, at least, has raised that kind of big money. But it has happened in other states with giant contributions. The U.S. Supreme Court just had a case where they said a judge should have recused himself because of the amount of money he was given by one of the litigants. Seems kind of like a no-brainer to me, but that judge apparently felt he should go forward with the case.

So, I am not convinced that electing judges on a statewide basis really works. As one lawyer in Newport, a friend of mine told me when I was campaigning for the Supreme Court, he said, “The lawyers in this office don’t care a lot who is on the Supreme Court. Very few of them ever go to the Supreme Court.” I was disappointed because everybody should care who is on the Supreme Court, because the quality of justice in the State of Oregon in the state court system ultimately hinges on who is at that highest level deciding divorce cases and how property should be divided, or deciding criminal procedures or deciding things that could affect you or me. Theoretically, something could happen tomorrow in an auto accident where depending on the rules that were handed down, might affect the outcome of something we are involved in. So that was a disappointment when he said, “The lawyers don’t care.” Well, if the lawyers don’t care, the average person on the street, you can’t expect to care.

JD: Yes, they’re even more removed.

JJ: Yes, almost too removed. How many people, if you walk down the street and said, “Name the seven Oregon Supreme Court justices, and try to name the Oregon judges on the Court of Appeals,” very few people other than those in the legal profession could name more than one or two, I suppose. If you asked people to name the nine justices on the U.S. Supreme Court, a lot of people would have trouble naming very many of them. But they’re not elected. But back to Oregon, if they can’t name any of them, how interested are they going to be

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in trying to decide who to vote for based on something in the voters’ pamphlet? And if they’re in another part of the state, they don’t really know anybody that knows them. So, I think the selection of, at least appellate judges in the state system, could be carefully evaluated and maybe there would be a better way to do it. So far it’s worked quite well. There have been a few exceptions over the years, but for the most part we have been very fortunate in Oregon at both the state and the federal level with the quality of the judiciary. I’ve been proud to be a part of it, every step of the way.

JD: That’s clear. Well, on the personal side of things, being a judge carries a certain weight with it, both within the legal community and certainly outside of the legal community. Talk a little bit about differences that you experienced in relationships with family and friends, or other lawyers, or even other judges as you moved from being a district attorney to circuit court and to, then, magistrate judge in the federal court. Or if you have noticed changes in relationships?

JJ: It is not all bad. My kids, I don’t think, ever were bothered by it. I think my kids were proud that I was a judge. I always included them in judicial conferences. My youngest, Jeff, who’s now twenty-eight, grew up from a baby on going to things, has heard me speak a number of times. I think it has helped him to feel comfortable getting up in front of groups because he has seen me do that. I think he is proud of me, and that makes me feel good. People start calling you, “Judge.” When I am not in this setting, I don’t usually tell people I am a judge, historically. I don’t lie to them if they ask me.

But it is like being a minister or a police officer that suddenly there is just a little something different there, if, and maybe we just read too much into that. I don’t know. I like to be just a regular guy, and sometimes as a judge it is a little harder to be just a regular guy.

JD: You are moving back towards being a regular guy. You’re, I guess, you have referred to yourself as being “semi-retired.” There is an official name for the status that you hold right now, which is, “extended service recall.”

JJ: Yes. With substantial service.

JD: People are probably more familiar with “senior status,” for district judges, and the criteria to take senior status. But I am not sure that people are as familiar with extended service recall status.

JJ: With substantial service.

JD: With substantial service. So—

JJ: I am the first one who has done it. Judge Ashmanskas is on recall status, but in a slightly different category. Mine is almost identical to senior status for a district judge with one difference being,
they have a right to do it. I put in to do it. I thought that I would do it a year or two and now it has been four years already. I must be enjoying it. “With substantial service,” means that I have a sufficient case load to justify under the regulations keeping this nice office and staff. I have cut my staff time back just a bit. I have a sufficient case load to justify an ongoing work relationship here in Portland, but it’s also reduced enough that I don’t have to be here full days every day, and in fact, Suzanne and I have enjoyed some time in Arizona each of the last three winters. And we are looking forward to spending time there this winter.

JD: At this point, I don’t have any more formal questions for you. If there are any topics that you feel like we’ve overlooked that you want to make sure we touch on, we certainly could do that. And you are certainly welcome to offer any final thoughts or future goals that you have, that you want to have included here.

JJ: [Jokingly] Well, I’ll be careful. As you know, in doing this for this many years, I can tell a lot of stories. [JD chuckles] But I was thinking today, I think you mentioned at some point what had I done that might carry over to the future, any cases that would have lasting [impact]. Every case is important, and some of them have some precedential value, but I thought about that, and if I have any lasting impact, it would be more on the system itself. I would like to think that of the thousands of people that I have dealt with as litigants, lawyers, jurors, lots and lots of jurors over the years, lots of criminal defendants, lots of civil litigants, lots of people with domestic relations issues that they couldn’t resolve that they came to the court, I would hope that the vast majority of them would, win or lose, not necessarily be happy, but feel that they had left having been listened to. And for those that weren’t directly involved as litigants, that they had been exposed to a good system that they thought worked and that they thought the judge was reasonably intelligent, but more importantly, fair-minded and willing to listen, and that they thought that it was a place where people could come and get a fair shake. That is what I hope, to some small measure, that the last thirty-seven years as a judge have left people with a positive impression about the system. Because that is really important. The system is important. If people don’t respect the judiciary, it is not going to work, because all three branches of the government really rely on—the people own this building, the people own us. We work for the people. If they don’t have a certain level of respect for the system and what we do, then it’ll quit functioning properly.

JD: Any thoughts for the future? New goals that you are setting for yourself?

JJ: I keep thinking that I am going to wind this down, but I must still be enjoying it because I put in for 2010. I
haven’t heard yet if it’s been approved, but I expect it will be unless something comes up. I’ll continue to work. I have done a few other things, developing some other interests, but I am young and healthy, so I think the rocking chair is quite a few, I hope it is quite a few years away.

JD:  [Chuckles] I suspect that’s true.

JJ:  When I say young, I am only seventy. I won’t be seventy-one till next month.

JD:  I think that sounds pretty young too.

JJ:  When you look at the senior judges here, and it is honestly something that I have considered when I decided to keep working. I could have done something else and made money, because I am not doing this for the money, but money wasn’t that important. We have a really good retirement system, as you probably know, but I looked at the senior judges that I work with and see on a regular basis. I look at Judge Owen Panner, Judge Robert E. Jones, Judge [Malcolm] Marsh, Judge James Redden, who are all now in their eighties. I compare them to the average eighty-something year-old person out on the street who has been retired for ten, fifteen years. No comparison with how sharp they are, how they stay engaged, and I said, “Maybe this isn’t the fountain of youth, but it’s something that has helped them stay engaged, stay mentally sharp. So if I am not doing this, I hope I am doing something that also is challenging brain-wise.” I am in good health and I still hope to be involved in physical things that I have enjoyed. As you grow older you just change your game, and my main game now is Pickle Ball, that, when we get down to Arizona I will play four or five times a week and enjoy that.

JD:  Well, thank you so much for participating in the oral history project and for taking the time to share your insights. It has been wonderful.

JJ:  My pleasure.

[End of Recording Eight, Interview Ends]

Interview sessions 6-8 were conducted by Janice Dilg in 2009, and digitally recorded.
Endnotes


2. Norma Paulus served in the Oregon House of Representatives, R-District 11, from 1970-1975, was the first woman Secretary of State, 1977-1985, and was first appointed, and then elected as the Oregon Superintendent of Public Instruction, 1990-1999.

3. Repeat of story from p.96 removed by narrator request.

4. Repeat of story from p.110 removed by narrator request.